As Introduced

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Representatives Swearingen, LaRe
Cosponsors: Representatives Romanchuk, Jordan, Reineke, Seitz, Becker, Abrams, Jones, Carfagna, Cross, Hambley, Lang, Antani, Weinstein

A BILL

To amend section 4303.041 and to enact sections 4303.185 and 4303.252 of the Revised Code to enact provisions of law relative to the sale and delivery of alcoholic beverages by liquor permit holders and to declare an emergency.

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

Section 1. That section 4303.041 be amended and sections 4303.185 and 4303.252 of the Revised Code be enacted to read as follows:

Sec. 4303.041. (A) An A-3a permit may be issued to a distiller that manufactures less than one hundred thousand gallons of spirituous liquor per year. An A-3a permit holder may sell to a personal consumer, in sealed containers for consumption off the premises where manufactured, spirituous liquor that the permit holder manufactures; however, an A-3a permit holder may make sales to the personal consumer only by an in-person transaction at the permit premises or via delivery made pursuant to section 4303.185 or 4303.252 of the Revised Code. The A-3a permit holder shall not ship, send,
or use an H permit holder to deliver spirituous liquor to the personal consumer.

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

(B)(1) Except as otherwise provided in this section, no A-3a permit shall be issued unless the sale of spirituous liquor by the glass for consumption on the premises or by the package for consumption off the premises is authorized in the election precinct in which the A-3a permit is proposed to be located.

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

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

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

An A-3a permit holder may sell spirituous liquor in sealed containers for consumption off the premises where manufactured as an independent contractor under agreement, by virtue of the permit, with the division of liquor control. The price at which
the A-3a permit holder shall sell each spirituous liquor product to a personal consumer is to be determined by the division of liquor control. For an A-3a permit holder to purchase and then offer spirituous liquor for retail sale, the spirituous liquor need not first leave the physical possession of the A-3a permit holder to be so registered. The spirituous liquor that the A-3a permit holder buys from the division of liquor control shall be maintained in a separate area of the permit premises for sale to personal consumers. The A-3a permit holder shall sell such spirituous liquor in sealed containers for consumption off the premises where manufactured as an independent contractor by virtue of the permit issued by the division of liquor control, but the permit holder shall not be compensated as provided in division (A)(1) of section 4301.17 of the Revised Code. Each A-3a permit holder shall be subject to audit by the division of liquor control.

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

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

Sec. 4303.185. (A) As used in this section:

(1) "Alcoholic beverage" means beer, wine, mixed beverages, or spirituous liquor.

(2) "Personal consumer" means an individual who is at least twenty-one years of age and intends to use a purchased alcoholic beverage for personal consumption only and not for resale or other commercial purposes.

(3) "Retail permit holder" means an A-1-A, A-1c, A-2, A-2f, A-3a, or D class permit holder.
(B) Notwithstanding any other provision of law to the contrary and in addition to any other sales authorized by a retail permit holder's permit, a retail permit holder may do both of the following:

(1) Sell alcoholic beverages by the individual drink in closed containers to a personal consumer for off-premises consumption, including via delivery to the location of the personal consumer;

(2) Sell, via delivery, alcoholic beverages in sealed original containers to a personal consumer.

(C)(1) A retail permit holder may only sell types of alcoholic beverages under division (B) of this section that the retail permit holder is otherwise authorized to sell under the retail permit holder's permit.

(2) Prior to delivering an alcoholic beverage to a personal consumer under this section, a retail permit holder, or an employee of the retail permit holder, shall make a bona fide effort to ensure that the personal consumer is at least twenty-one years of age.

(3) A retail permit holder need not use a person issued an H permit under Chapter 4303. of the Revised Code to make deliveries authorized under this section.

(4) An A-3a permit holder that sells spirituous liquor in its original sealed container under division (B) of this section shall otherwise comply with section 4303.041 of the Revised Code regarding sales of spirituous liquor.

(D)(1) In addition to areas in which a retail permit holder is authorized to sell alcoholic beverages under the retail permit holder's permit, a retail permit holder may sell
alcoholic beverages by the individual drink for consumption as follows:

(a) In any area of the retail permit holder's property in which sales are not currently authorized and that is outdoors, including the retail permit holder's parking area;

(b) In any outdoor area of public property that is immediately adjacent to the retail permit holder's premises, provided that the permit holder obtains written consent in accordance with division (E) of this section;

(c) In any outdoor area of private property that is immediately adjacent to the retail permit holder's premises, provided that the permit holder obtains the written consent of the owner of the private property.

(2) If a retail permit holder sells alcoholic beverages in an outdoor area, the retail permit holder shall clearly delineate the area where personal consumers may consume alcoholic beverages.

(E) For purposes of division (D)(1)(b) of this section, a retail permit holder shall obtain the written consent of either of the following:

(1) If the public property is located in a municipal corporation, the executive officer of the municipal corporation or the executive officer's designee. If the executive officer or the executive officer's designee denies consent, the retail permit holder may appeal the denial to the legislative authority of the municipal corporation. The legislative authority may adopt a resolution requesting the executive officer to reconsider the executive officer's denial.

(2) If the public property is located in the
unincorporated area of a township, the fiscal officer of the township or the fiscal officer's designee. If the fiscal officer or the fiscal officer's designee denies consent, the retail permit holder may appeal the denial to the legislative authority of the township. The legislative authority may adopt a resolution consenting to the sale of alcoholic beverages.

(F) Section 4301.62 of the Revised Code does not apply to either of the following:

(1) An alcoholic beverage in a closed container being transported under this section to its final destination, provided that, during such transport, no person consumes the alcoholic beverage;

(2) The consumption of an alcoholic beverage in an outdoor area described in division (D)(1) of this section.

Sec. 4303.252. (A) As used in this section:

(1) "Food delivery service" means an online business that acts as an intermediary between multiple retail food establishments or food service operations licensed under Chapter 3717. of the Revised Code and purchasers of food from those establishments or operations by doing both of the following:

(a) Submitting food orders to participating retail food establishments or food service operations on behalf of those purchasers;

(b) Delivering food orders from retail food establishments or food service operations to those purchasers.

(2) "Alcoholic beverage" and "personal consumer" have the same meanings as in section 4303.185 of the Revised Code.

(B) A food delivery service may deliver alcoholic
beverages in sealed original containers or by the individual
drink in closed containers from an A-1-A, A-1c, A-2, A-2f, A-3a,
C class, or D class permit holder to a personal consumer,
provided the food delivery service registers with the division
of liquor control. The food delivery service shall register in a
manner that the superintendent of liquor control shall
prescribe.

(C) A permit holder shall provide alcoholic beverages for
delivery under this section to a food delivery service only of
the type that the permit holder is otherwise authorized to sell
under the permit holder's permit.

(D) Prior to delivering an alcoholic beverage to a
personal consumer under this section, a representative of a food
delivery service shall make a bona fide effort to ensure that
the personal consumer is at least twenty-one years of age.

(E) Section 4301.62 of the Revised Code does not apply to
an alcoholic beverage in a closed container being transported
under this section to its final destination, provided that,
during such transport, no person consumes the alcoholic
beverage.

Section 2. That existing section 4303.041 of the Revised
Code is hereby repealed.

Section 3. This act is hereby declared to be an emergency
measure necessary for the immediate preservation of the public
peace, health, and safety. The reason for such necessity is to
provide economic relief to liquor permit holders as a result of
the COVID-19 outbreak. Therefore, this act shall go into
immediate effect.