As Reported by the Senate Agriculture Committee

130th General Assembly
Regular Session **Sub. S. B. No. 173**
2013-2014

Senator Hughes

Cosponsors: Senators Seitz, Uecker, Schiavoni

A B I L L

To amend sections 4301.171 and 4303.251 of the Revised Code to modify the law governing tasting samples of beer and intoxicating liquor.

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

Section 1. That sections 4301.171 and 4303.251 of the Revised Code be amended to read as follows:

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

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

(2) "Tasting sample" means a small amount of spirituous liquor that is provided in a serving of not more than a quarter ounce of spirituous liquor and, if provided, not more than one ounce of nonalcoholic mixer to an authorized purchaser and that allows the purchaser to determine, by tasting only, the quality and character of the beverage.

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

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

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

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

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

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

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

(4) Not less than ~~five~~ ten business days prior to the sale, the trade marketing professional, broker, or solicitor has provided written notice to the division of liquor control of the date and time of the sampling, and of the type and brand of spirituous liquor to be sampled at the agency store.

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

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

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

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

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

(2) Solicit orders or make sales of tasting samples of spirituous liquor for quantities greater than those specified in division (G)(3) of this section;

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

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

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

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

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

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

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

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

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

Sec. 4303.251. (A) A manufacturer, supplier, broker, or wholesale distributor of beer or intoxicating liquor, or an agent, solicitor, or salesperson who is registered under section 4303.25 of the Revised Code and who represents the manufacturer, supplier, broker, or wholesale distributor of beer or intoxicating liquor, may conduct consumer product instruction, or provide sample servings of the manufacturer's, supplier's, broker's, or wholesale distributor's products, on the premises of a retail permit holder who is authorized to sell the products for on-premises

consumption, without the manufacturer, supplier, broker, wholesale distributor, agent, solicitor, or salesperson having to be issued a retail permit under this chapter. The person providing a sample serving shall purchase the beer or intoxicating liquor at the ordinary retail price from the retail permit holder whose premises are involved. The liquor control commission shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

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

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

Section 2. That existing sections 4301.171 and 4303.251 of the Revised Code are hereby repealed.