



## Common Sense Initiative

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

**Carrie Kuruc**, Director

### MEMORANDUM

**TO:** Rachel Herrmann, Ohio Liquor Control Commission

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** May 26, 2020

**RE:** **CSI Review – Permits, Procedure When Quota is Filled (OAC 1301:1-1-11)**

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On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

#### Analysis

This rule package consists of one amended rule proposed by the Ohio Liquor Control Commission (Commission) pursuant to statutory five-year review requirements. This rule package was submitted to the CSI Office on May 8, 2020, and the public comment period was held open through May 15, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on May 8, 2020.

Ohio Administrative Code 4301:1-1-11 establishes the requirements for notifying applicants when the quota for certain permits is filled. The rule covers permits granted to retail stores, restaurants, night clubs, shopping malls, and entertainment districts. Once a quota is reached, the application fee is returned to the business and the application will be added to a waiting list. The business can request that the Commission retain the application fee while the application is pending. Subsequent permit availability is processed in the order that applications were received. The rule is proposed without changes.

During early stakeholder outreach, the Commission reviewed the rule during a public hearing on

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June 14, 2019. The Commission also sent the rule to relevant industry stakeholders via email to solicit feedback. No comments were received during this time or during the CSI public comment period.

The business community impacted by this rule includes all businesses that apply for one of the permits regulated by the rule, which includes retail stores, restaurants, night clubs, shopping malls, and entertainment districts. The adverse impacts created by the rule includes the potential for the Commission, upon request from the business, to retain the application fee for a permit in the event of a filled quota. The application fees range in cost from \$252 for carry-out beer sales to \$2,344 for on-premise consumption of liquor, beer, and wine. The application fees are only retained by the Commission in the case of a permit quota being reached and at the request of the business. The Commission states in the BIA that the rule is necessary to provide an organized system for processing permit applications when a quota has been reached in a location.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that the Ohio Liquor Control Commission should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.