

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 398**

**Representatives Perales, Boggs**

**Cosponsors: Representatives Becker, Brenner, Carfagna, Celebrezze, DeVitis,  
Lang, McColley, Riedel, Seitz, West**

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**A BILL**

To amend sections 4303.021 and 4303.041 of the 1  
Revised Code to revise the law governing sales 2  
of spirituous liquor by micro-distilleries. 3

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

**Section 1.** That sections 4303.021 and 4303.041 of the 4  
Revised Code be amended to read as follows: 5

**Sec. 4303.021.** (A) Permit A-1-A may be issued to the 6  
holder of an A-1, A-1c, A-2, A-2f, or A-3a permit to sell beer 7  
and any intoxicating liquor at retail, only by the individual 8  
drink in glass or from a container, provided that one of the 9  
following applies to the A-1-A permit premises: 10

(1) It is situated on the same parcel or tract of land as 11  
the related A-1, A-1c, A-2, or A-2f, ~~or A-3a~~ manufacturing 12  
permit premises. 13

(2) It is separated from the parcel or tract of land on 14  
which is located the related A-1, A-1c, A-2, or A-2f, ~~or A-3a~~ 15  
manufacturing permit premises only by public streets or highways 16  
or by other lands owned by the holder of the A-1, A-1c, A-2, or 17

A-2f, ~~or A-3a~~ permit and used by the holder in connection with 18  
or in promotion of the holder's A-1, A-1c, A-2, or A-2f, ~~or A-3a~~ 19  
permit business. 20

(3) In the case of an A-1, A-1c, A-2, or A-2f permit 21  
holder, it is situated on a parcel or tract of land that is not 22  
more than one-half mile from the A-1, A-1c, A-2, or A-2f 23  
manufacturing permit premises. 24

(4) In the case of an A-3a permit holder, it is situated 25  
on ~~a any~~ parcel or tract of land that is ~~not more than two~~ 26  
~~hundred feet from the A-3a manufacturing permit premises located~~ 27  
in this state. An A-3a permit holder may operate up to three 28  
such locations under a single A-1-A permit. 29

(B) The fee for this permit is three thousand nine hundred 30  
six dollars. 31

(C) (1) The holder of an A-1-A permit may sell beer and any 32  
intoxicating liquor during the same hours as the holders of D-5 33  
permits under this chapter or Chapter 4301. of the Revised Code 34  
or the rules of the liquor control commission and shall obtain a 35  
license as a retail food establishment or a food service 36  
operation pursuant to Chapter 3717. of the Revised Code and 37  
operate as a restaurant for purposes of this chapter. 38

(2) If a permit A-1-A is issued to the holder of an A-1 or 39  
A-1c permit, the A-1-A permit holder may sell beer at the A-1-A 40  
permit premises dispensed in glass containers with a capacity 41  
that does not exceed one gallon and not for consumption on the 42  
premises where sold if all of the following apply: 43

(a) The A-1-A permit premises is situated in the same 44  
municipal corporation or township as the related A-1 or A-1c 45  
manufacturing permit premises. 46

(b) The containers are sealed, marked, and transported in accordance with division (E) of section 4301.62 of the Revised Code.

(c) The containers have been cleaned immediately before being filled in accordance with rule 4301:1-1-28 of the Administrative Code.

(3) If an A-1-A permit is issued to the holder of an A-3a permit, the A-1-A permit authorizes the A-3a permit holder to sell spirituous liquor in sealed containers for consumption off the premises of the A-1-A permit premises, provided that the spirituous liquor is manufactured by the A-3a permit holder.

(D) Except as otherwise provided in this section, the division of liquor control shall not issue a new A-1-A permit to the holder of an A-1, A-1c, A-2, A-2f, or A-3a permit unless the sale of beer and intoxicating liquor under class D permits is permitted in the precinct in which the A-1, A-1c, A-2, A-2f, or A-3a permit is located and, in the case of an A-2 or A-2f permit, unless the holder of the A-2 or A-2f permit manufactures or has a storage capacity of at least twenty-five thousand gallons of wine per year. The immediately preceding sentence does not prohibit the issuance of an A-1-A permit to an applicant for such a permit who is the holder of an A-1 permit and whose application was filed with the division of liquor control before June 1, 1994. The liquor control commission shall not restrict the number of A-1-A permits which may be located within a precinct.

**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 77  
liquor that the permit holder manufactures, ~~but~~. However, sales 78  
to the personal consumer may occur only by an in-person 79  
transaction at the permit premises or the permit premises of an 80  
A-1-A permit that has been issued to an A-3a permit holder. The 81  
A-3a permit holder shall not ship, send, or use an H permit 82  
holder to deliver spirituous liquor to the personal consumer. 83

"Distiller" means a person in this state who mashes, 84  
ferments, distills, and ages spirituous liquor. 85

(B) (1) Except as otherwise provided in this section, no A- 86  
3a permit shall be issued unless the sale of spirituous liquor 87  
by the glass for consumption on the premises or by the package 88  
for consumption off the premises is authorized in the election 89  
precinct in which the A-3a permit is proposed to be located. 90

(2) Division (B) (1) of this section does not prohibit the 91  
issuance of an A-3a permit to an applicant for such a permit who 92  
has filed an application with the division of liquor control 93  
before March 22, 2012. 94

(C) ~~(1)~~ An A-3a permit holder may offer for sale tasting 95  
samples of spirituous liquor. The A-3a permit holder shall not 96  
serve more than four tasting samples of spirituous liquor per 97  
person per day. A tasting sample shall not exceed a quarter 98  
ounce. Tasting samples shall be only for the purpose of allowing 99  
a purchaser to determine, by tasting only, the quality and 100  
character of the spirituous liquor. The tasting samples shall be 101  
offered for sale in accordance with rules adopted by the 102  
division of liquor control. 103

~~(2) An A-3a permit holder shall sell not more than one and 104  
one half liters of spirituous liquor per day from the permit-~~ 105

~~premises to the same personal consumer.~~ 106

An A-3a permit holder may sell spirituous liquor in sealed 107  
containers for consumption off the premises where manufactured 108  
or for consumption off the permit premises of an A-1-A permit 109  
that has been issued to an A-3a permit holder as an independent 110  
contractor under agreement, by virtue of the permit, with the 111  
division of liquor control. The price at which the A-3a permit 112  
holder shall sell each spirituous liquor product to a personal 113  
consumer is to be determined by the division of liquor control. 114  
For an A-3a permit holder to purchase and then offer spirituous 115  
liquor for retail sale, the spirituous liquor need not first 116  
leave the physical possession of the A-3a permit holder to be so 117  
registered. The spirituous liquor that the A-3a permit holder 118  
buys from the division of liquor control shall be maintained in 119  
a separate area of the permit premises for sale to personal 120  
consumers. The A-3a permit holder shall sell such spirituous 121  
liquor in sealed containers for consumption off the premises 122  
where manufactured as an independent contractor by virtue of the 123  
permit issued by the division of liquor control, but the permit 124  
holder shall not be compensated as provided in division (A) (1) 125  
of section 4301.17 of the Revised Code. Each A-3a permit holder 126  
shall be subject to audit by the division of liquor control. 127

(D) The fee for the A-3a permit is two dollars per fifty- 128  
gallon barrel. 129

(E) The holder of an A-3a permit may also exercise the 130  
same privileges as the holder of an A-3 permit. 131

**Section 2.** That existing sections 4303.021 and 4303.041 of 132  
the Revised Code are hereby repealed. 133

**Section 3.** Section 4303.021 of the Revised Code is 134

presented in this act as a composite of the section as amended 135  
by both Sub. H.B. 342 and Am. H.B. 351 of the 131st General 136  
Assembly. The General Assembly, applying the principle stated in 137  
division (B) of section 1.52 of the Revised Code that amendments 138  
are to be harmonized if reasonably capable of simultaneous 139  
operation, finds that the composite is the resulting version of 140  
the section in effect prior to the effective date of the section 141  
as presented in this act. 142