

# SAFE ALCOHOL SALES TRAINING



## OHIO DEPARTMENT OF COMMERCE DIVISION OF LIQUOR CONTROL

*As a contract liquor agency, it is your responsibility to know the state liquor laws and the rules of the Ohio Liquor Control Commission that apply to the operation of your business. The division has prepared this “**Safe Alcohol Sales Training**” booklet as a helpful guide for understanding many of the laws and rules (the number of the statute or rule is noted so you can refer to the specific law or code section). This booklet is not, however, a complete guide. We suggest that you consult with your attorney on any matters that involve your business and that you refer to, or obtain a copy of, the complete set of the liquor laws and rules as addressed under Chapters 4301 and 4303 of the Ohio Revised Code, Chapter 4301 of the Ohio Administrative Code, and pertinent sections in several other chapters of the Ohio Revised Code.*

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## Introduction

It is the responsibility of the Ohio Department Commerce, Division of Liquor Control to provide you, our contract agents, with the spirituous liquor products you need to meet the demands of your customers. Along with the authority that you have been given as an authorized liquor sales agent, or agency employee for the state of Ohio, comes the responsibility to uphold the division's mission:

“To provide for the safe sale and consumption of alcoholic beverages in Ohio.”

The *Safe Alcohol Sales Training* program is designed to assist each of you involved in the sale of spirituous liquor. In addition to being the “eyes and ears” of the division, we consider our contract agents and their employees to be representatives of the division and the state of Ohio, as well. This program will instruct you about the two types of “customers of concern,” and emphasizes your responsibility to deal with these customers in a proper manner.

Strict adherence to the laws related to sales to underage and intoxicated persons is absolutely essential to your operation. We expect you and your employees to set the example for safe, responsible sales standards that other permit holders will follow.

You have been entrusted with the privilege of acting as an agent for the Ohio Department of Commerce, Division of Liquor Control, and we believe that you take this responsibility seriously. The division will provide every resource available to help you be successful in this endeavor. Working together we can continue to uphold our excellent reputation as a control state with a record for safe and responsible sales of spirituous liquor.

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## Basic Concepts of Responsible Beverage Service

*As a liquor sales agent for the Ohio Department of Commerce, Division of Liquor Control, you can sell spirituous liquor for off premises consumption only. This establishes two major “customers of concern” in your business: the underage customer and the intoxicated customer. The following information provides options for maintaining friendly service when the sale of alcohol is not an alternative.*

### Sales to Underage Persons

Ohio law prohibits the sale of alcoholic beverages to persons under 21 years of age. Ohio Revised Code Section 4301.22(A) (see page 7) states in part, “...no beer or intoxicating liquor shall be sold to any person under 21 years of age.” The penalty for this violation is a fine up to \$500 and/or 60 days in jail. Ohio Revised Code Section 4301.69 (see page 9) further provides that no person shall sell or furnish beer or intoxicating liquor to a person under 21 unless given by a physician in the regular line of his practice, or given for established religious purposes, or unless the underage person is accompanied by a parent, a spouse who is not underage, or a legal guardian. Violation of this law is a misdemeanor and can result in a fine up to \$1,000 and/or up to six months in jail. For a liquor sales agent, this could mean termination of your liquor agency contract with this division.

Underage persons who are involved in the purchase of beer or intoxicating liquor also face criminal charges. Section 4301.69 of the Ohio Revised Code (see page 9) prohibits a person under 21 from ordering, paying for, sharing in the cost of, attempting to purchase, consuming, or possessing any beer or intoxicating liquor. The penalty for violating this section is a fine up to \$1,000 and/or six months in jail. In addition, no underage person can knowingly furnish false information in an attempt to purchase beer or intoxicating liquor pursuant to Section 4301.634 of the Ohio Revised Code (see page 12). Violation of this law can result in a fine up to \$1,000 and/or six months in jail.

Ohio Revised Code Section 4301.639 (see page 12) provides a defense for a seller who, in good faith, accepts spurious or false identification, providing the seller complied with the outlined procedures of this section. It is the duty of the seller to question any person who, from their physical characteristics, appears to be underage. Before selling beer or intoxicating liquor to any youthful appearing person, they must present a valid photo driver's license, chauffeur's license, or state of Ohio identification card correctly identifying their age. Laxity and indifference to purchases of alcoholic beverages by underage persons will not be tolerated. Obtaining satisfactory proof of a purchaser's age is the direct responsibility of the person making the sale. The seller must take every precaution to prevent illegal sales, and when there is a doubt and the buyer cannot prove their age, the sale must be refused.

There are many indications that can help the seller identify an underage buyer. These may include, but are not limited to: slight physical build in the shoulders, chest, hips, arms and thighs; lack of facial hair; thin and "unweathered" hands; physical signs of nervous tension; high pitched or cracking voice; excessive talking; inappropriate clothing or jewelry for the simulated age; or incorrect responses to questions.

Acceptable forms of identification are a valid driver's license, an official state of Ohio identification card for a non-driver, or a military identification card issued by the U.S. Department of Defense. When proper identification is produced, be certain to verify the age and to compare the physical description on the identification to the buyer's appearance. To signify an underage person, valid Ohio driver's licenses and official Ohio identification cards have a red strip at the top of the card and the photo is placed on the left side. There is also an "Under 21 until..." line on these cards to provide a clear way to determine when a person turns 21. Persons under the age of 21 are issued Ohio driver's licenses and/or official Ohio identification cards that have all the same features signifying an underage person that the older cards have, but now also have a vertical orientation (the photo appears at the top of the card, just below a red strip). Also, check to make sure the identification has not been altered in any way. For example, a valid Ohio driver's license and Ohio identification cards will feature holograms of the great seal of Ohio and "Don't Drink and Drive" holograms that appear in several places throughout the face of the card. Ohioans who

have previously been issued a horizontal license or identification card will not be required to convert to a vertical license or identification card. Under 21 horizontal licenses and identification cards will be phased out over five years. Licenses and identification cards issued to persons under 21 years of age are issued until the person turns 21.

Another means by which a permit holder can determine whether a person is 21 years of age is by using a transaction scan device (see pages 15 and 18). These devices are used to check the validity of a driver's license or an identification card. However, permit holders and their employees must be aware that they **should not** rely exclusively on the machine. Merely scanning the identification through the device is not sufficient. The clerks **must** ensure the person handing them the identification is actually the person that appears on it. Steps must be taken to verify the identification being presented accurately represents the person purchasing the alcohol. Failure to do so may result in an underage alcohol sale and lead to charges against the clerk and the permit.

It is illegal for any person other than the state to manufacture, sell or distribute in any manner an identification card issued for the purpose of establishing a person's age that displays the great seal of Ohio or the words "Ohio," "State," "Official," "Chauffeur," "Commercial Driver," "Driver," "Operator," or any other designation that represents the card as the official driver's license or identification card of Ohio. Any violation of this law is a fourth degree felony punishable by six months to five years in prison and/or a fine of \$1,000 to \$2,500 .

Further, a person under 21 may not possess any beer or intoxicating liquor in a public or private place except as provided by law. It is also illegal for any person to possess an open container of beer or intoxicating liquor in a public place except when it has been lawfully purchased for consumption on the licensed permit premises.

## Sales to Intoxicated Persons

In addition to sales to underage persons, it is also a violation of Ohio law to sell alcoholic beverages to anyone who is intoxicated. Ohio Revised Code Section 4301.22(B) (see page 7) states that no sales shall be made to an intoxicated person. Violation of this law is a third degree misdemeanor, and can result in a fine of up to \$500 and/or 60 days in jail.

A sales clerk should be alert and look for signs that indicate a person may be intoxicated. Observe the customer's actions, appearance, speech and other mannerisms to see if they give the impression of an intoxicated individual. If intoxication is suspected, the sale should be refused.

The following clues may be helpful when trying to determine if a patron is intoxicated: bloodshot or glassy eyes; flushed complexion; disheveled hair or clothing; staggering when walking; unsteady on feet; odor of alcohol on breath; uncoordinated actions or movements; incoherent, garbled, slurred or boisterous speech; or profane language.

## **Responsible Beverage Service is Necessary**

We must all accept the responsibility of proper alcohol beverage service. Be certain not to sell to a patron if there is a question as to the age or sobriety of the customer. You should be aware that recent Ohio Supreme Court decisions held the seller of alcoholic beverages liable for the results of irresponsible service. Therefore, you need to develop your own techniques and in-house rules to intervene in complex situations.

It may be a good idea to maintain an ongoing daily log to note any unusual incidents or dealings with the "customers of concern" discussed in this pamphlet.

Co-workers should be encouraged to support each other, especially when attempting to deal with an unreasonable or irrational customer.

The duty of responsible beverage service is one that is recognized by the division, the legislature, and the courts. By working together, we can make this program a success and ensure the safety of our patrons and all Ohioans.

## Review Section

### Responsible Beverage Service

- A. The two major types of “customers of concern” are:
1. The **underage** customer;
  2. The **intoxicated** customer.
- B. The three basic concepts of responsible beverage service are:
1. How to **identify** the customer of concern;
  2. **Alternatives** of service to the customer when the sale of alcohol is not possible;
  3. **Methods** of intervention.

### Preventing Sales to Underage Persons

- A. The laws of the State of Ohio require a person to be **21 years of age** in order to purchase **any** alcohol, including beer.
- B. In addition to always carefully checking a valid form of identification, there are several verbal and non-verbal clues to help the alcohol server identify the underage customer.
1. slight **physical** build;
  2. lack of **facial** hair;
  3. thin and “unweathered” **hands**;
  4. physical signs of **nervous tension**;
  5. **high pitched** or cracking voice;
  6. excessive **talking**;
  7. **clothing** inappropriate for the age ;



8. jewelry **inappropriate** for the age;
9. incorrect replies to **questions.**

### **Preventing Sales to Intoxicated Persons**

- A. Ohio liquor law says that “no sales shall be made to an intoxicated person.”
- B. Clues that help identify the intoxicated person are:
  1. Bloodshot or glassy eyes;
  2. Flushed complexion;
  3. Disheveled hair or clothing;
  4. Staggering when walking;
  5. Unsteady on feet;
  6. Odor of alcohol about their breath;
  7. Uncoordinated actions or movements;
  8. Incoherent, garbled or slurred speech;
  9. Boisterous, loud, or profane language.
- C. The seller should also “interview” the customer to determine if he/she had been drinking before coming into the store.

### **Responsible Beverage Service is a Necessity and a Duty**

- A. You must make sure that each sale is appropriate and **legal.**
- B. If there is any question in your mind as to the customer’s **age** or **sobriety.** you **cannot** make the sale.
- C. If you sell alcohol to an underage or intoxicated customer, not only are you breaking the law, you may also be held liable for the results of irresponsible beverage service in certain cases involving injury, death or property damage (see Ohio Revised Code section 4399.18).

## Selected Sections of Ohio's Liquor Laws and Rules

### **ORC Section 4301.22 - Restrictions on sales of beer and liquor**

Sales of beer and intoxicating liquor under all classes of permits and from state liquor stores are subject to the following restrictions, in addition to those imposed by the rules or orders of the division of liquor control:

(A)(1) Except as otherwise provided in this chapter, no beer or intoxicating liquor shall be sold to any person under twenty-one years of age.

(2) No low-alcohol beverage shall be sold to any person under eighteen years of age. No permit issued by the division shall be suspended, revoked, or canceled because of a violation of division (A)(2) of this section.

(3) No intoxicating liquor shall be handled by any person under twenty-one years of age, except that a person eighteen years of age or older employed by a permit holder may handle or sell beer or intoxicating liquor in sealed containers in connection with wholesale or retail sales, and any person nineteen years of age or older employed by a permit holder may handle intoxicating liquor in open containers when acting in the capacity of a server in a hotel, restaurant, club, or night club, as defined in division (B) of section 4301.01 of the Revised Code, or in the premises of a D-7 permit holder. This section does not authorize persons under twenty-one years of age to sell intoxicating liquor across a bar. Any person employed by a permit holder may handle beer or intoxicating liquor in sealed containers in connection with manufacturing, storage, warehousing, placement, stocking, bagging, loading, or unloading, and may handle beer or intoxicating liquor in open containers in connection with cleaning tables or handling empty bottles or glasses.

(B) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person.

(C) No sales of intoxicating liquor shall be made after two-thirty a.m. on Sunday, except under either of the following circumstances: (1) Intoxicating liquor may be sold on Sunday under authority of a permit that authorizes Sunday sales.

(2) Spirituous liquor may be sold on Sunday by any person awarded an agency contract under section 4301.17 of the Revised Code if the sale of spirituous liquor is authorized in the applicable precinct as the result of an election on question (B)(1) or (2) of section 4301.351 of the Revised Code and if the agency contract authorizes the sale of spirituous liquor on Sunday.

This section does not prevent a municipal corporation from adopting a closing hour for the sale of intoxicating liquor earlier than two-thirty a.m. on Sunday or to provide that no intoxicating liquor may be sold prior to that hour on Sunday.

(D) No holder of a permit shall give away any beer or intoxicating liquor of any kind at any time in connection with permit holder's business.

(E) Except as otherwise provided in this division, no retail permit holder shall display or permit the display on the outside of any licensed retail premises, or on any lot of ground on which the licensed premises are situated, or on the exterior of any building of which said licensed premises are a part, any sign, illustration, or advertisement bearing the name, brand name, trade name, trade-mark, designation, or other emblem of or indicating the manufacturer, producer, distributor, place of manufacture, production, or distribution of any beer or intoxicating liquor. Signs, illustrations, or advertisements bearing the name, brand name, trade name, trade-mark, designation, or other emblem of or indicating the manufacturer, producer, distributor, place of manufacture, production, or distribution of beer or intoxicating liquor may be displayed and permitted to be displayed on the interior or in the show windows of any licensed premises, if the particular brand or type of product so advertised is actually available for sale on the premises at the time of such display. The liquor control commission shall determine by rule the size and character of such signs, illustrations, or advertisements.

(F) No retail permit holder shall possess on the licensed premises any barrel or other container from which beer is drawn, unless there is attached to the spigot or other dispensing apparatus the name of the manufacturer of the product contained therein, provided that where such beer is served at a bar the manufacturer's name or brand must appear in full view of the purchaser. The commission shall regulate the size and character of the devices provided for in this section.

(G) Except as otherwise provided in this division, no sale of any gift certificate shall be permitted whereby beer or intoxicating liquor of any kind is to be exchanged for such certificate, unless the gift certificate can be exchanged only for food, and beer or intoxicating liquor, for on-premises consumption and the value of the beer or intoxicating liquor for which the certificate can be exchanged does not exceed more than thirty per cent of the total value of the gift certificate. The sale of gift certificates for the purchase of beer, wine, or mixed beverages shall be permitted for the purchase of beer, wine, or mixed beverages for off-premises consumption. Limitations on the use of a gift certificate for the purchase of beer, wine, or mixed beverages for off-premises consumption may be expressed by clearly stamping or typing on the face of the certificate that the certificate may not be used for the purchase of beer, wine, or mixed beverages.

## **ORC Section 4301.69 - Offenses involving underage persons**

(A) Except as otherwise provided in this chapter, no person shall sell beer or intoxicating liquor to an underage person, shall buy beer or intoxicating liquor for an underage person, or shall furnish it to an underage person, unless given by a physician in the regular line of the physician's practice or given for established religious purposes or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

In proceedings before the liquor control commission, no permit holder, or the employee or agent of a permit holder, charged with a violation of this division shall be charged, for the same offense, with a violation of division (A)(1) of section 4301.22 of the Revised Code.

(B) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian and the parent, spouse who is not an underage person, or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(C) No person shall engage or use accommodations at a hotel, inn, cabin, campground, or restaurant when the person knows or has reason to know either of the following:

(1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and who is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;

(2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs and has the drug of abuse in the original container in which it was dispensed to the person.

(D)(1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin, or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person, or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.

(2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin, or campground by presenting identification that falsely indicates that the underage person is twenty-one years of age or older for the purpose of violating this section.

(E)(1) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in

any public place. The prohibitions set forth in division (E)(1) of this section against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(2)(a) If a person is charged with violating division (E)(1) of this section in a complaint filed under section 2151.27 of the Revised Code, the court may order the child into a diversion program specified by the court and hold the complaint in abeyance pending successful completion of the diversion program. A child is ineligible to enter into a diversion program under division (E)(2)(a) of this section if the child previously has been diverted pursuant to division (E)(2)(a) of this section. If the child completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the child's record in the case sealed under division (D)(3) of section 2151.356 to 2151.358 of the Revised Code. If the child fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(b) If a person is charged in a criminal complaint with violating division (E)(1) of this section, section 2935.36 of the Revised Code shall apply to the offense, except that a person is ineligible for diversion under that section if the person previously has been diverted pursuant to division (E)(2)(a) or (b) of this section. If the person completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the record in the case sealed under section 2953.52 of the Revised Code. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(F) No parent, spouse who is not an underage person, or legal guardian of a minor shall knowingly permit the minor to violate this section or section 4301.63, 4301.633 [4301.63.3], or 4301.634 [4301.63.4] of the Revised Code.

(G) The operator of any hotel, inn, cabin, or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin, or campground.

(H) As used in this section:

(1) “Drug of abuse” has the same meaning as in section 3719.011 [3719.01.1] of the Revised Code.

(2) “Hotel” has the same meaning as in section 3731.01 of the Revised Code.

(3) “Licensed health professional authorized to prescribe drugs” and “prescription” have the same meanings as in section 4729.01 of the Revised Code.

(4) “Minor” means a person under the age of eighteen years.

(5) “Underage person” means a person under the age of twenty-one years.

### **ORC Section 4301.634 - Misrepresentation by a person under twenty-one**

Except as otherwise provided in this chapter, no person under the age of twenty-one years shall knowingly show or give false information concerning the person’s name, age, or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place in this state where beer or intoxicating liquor is sold under a permit issued by the division of liquor control or sold by the division.

### **ORC Section 4301.639 - Good faith acceptance of false identification**

(A) No permit holder, agent or employee of a permit holder, or any other person may be found guilty of a violation of any section of this chapter or any rule of the liquor control commission in which age is an element of the offense, if the liquor control commission or any court of record finds all of the following:

(1) That the person buying, at the time of so doing, exhibited to the permit holder, the agent or employee of the permit holder, or the other person a driver’s or commercial driver’s license or an identification card issued under sections 4507.50 to 4507.52 of the Revised Code or a military identification card issued by the United States Department of Defense showing that the person buying was then at least twenty-one years of age if the person was buying beer as defined in section 4301.01 of the Revised Code or intoxicating liquor or that the person

was then at least eighteen years of age if the person was buying any low-alcohol beverage;

(2) That the permit holder, the agent or employee of the permit holder, or the other person made a bona fide effort to ascertain the true age of the person buying by checking the identification presented, at the time of the purchase, to ascertain that the description on the identification compared with the appearance of the buyer and that the identification presented had not been altered in any way;

(3) That the permit holder, the agent or employee of the permit holder, or the other person had reason to believe that the person buying was of legal age.

(B) In any hearing before the liquor control commission and in any action or proceeding before a court of record in which a defense is raised under division (A) of this section, the registrar of motor vehicles or deputy registrar who issued an identification card under sections 4507.50 to 4507.52 of the Revised Code shall be permitted to submit certified copies of the records, in the registrar's or deputy's possession, of that issuance in lieu of the testimony of the personnel of or contractors with the bureau of motor vehicles at the hearing, action, or proceeding.

(C) The defense provided by division (A) of this section is in addition to the affirmative defense provided by section 4301.611 [4301.61.1] of the Revised Code.

## Penalties for violating Ohio's liquor laws

**DRINKING AGE:** In order to drink or purchase beer and intoxicating liquor, which includes paying for, sharing in the cost of and attempting to buy it, an individual must be 21 years of age or older.

**PENALTY:** *If the individual is under 18 years of age, he/she is subject to punishment by juvenile court. If the individual is 18 or older, he/she is subject to a fine of up to \$1,000 and/or up to six months in jail (1st degree misdemeanor).*

**FALSE I.D.:** It is against the law to knowingly show or give false information about name, age or other identification if under the age of



21 and trying to buy beer or intoxicating liquor. It is also against the law for a person to falsely identify the name, age or any other information of another person under 21 so that person can get beer or intoxicating liquor either by purchase or as a gift.

**PENALTY:** *If the individual is under 18 years of age, he/she is subject to punishment by juvenile court. If the individual is 18 or older, he/she is subject to a fine of up to \$1,000 and/or up to six months in jail (1st degree misdemeanor). An individual who uses a fake driver's license to buy beer or intoxicating liquor may also lose driving rights for a year. In addition, an individual who loans his or her driver's license to another for the purchase of beer or intoxicating liquor is subject to a fine of up to \$1,000 and/or up to six months in jail.*

**MANUFACTURING FALSE I.D.:** It is illegal for any person other than the state to manufacture, sell or distribute in any manner any identification card issued for the purpose of establishing a person's age that displays the great seal of Ohio, the words "Ohio," "State," "Official," "Chauffeur," "Commercial Driver," "Driver," "Operator," or any other designation that represents the card as the official driver's license or identification card of Ohio.

**PENALTY:** *Subject to a fine of up to \$2,500 and/or up to one year in jail (5th degree felony).*

**FURNISHING ALCOHOL TO AN UNDERAGE INDIVIDUAL:** No one can legally sell or give beer or intoxicating liquor to an individual under 21 years of age except a physician in the regular line of his practice, or given for established religious purposes, or unless the individual under 21 is accompanied by a spouse of legal age, a parent or legal guardian.

**PENALTY:** *Subject to a fine of up to \$1,000 and/or up to six months in jail (1st degree misdemeanor).*

**POSSESSION OF ALCOHOL BY UNDERAGE INDIVIDUAL:**

It is illegal for a person under 21 years of age to possess any beer or intoxicating liquor in any public or private place, unless accompanied by a parent, spouse, or legal guardian, or unless the beer or intoxicating liquor is given by a physician in the regular line of his/her practice, or given for established religious purposes.

**PENALTY:** *If the individual is under 18 years of age, he/she is subject to punishment by juvenile court. If the individual is 18 or older, he/she is subject to a fine of up to \$1,000 and/or up to six months in jail (1st degree misdemeanor).*

**DRINKING IN A MOTOR VEHICLE:** No one can drink beer or intoxicating liquor in a motor vehicle, including such things as automobiles, recreational vehicles and boats.

**PENALTY:** *Subject to a fine of up to \$250 and/or up to 30 days in jail (4th degree misdemeanor).*

**PUBLIC POSSESSION:** No one can possess an open container of alcoholic beverage in or on a motor vehicle, stationary or moving, on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.

**PENALTY:** *Subject to a fine of up to \$150 (minor misdemeanor).*

**ORC 4301.61 - Transaction scan in connection with sale or allowing admission to permit premises**

(A) As used in this section and section 4301.611 of the Revised Code:

(1) “Card holder” means any person who presents a driver’s or commercial driver’s license or an identification card to a permit holder, or an agent or employee of a permit holder, for either of the purposes listed in division (A)(4)(a) or (b) of this section.

(2) “Identification card” means an identification card issued under sections 4507.50 to 4507.52 of the Revised Code.

(3) “Permit holder” means the holder of a permit issued under Chapter 4303. of the Revised Code.

(4) “Transaction scan” means the process by which a permit holder or an agent or employee of a permit holder checks, by means of a transaction scan device, the validity of a driver’s or commercial driver’s license or an identification card that is presented as a condition for doing either of the following:

(a) Purchasing any beer, intoxicating liquor, or low-alcohol beverage;

(b) Gaining admission to a premises that has been issued a liquor permit authorizing the sale of beer or intoxicating liquor for consumption on the premises where sold, and where admission is restricted to persons twenty-one years of age or older.

(5) “Transaction scan device” means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver’s or commercial driver’s license or an identification card.

(B)(1) A permit holder or an agent or employee of a permit holder may perform a transaction scan by means of a transaction scan device to check the validity of a driver’s or commercial driver’s license or identification card presented by a card holder for either of the purposes listed in division (A)(4)(a) or (b) of this section.

(2) If the information deciphered by the transaction scan performed under division (B)(1) of this section fails to match the information printed on the driver’s or commercial driver’s license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the permit holder nor any agent or employee of the permit holder shall sell any beer, intoxicating liquor, or low-alcohol beverage to the card holder.

(3) Division (B)(1) of this section does not preclude a permit holder or an agent or employee of a permit holder from using a transaction scan device to check the validity of a document other than a driver’s or commercial driver’s license or an identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition of a sale of beer, intoxicating liquor, or a low-alcohol beverage or of granting admission to a premises described in division (A)(4) of this section.

(C) The registrar of motor vehicles, with the approval of the liquor control commission, shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code that do both of the following:

(1) Govern the recording and maintenance of information described in divisions (D)(1)(a) and (b) of this section , divisions (D)(1)(a) and (b) of section 2927.021 of the Revised Code, and divisions (D)(1)(a) and (b) of section 2925.57 of the Revised Code;

(2) Ensure quality control in the use of transaction scan devices under this section and sections 2927.021, 2927.022, 2925.57, 2925.58, and 4301.611 of the Revised Code.

(D)(1) No permit holder or agent or employee of a permit holder shall electronically or mechanically record or maintain any information derived from a transaction scan, except the following:

(a) The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by a card holder;

(b) The expiration date and identification number of the driver's or commercial driver's license or identification card presented by a card holder.

(2) No permit holder or agent or employee of a permit holder shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained by division (D)(1) of this section, except for purposes of section 4301.611 of the Revised Code.

(3) No permit holder or agent or employee of a permit holder shall use a transaction scan device for a purpose other than a purpose listed in division (A)(4)(a) or (b) of this section.

(4) No permit holder or agent or employee of a permit holder shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including, but not limited to, selling or otherwise disseminating that information for any marketing, advertising, or promotional activities, but a permit holder or agent or employee of a permit holder may release that information pursuant to a court order or as specifically authorized by section 4301.611 or another section of the Revised Code.

(E) Nothing in this section or section 4301.611 of the Revised Code relieves a permit holder or an agent or employee of a permit holder of any responsibility to comply with any other applicable state or

federal laws or rules governing the sale of beer, intoxicating liquor, or low-alcohol beverages.

(F) Whoever violates division (B)(2) or (D) of this section is guilty of an illegal liquor transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars for each violation. The clerk of the court shall pay each collected civil penalty to the county treasurer for deposit into the county treasury.

## **ORC 4301.611 - Transaction scan as affirmative defense**

(A) A permit holder or an agent or employee of a permit holder may not be found guilty of a charge of a violation of this chapter or any rule of the liquor control commission in which the age of a purchaser of any beer, intoxicating liquor, or low-alcohol beverage is an element of the alleged violation, if the permit holder, agent, or employee raises and proves as an affirmative defense that all of the following occurred:

(1) The card holder attempting to purchase any beer, intoxicating liquor, or low-alcohol beverage presented a driver's or commercial driver's license or an identification card.

(2) A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.

(3) The beer, intoxicating liquor, or low-alcohol beverage was sold to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.

(B) In determining whether a permit holder or an agent or employee of a permit holder has proven the affirmative defense provided by division (A) of this section, the liquor control commission or the trier of fact in a court of record shall consider any written policy that the permit holder has adopted and implemented and that is intended to prevent violations of division (A)(1) or (2) of section 4301.22 and of sections 4301.63 to 4301.636 [4301.63.6], 4301.69, and 4301.691 [4301.69.1] of the Revised Code. For purposes of division (A)(3) of this section, the commission or trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a permit holder or an agent or employee of

a permit holder to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a permit holder or an agent or employee of a permit holder from exercising reasonable diligence to determine, the following:

(1) Whether a person to whom the permit holder or agent or employee of a permit holder sells any beer or intoxicating liquor is twenty-one years of age or older or sells any low-alcohol beverage is eighteen years of age or older;

(2) Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.

(C) The affirmative defense provided by division (A) of this section is in addition to the defense provided by section 4301.639 [4301.63.9] of the Revised Code.

(D) In any hearing before the liquor control commission and in any criminal action in which the affirmative defense provided by division (A) of this section is raised, the registrar of motor vehicles or a deputy registrar who issued an identification card under sections 4507.50 to 4507.52 of the Revised Code shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the bureau of motor vehicles in the hearing or action.

## **OAC 4301:1-1-56 Employment of underage persons**

Any person twenty-one years of age 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 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 bever-

ages 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.

## **OAC 4301:1-1-46 Miscellaneous restrictions**

(A) No beer or intoxicating liquor shall be sold or served to occupants of automobiles, for consumption therein, and no “curb service” shall be furnished by any permit holder.

(B) No retail permit holder shall sell any alcoholic beverages to other permit holders or any other persons for the purpose of resale. No retail permit holder shall loan, exchange, transfer, allocate, or deliver any alcoholic beverages to another permit holder or to another permit premises. A retail permit holder may transfer alcoholic beverages from a permit premises where the permit is not renewed, the right to sell alcoholic beverages has been cancelled in any manner by law, or the operations have ceased permanently, to another permit premises for which that retail permit holder holds the permit, only upon receiving written consent from the division of liquor control. The retail permit holder shall provide a written request for consent to the division, which shall include proof that the retail permit holder offered the wholesale distributor the alcoholic beverages and that the wholesale distributor declined to repurchase the alcoholic beverages, and proof of ownership of the inventory.

(C) No deliveries of beer, or wine and mixed beverages to retail permit holders shall be made by anyone who is not a bona fide employee of the B-1, B-2, B-4, B-5, A-1, A-2, or A-4 permit holder making the sale, except such deliveries may be made as provided by section 4301.60 of the Revised Code.

(D) No alcoholic beverage shall be given away with the purchase of merchandise or any thing of value. An alcoholic beverage may be packaged with a nonalcoholic item without increasing the price of the alcoholic beverage.

(E)(1) A retail permit holder shall not be prohibited by this rule, rule 4301:1-1-45 of the Administrative Code, or any other rule of the liquor control commission from conducting a program to prevent alcoholic

beverage sales to underage individuals Under the program, the retail permit holder may give the consumer an item that is not an alcoholic beverage, which costs less than three dollars, for failure on the part of the retail permit holder, their employee, or agent, to require the presentation of identification prior to the consumer's purchase of an alcoholic beverage.

(2) The retail permit holder shall conduct this program only for the purpose of requiring the presentation of an operator's license, chauffeur's license, or an identification card, issued pursuant to sections 4507.50 to 4507.52 of the Revised Code, showing that the consumer is of legal age to purchase alcoholic beverages.

(F) Notwithstanding the provisions of rule 4301:1-1-03 of the Administrative Code, A-2, B-2, B-5, and retail permit holders may calculate and advertise retail wine case prices as ten per cent off the retail single bottle minimum price.

(G) Prohibition against sales at wholesale to persons who are not retail permit holders.

(1) No wholesale distributor shall sell alcoholic beverages at wholesale to a person who is not a retail permit holder.

(2) A wholesale distributor must verify that the person to whom they are selling alcoholic beverages at wholesale is a retail permit holder.

(3) A wholesale distributor may receive written verification that a person is a retail permit holder by contacting the liquor control commission or the division of liquor control, by mail, facsimile, or via the division's internet web site, which lists active and recently-canceled permits.

(4) Written proof of such verification is an affirmative defense to a citation issued to the wholesale distributor for selling alcoholic beverages at wholesale to a non-permit holder, pursuant to rules 4301:1-1-03 or 4301:1-1-72 of the Administrative Code.



## Resource Directory

### **OHIO DEPARTMENT OF COMMERCE DIVISION OF LIQUOR CONTROL**

**P.O. Box 4005  
6606 Tussing Road  
Reynoldsburg, OH 43068-9005  
[www.com.ohio.gov/liqr](http://www.com.ohio.gov/liqr)**

Responsible for controlling the manufacture, distribution and sale of all alcoholic beverages in Ohio. The division is the state's sole purchaser and distributor of spirituous liquor. Spirituous liquor is sold through more than 430 private businesses, known as liquor agencies, which are contracted by the division to serve as its sales agents. Significant sales and tax revenues are generated from the sale of spirituous liquor. These revenues are used to help fund a variety of programs offered by various state agencies.

Regulatory functions include the issuance of permits to the state's approximately 24,000 privately owned and operated manufacturers, distributors, and retailers of alcoholic beverages. The division also regulates industry compliance of the laws pertaining to the manufacture, importation, and distribution of beer, wine, and mixed beverages containing less than 21 percent alcohol by volume in Ohio.

**PLEASE HAVE YOUR APPLICATION OR PERMIT NUMBER, PERMIT NAME AND ADDRESS WHEN CONTACTING THE DIVISION.**

**Agency Operations Section** **614/644-2514**

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**Beer and Wine Section** **614/644-2411**

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For general information: (See specific units below)

**Licensing Section** **614/644-2360**  
**Fax 614/644-3166**

For information on closing authority/safekeeping, premises expansions/deletions, food service requirements, inspection requirements, permit privileges, and sanitation requirements:

**Investigative Services Unit**

**614/644-2455**

Jeffrey Davis, Coordinator, Safe Alcohol Sales Training

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For information on any pending new application:

**New Processing Unit**

**614/644-3155**

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For information on annual renewal of permits, including HB 231 tax delinquencies and operating privileges:

**Renewal Processing Unit**

**614/644-3162**

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For information on the transfer of permit privileges and the sale of the permit business:

**Transfer Processing Unit**

**614/644-3156**

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**OHIO DEPARTMENT OF PUBLIC SAFETY  
OHIO INVESTIGATIVE UNIT  
1970 W. Broad St., 4th Floor  
Columbus, OH 43223  
[www.oiu.ohio.gov/](http://www.oiu.ohio.gov/)**

Responsible for the enforcement of the majority of Ohio's liquor laws and rules and conducting investigations at licensed and non-licensed locations throughout the state. The unit also has responsibility for enforcing USDA food stamp laws and investigating allegations of criminal misconduct involving food stamps, and has the authority to investigate tobacco sales violations throughout the state.

Please contact this department for information on the laws relating to advertising, after-hour sales, drugs, food stamps, gambling, happy hour promotions, improper conduct/entertainment, sales to intoxicated persons, Sunday sales, underage sales, tobacco sales, etc.

Enforcement agents from the Department of Public Safety issue administrative citation notices to liquor permit holders for alleged violations of Ohio's liquor laws and rules. These administrative citation charges are heard before the Ohio Liquor Control Commission. Department agents can also criminally charge individuals observed breaking liquor laws or other related offenses. They either arrest them and take them into custody or, more commonly in lieu of arrest, issue a summons to appear in court. Criminal charges are heard in local court and individuals found guilty are subject to fines or imprisonment. Criminal charges against individuals under age 18 are heard in Juvenile Court and are subject to punishment as ordered by the juvenile judge.

**Enforcement HOTLINE to Report Violations**

**1-877-464-6677**

**Central Office  
1970 W. Broad St., 4th Fl.  
Columbus, OH 43223**

**614/644-2415  
Fax 614/644-2463**

**Enforcement Offices: <http://www.oiu.ohio.gov/contact.stm>**

**OHIO LIQUOR CONTROL COMMISSION**  
**77 S. High St., 18th Floor**  
**Columbus OH 43215**

**[www.lcc.ohio.gov](http://www.lcc.ohio.gov)**

The Ohio Liquor Control Commission is a neutral and independent agency composed of three members appointed by the Governor to six-year terms with the advise and consent of the Senate. It serves both judicial and legislative functions.

The commission hears citation cases concerning alleged violations of Ohio's liquor laws and rules. The commission considers the merits of each case and has the authority to suspend or revoke the liquor permit if it finds the permit holder guilty. The commission can also impose a monetary fine in lieu of suspension depending upon the permit holder's prior citation record. In addition, the commission hears appeals from permit applicants or legislative authorities concerning actions or orders of the Department of Commerce, Division of Liquor Control, as well as appeals on the non-renewal of liquor permits for failure to pay sales taxes. Commission decisions are mailed within 45 days after the hearing, and may be appealed to the Franklin County Court of Common Pleas.

The commission also has general policy-making powers, and promulgates rules under the Ohio Administrative Code regarding liquor production, sales restrictions, minimum sales mark-up, liquor advertising and other matters related to the manufacture, distribution and sale of beer, wine, and spirituous liquor.

**phone: 614/466-3132**

**Fax: 614/466-4564**

**<http://www.lcc.ohio.gov/>**

**Ohio Department of Commerce  
Division of Liquor Control**

**John R. Kasich, Governor  
Andre T. Porter, Director**

The Ohio Division of Liquor Control  
6606 Tussing Road  
P.O. Box 4005  
Reynoldsburg, Ohio 43068-9005

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