



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

Business Impact Analysis RESCINDED RULES

This form is intended for rules that are being permanently rescinded and not replaced by a new rule. New, Amended, No Change, and Rescind/New rules must use the standard BIA.

Agency, Board, or Commission Name: Ohio Liquor Control Commission

Rule Contact Name and Contact Information: Dominic Panzera, dominic.panzera@lcc.ohio.gov, 614.995.2216

Regulation/Package Title (a general description of the rules' substantive content):

2023 Rescission Rule 56

Rule Number(s): 4301:1-1-56 (Sales)

Date of Submission for CSI Review: 12/4/23

Public Comment Period End Date: 12/12/23

Rule Type/Number of Rules:

Rescinded/ 1 rules (FYR? N)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. **Requires specific expenditures or the report of information as a condition of compliance.**
- d. **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please describe in plain language the regulation that is being rescinded.**

4301:1-1-56 Employment of underage persons: This rule allows any person 18 years of age or older to handle sealed containers of beer, wine, or spirituous liquor in connection with wholesale or retail sales, and any person employed by any permit holder to handle the same in connection with manufacturing, storage, warehousing, placement, or delivery and in open containers in connection with cleaning or handling empty bottles or glasses. This rule also allows any person 21 years old to fully participate in any manner of the handling, sale, or delivery of beer, wine, or spirituous liquor and a person 19 years of age or older to do the same when working in the capacity of a waiter or waitress.

3. **Why is the regulation being rescinded?**

Please be specific (ORC change, request of stakeholders, etc.)

The 134th Ohio General Assembly enacted legislation (R.C. 4301.22(A)) that provides guidance to liquor permit holders who employ persons under the age of 21. Amending the existing rule would be duplicative of the statute.

4. Please describe in general terms the adverse impacts to business, including currently impacted industries, in the existing rule(s).

The Commission may generally fine, suspend, or revoke an entity's license for noncompliance with the rule.

5. Are there other regulations (either existing or to be created) which will replace the regulation being rescinded or which will now apply because this regulation is being rescinded? This can include rules, statute, federal regulations, agency policies, or industry standards etc.

The Ohio General Assembly recently enacted O.R.C. 4301.22(A), which provides guidance to liquor permit holders who employ persons under the age of 21.

6. Does the rescission of this regulation eliminate flexibility or create more adverse impacts for stakeholders? If yes, please describe stakeholder outreach and justify the impacts.

No, the rescission of this rule does not eliminate flexibility or create additional adverse impacts on liquor permit holders who employ underage persons.

4301:1-1-56

Employment of underage persons.

~~Any person twenty one years of age or older employed by any permit holder may participate in any manner in the handling, sale, or delivery of wine, mixed beverages, or spirituous liquor; and any person nineteen years of age or older employed by any permit holder may participate in any manner in the handling, sale, or delivery of beer, and when working in the capacity of a waiter or waitress may participate in the handling, sale or delivery of wine, mixed beverages or spirituous liquor. Any person eighteen years of age or older employed by any permit holder may handle beer, wine, mixed beverages or spirituous liquor in sealed containers in connection with wholesale or retail sales, and any person employed by any permit holder may handle beer, wine, mixed beverages or spirituous liquor in sealed containers in connection with manufacturing, storage, warehousing, placement or delivery, and in open containers in connection with cleaning tables or handling empty bottles or glasses.~~

**PROPOSED RECISSION OF
RULE 56 SUBMITTED BY
DIVISION OF LIQUOR
CONTROL**



MEMORANDUM

TO: Ron O'Brien, Chair, Liquor Control Commission
James E. Carnes, Vice Chair, Liquor Control Commission
Mike Stinziano, Member, Liquor Control Commission
Sarah Creedon, Executive Director, Liquor Control Commission
Dominic Panzera, Assistant Director, Liquor Control Commission
FROM: James V. Canepa, Superintendent, Division of Liquor Control
DATE: November 28, 2022
RE: Comments and Proposals for Commission Rules

On behalf of the Division of Liquor Control (Division), I would like to thank you for giving us the opportunity to participate through comments in the Ohio Liquor Control Commission's (Commission) 2022 rule review. The Division's recommendations and comments are submitted in accordance with Ohio Administrative Code 4301:1-1-66. Attached to the Division's e-mail transmission of this memorandum are the Division's proposed amendments in Word format.

The Division's proposed amendments are summarized below.

- 4301:1-1-03 The Division recommends these amendments to the minimum pricing requirements to account for the growing number of permit holders selling at retail. The current language implies that only retail permit holders make sales to customers at retail.
4301:1-1-22 The Division recommends a notation in division (B) of this rule which acknowledges that suppliers with B-2a, S-1, and S-2 permits may by-pass a wholesaler.
4301:1-1-24 The Division recommends the indicated single word substitution in order to better effectuate the purpose of the rule.
4301:1-1-33 The Division recommends the indicated deletions in order to be consistent with R.C. 4303.251(B). Also, the Division points out a minor typographical error in the second sentence of subdivision (C)(3) and recommends that the period which is located before the word "Administrative" be moved to the end of the sentence.
4301:1-1-43 The Division recommends the excision of the final sentence in subdivision (B)(2) because it is not fully consistent with the recently enacted R.C. 4301.246.
4301:1-1-49 The Division recommends the addition of new permits A-2f, A-3a, A-5, F-10, and F-11 to those identified in division (B) of this rule. Also, the Division points out a

minor typographical error in subdivision (B)(3) and recommends that a period be added to the end of the sentence.

4301:1-1-56 The Division proposes the elimination of this rule because recent amendments to R.C. 4301.22(A)(3) make this rule unnecessary.

4301:1-1-62 The Division recommends changing “compliance officer” to “compliance agent,” to be consistent with recent statutory changes.

If you have any questions about the Division's recommendations or comments, please do not hesitate to contact me at (614) 644-2472.

cc: Sharon Mull, Chief Counsel, Division of Liquor Control
Abby Schafer, Legislative Director, Ohio Department of Commerce
Joseph Schmansky, AAG, Liquor Unit, Charitable Law-Liquor/Gaming Unit, OAG
Anne Vitale, Associate Legal Counsel, Ohio Department of Public Safety

4301:1-1-56. Employment of underage persons.

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