

**As Reported by the House Policy and Legislative Oversight
Committee**

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Sub. S. B. No. 173

Senator Hughes

**Cosponsors: Senators Seitz, Uecker, Schiavoni, Balderson, Coley, Eklund,
Hite, Jordan, Kearney, Oelslager
Representatives Dovilla, Buchy, Gerberry**

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A B I L L

To amend sections 4301.171, 4303.184, 4303.208, and 1
4303.251 of the Revised Code to modify the law 2
governing tasting samples of beer and intoxicating 3
liquor and to allow an F-6 liquor permit to be 4
issued for the same location as an F-8 liquor 5
permit, provided that the two permits are not 6
exercised concurrently. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4301.171, 4303.184, 4303.208, and 8
4303.251 of the Revised Code be amended to read as follows: 9

Sec. 4301.171. (A) As used in this section: 10

(1) "Broker" and "solicitor" have the same meanings as in 11
rules adopted by the superintendent of liquor control under 12
section 4303.25 of the Revised Code. 13

(2) "Tasting sample" means a small amount of spirituous 14
liquor that is provided in a serving of not more than a quarter 15

ounce of spirituous liquor and, if provided, not more than one 16
ounce of nonalcoholic mixer to an authorized purchaser and that 17
allows the purchaser to determine, by tasting only, the quality 18
and character of the beverage. 19

(3) "Trade marketing company" means a company that solicits 20
the purchase of beer and intoxicating liquor and educates the 21
public about beer and intoxicating liquor. 22

(4) "Trade marketing professional" means an individual who is 23
an employee of, or is under contract with, a trade marketing 24
company and who has successfully completed a training program 25
described in section 4301.253 of the Revised Code. 26

(B) Notwithstanding section 4301.24 of the Revised Code, an 27
agency store to which a D-8 permit has been issued may allow a 28
trade marketing professional, broker, or solicitor to offer for 29
sale tasting samples of spirituous liquor when conducted in 30
accordance with this section. A tasting sample shall not be sold 31
for the purpose of general consumption. 32

(C) Tasting samples of spirituous liquor may be offered for 33
sale at an agency store by a trade marketing professional, broker, 34
or solicitor if all of the following apply: 35

(1) The tasting samples are sold only in the area of the 36
agency store in which spirituous liquor is sold and that area is 37
open to the public. 38

(2) The tasting samples are sold only by the trade marketing 39
professional, broker, or solicitor. 40

(3) The spirituous liquor is registered under division (A)(8) 41
of section 4301.10 of the Revised Code. 42

(4) Not less than ~~five~~ ten business days prior to the sale, 43
the trade marketing professional, broker, or solicitor has 44
provided written notice to the division of liquor control of the 45

date and time of the sampling, and of the type and brand of 46
spirituous liquor to be sampled at the agency store. 47

(D) A sale of tasting samples of spirituous liquor is subject 48
to rules adopted by the superintendent of liquor control or the 49
liquor control commission. 50

(E) An offering for sale of tasting samples of spirituous 51
liquor shall be limited to a period of not more than two hours. 52

(F) For purposes of offering for sale tasting samples of 53
spirituous liquor, ~~an a trade marketing professional, broker, or~~ 54
~~solicitor shall purchase the spirituous liquor from the~~ agency 55
store ~~shall purchase the spirituous liquor~~ at the current retail 56
price. An authorized purchaser shall be charged not less than 57
fifty cents for each tasting sample of spirituous liquor. ~~However,~~ 58
~~the aggregate amount charged for the sale of tasting samples shall~~ 59
~~be sufficient to cover the wholesale price of the spirituous~~ 60
~~liquor being tasted as that price is fixed under division (B)(4)~~ 61
~~of section 4301.10 of the Revised Code. Of the amount collected~~ 62
~~from the sale of tasting samples of spirituous liquor, the trade~~ 63
~~marketing professional, broker, or solicitor shall reimburse the~~ 64
~~agency store for the amount of the retail price of the spirituous~~ 65
~~liquor.~~ When the sale of tasting samples of spirituous liquor at 66
an agency store is completed, any bottles of spirituous liquor 67
used to provide tasting samples that are not empty shall be marked 68
as "sample" and removed from the agency store by the trade 69
marketing professional, broker, or solicitor, as applicable. 70

(G) No trade marketing professional, broker, or solicitor 71
shall do any of the following: 72

(1) Advertise the offering for sale of tasting samples of 73
spirituous liquor other than at the agency store where the tasting 74
samples will be offered; 75

(2) Solicit orders or make sales of tasting samples of 76

spirituous liquor for quantities greater than those specified in 77
division (G)(3) of this section; 78

(3) Allow any authorized purchaser to consume more than four 79
tasting samples of spirituous liquor per day. 80

(H) The purchase of a tasting sample of spirituous liquor 81
shall not be contingent upon the purchase of any other product 82
from an agency store. 83

(I) No employee of an agency store that allows the sale of 84
tasting samples of spirituous liquor shall purchase or consume a 85
tasting sample while on duty. 86

(J) If an employee of an agency store that allows the sale of 87
tasting samples of spirituous liquor consumes a tasting sample of 88
spirituous liquor, the employee shall not perform the employee's 89
duties and responsibilities at the agency store on the day the 90
tasting sample is consumed. 91

(K) No person under twenty-one years of age shall consume a 92
tasting sample of spirituous liquor. 93

(L) Not more than ~~five~~ ten events at which the sale of 94
tasting samples of spirituous liquor are offered shall occur at an 95
agency store in a calendar month provided that: 96

(1) Not more than two events shall occur in the same day; and 97

(2) There is not less than one hour between the end of one 98
event and the beginning of the next event. 99

(M) No trade marketing professional, trade marketing company, 100
broker, solicitor, owner or operator of an agency store, or an 101
agent or employee of the owner or operator shall violate this 102
section or any rules adopted by the superintendent or the 103
commission for the purposes of this section. 104

Sec. 4303.184. (A) Subject to division (B) of this section, a 105

D-8 permit may be issued to either of the following:	106
(1) An agency store;	107
(2) The holder of a C-1, C-2, or C-2x permit issued to a retail store that has either <u>any</u> of the following characteristics:	108 109
(a) The store has at least five thousand five hundred square feet of floor area, and it generates more than sixty per cent of its sales in general merchandise items and food for consumption off the premises where sold.	110 111 112 113
(b) <u>The store is located in a municipal corporation or township with a population of five thousand or less, has at least four thousand five hundred square feet of floor area, and generates more than sixty per cent of its sales in general merchandise items and food for consumption off the premises where sold.</u>	114 115 116 117 118 119
(c) Wine constitutes at least sixty per cent of the value of the store's inventory.	120 121
(B) A D-8 permit may be issued to the holder of a C-1, C-2, or C-2x permit only if the premises of the permit holder are located in a precinct, or at a particular location in a precinct, in which the sale of beer, wine, or mixed beverages is permitted for consumption off the premises where sold. Sales under a D-8 permit are not affected by whether sales for consumption on the premises where sold are permitted in the precinct or at the particular location where the D-8 premises are located.	122 123 124 125 126 127 128 129
(C)(1) The holder of a D-8 permit described in division (A)(2) of this section may sell tasting samples of beer, wine, and mixed beverages, but not spirituous liquor, at retail, for consumption on the premises where sold in an amount not to exceed two ounces or another amount designated by rule of the liquor control commission. A tasting sample shall not be sold for general consumption.	130 131 132 133 134 135 136

(2) The holder of a D-8 permit described in division (A)(1) 137
of this section may allow the sale of tasting samples of 138
spirituous liquor in accordance with section 4301.171 of the 139
Revised Code. 140

(3) No D-8 permit holder described in division (A)(2) of this 141
section shall allow any authorized purchaser to consume more than 142
four tasting samples of beer, wine, or mixed beverages, or any 143
combination of beer, wine, or mixed beverages, per day. 144

(D)(1) Notwithstanding sections 4303.11 and 4303.121 of the 145
Revised Code, the holder of a D-8 permit described in division 146
(A)(2) of this section may sell beer that is dispensed from 147
containers that have a capacity equal to or greater than five and 148
one-sixth gallons if all of the following conditions are met: 149

(a) A product registration fee for the beer has been paid as 150
required in division (A)(8)(b) of section 4301.10 of the Revised 151
Code. 152

(b) The beer is dispensed only in glass containers whose 153
capacity does not exceed one gallon and not for consumption on the 154
premises where sold. 155

(c) The containers are sealed, marked, and transported in 156
accordance with division (E) of section 4301.62 of the Revised 157
Code. 158

(d) The containers have been cleaned immediately before being 159
filled in accordance with rule 4301:1-1-28 of the Administrative 160
Code. 161

(2) Beer that is sold and dispensed under division (D)(1) of 162
this section is subject to both of the following: 163

(a) All applicable rules adopted by the liquor control 164
commission, including, but not limited to, rule 4301:1-1-27 and 165
rule 4301:1-1-72 of the Administrative Code; 166

(b) All applicable federal laws and regulations.	167
(E) The privileges authorized for the holder of a D-8 permit described in division (A)(2) of this section may only be exercised in conjunction with and during the hours of operation authorized by a C-1, C-2, C-2x, or D-6 permit.	168 169 170 171
(F) A D-8 permit shall not be transferred to another location.	172 173
(G) The fee for the D-8 permit is five hundred dollars.	174
Sec. 4303.208. (A)(1) The division of liquor control may issue an F-8 permit to a not-for-profit organization that manages, for the benefit of the public and by contract with a political subdivision of this state, publicly owned property to sell beer or intoxicating liquor by the individual drink at specific events conducted on the publicly owned property and appurtenant streets, but only if, and then only at times at which, the sale of beer and intoxicating liquor on the premises is otherwise permitted by law. Additionally, an F-8 permit may be issued only if the publicly owned property is located in a county that has a population of between seven hundred fifty thousand and nine hundred thousand on July 10, 2007.	175 176 177 178 179 180 181 182 183 184 185 186
(2) The premises on which an F-8 permit will be used shall be clearly defined and sufficiently restricted to allow proper supervision of the permit's use by state and local law enforcement officers. Sales under an F-8 permit shall be confined to the same hours permitted to the holder of a D-3 permit.	187 188 189 190 191
(3) The fee for an F-8 permit is one thousand seven hundred dollars. An F-8 permit is effective for a period not to exceed nine months as specified in the permit. An F-8 permit is not transferable or renewable. However, the holder of an F-8 permit may apply for a new F-8 permit at any time. An F-8 permit is not	192 193 194 195 196

effective until any F-8 permit currently held expires. The holder 197
of an F-8 permit shall make sales only at those specific events 198
about which the permit holder has notified in advance the division 199
of liquor control, the department of public safety, and the chief, 200
sheriff, or other principal peace officer of the local law 201
enforcement agencies having jurisdiction over the premises. 202

(B)(1) An application for the issuance of an F-8 permit is 203
subject to the notice and hearing requirements established in 204
division (A) of section 4303.26 of the Revised Code. 205

(2) The liquor control commission shall adopt under Chapter 206
119. of the Revised Code rules necessary to administer this 207
section. 208

(C) No F-8 permit holder shall sell beer or intoxicating 209
liquor beyond the hours of sale allowed by the permit. This 210
division imposes strict liability on the holder of an F-8 permit 211
and on any officer, agent, or employee of that permit holder. 212

(D) Nothing in this section prohibits the division from 213
issuing an F-2 or F-6 permit for a specific event not conducted by 214
the holder of an F-8 permit provided that the holder of the F-8 215
permit certifies to the division that it will not exercise its 216
permit privileges during that specific event. 217

Sec. 4303.251. (A) A manufacturer, supplier, broker, or 218
wholesale distributor of beer or intoxicating liquor, or an agent, 219
solicitor, or salesperson who is registered under section 4303.25 220
of the Revised Code and who represents the manufacturer, supplier, 221
broker, or wholesale distributor of beer or intoxicating liquor, 222
may conduct consumer product instruction, or provide sample 223
servings of the manufacturer's, supplier's, broker's, or wholesale 224
distributor's products, on the premises of a retail permit holder 225
who is authorized to sell the products for on-premises 226
consumption, without the manufacturer, supplier, broker, wholesale 227

distributor, agent, solicitor, or salesperson having to be issued 228
a retail permit under this chapter. The person providing a sample 229
serving shall purchase the beer or intoxicating liquor at the 230
ordinary retail price from the retail permit holder whose premises 231
are involved. The liquor control commission shall adopt rules in 232
accordance with Chapter 119. of the Revised Code to implement this 233
section. 234

(B) A manufacturer, supplier, or broker of beer, wine, or 235
mixed beverages, or an agent, solicitor, or salesperson who is 236
registered under section 4303.25 of the Revised Code and who 237
represents the manufacturer, supplier, or broker of beer, wine, or 238
mixed beverages, may conduct consumer product instruction, or 239
provide sample servings of the manufacturer's, supplier's, or 240
broker's products on the premises of a retail permit holder who 241
holds a D-8 permit and who is authorized to sell the products for 242
off-premises consumption, without the manufacturer, supplier, 243
broker, agent, solicitor, or salesperson having to be issued a 244
retail permit under this chapter. The person providing a sample 245
serving shall purchase the beer, wine, or mixed beverages at the 246
ordinary retail price from the D-8 permit holder and shall limit 247
the amount and frequency of the sample servings to those 248
authorized pursuant to the D-8 permit. The liquor control 249
commission shall adopt rules in accordance with Chapter 119. of 250
the Revised Code to implement this section. 251

Division (B) of this section does not apply to a wholesale 252
distributor. 253

Section 2. That existing sections 4301.171, 4303.184, 254
4303.208, and 4303.251 of the Revised Code are hereby repealed. 255