Sub. S.B. 102

127th General Assembly

(As Reported by H. State Gov't & Elections)

Sens.   **Schuler, Spada, Niehaus, D. Miller, Kearney, Clancy, Mumper**

Reps.   **Seitz, Schneider, Carmichael, D. Stewart, Driehaus**

BILL SUMMARY

- Creates an F-8 liquor permit, and authorizes the permit to be issued to certain nonprofit organizations to allow the sale of beer and intoxicating liquor at specific events that occur on public spaces that the organizations manage.

- Creates the D-5l liquor permit and authorizes it to be issued in a municipal corporation with a population of less than 100,000 and within the geographic boundaries of a designated Heritage Ohio Main Street Community.

- Changes the population quota governing the number of state agency liquor stores in a county, effectively authorizing more agency stores.

- Declares an emergency.

CONTENT AND OPERATION

The bill authorizes the Division of Liquor Control to issue an F-8 liquor permit to a not-for-profit organization that manages, for the benefit of the public and by contract with a political subdivision of Ohio, publicly owned property to sell beer or intoxicating liquor[1] 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 liquor permit may be

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[1] Intoxicating liquor is wine, mixed beverages, and spirituous liquor. "Spirituous liquor" is defined to include all intoxicating liquors containing more than 21% of alcohol by volume (sec. 4301.01(B)(5), not in the bill).

issued only if the publicly owned property is located in a county that has a population of between 750,000 and 900,000 on the bill's effective date. The premises on which an F-8 permit will be used must be clearly defined and sufficiently restricted to allow proper supervision of the permit's use by state and local law enforcement officers. (Sec. 4303.208(A)(1) and (2).)

The bill requires sales under an F-8 liquor permit to be confined to the same hours that are permitted to the holder of a D-3 liquor permit, which allows retail sales until 1 a.m. (sec. 4303.208(A)(2)). The bill prohibits any F-8 liquor permit holder from selling beer or intoxicating liquor beyond the hours of sale allowed by the permit. The bill imposes strict liability on the holder of an F-8 liquor permit and on any officer, agent, or employee of that permit holder. (Sec. 4303.208(C).) A person who violates the prohibition is guilty of a misdemeanor of the fourth degree (sec. 4303.99(D)).

The fee for the issuance of an F-8 liquor permit is $1,700. An F-8 liquor permit is effective for a period not to exceed nine months specified in the permit. An F-8 liquor permit is not transferable or renewable. However, the holder of an F-8 liquor permit may apply for a new F-8 liquor permit at any time. An F-8 liquor permit is not effective until any F-8 liquor permit currently held expires. The holder of an F-8 liquor permit must make sales only at those specific events about which the permit holder has notified in advance the Division, the Department of Public Safety, and the chief, sheriff, or other principal peace officer of the local law enforcement agencies having jurisdiction over the premises. (Sec. 4303.208(A)(3).)

The bill states that an application for the issuance of an F-8 liquor permit is subject to the notice and hearing requirements established under current law for the issuance of C and D liquor permits (sec. 4303.208(B)(1)). Under those requirements, when a person applies for a permit, the Division must notify the legislative authority and the chief peace officer of the municipal corporation if the business or event is located wholly or partly within a municipal corporation or the clerk of the board of county commissioners and the fiscal officer of the board of township trustees and the chief peace officer of the county or township if the business or event is located wholly or partly within the unincorporated territory of a county. In addition, if the business or event is to be operated within 500 feet of a school, church, library, public playground, or township park, the Division must notify the authorities in control of the school, church, library, public playground, or township park.

The notice must provide an opportunity for a complete hearing on the advisability of the issuance of the permit. A request for a hearing must be made not later than 30 days from the time of notification. In the hearing, no objection to the issuance of the permit can be based on noncompliance of the proposed permit

premises with local zoning regulations that prohibit the sale of beer or intoxicating liquor, in an area zoned for commercial or industrial uses, for permit premises that would otherwise qualify for a proper permit issued by the Division. (Sec. 4303.26(A), not in the bill.)

The Liquor Control Commission must adopt rules under the Administrative Procedure Act that are necessary to administer the bill's provisions governing the issuance of F-8 liquor permits (sec. 4303.208(B)(2)).

Creation of the D-5l liquor permit

The bill creates the D-5l permit and authorizes it to be issued to the owner or operator of a retail food establishment or a food service operation licensed under the Retail Food Establishment and Food Service Operation Law. A D-5l permit holder may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold in the same manner and same amounts as may be sold by the holders of D-1 (beer sales) and D-2 (wine and mixed beverage sales) permits and may exercise the same privileges, and must observe the same hours of operation, as the holder of a D-5 (night club) permit. (R.C. 4303.181(L)(1).)

The D-5l permit, however, can be issued only in a municipal corporation with a population of less than 100,000 and only within the geographic boundaries of a designated Heritage Ohio Main Street Community Area and its location may be transferred only within the geographic boundaries of the designated Heritage Ohio Main Street Community Area in which it was issued. Not more than one D-5l permit can be issued for each 10,000 population of the municipal corporation in which it was issued. Except as described above, no quota restriction can be placed upon the number of D-5l permits that may be issued. (R.C. 403.181(L)(2).)

No individual D-5l permit can be issued and renewed for a period longer than seven years (R.C. 4303.181(L)(3)). Also, no D-5l permit can be issued after the end of the 25-year period that begins on the bill's effective date (R.C. 4303.181(L)(5)). The fee for a D-5l permit is $2,344 (R.C. 4303.181(L)(4)).

The bill also amends several Revised Code sections to make them reflect the creation of the D-5l permit (R.C. 4301.355(B)(2), 4301.62(C)(1)(a), 4303.182(A) and (L), and 4399.12).

Change in the population quota governing the number of state agency liquor stores allowed in a county

Current law allows five state liquor stores or agency stores[2] to be established in each county. Existing law further allows one additional store to be established in each county for each 25,000 of population of that county or major fraction thereof in excess of the first 40,000, according to the last preceding decennial census or population estimates certified by the Department of Development between decennial censuses.

The bill changes the quota described above to allow one additional store to be established in each county for each 20,000 of population of that county or major fraction thereof in excess of the first 40,000. (R.C. 4301.17(A)(1).) The effect of this change is potentially to increase the number of agency stores.

HISTORY

ACTION	DATE
Introduced	03-08-07
Reported, S. Agriculture	05-02-07
Passed Senate (32-0)	05-09-07
Reported, H. State Gov't & Elections	06-12-07

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[2] An agency store sells spirituous liquor for off-premises consumption on behalf of the Division of Liquor Control.