



Ohio Licensed Beverage Association
March 10, 2015
House Government Accountability & Oversight Committee
Honorable Tim Brown, Chairman

Testimony on House Bill 47
Jacob C. Evans, General Counsel

Mr. Chairman, members of the committee, good afternoon and thank you for the opportunity to speak to you in regards to House Bill 47. I stand before you on behalf of the members of the Ohio Licensed Beverage Association (OLBA). The OLBA consists of both on and off premise permit holders, including bars, restaurants, carryouts, hotels and other retail establishments.

I am here today to express our concern with House Bill 47. We have various policy concerns, which I will address later, but also have significant concerns with the manner in which HB 47 will create a large competitive advantage for few liquor permit holders.

Let me open by saying: outdoor refreshment areas (ORAs) can be done on a temporary basis Ohio under current law. While there would be some differences from the proposed operation in HB 47, current law allows for a temporary permit to be issued to a non-profit organization to sell alcoholic beverages on public property. I am sure everyone in this committee has attended a community festival or event where there have been “beer tents” or other such versions of alcoholic products being sold. The main differences: it is temporary and the product must be purchased from within the premises (i.e. not from another permit holder, such as a bar).

In my research, I have been able to determine several places in which an outdoor refreshment area type designation is allowed: Bourbon Street in New Orleans, Louisiana; Beall Street in Memphis, Tennessee; 4th Street Live in Louisville, Kentucky; the Power & Light District of Kansas City, Kansas and the cities of Las Vegas, Nevada; Savannah, Georgia, and Butte, Montana.

That is 7 across the NATION.

Notice that in each instance, each state has only ONE such designation.

Under the provisions of HB 47, there could be up to 79 of these districts across the State according to LSC.

In my capacity with the Ohio Licensed Beverage Association, I also serve as Chairman of the Responsible Alcohol Policy Coalition (RAPC). RAPC is composed of industry interests who work to promote the responsible manufacture, distribution, sale and consumption of alcoholic beverages. To be clear, my statements on behalf of RAPC are not to indicate support or opposition, but simply very real policy issues that we believe must be addressed.

It is with that perspective that I would like to address several issues that RAPC believes to be critical:

1. Local vs. State Control: Liquor law is specifically left to the States and Ohio has excelled in its oversight and regulation. Leaving the control and safety requirements to locals will likely lead to different answers to most of the issues below.
2. Liability: if the municipality is going to enact this district, should they not have some responsibility? Nothing requires law enforcement or oversight. Yet, if there is an issue, there is still a manner in which an individual could place liability back on one of the permit holders.
3. Size of the Area: consider tying the size of the ORA to the population of a given area (Is an area the size of 320 contiguous acres reasonable under the circumstances?) In Columbus, this would be from the corner of West Broad and the River, east to the Athletic Club, South down 4th Avenue to I-70.
4. Control In and out of Area: a liquor permit premises requires defined boundaries; the proposed ORA would have no clean line of demarcation where a customer could or could not take an alcoholic beverage. Many of the cities I mentioned earlier have set boundaries; if you have an outdoor patio in Ohio, you have to have a physical boundary. However, there is no requirement in HB 47 for an ORA to have a defined, visual boundary.
5. Access to the street(s): if individuals are going to have open container and be walking around, we believe the streets should be shut down to traffic.
6. Hours: permit holders must cease operations at 1:00 a.m., 2:00 a.m. or 2:30 a.m. depending on the permit. Under the current language, or lack thereof, someone could order a 6 pack at 2:00 a.m. and site outside in the ORA and drink with no end time.
7. Consistency of the District: must it be a solid ½ mile by ½ mile, or simply a ½ mile straight up the street, one block wide. However, does that mean the street is in the ORA or just the crosswalks? Could an ORA end up looking more like a ladder than a basic geometric shape?
8. Creation of the ORA: While we can appreciate a permit holder objecting to being in an ORA that has 5 permit holders may well stop the creation of the district, but what if 2 permit holders out of 18 object? Is that sufficient to halt the creation or will the permit holder simply opt out?
9. Open Container in an automobile: while this issue is to be addressed in the substitute bill, this is yet another example of major policy issues that need to be considered.
10. Control of product into the ORA: the product to be consumed within the ORA must be purchased by an approved permit holder in the ORA. However, how will that be controlled in an area in which there are multiple points of entry?

Other matters being considered for HB 47 includes language allowing an open container on peddle carts and the ability for art galleries to give away free alcohol. Much like the original premise of HB 47, the OLBA believes these ideas run counter to decades of law focused on responsibly selling and consuming the product.

In regards to peddle carts, we have serious concerns regarding safety. While we appreciate there are open container exemptions for limousines and other chauffeured vehicles, none are open air and subject to the very distinct possibility of falling off of a moving bar stool.

As for art galleries, as mentioned earlier for ORAs, there is a way under temporary law in which this can already be done! Through a temporary permit, a charitable organization can sell alcoholic beverages for consumption the premises. The major difference: the product must be sold, rather than given away. This new permit designation would create direct competitors that have no regulatory requirements, are able to give away the product and no responsibility.

The fact of the matter, is that the proposed changes contained in HB 47 and being considered for HB 47 seek to provide an undue benefit to a select few to the detriment of the vast majority of businesses in the area and across the State. These are not changes being sought by the industry, despite the fact that we will be handling any negative fallout.

We would respectfully request this Committee not pass HB 47 or the amendments currently proposed. The OLBA is open to participating in Interested Party meetings about potential solutions for the Major League Baseball All Star Game in Cincinnati.

Should you have any questions, I would be more than happy to try to answer them. Thank you for your time and consideration.