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Fiscal Note & Local Impact Statement

Bill: H.B. 499 of the 130th G.A. **Date**: April 3, 2014

Status: As Introduced **Sponsor**: Rep. Young

Local Impact Statement Procedure Required: No

Contents: Allows certain spirituous liquor manufacturers to sell their product without entering into an agreement with the Division of Liquor Control

State Fiscal Highlights

- The bill exempts A-3a permit holders from a requirement that sales of their manufactured spirituous liquor at the manufacturers' location be conducted under contract with the Division of Liquor Control under the Department of Commerce, applicable to the first 750 gallons sold annually. Overall, the bill would result in a minimal decrease in revenue to the Liquor Operating Services Fund (Fund 5LN0), which the Division uses to manage spirituous liquor merchandising for JobsOhio.
- The changes in the bill may result in an increase in A-3a permit applications from businesses and issuances by the Division of Liquor Control. Additional A-3a permit fee revenue would be deposited into the Undivided Liquor Permit Fund (Fund 7066) and subsequently distributed to the State Liquor Regulatory Fund (Fund 5LP0) used by the Division of Liquor Control (45%), the local taxing district where the permit is issued (35%), and the Statewide Treatment and Prevention Fund (Fund 4750) used by the Department of Alcohol and Drug Addiction Services (20%).

Local Fiscal Highlights

- If more A-3a liquor permits are issued, the local taxing district would receive a portion of the liquor permit fees collected by the state and deposited into the Undivided Liquor Permit Fund (Fund 7066). Current law specifies that local taxing districts are to receive 35% of the permit fees attributable to permitted establishments within their jurisdiction. These revenues would presumably offset any local costs as a result of additional liquor permits.

Detailed Fiscal Analysis

Overview

The bill exempts A-3a permit holders from a requirement that sales of manufactured spirituous liquor at the manufacturers' location be conducted under contract with the Division of Liquor Control (DOLC), for the first 750 gallons sold annually. Overall, the bill would result in a minimal decrease in revenue to the Liquor Operating Services Fund (Fund 5LN0), which the Division uses to manage spirituous liquor merchandising operations for JobsOhio. This decrease in revenue could potentially be offset by an increase in A-3a permit applications and issuances in the state. Permit fee revenue is distributed to multiple state and local sources, but the Division's share would be deposited into the State Liquor Regulatory Fund (Fund 5LP0) to monitor liquor permit compliance.

Background on sales of spirituous liquor and A-3a liquor permits

The DOLC under the Department of Commerce issues all liquor permits authorizing the production and sale of commercial alcohol in the state. Currently, DOLC contracts with 466 privately owned and operated businesses, known as contract liquor agencies, to serve as its sales agents for spirituous liquor (alcoholic products containing more than 21% alcohol content by volume). Each agency store owner is paid a commission of 6% on retail sales and 4% on wholesale sales of spirituous liquor. However, A-3a permit locations can also make sales.

DOLC issues the A-3a liquor permit to craft distillers (those that manufacture less than 10,000 gallons of spirituous liquor per year). Separate from the 466 liquor agency stores, the A-3a permit enables the retail sale of the permit holder's manufactured spirituous liquor to personal consumers at the permitted location for consumption off the premises, as well as tasting samples on site. As such, the A-3a permit holder can make sales of the liquor as an independent contractor. Like sales from agency stores, the profits from spirituous liquor sales at A-3a permit locations go to JobsOhio. However, A-3a permit holders are not eligible to receive the sales commissions paid to contract liquor agency stores. Currently, there are 23 A-3a permit holders in the state. Although, at this time, LSC does not know the amount of spirituous liquor sales that has occurred at A-3a permit locations, because of the sales restrictions in section 4303.041 of the Revised Code that cap the volume of spirituous liquor that may be sold to personal consumers, it is evident that the vast majority of liquor sales take place in agency stores.

Fiscal effects of H.B. 499

The bill exempts A-3a permit holders from a requirement that they sell their spirituous liquor product on behalf of the state under contract with DOLC, applicable to the first 750 gallons sold per year at the distilling location. DOLC retains the responsibility to price all spirituous liquor sold, and all taxes applicable to spirituous liquor are still required to be paid; consequently, the bill's chief outcome is to enable A-3a liquor permit holders to keep their sales profits on these first 750 gallons sold, instead of those funds ultimately being received by JobsOhio.

The bill may result in a minimal decrease in annual revenue to Fund 5LN0 to support the merchandising operations. Under the contract between JobsOhio and DOLC to manage liquor merchandising operations, JobsOhio makes quarterly payments into Fund 5LN0 for the Division's costs. This decrease would likely at least partially be offset by a decline in expenditures from DOLC having to provide less oversight of the bill's exempted spirituous liquor sales.

The bill could also result in an increase in A-3a permit applications and issuances. Recently, the number of A-3a permits rose from two in December 2011 to 23 in April 2014. Much of this can be attributed to Am. Sub. H.B. 243 of the 129th General Assembly, which allowed a greater number of A-3a permits to be issued in Ohio. It appears that the market for craft spirituous liquor remains on the rise across the United States. The bill's provisions could assist in making craft liquor manufacturing in Ohio more attractive craft distillers, thus encouraging the establishment of more distilleries.

The A-3a permit fee is two dollars per 50 gallon barrel produced each year. Any additional liquor permit fee revenue would be deposited into the Undivided Liquor Permit Fund (Fund 7066) and subsequently distributed to the State Liquor Regulatory Fund (Fund 5LP0) used by the Division of Liquor Control (45%), the local taxing district where the permit is issued (35%), and the Statewide Treatment and Prevention Fund (Fund 4750) used by the Department of Alcohol and Drug Addiction Services (20%). There would also be a minimal gain in revenue to the Liquor Control Fund (Fund 7043) from the $100 processing fee that accompanies all permanent liquor permit applications. It should be noted that any increase in revenue to the state from this bill would at least partially be offset by an increase in oversight and enforcement costs to DOLC and local governments in monitoring the revised Liquor Control Law provisions.

Indirect fiscal effects – JobsOhio revenue from spirituous liquor sales

Effective February 1, 2013, JobsOhio leased for 25 years the state's exclusive right to manage and control spirituous liquor distribution and sales. However, as stated above, JobsOhio contracts with DOLC to run the liquor merchandising business operations. Consequently, DOLC continues to administer the spirituous liquor inventory and oversee the distribution of liquor to the contract liquor agencies, while the profits from spirituous liquor sales fund JobsOhio's efforts to spur job creation and capital investment in the state. JobsOhio received approximately $187.2 million in liquor profits in FY 2013.

In LSC Fiscal Notes on a bill in the Ohio General Assembly, LSC does not generally provide analysis of the bill's fiscal impact to businesses or other private entities such as JobsOhio. Nonetheless, it appears H.B. 499 would result in a decline in future revenue to JobsOhio. These amounts depend on the sales that are made at A-3a permit locations and the contracts that DOLC enters into with each A-3a permit holder. Nevertheless, since the vast majority of spirituous liquor sales take place at agency stores, the relative revenue decline to JobsOhio is likely minimal.

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