

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 237

Representatives Manning, D., Upchurch

Cosponsors: Representatives Becker, O'Brien

A BILL

To amend sections 4303.04, 4303.041, 4303.05, 1
4303.09, 4303.12, and 4303.232 and to enact 2
section 4303.042 of the Revised Code to allow 3
spirituous liquor and mixed beverages to be 4
shipped to consumers via an S liquor permit 5
holder. 6

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

Section 1. That sections 4303.04, 4303.041, 4303.05, 7
4303.09, 4303.12, and 4303.232 be amended and section 4303.042 8
of the Revised Code be enacted to read as follows: 9

Sec. 4303.04. (A) Permit A-3 may be issued to a 10
manufacturer to ~~manufacture~~ do all of the following: 11

(1) Manufacture alcohol and spirituous liquor and sell 12
such products to the division of liquor control or to the 13
holders of a like permit or to the holders of A-4 permits for 14
blending or manufacturing purposes; ~~to import~~ 15

(2) Sell and ship spirituous liquor that the permit holder 16
manufactures to a personal consumer via an S permit. The A-3 17
permit holder shall make such sales for off-premises consumption 18

only. The permit holder shall conduct such sales via telephone 19
orders or the permit holder's web site in accordance with rules 20
adopted by the liquor control commission under section 4303.042 21
of the Revised Code. 22

(3) Import alcohol into this state upon such terms as are 23
prescribed by the division;~~to sell~~ 24

(4) Sell alcohol to manufacturers, hospitals, infirmaries, 25
medical or educational institutions using it for medicinal, 26
mechanical, chemical, or scientific purposes, and to holders of 27
I permits;~~to import~~ 28

(5) Import into this state spirituous liquor and wine for 29
blending or other manufacturing purposes; and~~to export~~ 30

(6) Export spirituous liquor from this state for sale 31
outside the state. 32

(B) (1) An A-3 permit holder shall not sell more than one 33
and one-half liters of spirituous liquor per day under division 34
(A) (2) of this section to the same personal consumer. 35

(2) An A-3 permit holder may sell spirituous liquor under 36
division (A) (2) of this section as an independent contractor 37
under agreement, by virtue of the permit, with the division of 38
liquor control. However, the division of liquor control shall 39
not compensate the permit holder as provided in division (A) (1) 40
of section 4301.17 of the Revised Code. The division shall 41
determine the price at which the A-3 permit holder shall sell 42
each spirituous liquor product. For an A-3 permit holder to 43
purchase and then offer spirituous liquor for retail sale, the 44
spirituous liquor need not first leave the physical possession 45
of the A-3 permit holder to be so registered. The A-3 permit 46
holder shall maintain the spirituous liquor that the permit 47

holder buys from the division in a separate area of the permit 48
premises for sale to personal consumers. Each A-3 permit holder 49
is subject to audit by the division. 50

(C) The fee for this permit is three thousand nine hundred 51
six dollars for each plant; but, if a plant's production 52
capacity is less than five hundred wine barrels of fifty gallons 53
each annually, the fee is two dollars per barrel. 54

Sec. 4303.041. (A) An A-3a permit may be issued to a 55
distiller that manufactures less than one hundred thousand 56
gallons of spirituous liquor per year. An A-3a permit holder may 57
sell to a personal consumer, in sealed containers for 58
consumption off the premises where manufactured, spirituous 59
liquor that the permit holder manufactures, ~~but~~. The permit 60
holder may make such sales to the a personal consumer may occur 61
only by an one of the following: 62

(1) An in-person transaction at the permit premises; 63

(2) Telephone order; 64

(3) A transaction via the A-3a permit holder's web site. 65
~~The A-3a permit holder shall not ship, send, or use an H permit~~ 66
~~holder to deliver spirituous liquor to the personal consumer.~~ 67

The permit holder shall make sales by telephone order or 68
via the A-3a permit holder's web site only if the permit holder 69
holds an S permit and conducts those sales in accordance with 70
rules adopted by the liquor control commission under section 71
4303.042 of the Revised Code. 72

"Distiller" means a person in this state who mashes, 73
ferments, distills, and ages spirituous liquor. 74

(B) (1) Except as otherwise provided in this section, no A- 75

3a permit shall be issued unless the sale of spirituous liquor 76
by the glass for consumption on the premises or by the package 77
for consumption off the premises is authorized in the election 78
precinct in which the A-3a permit is proposed to be located. 79

(2) Division (B)(1) of this section does not prohibit the 80
issuance of an A-3a permit to an applicant for such a permit who 81
has filed an application with the division of liquor control 82
before March 22, 2012. 83

(C)(1) An A-3a permit holder may offer for sale tasting 84
samples of spirituous liquor. The A-3a permit holder shall not 85
serve more than four tasting samples of spirituous liquor per 86
person per day. A tasting sample shall not exceed a quarter 87
ounce. Tasting samples shall be only for the purpose of allowing 88
a purchaser to determine, by tasting only, the quality and 89
character of the spirituous liquor. The tasting samples shall be 90
offered for sale in accordance with rules adopted by the 91
division of liquor control. 92

(2) An A-3a permit holder shall sell not more than one and 93
one-half liters of spirituous liquor per day from the permit 94
premises to the same personal consumer. 95

An A-3a permit holder may sell spirituous liquor in sealed 96
containers for consumption off the premises where manufactured 97
as an independent contractor under agreement, by virtue of the 98
permit, with the division of liquor control. However, the 99
division shall not compensate the permit holder as provided in 100
division (A)(1) of section 4301.17 of the Revised Code. The 101
division shall determine the price at which the A-3a permit 102
holder shall sell each spirituous liquor product to a personal 103
consumer ~~is to be determined by the division of liquor control.~~ 104
For an A-3a permit holder to purchase and then offer spirituous 105

liquor for retail sale, the spirituous liquor need not first 106
leave the physical possession of the A-3a permit holder to be so 107
registered. The A-3a permit holder shall maintain spirituous 108
liquor that the ~~A-3a~~ permit holder buys from the division ~~of~~ 109
~~liquor control shall be maintained~~ in a separate area of the 110
permit premises for sale to personal consumers. ~~The A-3a permit~~ 111
~~holder shall sell such spirituous liquor in sealed containers~~ 112
~~for consumption off the premises where manufactured as an~~ 113
~~independent contractor by virtue of the permit issued by the~~ 114
~~division of liquor control, but the permit holder shall not be~~ 115
~~compensated as provided in division (A) (1) of section 4301.17 of~~ 116
~~the Revised Code.~~ Each A-3a permit holder ~~shall be~~ is subject to 117
audit by the division ~~of liquor control.~~ 118

(D) The fee for the A-3a permit is two dollars per fifty- 119
gallon barrel. 120

(E) The holder of an A-3a permit may also exercise the 121
same privileges as the holder of an A-3 permit. 122

Sec. 4303.042. The liquor control commission shall adopt 123
rules in accordance with Chapter 119. of the Revised Code 124
establishing requirements and procedures for sales of spirituous 125
liquor by an A-3 or A-3a permit holder under an S permit via 126
telephone order or the permit holder's web site. 127

Sec. 4303.05. Permit A-4 may be issued to a manufacturer 128
to manufacture prepared highballs, cocktails, cordials, and 129
other mixed drinks containing not less than ~~four one-half of one~~ 130
per cent of alcohol by volume and not more than twenty-one per 131
cent of alcohol by volume, and to sell such products to 132
wholesale and retail permit holders in sealed containers only 133
under such rules as are adopted by the division of liquor 134
control. The holder of such permit may import into the state 135

spirituous liquor and wine only for blending or other 136
manufacturing purposes under such rules as are prescribed by the 137
division. 138

The holder of such permit may also purchase spirituous 139
liquor for manufacturing and blending purposes from the holder 140
of an A-3 permit issued by the division. The fee for an A-4 141
permit is three thousand nine hundred six dollars for each 142
plant. 143

Sec. 4303.09. Permit B-4 may be issued to a wholesale 144
distributor to purchase from the holders of A-4 permits and to 145
import, distribute, and sell prepared and bottled highballs, 146
cocktails, cordials, and other mixed beverages containing not 147
less than ~~four~~one-half of one per cent of alcohol by volume and 148
not more than twenty-one per cent of alcohol by volume to retail 149
permit holders, and for home use, under rules adopted by the 150
division of liquor control. The formula and samples of all of 151
those beverages to be handled by the permit holder shall be 152
submitted to the division for its analysis and approval before 153
those beverages may be sold and distributed in this state. All 154
labels and advertising matter used by the holders of this permit 155
shall be approved by the division before they may be used in 156
this state. The fee for this permit is five hundred dollars for 157
each distributing plant or warehouse. 158

Sec. 4303.12. Permit C-2 may be issued to the owner or 159
operator of a retail store to sell wine in sealed containers 160
only and not for consumption on the premises where sold in 161
original containers. The holder of this permit may also sell and 162
distribute in original packages and not for consumption on the 163
premises where sold or for resale, prepared and bottled 164
highballs, cocktails, cordials, and other mixed beverages 165

manufactured and distributed by holders of A-4 and B-4 permits, 166
and containing not less than ~~four~~one-half of one per cent of 167
alcohol by volume, and not more than twenty-one per cent of 168
alcohol by volume. The fee for this permit is three hundred 169
seventy-six dollars for each location. 170

Sec. 4303.232. (A) As used in this section, "personal 171
consumer" means an individual who is at least twenty-one years 172
of age, is a resident of this state, does not hold a permit 173
issued under this chapter, and intends to use beer or 174
intoxicating liquor purchased in accordance with this section 175
for personal consumption only and not for resale or other 176
commercial purposes. 177

(B)(1) Permit S may be issued to ~~a~~any of the following 178
applicants: 179

(a) A person that is the brand owner or United States 180
importer of beer or wine; 181

(b) A person that is the designated agent of a brand owner 182
or importer for all beer or wine sold in this state for that 183
owner or importer;~~or;~~ 184

(c) A person that manufactures wine if the manufacturer is 185
entitled to a tax credit under 27 C.F.R. 24.278, and produces 186
less than two hundred fifty thousand gallons of wine per year; 187

(d) A person that manufactures spirituous liquor; 188

(e) A person that manufactures mixed beverages. ~~If-~~ 189

If the person resides outside this state, the person shall 190
comply with the requirements governing the issuance of licenses 191
or permits that authorize the sale of beer or intoxicating 192
liquor by the appropriate authority of the state in which the 193

person resides or by the alcohol and tobacco tax and trade 194
bureau of the United States department of the treasury. 195

~~(2) The fee for the S permit is twenty-five dollars.~~ 196

~~(3)~~The holder of an S permit may sell beer or ~~wine-~~ 197
intoxicating liquor to a personal consumer by receiving and 198
filling orders that the personal consumer submits to the permit 199
holder. The permit holder shall sell only ~~wine-beer or~~ 200
intoxicating liquor that the permit holder has manufactured to a 201
personal consumer. 202

~~(4)~~~~(3)~~ The holder of an S permit shall renew the permit 203
in accordance with section 4303.271 of the Revised Code, except 204
that the renewal shall not be subject to the notice and hearing 205
requirements established in division (B) of that section. 206

~~(5)~~~~(4)~~ The division of liquor control may refuse to renew 207
an S permit for any of the reasons specified in section 4303.292 208
of the Revised Code or if the holder of the permit fails to do 209
any of the following: 210

(a) Collect and pay all applicable taxes specified in 211
division ~~(B)~~~~(C)~~ of this section; 212

(b) Pay the permit fee; 213

(c) Comply with this section or any rules adopted by the 214
liquor control commission under section 4301.03 of the Revised 215
Code. 216

~~(B)~~~~(C)~~ (1) The holder of an S permit who sells wine shall 217
collect and pay the taxes relating to the delivery of wine to a 218
personal consumer that are levied under sections 4301.421, 219
4301.43, and 4301.432 and Chapters 5739. and 5741. of the 220
Revised Code. 221

(2) The holder of an S permit who sells beer shall collect 222
and pay the taxes relating to the delivery of beer to a personal 223
consumer that are levied under sections 4301.42 and 4301.421 and 224
Chapters 4305., 4307., 5739., and 5741. of the Revised Code. 225

(3) The holder of an S permit who sells spirituous liquor 226
shall collect and pay the taxes relating to the delivery of 227
spirituous liquor to a personal consumer that are levied under 228
section 4301.424 and Chapters 5739. and 5741. of the Revised 229
Code. 230

(4) The holder of an S permit who sells mixed beverages 231
shall collect and pay the taxes relating to the delivery of 232
spirituous liquor to a personal consumer that are levied under 233
sections 4301.421, 4301.424, and 4301.43 and Chapters 5739. and 234
5741. of the Revised Code. 235

~~(C)~~(D) (1) The holder of an S permit shall send a shipment 236
of beer or ~~wine~~ intoxicating liquor that has been paid for by a 237
personal consumer to that personal consumer via the holder of an 238
H permit. Prior to sending a shipment of beer or ~~wine~~ 239
intoxicating liquor to a personal consumer, the holder of an S 240
permit, or an employee of the permit holder, shall make a bona 241
fide effort to ensure that the personal consumer is at least 242
twenty-one years of age. The shipment of beer or ~~wine~~ 243
intoxicating liquor shall be shipped in a package that clearly 244
has written on it in bold print the words "alcohol enclosed." No 245
person shall fail to comply with division ~~(C)~~(D) (1) of this 246
section. 247

(2) Upon delivering a shipment of beer or ~~wine~~ 248
intoxicating liquor to a personal consumer, the holder of the H 249
permit, or an employee of the permit holder, shall verify that 250
the personal consumer is at least twenty-one years of age by 251

checking the personal consumer's driver's or commercial driver's 252
license or identification card issued under sections 4507.50 to 253
4507.52 of the Revised Code. 254

(3) The holder of an S permit shall keep a record of each 255
shipment of beer or ~~wine-intoxicating liquor~~ that the permit 256
holder sends to a personal consumer. The records shall be used 257
for all of the following: 258

(a) To provide a copy of each beer or ~~wine-intoxicating~~ 259
~~liquor~~ shipment invoice to the tax commissioner in a manner 260
prescribed by the commissioner. The invoice shall include the 261
name of each personal consumer that purchased beer or ~~wine-~~ 262
~~intoxicating liquor~~ from the S permit holder in accordance with 263
this section and any other information required by the tax 264
commissioner. 265

(b) To provide annually in electronic format by electronic 266
means a report to the division. The report shall include the 267
name and address of each personal consumer that purchased beer 268
or ~~wine-intoxicating liquor~~ from the S permit holder in 269
accordance with this section, the quantity of beer or ~~wine-~~ 270
~~intoxicating liquor~~ purchased by each personal consumer, and any 271
other information requested by the division. The division shall 272
prescribe and provide an electronic form for the report and 273
shall determine the specific electronic means that the S permit 274
holder must use to submit the report. 275

(c) To notify a personal consumer of any health or welfare 276
recalls of the beer or ~~wine-intoxicating liquor~~ that has been 277
purchased by the personal consumer. 278

~~(D) As used in this section, "personal consumer" means an 279
individual who is at least twenty-one years of age, is a 280~~

~~resident of this state, does not hold a permit issued under this~~ 281
~~chapter, and intends to use beer or wine purchased in accordance~~ 282
~~with this section for personal consumption only and not for~~ 283
~~resale or other commercial purposes.~~ 284

(E) The holder of an S permit shall comply with this 285
chapter, Chapter 4301. of the Revised Code, and any rules 286
adopted by the liquor control commission under section 4301.03 287
of the Revised Code. 288

(F) The fee for the S permit is twenty-five dollars. 289

Section 2. That existing sections 4303.04, 4303.041, 290
4303.05, 4303.09, 4303.12, and 4303.232 of the Revised Code are 291
hereby repealed. 292