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Hearing Date: 2/19/2021

Today's Date: 4/30/2021

Agency: Ohio Liquor Control Commission

Rule Number(s): 4301:1-1-4, 4301:1-1-08, 4301:1-1-12, 4301:1-1-14, 4301:1-1-19, 4301:1-1-20, 4301:1-1-21, 4301:1-1-25, 4301:1-1-26, 4301:1-1-27, 4301:1-1-28, 4301:1-1-30, 4301:1-1-31, 4301:1-1-32, 4301:1-1-34, 4301:1-1-35, 4301:1-1-36, 4301:1-1-37, 4301:1-1-38, 4301:1-1-44, 4301:1-1-45, 4301:1-1-74

If no comments at the hearing, please check the box.

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Timothy J. Bechtold on behalf of the Wholesale Beer and Wine Association of Ohio ("WBWAO") regarding the 2020 rules listed above subject to five year review.
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Hearing Summary Report

Consolidated Summary of Comments Received

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

During the February 19, 2021 public hearing, Timothy J. Bechtold, on behalf of WBWAO, generally spoke in support of re-adoption of the 2020 rules. He indicated that the Commission should reference/incorporate the specific comments he submitted during the public hearing on December 4, 2020 and in correspondence dated November 9, 2020, which is attached to this hearing report. On December 4, 2020, Mr. Bechtold stated that the Association was in total agreement with the actions proposed: the adoption of proposed changes as submitted by the Division to Rules 8, 19, 20, 21, 25, 26, 27, 28, 32, 44, and 74; the adoption of amended proposed changes as submitted by the Division to Rule 30, which incorporated all original proposed changes except for the addition of "S Permits" to the rule; and the adoption of Rules 4, 12, 14, 31, 34, 35, 36, 37, 38, and 45 as no change rules. Mr. Bechtold also stated that all of the rules subject to review serve a useful purpose and provided a general recognition and appreciation of the time and efforts taken by the Liquor Control Commission as part of its rules review mandate.

Hearing Summary Report

Incorporated Comments into Rule(s)

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

The Commission received written comments from the Ohio Division of Liquor Control regarding proposed amendments to Rules 8, 19, 20, 21, 25, 26, 27, 28, 30, 32, 44, and 74. Those comments were distributed to interested parties and were considered by the Commission during the hearing process and ultimately incorporated into the rules. The Commission also received comments from the Wholesale Beer and Wine Association of Ohio regarding the Division's proposed changes to Rule 30. WBWAO recommended that the language regarding "S Permits" be removed from the proposed changes to Rule 30, but that all other proposed changes to that rule be adopted. WBWAO's recommendation regarding Rule 30 was received and considered during the hearing process and was incorporated in that rule.



THE WHOLESALE BEER AND WINE ASSOCIATION OF OHIO

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November 9, 2020

VIA EMAIL

Chairman Deborah Pryce
Ohio Liquor Control Commission
77 S. High St., 18th Floor
Columbus, Ohio 43215

Dear Chairman Pryce, Vice Chairman Carnes and Member Stinziano:

On behalf of the members and Board of Directors of the Wholesale Beer and Wine Association of Ohio, I wanted to follow up in writing on my brief comments at the public hearing held via WebEx on October 23, 2020. Specifically, I wanted to reiterate that we support all of the changes proposed by the Division of Liquor Control as outlined in their memo to you of June 29, 2020, with one exception. That exception is to delete any reference to S permit holders in Rule 30 which deals with certain types of private tastings. We enclose a revised draft of Rule 30 which contains this deletion of the S permit from the rule.

We respectfully submit that the addition of the S permit to this rule constitutes a substantive addition to the privileges of the S permit and should not be made without the presentation of a clear and convincing rationale for doing so or, even better, such a change should be considered by the legislature as an additional privilege to that permit. S permits are a fairly recent addition to the traditional classes of permits and are available only to certain types of out-of-state suppliers to allow them access to Ohio consumers. This change in Ohio law was adopted in response to the U.S. Supreme Court's decision in *Granholm v. Heald* which required that direct shipping privileges of wine by out-of-state wineries and in-state wineries are on even-handed terms.

The fact that the S permit is one of the few Ohio permits that an out-of-state entity can acquire underscores the challenges for Ohio regulatory bodies to effectively monitor their activities and, we would argue, dictates against providing them, directly or indirectly, the ability to conduct tasting activities in Ohio.

Thank you for the consideration of these comments and please let me know if we can provide any further information in connection with this issue.

Sincerely,

Timothy J. Bechtold
Counsel for Regulatory Affairs

4301:1-1-30 Beer, wine, mixed beverage, or spirituous liquor tasting.

(A) As used in this rule, the term "tasting" means the distribution of small amounts of brands of beer, wine or mixed beverages, or spirituous liquor so that a person can determine the quality and character of the product. A tasting is not to be used for general consumption purposes. A tasting is for marketing purposes only, held by the person or entity holding the tasting for themselves or for other groups or organizations.

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(B) When conducting a tasting, a per the person serving is limited to the following amounts:

(1) in servings of nNot more than four ounces of beer per person;

(2) Nnot more than two ounces of wine or mixed beverages; or

(3) Nnot more than one ounce of in servings of not more than two ounces of spirituous liquor, in servings of not more than one ounce, to determine by tasting only the quality and character of the product, and not for general consumption purposes.

(B) Only Class A or B permit holders, or any person who is actively registered with the division as a solicitor pursuant to paragraph (I) of rule 4301-3-01 of the Administrative Code, the following permit holders or persons may conduct a tasting.:

(1) B-1, B-2, B-4, B-5, A-1, A-16, A-2, A-3, or A-4 Class A or B permit holders; or

(2) manufacturers of spirituous liquor; and/or

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(3) aAny person who is actively registered with the division of liquor control as a solicitor issued credentials pursuant to paragraph (I) of rule 4301-3-01 of the Administrative Code;

(C) The beer, wine or mixed beverages, or spirituous liquor offered at a tasting must be product that:

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(1) its may conduct a tasting of beer, wine, mixed beverage, or spirituous liquor products, which have been qualifiedregistered for sale in Ohio;

(2) and which That the permit holder, manufacturer, or registered solicitor is authorized to sell, for marketing purposes only, for themselves or for other groups or organizations; and

(3): its provided by the manufacturer or distributor person or permit holders or registered solicitor identified in paragraph (B) of this rule the product for the t no asting without charge to the attendees at the designatedtasting event, which includes location nNot charging fees shall bebeing charged or accepting donations in order accepted to attend or participate in atthe tasting.

(D) A tasting may be conducted at either the:

(1) mManufacturer's or distributor's place of business; or

(2) aAny designated place where provided that the tasting event is closed to the general public.

~~(E) , except that No~~ tasting of spirituous liquor, as provided for under this rule, will shall take place ~~on the premises of a state liquor agency premises. The manufacturer or distributor conducting the tasting shall provide the product for the tasting without charge to the attendees at the designated location. No fees shall be charged or donations accepted to attend or participate in a tasting.~~

~~(F) As defined under paragraph (B) of this rule, persons or permit holders or registered solicitors~~ -applying for a tasting must:

~~(1) dDo so in writing to the division at least five working days prior to the tasting event, which excludes Saturdays, Sundays, or any state recognized holidays, prior to the tasting event; and~~

~~(2) rReceive~~Written notice of any beer, wine, mixed beverage, or spirituous liquor tasting must be submitted to the division of liquor control at least five working days, excluding Saturday and Sunday, before the tasting is to take place, and written approval must be received from the division before such any tasting may be held.

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