
OLR Bill Analysis

sSB 905

AN ACT CONCERNING ALCOHOLIC LIQUOR AND TOBACCO BARS.

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Requires the Liquor Control Commission to (1) study the potential impact of requiring permittees to have liquor liability insurance and (2) report it to the General Law Committee

BACKGROUND

SUMMARY

This bill makes various unrelated changes to the Liquor Control Act. Among other things, it:

1. establishes a temporary auction permit and an outdoor open-air permit;
2. allows the sale of cocktail kegs for on-premises consumption;
3. lessens certain permit requirements, such as decreasing the frequency of certain cleanings and the prerequisites for renewal;
4. expands the farmers' market sales and festival permits to allow more types of sales;
5. allows more tobacco bars to allow smoking indoors, including the smoking of e-cigarettes;
6. requires a study on the potential impact of requiring permittees to have liquor liability insurance; and
7. makes various minor technical and conforming changes.

The bill also establishes a new alcoholic beverage tax for liquor coolers (i.e., mixed drink) above 7% alcohol by volume (ABV).

EFFECTIVE DATE: Upon passage, except the provisions on tobacco bars are effective October 1, 2023.

§§ 2, 6, 12 & 14 — TEMPORARY AUCTION PERMIT

Establishes a temporary auction permit to allow the permittee to sell alcohol obtained from individual collectors through an auction

The bill establishes a temporary auction permit that allows the permittee to sell beer, spirits, and wine obtained from one or more individual collectors, package store permittees, or cancelled restaurant or cafe permittees through an auction conducted by an auctioneer.

An “auctioneer” is anyone who (1) regularly provides professional services by auctioning items for sale and (2) does not hold an alcoholic liquor permit. An “individual collector” is anyone who is not a backer (i.e., proprietor); permittee; or a backer’s director, officer, or employee.

The auction may be held in person or online during the hours a package store may sell alcohol under existing law (e.g., allowed between 8:00 a.m. and 10:00 p.m. on Monday through Saturday and between 10:00 a.m. and 6:00 p.m. on Sunday, but not on Thanksgiving Day, New Year’s Day, and Christmas).

Application

To get a permit, an auctioneer must apply to the Department of Consumer Protection (DCP), as the department prescribes, at least 60 days before the first day of the auction. The applicant must serve as the permit’s backer. Each permit is valid for one auction and is effective for a period of up to three consecutive days. DCP may not issue more than four permits to a backer in any calendar year. The permit fee is \$175 per day.

Placarding

By law, alcoholic liquor permit applicants must generally give notice of a new permit in the newspaper and place placards visible from the road that include certain information, such as the business’s name and location. The bill exempts temporary auction permit applicants from this requirement.

Nature and Duration of Permit

Under the bill, the temporary auction permit is, among other things,

revocable at DCP's discretion and expires annually. The permit is purely a personal privilege and is not property.

Obtaining Alcohol

Under the bill, the auctioneer must only accept alcohol that was lawfully acquired by (1) an individual collector or (2) the permittees or cancelled permittees who purchased the alcohol from a wholesaler permittee. Such alcohol must bear an intact seal from the alcohol manufacturer.

The bill allows an individual collector or a package store permittee to sell or consign the alcohol to the auctioneer. A cancelled restaurant or cafe permittee may, within 60 days after the permit cancellation, sell or consign the alcohol to the auctioneer.

Unsold Consigned Alcohol. Under the bill, all unsold consigned alcohol must be returned within 10 days after the auction's final day. The bill generally prohibits unsold consigned alcohol from being resold, offered for sale, or used on the permit premises, except for those returned to a package store.

Minimum Pricing

The bill exempts the alcohol sold at an auction under this permit from the state's brand registration, price posting, and prohibition on selling below minimum retail cost. This exemption does not apply to the bill's requirement to start a bid above what is required under the minimum retail price law for package store alcohol.

Samples and Tastings

Under the bill, the permittee may offer free samples of any alcohol that is to be sold at auction for tasting. But the permittee must notify DCP that it intends to do so at least 30 days before the first day of the auction. The department must prescribe the form and manner for the notification. Tastings may only occur during the period in which a package store is allowed to sell alcohol. The bill prohibits the offering of tastings (1) to any minor or intoxicated person or (2) from more than 10 uncorked or open cans or bottles at any one time. (Presumably, this

prohibition applies to the permittee.)

Municipal Option

Under the bill, any town or municipality may, by ordinance or zoning regulation, prohibit the offering of free samples by permittees at events or functions held in the town or municipality.

Shipping

The bill allows permittees to deliver and ship directly to the consumer any alcohol purchased at the auction held under the permit. Any shipment to a consumer outside of the state is subject to all applicable laws of the jurisdiction where the consumer is located. When shipping the alcohol directly to a Connecticut consumer, the permittee must:

1. ensure that the shipping label on each container of such beer, spirits or wine states the following: “CONTAINS ALCOHOL – SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY”;
2. obtain the signature of a person who is at least age 21 at the delivery address prior to delivery, after requiring the person to prove his or her age with a valid motor vehicle operator’s license or valid identity card (presumably the permittee would obtain this information through the delivery service provider);
3. not ship this alcohol to any address in Connecticut where the sale of alcoholic liquor is prohibited by local option; and
4. make any such shipment through an in-state transporter permittee.

Regulations

The bill allows DCP to adopt implementing regulations for the bill’s temporary auctioneer provisions.

§§ 3, 9 & 12-13 — OUTDOOR OPEN-AIR PERMITS

Establishes an outdoor open-air permit that is substantially similar to a seasonal outdoor open-air permit, except it is valid year-round; allows provisional seasonal outdoor open-air permits

Outdoor Open-Air Permit

The bill establishes an outdoor open-air permit that is substantially similar to a seasonal outdoor open-air permit, except it is valid year-round. The permit allows the retail sale of alcoholic liquor for on-premises consumption with a \$4,000 permit fee. This consumption is allowed on a lot, yard, green, or other outdoor open space under certain conditions, including where the:

1. retail sale and consumption of alcoholic liquor is allowed in the space by applicable local zoning, health, and fire marshal officials;
2. permitted premises is less than one square acre;
3. permitted area is enclosed by a temporary fence or wall at least 30 inches high; and
4. restrooms or enclosed portable toilets are available within the permitted area or nearby.

The permittee must also make food available for sale to consumers on the premises when the permittee is selling the alcohol. The food may be prepared on the premises, provided by a food truck or caterer or be prepackaged. The availability of area menus for delivery is deemed in compliance with the food requirement. The bill specifies that food does not have to be purchased with an alcoholic beverage.

Under the bill, tents, mobile units, and other temporary fixtures are allowed within the permitted premises. A permittee must maintain the permitted premises consistent with all applicable local zoning, health, and fire requirements.

Under the bill, the permit is issued by DCP and is limited to a restaurant permittee's hours of operation allowed for serving alcohol. By law, restaurant permittees may generally serve alcohol from 9:00 a.m. to 1:00 a.m. the next morning on Monday through Thursday, from 9:00 a.m. to 2:00 a.m. the next morning for Friday and Saturday, and 10:00 a.m. to 1:00 a.m. the next morning on Sunday (CGS § 30-91(a)).

Under the bill, the outdoor open-air permit is not renewable, and backers are limited to one permit application per calendar year. The bill exempts outdoor open-air permittees from existing law's placarding requirements, like it does for temporary auction permits (see above).

The bill also allows the outdoor open-air permittee to sell draught beer for off-premises consumption (e.g., by the growler). Permittees may only sell up to four liters per person per day during the hours package stores can sell alcohol.

The bill also makes a conforming change allowing a restaurant, cafe, or in-state transporter permittee to hold an outdoor open-air permit.

Seasonal Outdoor Open-Air Permit (§ 9)

Current law prohibits DCP from issuing provisional seasonal outdoor open-air permits. By law, these permits are effective either April 1 to September 30 or May 1 to October 31. The bill eliminates the prohibition and in doing so, allows DCP to now issue these permits.

§§ 4 & 15-16 — COCKTAIL KEG

Allows a wholesaler permittee to sell a cocktail keg to a qualified retail permittee for on-premises consumption

The bill allows a wholesaler permittee to sell a cocktail keg to a qualified retail permittee (i.e., an alcoholic liquor permittee that is authorized to sell cocktails and prepared mixed drinks for on-premises consumption).

Under the bill, a "cocktail keg" is an individual container of a cocktail or prepared mixed drink that has a liquid capacity of at least four gallons and is sealed by the (1) manufacturer of the cocktail or prepared mixed drink or (2) wholesaler permittee.

The bill also makes conforming changes to differentiate the term "cocktail keg" from "beer keg" under the law.

§ 5 — BEER OR WINE PIPELINE CLEANINGS

Decreases, from weekly to biweekly, the frequency at which certain permittees must clean beer or wine pipes and barrel tubes

Current regulations require permittees to clean beer or wine pipes

and barrel tubes used to dispense alcoholic beverages at least once a week (Conn. Agencies Regs. § 30-6-A23). The bill requires DCP, by October 1, 2023, to amend these regulations to require these cleanings once every two weeks instead. As under current regulations, these cleanings must be done with a hydraulic pressure mechanism, hand pump suction, a force cleaner, or any other DCP-approved system for this purpose. After cleaning the lines or tubes, they must be rinsed with clear water until all chemicals, if used to clean, are removed.

§§ 7, 10 & 13-14 — FARMERS’ MARKET SALES PERMIT

Expands the farmers’ market sales permit to allow manufacturer permittees for spirits to sell their product at a farmers’ market

By law, a holder of a manufacturer permit for beer; farm winery; and wine, cider, and mead may get a farmers’ market sales permit allowing them to sell their product at farmers’ markets. The bill expands this permit to also allow a holder of a manufacturer permit for spirits to sell spirits at a farmers’ market.

Existing law allows these sales at the farmers’ market if the permittee (1) has an invitation from the farmers’ market; (2) only sells these products by the bottle or in sealed containers; and (3) is present, or has an authorized representative present, at the time of any sale. The permit authorizes the sale of these products during an unlimited number of appearances at a farmers’ market and at up to 10 locations per year. Any town or municipality, by ordinance or zoning regulation, may prohibit the sale of these products at a farmers’ market held in the town or municipality. The annual fee for the permit is \$250 with a \$100 nonrefundable filing fee.

The bill also makes technical and conforming changes regarding farmers’ market sales permits, including specifying that a manufacturer permit for beer is authorized to sell beer at retail under a farmers’ market sales permit.

§§ 8 & 20-21 — TOBACCO BARS

Allows the establishment of certain additional tobacco bars to allow smoking indoors, including the smoking of e-cigarettes

The bill allows the establishment of additional tobacco bars to allow

smoking indoors, including e-cigarettes. The bill also allows tobacco bars to expand in size or change locations, which is prohibited under current law.

Under current law, only tobacco bars with an alcoholic liquor permit that generate 10% or more of their total annual gross income from onsite tobacco product sales and onsite humidor rentals can allow (1) smoking indoors as of 2002 and (2) indoor vaping of e-cigarettes as of 2015. By law, “tobacco product” means any substance that contains tobacco, including cigarettes, cigars, pipe tobacco, or chewing tobacco.

The bill allows additional tobacco bars that hold alcoholic liquor permits and begin operating on or after October 1, 2023, to allow smoking indoors or indoor vaping if they:

1. are located in a stand-alone building or, if connected to another building, use their own heating, ventilation, or air conditioning system to prevent co-mingling of air;
2. have a walk-in humidor on the premises;
3. are not located within a five-mile radius of an existing tobacco bar in the same municipality; and
4. generate at least 60% of their gross annual income from onsite tobacco product sales and humidor rentals.

If these conditions are met, the bill deems these bars in compliance with the cafe permit requirements.

§§ 11 & 14 — FESTIVAL PERMIT

Allows (1) for-profit entities to sponsor festivals and (2) manufacturer permittees that hold an out-of-state shipper’s permit for beer to make certain types of sales at a festival and ship directly to visitors

By law, a festival sponsor may organize and sponsor a festival in Connecticut by inviting eligible manufacturers to participate. The bill expands the definition of the “festival sponsor,” by allowing a Connecticut for-profit entity to be a sponsor if it is registered with the Secretary of the State to do business in the state and does not hold

another alcoholic liquor permit. The bill sets the permit fee for these sponsors at \$275.

Existing law, unchanged by the bill, only allows nonprofit entities to sponsor festivals and their permit fee is \$75.

The bill also removes a specific restriction on manufacturer permittees that hold an out-of-state shipper's permit for beer to make certain types of sales at a festival. Under the bill, these permittees may now:

1. sell, and directly ship, alcoholic liquor to festival visitors who purchase the alcohol at the festival, if allowed under its permit;
2. sell, at retail, bottles and other sealed containers of alcoholic liquor for consumption off the festival premises, subject to its permit limitations (e.g., three liters of spirits per day and nine gallons of beer per day); and
3. sell, at retail, alcoholic liquor by the glass or receptacle for consumption on the festival premises, so long as each glass or receptacle is embossed or permanently labeled with the festival's name and date.

By law, the hours that a festival permittee may sell or provide samples or tastings are as follows: between 8:00 a.m. and 10:00 p.m. on Monday through Saturday and between 10:00 a.m. and 6:00 p.m. on Sunday.

§§ 12 & 17 — FIRE INSPECTIONS

Specifies that the (1) requirement that liquor permit applicants submit fire safety-related documents apply only to the initial application and (2) completion of the annual required fire inspection for permittees for on-premises alcohol consumption is not a precondition for permit renewal

Current law generally requires individuals applying for an alcoholic liquor permit or seeking a renewal of one to, among other things, submit documents establishing that certain building, fire, and zoning codes and ordinances related to hours or sale will be met. The bill limits this requirement to the initial application only.

The bill also specifies that the completion of the annual required fire inspection for permittees for on-premises alcohol consumption is not a precondition for permit renewal.

Regardless of the requirements of the local fire marshal's inspection law, the bill requires a local fire marshal, deputy fire marshal, fire inspector, or other fire code inspector or fire investigator in a municipality to, at least once per calendar year, inspect all premises in the municipality that operate under a permit that allows for on-premises alcohol consumption.

§§ 18 & 19 — ALCOHOLIC BEVERAGE TAX FOR LIQUOR COOLERS

Establishes a new \$3.57 per wine gallon alcoholic beverage tax for liquor coolers with an alcohol by volume of over 7% ABV by manufacturers that produce up to 50,000 proof gallons

Under existing law, unchanged by the bill, liquor is taxed at \$5.94 per wine gallon and liquor cooler of up to 7% ABV is taxed at \$2.71 per wine gallon. "Liquor" is any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances in solution.

Under current law, "liquor cooler" means any liquid combined with liquor containing up to 7% ABV.

The bill (1) expands this to include liquor coolers over 7% ABV produced by a person who produces up to 50,000 proof gallons of liquor in a calendar year and (2) establishes a new alcoholic beverage tax of \$3.57 per wine gallon for these items sold on or after July 1, 2023. Under current law, these types of alcohol are taxed as liquor (i.e., \$5.94 per wine gallon).

§ 22 — LIQUOR LIABILITY INSURANCE STUDY

Requires the Liquor Control Commission to (1) study the potential impact of requiring permittees to have liquor liability insurance and (2) report it to the General Law Committee

The bill requires the Liquor Control Commission to study the potential impact of requiring each person seeking a liquor permit or its renewal to attest that he or she has obtained liquor liability insurance.

By January 1, 2024, the commission must report to the General Law Committee on the study.

BACKGROUND

Related Bill

sHB 6548, reported favorably by the General Law Committee, contains similar provisions to those:

1. allowing manufacturer permittees that hold an out-of-state shipper's permit for beer to make certain types of sales at a festival and ship directly to visitors, and
2. related to the (a) temporary auction permits and (b) manufacturer permittees for spirits selling at farmers' markets.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 22 Nay 0 (03/07/2023)