DRAFT - NOT FOR FILING

4301-3-01 Purchases of spirituous liquor by permit holders.

(A) No permit holder authorized to sell spirituous liquor within the state shall either directly or indirectly, personally or through any agent, employee, or other person, purchase spirituous liquor for resale from other than a state liquor store or state liquor agency at wholesale, except pursuant to express written consent of the division.

(B) Retail permit holders may authorize agents to make purchases of spirituous liquor. Any person authorized to purchase spirituous liquor at wholesale at a state liquor store or state liquor agency may designate any individual of lawful age to act as their agent in making such purchase, provided that the agent shall have no connection with a manufacturer or registered solicitor of spirituous liquor. The agent shall have the authority to fill out and sign the prescribed form or purchase order for the spirituous liquor for and on behalf of the purchaser and receive the spirituous liquor specified in the form or purchase order. The agent shall be subject to the provisions of section 4301.69 of the Revised Code of Ohio.

(C) The division will sell spirituous liquor at wholesale to all permit holders authorized to sell spirituous liquor within the state pursuant to division (B)(4) of section 4301.10 of the Revised Code. Permit holders must purchase spirituous liquor from the division, or a person authorized to sell spirituous liquor to permit holders pursuant to express written consent of the division, and make payment by cash, certified check, check, money order, or electronic funds transfer (EFT), as that term is defined in paragraph (A) of rule 4301-9-01 or the Administrative Code.

(D) Wholesale and retail spirituous liquor prices.

(1) The base retail selling price per case of spirituous liquor shall be computed as follows: The division shall add to the manufacturer's or supplier's quoted total invoice cost per case, which is delivered to and available for purchase at a bailment warehouse, a trucking charge per case. The trucking charge per case is charged by the carrier under contract with the division to transport these goods to state liquor stores or state liquor agencies. The division will then increase that figure by a percentage factor that represents the division's total operating costs as a percent of the division's gross liquor sales dollars. The division shall divide this resulting figure by 0.7 to represent a retail accounting method markup of 30.0 percent. To the new resulting figure, the division shall add a sum based on bottle size and state liquor gallonage tax as required by section 4301.12 of the Revised Code. The division will increase the resulting figure by a 5.0 percent surcharge to arrive at the base retail selling price per case.

(2) The base retail price per bottle of spirituous liquor shall be computed as follows: The division shall divide the base retail selling price per case by the number of bottles per case. The division will then round that figure upward to the next higher whole cent. The resulting figure will be the base retail price per bottle.

(3) The retail bottle shelf price of spirituous liquor shall be computed as follows: The division shall add state and local sales and excise taxes to the base retail price per bottle. The division will then round that figure upward to the next five-cent increment. The resulting figure will be the retail bottle shelf price.

(E) The division shall not purchase any spirituous liquor from any manufacturer, supplier, broker, or registered solicitor, or from any other person, firm, or corporation for sale or distribution through the state liquor stores or state liquor agencies unless the spirituous liquor is in conformity with the standards of ingredients and methods of manufacture, capacity, and form of packages as set forth by the rules, regulations, and laws of the state of Ohio and the United States. To further insure conformity with such standards as to ingredients, methods of manufacture, capacity, and form of packages, each manufacturer, supplier, broker, or registered solicitor, or any other person, firm, or corporation proposing to sell any such items to the division shall

submit, without cost a federal certificate of label approval.

(1) To insure the continued quality of spirituous liquor in compliance with existing laws and regulations, the superintendent may, upon request and without cost to the division at any time it is deemed necessary or advisable, withdraw samples of spirituous liquor from existing inventories in state liquor stores, state liquor agencies, or warehouses for analysis.

(2) Manufacturers, suppliers, brokers, or registered solicitors of spirituous liquor shall notify the division and provide, without cost to the division, a new federal certificate of label approval whenever they change the formula of a product available for sale in Ohio.

(F) Inspection of shipment. All shipments of spirituous liquor consigned to the division shall be inspected by the division within thirty days after said shipments are delivered to the state liquor stores or state liquor agencies. The division shall notify the manufacturer, supplier, broker, or registered solicitor of breakage or shortage not later than sixty days after delivery of such merchandise to the state liquor store or state liquor agency.

(G) Disposition of spirituous liquor after revocation, refusal to renew, or cancellation of a permit. In the event a permit is revoked or canceled by the liquor control commission, or the division refuses to renew the permit, the former permit holder may sell unopened bottles or containers of spirituous liquor located on the premises to a permit holder who is authorized to purchase or sell spirituous liquor. Such sale must be made at the current wholesale price and with the prior written consent and approval of the superintendent.

(H) State liquor agencies may deliver spirituous liquor to permit holders authorized to sell spirituous liquor.

(I) In accordance with paragraph (B) of rule 4301-2-01 of the Administrative Code, individuals may register to receive credentials to solicit the division or permit holders. Persons issued such credentials may conduct tastings in accordance with rule 4301:1-1-30 of the Administrative Code or section 4301.171 of the Revised Code.