



# Ohio Legislative Service Commission

## Bill Analysis

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### **Sub. H.B. 499**

(LSC 130 0907-4)

130th General Assembly

(As Pending in H. Commerce, Labor, and Technology)

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## **BILL SUMMARY**

- Increases the maximum amount of spirituous liquor that an A-3a liquor permit holder (small distillers) may produce in a year from 10,000 gallons to 100,000 proof gallons.
- Authorizes an A-3a permit holder to sell spirituous liquor manufactured by the permit holder by the individual drink for consumption on the premises where manufactured.
- Generally allows an A-3a permit holder to sell spirituous liquor manufactured by the permit holder directly to the holder of a D liquor permit, and requires the Liquor Control Commission to adopt rules implementing such sales.
- Revises the provisions governing the sale of spirituous liquor by an A-3a permit holder as follows:
  - Eliminates a provision of current law that declares that an A-3a permit holder may sell bottles of spirituous liquor on-premises as an independent contractor of the Division of Liquor Control;
  - Instead authorizes those permit holders to act as agents for the Division for the sale of spirituous liquor manufactured by the permit holder and sold on the premises where manufactured; and
  - Requires the Division to fix compensation of the permit holder at 25% of the on-premises gross sales of the permit holder.

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## CONTENT AND OPERATION

### Introduction

The bill revises the law governing A-3a liquor permits, which are issued to distillers of spirituous liquor (more than 21% alcohol by volume) that produce less than 10,000 gallons of spirituous liquor each year. First, it increases the maximum quantity of spirituous liquor that an A-3a liquor permit holder may produce in a year. Second, it allows an A-3a permit holder to sell spirituous liquor, by the individual glass, for consumption on the premises of the permit holder. Third, it allows an A-3a permit holder to sell spirituous liquor directly to D liquor permit holders. Finally, it allows an A-3a permit holder to act as an agent of the Division of Liquor Control for the sale of spirituous liquor manufactured by the permit holder and requires the Division to compensate the permit holder for on-premises sales of spirituous liquor.

### Background

Under current law, an A-3a liquor permit may be issued to a distiller of spirituous liquor that manufactures less than 10,000 gallons of spirituous liquor each year. An A-3a permit holder may sell that spirituous liquor to a personal consumer, in sealed containers for consumption off the manufacturing premises. However, an A-3a permit holder is allowed to conduct such sales to a personal consumer only by an in-person transaction at the A-3a permit premises. An A-3a permit holder cannot sell more than one and a half liters of spirituous liquor per day from the permit premises to the same personal consumer.<sup>1</sup>

An A-3a permit holder may sell spirituous liquor in sealed containers for consumption off the premises where manufactured as an independent contractor of the Division of Liquor Control. The price at which the A-3a permit holder must sell each spirituous liquor product to a personal consumer is determined by the Division. The spirituous liquor that the A-3a permit holder buys from the Division must be maintained in a separate area of the permit premises for sale to personal consumers. Each A-3a permit holder is subject to audit by the Division.<sup>2</sup>

### Bill

The bill revises several provisions of the law governing the A-3a permit. Under the bill, a permit may be issued to a distiller that manufactures less than 100,000 proof

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<sup>1</sup> R.C. 4303.041(A) and (C)(2).

<sup>2</sup> R.C. 4303.041(C)(2).



gallons of spirituous liquor per year, rather than 10,000 gallons as in current law.<sup>3</sup> A proof gallon is one liquid gallon of distilled spirits that is 50% alcohol at 60° F.<sup>4</sup>

The bill also authorizes an A-3a permit holder to do both of the following:

(1) Sell spirituous liquor manufactured by the permit holder, only by the individual drink in glass or from container, for consumption on the premises where manufactured;<sup>5</sup>

(2) Notwithstanding any provision of the Revised Code to the contrary, sell spirituous liquor manufactured by the permit holder directly to the holder of a D liquor permit. The Liquor Control Commission must adopt rules in accordance with the Administrative Procedure Act for the purpose of implementing the sale of spirituous liquor to D permit holders. A D permit generally authorizes on- and off-premises consumption of beer, intoxicating liquor, or both.

The bill eliminates the provisions in current law governing A-3a permit holders operating as independent contractors of the Division of Liquor Control. Instead, it authorizes an A-3a permit holder to act as the agent of the Division for the sale of spirituous liquor manufactured by the permit holder and sold on the premises where manufactured. The bill requires the Division to fix the compensation of the A-3a permit holder at 25% of the on-premises gross sales of the permit holder.<sup>6</sup> Current law sets the compensation of agency stores at 7% of gross sales.<sup>7</sup>

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<sup>3</sup> R.C. 4303.041(A).

<sup>4</sup> R.C. 4303.041(G)(2).

<sup>5</sup> R.C. 4303.041(A)(2).

<sup>6</sup> R.C. 4303.041(D).

<sup>7</sup> R.C. 4301.17(A)(1), not in the bill.

