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Committee**

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Sub. H. B. No. 444

Representative Blessing

**Cosponsors: Representatives Henne, Grossman, Hambley, Brenner, Conditt,
Becker, Ramos, Thompson, Perales, Manning, Buchy, Boose, Dever, Rezabek,
Sheehy, Brown**

A BILL

To amend sections 4301.01, 4301.22, and 4301.637 of 1
the Revised Code to allow A-1-A, A-1c, and 2
certain D liquor permit holders to provide free 3
tasting samples of beer, wine, and spirituous 4
liquor, as applicable, to a person who is 21 5
years old or older and a paying customer of the 6
permit holder, to increase the permitted alcohol 7
content of beer from 12% to 15% alcohol by 8
volume, and to establish sign posting 9
requirements for C and D liquor permit holders 10
that sell beer containing higher alcohol 11
content. 12

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

Section 1. That sections 4301.01, 4301.22, and 4301.637 of 13
the Revised Code be amended to read as follows: 14

Sec. 4301.01. (A) As used in the Revised Code: 15

(1) "Intoxicating liquor" and "liquor" include all liquids 16

and compounds, other than beer, containing one-half of one per cent or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. "Intoxicating liquor" and "liquor" include cider and alcohol, and all solids and confections which contain one-half of one per cent or more of alcohol by volume.

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the Revised Code, "sale" and "sell" include exchange, barter, gift, offer for sale, sale, distribution and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to section 4301.21 of the Revised Code. "Sale" and "sell" do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the division of liquor control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any such orders until the solicitor has been registered with the division pursuant to section 4303.25 of the Revised Code.

(3) "Vehicle" includes all means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.

(B) As used in this chapter:

(1) "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and

includes synthetic ethyl alcohol. "Alcohol" does not include 47
denatured alcohol and wood alcohol. 48

(2) "Beer" includes all beverages brewed or fermented 49
wholly or in part from malt products and containing one-half of 50
one per cent or more, but not more than ~~twelve~~fifteen per cent, 51
of alcohol by volume. 52

(3) "Wine" includes all liquids fit to use for beverage 53
purposes containing not less than one-half of one per cent of 54
alcohol by volume and not more than twenty-one per cent of 55
alcohol by volume, which is made from the fermented juices of 56
grapes, fruits, or other agricultural products, except that as 57
used in sections 4301.13, 4301.421, 4301.422, 4301.432, and 58
4301.44 of the Revised Code, and, for purposes of determining 59
the rate of the tax that applies, division (B) of section 60
4301.43 of the Revised Code, "wine" does not include cider. 61

(4) "Mixed beverages" include bottled and prepared 62
cordials, cocktails, highballs, and solids and confections that 63
are obtained by mixing any type of whiskey, neutral spirits, 64
brandy, gin, or other distilled spirits with, or over, 65
carbonated or plain water, pure juices from flowers and plants, 66
and other flavoring materials. The completed product shall 67
contain not less than one-half of one per cent of alcohol by 68
volume and not more than twenty-one per cent of alcohol by 69
volume. 70

(5) "Spirituous liquor" includes all intoxicating liquors 71
containing more than twenty-one per cent of alcohol by volume. 72

(6) "Sealed container" means any container having a 73
capacity of not more than one hundred twenty-eight fluid ounces, 74
the opening of which is closed to prevent the entrance of air. 75

(7) "Person" includes firms and corporations.	76
(8) "Manufacture" includes all processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, or brewing, or in any other manner.	77 78 79 80
(9) "Manufacturer" means any person engaged in the business of manufacturing beer or intoxicating liquor.	81 82
(10) "Wholesale distributor" and "distributor" means a person engaged in the business of selling to retail dealers for purposes of resale.	83 84 85
(11) "Hotel" has the same meaning as in section 3731.01 of the Revised Code, subject to the exceptions mentioned in section 3731.03 of the Revised Code.	86 87 88
(12) "Restaurant" means a place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. "Restaurant" does not include pharmacies, confectionery stores, lunch stands, night clubs, and filling stations.	89 90 91 92 93 94 95
(13) "Club" means a corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for those purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.	96 97 98 99 100 101 102
(14) "Night club" means a place operated for profit, where food is served for consumption on the premises and one or more	103 104

forms of amusement are provided or permitted for a consideration 105
that may be in the form of a cover charge or may be included in 106
the price of the food and beverages, or both, purchased by 107
patrons. 108

(15) "At retail" means for use or consumption by the 109
purchaser and not for resale. 110

(16) "Pharmacy" means an establishment, as defined in 111
section 4729.01 of the Revised Code, that is under the 112
management or control of a licensed pharmacist in accordance 113
with section 4729.27 of the Revised Code. 114

(17) "Enclosed shopping center" means a group of retail 115
sales and service business establishments that face into an 116
enclosed mall, share common ingress, egress, and parking 117
facilities, and are situated on a tract of land that contains an 118
area of not less than five hundred thousand square feet. 119
"Enclosed shopping center" also includes not more than one 120
business establishment that is located within a free-standing 121
building on such a tract of land, so long as the sale of beer 122
and intoxicating liquor on the tract of land was approved in an 123
election held under former section 4301.353 of the Revised Code. 124

(18) "Controlled access alcohol and beverage cabinet" 125
means a closed container, either refrigerated, in whole or in 126
part, or nonrefrigerated, access to the interior of which is 127
restricted by means of a device that requires the use of a key, 128
magnetic card, or similar device and from which beer, 129
intoxicating liquor, other beverages, or food may be sold. 130

(19) "Community facility" means either of the following: 131

(a) Any convention, sports, or entertainment facility or 132
complex, or any combination of these, that is used by or 133

accessible to the general public and that is owned or operated 134
in whole or in part by the state, a state agency, or a political 135
subdivision of the state or that is leased from, or located on 136
property owned by or leased from, the state, a state agency, a 137
political subdivision of the state, or a convention facilities 138
authority created pursuant to section 351.02 of the Revised 139
Code; 140

(b) An area designated as a community entertainment 141
district pursuant to section 4301.80 of the Revised Code. 142

(20) "Low-alcohol beverage" means any brewed or fermented 143
malt product, or any product made from the fermented juices of 144
grapes, fruits, or other agricultural products, that contains 145
either no alcohol or less than one-half of one per cent of 146
alcohol by volume. The beverages described in division (B) (20) 147
of this section do not include a soft drink such as root beer, 148
birch beer, or ginger beer. 149

(21) "Cider" means all liquids fit to use for beverage 150
purposes that contain one-half of one per cent of alcohol by 151
volume, but not more than six per cent of alcohol by weight, and 152
that are made through the normal alcoholic fermentation of the 153
juice of sound, ripe apples, including, without limitation, 154
flavored, sparkling, or carbonated cider and cider made from 155
pure condensed apple must. 156

(22) "Sales area or territory" means an exclusive 157
geographic area or territory that is assigned to a particular A 158
or B permit holder and that either has one or more political 159
subdivisions as its boundaries or consists of an area of land 160
with readily identifiable geographic boundaries. "Sales area or 161
territory" does not include, however, any particular retail 162
location in an exclusive geographic area or territory that had 163

been assigned to another A or B permit holder before April 9, 164
2001. 165

Sec. 4301.22. Sales of beer and intoxicating liquor under 166
all classes of permits and from state liquor stores are subject 167
to the following restrictions, in addition to those imposed by 168
the rules or orders of the division of liquor control: 169

(A) (1) Except as otherwise provided in this chapter, no 170
beer or intoxicating liquor shall be sold to any person under 171
twenty-one years of age. 172

(2) No low-alcohol beverage shall be sold to any person 173
under eighteen years of age. No permit issued by the division 174
shall be suspended, revoked, or canceled because of a violation 175
of division (A) (2) of this section. 176

(3) No intoxicating liquor shall be handled by any person 177
under twenty-one years of age, except that a person eighteen 178
years of age or older employed by a permit holder may handle or 179
sell beer or intoxicating liquor in sealed containers in 180
connection with wholesale or retail sales, and any person 181
nineteen years of age or older employed by a permit holder may 182
handle intoxicating liquor in open containers when acting in the 183
capacity of a server in a hotel, restaurant, club, or night 184
club, as defined in division (B) of section 4301.01 of the 185
Revised Code, or in the premises of a D-7 permit holder. This 186
section does not authorize persons under twenty-one years of age 187
to sell intoxicating liquor across a bar. Any person employed by 188
a permit holder may handle beer or intoxicating liquor in sealed 189
containers in connection with manufacturing, storage, 190
warehousing, placement, stocking, bagging, loading, or 191
unloading, and may handle beer or intoxicating liquor in open 192
containers in connection with cleaning tables or handling empty 193

bottles or glasses.	194
(B) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person.	195 196 197
(C) No sales of intoxicating liquor shall be made after two-thirty a.m. on Sunday except under either of the following circumstances:	198 199 200
(1) Intoxicating liquor may be sold on Sunday under authority of a permit that authorizes Sunday sale.	201 202
(2) Spirituous liquor may be sold on Sunday by any person awarded an agency contract under section 4301.17 of the Revised Code if the sale of spirituous liquor is authorized in the applicable precinct as the result of an election on question (B) (1) or (2) of section 4301.351 of the Revised Code and if the agency contract authorizes the sale of spirituous liquor on Sunday.	203 204 205 206 207 208 209
This section does not prevent a municipal corporation from adopting a closing hour for the sale of intoxicating liquor earlier than two-thirty a.m. on Sunday or to provide that no intoxicating liquor may be sold prior to that hour on Sunday.	210 211 212 213
(D) No holder of a permit shall give away any beer or intoxicating liquor of any kind at any time in connection with the permit holder's business. <u>However, an A-1-A, A-1c, or D permit holder may provide to a paying customer not more than a total of four tasting samples of beer, wine, or spirituous liquor, as authorized by the applicable permit, in any twenty-four-hour period. The permit holder shall provide the tasting samples free of charge, at the permit holder's expense, only to a person who is twenty-one years of age or older. The person</u>	214 215 216 217 218 219 220 221 222

shall consume the tasting samples on the premises of the permit 223
holder. A distributor is not responsible for the costs of 224
providing tasting samples authorized under division (D) of this 225
section. 226

As used in division (D) of this section: 227

(1) "Tasting sample" means one of the following, as 228
applicable: 229

(a) An amount not to exceed two ounces of beer; 230

(b) An amount not to exceed two ounces of wine; 231

(c) An amount not to exceed a quarter ounce of spirituous 232
liquor. 233

(2) "D permit holder" means a person that has been issued 234
a D-1, D-2, D-2x, D-3, D-3a, D-3x, D-4, D-5, D-5a, D-5c, D-5d, 235
D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-6, or D- 236
7 permit. 237

(E) Except as otherwise provided in this division, no 238
retail permit holder shall display or permit the display on the 239
outside of any licensed retail premises, or on any lot of ground 240
on which the licensed premises are situated, or on the exterior 241
of any building of which the licensed premises are a part, any 242
sign, illustration, or advertisement bearing the name, brand 243
name, trade name, trade-mark, designation, or other emblem of or 244
indicating the manufacturer, producer, distributor, place of 245
manufacture, production, or distribution of any beer or 246
intoxicating liquor. Signs, illustrations, or advertisements 247
bearing the name, brand name, trade name, trade-mark, 248
designation, or other emblem of or indicating the manufacturer, 249
producer, distributor, place of manufacture, production, or 250
distribution of beer or intoxicating liquor may be displayed and 251

permitted to be displayed on the interior or in the show windows 252
of any licensed premises, if the particular brand or type of 253
product so advertised is actually available for sale on the 254
premises at the time of that display. The liquor control 255
commission shall determine by rule the size and character of 256
those signs, illustrations, or advertisements. 257

(F) No retail permit holder shall possess on the licensed 258
premises any barrel or other container from which beer is drawn, 259
unless there is attached to the spigot or other dispensing 260
apparatus the name of the manufacturer of the product contained 261
in the barrel or other container, provided that, if the beer is 262
served at a bar, the manufacturer's name or brand shall appear 263
in full view of the purchaser. The commission shall regulate the 264
size and character of the devices provided for in this section. 265

(G) Except as otherwise provided in this division, no sale 266
of any gift certificate shall be permitted whereby beer or 267
intoxicating liquor of any kind is to be exchanged for the 268
certificate, unless the gift certificate can be exchanged only 269
for food, and beer or intoxicating liquor, for on-premises 270
consumption and the value of the beer or intoxicating liquor for 271
which the certificate can be exchanged does not exceed more than 272
thirty per cent of the total value of the gift certificate. The 273
sale of gift certificates for the purchase of beer, wine, or 274
mixed beverages shall be permitted for the purchase of beer, 275
wine, or mixed beverages for off-premises consumption. 276
Limitations on the use of a gift certificate for the purchase of 277
beer, wine, or mixed beverages for off-premises consumption may 278
be expressed by clearly stamping or typing on the face of the 279
certificate that the certificate may not be used for the 280
purchase of beer, wine, or mixed beverages. 281

Sec. 4301.637. (A) Except as otherwise provided in section 282
4301.691 of the Revised Code, every place in this state where 283
beer, intoxicating liquor, or any low-alcohol beverage is sold 284
for beverage purposes shall display at all times, in a prominent 285
place on the premises thereof, a printed card, which shall be 286
furnished by the division of liquor control and which shall read 287
substantially as follows: 288

"WARNING TO PERSONS UNDER AGE 289

If you are under the age of 21 290

Under the statutes of the state of Ohio, if you order, pay 291
for, share the cost of, or attempt to purchase, or possess or 292
consume beer or intoxicating liquor in any public place, or 293
furnish false information as to name, age, or other 294
identification, you are subject to a fine of up to one thousand 295
dollars, or imprisonment up to six months, or both. 296

If you are under the age of 18 297

Under the statutes of the state of Ohio, if you order, pay 298
for, share the cost of, or attempt to purchase, or possess or 299
consume, any type of beer or wine that contains either no 300
alcohol or less than one-half of one per cent of alcohol by 301
volume in any public place, or furnish false information as to 302
name, age, or other identification, you are subject to a fine of 303
up to two hundred fifty dollars or to imprisonment up to thirty 304
days, or both." 305

No person shall be subject to any criminal prosecution or 306
any proceedings before the division or the liquor control 307
commission for failing to display this card. No permit issued by 308
the division shall be suspended, revoked, or canceled because of 309
the failure of the permit holder to display this card. 310

(B) Every place in this state for which a D permit has
been issued under Chapter 4303. of the Revised Code shall be
issued a printed card by the division of liquor control that
shall read substantially as follows:

"WARNING

If you are carrying a firearm

Under the statutes of Ohio, if you possess a firearm in
any room in which liquor is being dispensed in premises for
which a D permit has been issued under Chapter 4303. of the
Revised Code, you may be guilty of a felony and may be subjected
to a prison term of up to one year."

No person shall be subject to any criminal prosecution or
any proceedings before the division or the liquor control
commission for failing to display this card. No permit issued by
the division shall be suspended, revoked, or canceled because of
the failure of the permit holder to display this card.

(C) For every place in this state for which a C or D
permit has been issued under Chapter 4303. of the Revised Code,
the division of liquor control shall issue a printed card that
reads substantially as follows:

"CAUTION

Beer sold from this premises may contain up to 15% alcohol
by volume, which is a higher alcohol content than standard beer
that contains not more than 12% alcohol by volume. Please use
caution when consuming beer with a higher alcohol content.

The division shall provide the printed card to an
appropriate representative of each C and D permit holder.

No person is subject to any criminal prosecution or any

proceedings before the division or the liquor control commission 339
for failing to display this card. The division shall not 340
suspend, revoke, or cancel a permit because the permit holder 341
failed to display this card." 342

Section 2. That existing sections 4301.01, 4301.22, and 343
4301.637 of the Revised Code are hereby repealed. 344

Section 3. Section 4301.637 of the Revised Code is 345
presented in this act as a composite of the section as amended 346
by both Am. Sub. S.B. 2 and Am. Sub. S.B. 162 of the 121st 347
General Assembly. The General Assembly, applying the principle 348
stated in division (B) of section 1.52 of the Revised Code that 349
amendments are to be harmonized if reasonably capable of 350
simultaneous operation, finds that the composite is the 351
resulting version of the section in effect prior to the 352
effective date of the section as presented in this act. 353