

AN ACT

To amend sections 1333.82, 4301.01, 4301.241, 4301.28, 4301.333, 4301.351, 4301.354, 4301.355, 4301.361, 4301.364, 4301.365, 4301.37, 4301.40, 4301.62, 4303.181, and 4303.182 and to enact section 4303.184 of the Revised Code to create the D-8 permit to be issued to certain retail stores to allow the sale of tasting samples of beer, wine, and mixed beverages; to allow local option elections on the Sunday sale of intoxicating liquor between the hours of 10 a.m. and midnight; to change certain of the requirements for the issuance and renewal of the D-5i permit; to exempt the sale of beer and intoxicating liquor at premises located in or at the Ohio Historical Society area or the State Fairgrounds from the effects of local option elections; to allow Sunday liquor sales at certain outdoor performing arts centers and at premises located in or at the Ohio Historical Society area or the State Fairgrounds, whether or not those sales have been approved at local option elections; to make changes in the law governing local option elections on beer and liquor sales at a specific premises; to define a sales area or territory for purposes of the Liquor Control Law and the Alcohol Beverage Franchise Law; and to exclude agency contracts appeals from the Liquor Control Commission's jurisdiction.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1333.82, 4301.01, 4301.241, 4301.28, 4301.333, 4301.351, 4301.354, 4301.355, 4301.361, 4301.364, 4301.365,

4301.37, 4301.40, 4301.62, 4303.181, and 4303.182 be amended and section 4303.184 of the Revised Code be enacted to read as follows:

Sec. 1333.82. As used in sections 1333.82 to 1333.87 of the Revised Code:

(A) "Alcoholic beverages" means beer, malt beverages, and wine as defined in section 4301.01 of the Revised Code.

(B) "Manufacturer" means a person, whether located in this state or elsewhere, who manufactures or supplies alcoholic beverages to distributors in this state.

(C) "Distributor" means a person who sells or distributes alcoholic beverages to retail permit holders in the state, but does not include the state or any of its political subdivisions.

(D) "Franchise" means a contract or any other legal device used to establish a contractual relationship between a manufacturer and a distributor.

(E) "Good faith" means the duty of any party to any franchise, and all officers, employees, or agents ~~thereof~~ of any party to any franchise, to act in a fair and equitable manner toward each other so as to guarantee each party freedom from coercion or intimidation; except that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be ~~deemed~~ considered to constitute a lack of good faith or coercion.

(F) "Brand," as applied to wine, means a wine different from any other wine in respect to type, brand, trade name, or container size.

(g) "sales area or territory" means an exclusive geographic area or territory that is assigned to a particular a or b permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. "sales area or territory" does not include, however, any particular retail location in an exclusive geographic area or territory that is assigned to another a or b permit holder.

Sec. 4301.01. (A) As used in the Revised Code:

(1) "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer ~~as defined in division (B)(2) of this section~~, containing one-half of one per cent or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether the same are medicated, proprietary, or patented. ~~The phrase includes "intoxicating liquor" and "Liquor" include wine, as defined in division (B)(3) of this section even if it contains less than four per cent of alcohol by volume, mixed beverages, as defined in division (B)(4) of this section even if they contain less than four~~

per cent of alcohol by volume, cider, ~~as defined in division (B)(21) of this section~~, alcohol, and all solids and confections which contain any alcohol.

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the Revised Code, "sale" and "sell" include exchange, barter, gift, offer for sale, sale, distribution and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to section 4301.21 of the Revised Code. "Sale" and "sell" do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the division of liquor control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any such orders until the solicitor has been registered with the division pursuant to section 4303.25 of the Revised Code.

(3) "Vehicle" includes all means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.

(B) As used in sections 4301.01 to 4301.74 of the Revised Code:

(1) "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. "Alcohol" does not include denatured alcohol and wood alcohol.

(2) "Beer," "malt liquor," or "malt beverages" includes all brewed or fermented malt products containing one-half of one per cent or more of alcohol by volume but not more than six per cent of alcohol by weight.

(3) "Wine" includes all liquids fit to use for beverage purposes containing not less than one-half of one per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume, which is made from the fermented juices of grapes, fruits, or other agricultural products, except that as used in sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the Revised Code, and, for purposes of determining the rate of the tax that applies, division (B) of section 4301.43 of the Revised Code, "wine" does not include cider.

(4) "Mixed beverages," such as bottled and prepared cordials, cocktails, and highballs, are products obtained by mixing any type of whiskey, neutral spirits, brandy, gin, or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than one-half of one per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume.

(5) "Spirituous liquor" includes all intoxicating liquors containing more

than twenty-one per cent of alcohol by volume.

(6) "Sealed container" means any container having a capacity of not more than one hundred twenty-eight fluid ounces, the opening of which is closed to prevent the entrance of air.

(7) "Person" includes firms and corporations.

(8) "Manufacture" includes all processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, or brewing, or in any other manner.

(9) "Manufacturer" means any person engaged in the business of manufacturing beer or intoxicating liquor.

(10) "Wholesale distributor" and "distributor" means a person engaged in the business of selling to retail dealers for purposes of resale.

(11) "Hotel" has the meaning ~~set forth~~ as in section 3731.01 of the Revised Code, subject to the exceptions mentioned in section 3731.03 of the Revised Code.

(12) "Restaurant" means a place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. "Restaurant" does not include pharmacies, confectionery stores, lunch stands, night clubs, and filling stations.

(13) "Club" means a corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part ~~thereof~~ of a permanent building operated solely for those purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.

(14) "Night club" means a place operated for profit, where food is served for consumption on the premises and one or more forms of amusement are provided or permitted for a consideration ~~which~~ that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by ~~the~~ patrons ~~thereof~~.

(15) "At retail" means for use or consumption by the purchaser and not for resale.

(16) "Pharmacy" means an establishment, as defined in section 4729.01 of the Revised Code, ~~which~~ that is under the management or control of a licensed pharmacist in accordance with section 4729.27 of the Revised Code.

(17) "Enclosed shopping center" means a group of retail sales and service business establishments that face into an enclosed mall, share

common ingress, egress, and parking facilities, and are situated on a tract of land that contains an area of not less than five hundred thousand square feet. "Enclosed shopping center" also includes not more than one business establishment that is located within a free-standing building on such a tract of land, so long as the sale of beer and intoxicating liquor on the tract of land was approved in an election held under former section 4301.353 of the Revised Code.

(18) "Controlled access alcohol and beverage cabinet" means a closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device ~~which~~ that requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages, or food may be sold.

(19) "Community facility" means either of the following:

(a) Any convention, sports, or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a convention facilities authority created pursuant to section 351.02 of the Revised Code;

(b) An area designated as a community entertainment district pursuant to section 4301.80 of the Revised Code.

(20) "Low-alcohol beverage" means any brewed or fermented malt product, or any product made from the fermented juices of grapes, fruits, or other agricultural products, that contains either no alcohol or less than one-half of one per cent of alcohol by volume. The beverages described in division (B)(20) of this section do not include a soft drink such as root beer, birch beer, or ginger beer.

(21) "Cider" means all liquids fit to use for beverage purposes that contain one-half of one per cent of alcohol by volume, but not more than six per cent of alcohol by weight, and that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.

(22) "sales area or territory" means an exclusive geographic area or territory that is assigned to a particular a or b permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. "sales area or territory" does not include, however, any particular retail location in an exclusive geographic area or territory that is assigned to another a or b

permit holder.

Sec. 4301.241. Notwithstanding section 4303.06 of the Revised Code, each manufacturer and supplier of beer and malt beverages shall assign to each of ~~his~~ the manufacturer's or supplier's B-1 distributors ~~an exclusive~~ a sales area or territory within which each such B-1 permit holder shall be the distributor of the brand or brands of ~~such~~ the manufacturer or supplier, provided that, if ~~any such~~ the manufacturer or supplier manufactures or supplies more than one brand of beer and malt beverage, the manufacturer or supplier may assign ~~exclusive~~ sales areas or territories to additional B-1 distributors for the distribution and sale of the additional brand or brands, so long as not more than one distributor distributes the same brand or brands within the same ~~exclusive~~ sales area or territory. No B-1 distributor shall distribute a specific brand of beer or malt beverage in any area or territory other than the ~~exclusive~~ area or territory assigned to ~~him~~ the distributor.

Sec. 4301.28. (A)(1) Any person aggrieved may appeal to the liquor control commission from the action of the division of liquor control in refusing to issue a permit.

(2) The commission shall not hear or consider any appeal involving any agency contract entered into under section 4301.17 of the Revised Code.

(B) If the legislative authority of a municipal corporation, a board of township trustees, or the board of county commissioners participated in a hearing conducted under section 4303.26 of the Revised Code for the transfer of location of a class C or D permit, transfer of a class C or D permit, or issuance of a class C or D permit or under division (B) of section 4303.271 of the Revised Code for the renewal of a class C or D permit, the legislative authority or board may appeal to the liquor control commission from the order of the division of liquor control issuing, transferring, or renewing a permit, or transferring a location, or participate or be joined as a party in an appeal from an order of the division denying the issuance, transfer, or renewal of a permit or the transfer of a location.

In an appeal on the issuance or the transfer of a location of a permit, only the reasons for refusal contained in section 4303.292 of the Revised Code shall be considered. In an appeal on the transfer of ownership of a permit, only the reasons for refusal contained in divisions (A) and (B)(1) of section 4303.292 of the Revised Code shall be considered. In an appeal on the renewal of a permit, only the objections considered at the hearing under section 4303.271 of the Revised Code shall be considered.

The commission shall send notice of an appeal by a political subdivision by certified mail to the applicant for a new permit or to the permit holder at the permit holder's usual place of business, to the superintendent of liquor

control, and to the office of the attorney general. The commission shall also send notice by certified mail of an appeal by a permit holder from an order denying the transfer or renewal of a permit, or the transfer of a location, or of an appeal by an applicant for a new permit from an order denying the issuance of a permit to the legislative authority or board of the political subdivision that participated in the hearing on the issuance, renewal, or transfer, to the superintendent and to the office of the attorney general.

If a legislative authority or board is a party under this division to an appeal before the commission, the legislative authority or board may appeal under section 119.12 of the Revised Code from an order of the commission affirming the issuance, transfer, or renewal of a permit, or the transfer of a location, or participate or be joined as a party in an appeal under that section from an order of the commission denying the issuance, transfer, or renewal of a permit, or transfer of a location. If a court determines that there was not reasonable cause for an appeal by a political subdivision, it shall require the political subdivision to pay reasonable expenses of the appellee, including attorney fees and costs.

The prosecuting attorney of the county shall represent the county or any township located within the county, unless the township has adopted a limited home rule government under Chapter 504. of the Revised Code, in which case the township law director shall represent the township, in any hearing or appeal under this section or section 119.12, 4303.26, or 4303.271 of the Revised Code in which the county or township is a party. The village solicitor or city law director of the municipal corporation shall represent the municipal corporation in any hearing or appeal under this section or section 119.12, 4303.26, or 4303.271 of the Revised Code in which the municipal corporation is a party.

If a permit holder appeals under section 119.12 of the Revised Code from an order of the commission denying the transfer or renewal of a permit, or the transfer of a location, or if an applicant for a new permit appeals from an order of the commission denying the issuance of a permit, the commission shall send notice of the appeal by certified mail to the legislative authority or board of the political subdivision that was a party to an appeal before the commission.

(C) At least twenty-one days before the date by which a permit holder must pay any forfeiture pursuant to an order issued under section 4301.252 of the Revised Code, and at least twenty-one days before the effective date of an order issued by the liquor control commission, revoking, or suspending a liquor permit, except for a suspension imposed under division (A)(3) of section 4301.252 of the Revised Code, the commission shall send

a copy of the order by certified mail to the holder, addressed to the holder at the premises named in the permit, and shall also send by certified mail copies of the order to the chief of police, marshal, or chief police officer of the municipal corporation in which the premises for which the permit was issued are situated, or to the sheriff of the county or constable of the township, in case the permit was issued for premises situated outside any municipal corporation. A copy of an order revoking or canceling a permit or allowing the payment of a forfeiture under section 4301.252 of the Revised Code shall be sent to such officer at the same time as a copy is sent to the permit holder; a copy of an order suspending a permit shall be sent to such officer when the commission determines under section 4301.252 of the Revised Code that the suspension is to become effective. The order shall contain a statement of the number of the permit, the name of the holder, the location of the premises for which the permit was issued, and the date when the revocation or cancellation is to be effective, or, in case of suspension, the beginning and ending dates of the suspension period and such other information in the notice to the permit holder as is required by section 4301.252 of the Revised Code. The holder of such a revoked or cancelled permit shall, on the effective date of the order of revocation or cancellation, immediately surrender the permit by mailing or delivering it to the superintendent of liquor control by certified mail. If the revoked or canceled permit is not surrendered, the superintendent shall issue a written demand for its surrender and deliver the demand to the chief of police, marshal, or other chief police officer of the municipal corporation or to the sheriff of the county, or to the constable of the township, in which the premises for which the permit is issued are located, or to any designated agent of the division of liquor control, and the chief of police, marshal, or other chief police officer of the municipal corporation, sheriff, constable, or agent shall immediately demand and secure possession of the revoked or cancelled permit and return it by certified mail to the superintendent.

When a permit has been so suspended by order of the liquor control commission, the permit holder shall not sell any alcoholic beverages at such permit premises during the effective period stated in the order of a suspension, and shall cover the permit by posting a copy of the suspension order over the permit, and the order of suspension shall remain so posted on the permit premises until termination of the suspension period. Upon termination of the suspension period, the permit holder may remove the copy of the suspension order from the permit and may resume the sale of alcoholic beverages as authorized by the permit and in compliance with Chapters 4301. and 4303. of the Revised Code.

The foregoing paragraph of this section is inapplicable while a stay order is in effect as a result of an appeal taken by a permit holder from an order of revocation, cancellation, or suspension or from an order that allows the payment of a forfeiture under section 4301.252 of the Revised Code, pursuant to section 119.12 of the Revised Code. A copy of the stay order shall be posted on the premises of the permit holder and shall be furnished by the division to the appropriate officer, as the case may be, such as the chief of police, marshal, constable, or sheriff.

A permit holder desiring to file a notice of appeal under section 119.12 of the Revised Code with respect to any order of the commission as described in this division shall do so within twenty-one days after the mailing of the notice of the commission's order as provided in section 119.12 of the Revised Code.

Sec. 4301.333. (A) The privilege of local option conferred by section 4301.323 of the Revised Code may be exercised if, not later than four p.m. of the seventy-fifth day before the day of a general or primary election, a petition is presented to the board of elections of the county in which the precinct is situated by a petitioner who is one of the following:

(1) An applicant for the issuance or transfer of a liquor permit at, or to, a particular location within the precinct;

(2) The holder of a liquor permit at a particular location within the precinct;

(3) A person who operates or seeks to operate a liquor agency store at a particular location within the precinct;

(4) The designated agent for an applicant, liquor permit holder, or liquor agency store described in division (A)(1), (2), or (3) of this section.

(B) The petition shall be signed by the electors of the precinct equal in number to at least thirty-five per cent of the total number of votes cast in the precinct for the office of governor at the preceding general election ~~of~~ for that office and shall contain all of the following:

(1) A notice that the petition is for the submission of the question or questions set forth in section ~~4301.353~~ 4301.355 of the Revised Code;

(2) The name of the applicant for the issuance or transfer, or the holder, of the liquor permit or, if applicable, the name of the liquor agency store, including any trade or fictitious names under which the applicant ~~or~~ holder, or liquor agency store either intends to do or does ~~do~~ business at the particular location;

(3) ~~If the petitioner is the designated agent of the applicant, liquor holder, or liquor agency store, written evidence of the designation of the agent by the applicant, liquor permit holder, or liquor agency store for the~~

~~purpose of petitioning for the local option election;~~

~~(4)~~ The address and proposed use of the particular location within the election precinct to which the results of the question or questions specified in section 4301.355 of the Revised Code shall apply. For purposes of this division, "use" means all of the following:

(a) The type of each liquor permit applied for by the applicant or held by the liquor permit holder as described in sections 4303.11 to 4303.183 of the Revised Code, including a description of the type of beer or intoxicating liquor sales authorized by each permit as provided in those sections;

(b) If a liquor agency store, the fact that the business operated as a liquor agency store authorized to operate by ~~the~~ this state of Ohio;

(c) A description of the general nature of the business of the applicant, liquor permit holder, or liquor agency store.

~~(5)(C)(1)~~ At the time the petitioner files the petition with the board of elections, the petitioner shall provide to the board both of the following:

(a) An affidavit that is signed by the petitioner stating and that states the proposed use of the location following the election held to authorize the sale of beer and or intoxicating liquor:

(C) authorized by each permit as provided in sections 4303.11 to 4303.183 of the Revised Code;

(b) Written evidence of the designation of an agent by the applicant, liquor permit holder, or liquor agency store described in division (A)(1), (2), or (3) of this section for the purpose of petitioning for the local option election, if the petitioner is the designated agent of the applicant, liquor permit holder, or liquor agency store.

(2) Failure to supply the affidavit, or the written evidence of the designation of the agent if the petitioner for the local option election is the agent of the applicant, liquor permit holder, or liquor agency store described in division (A)(1), (2), or (3) of this section, at the time the petition is filed invalidates the entire petition.

(D) Not later than the sixty-sixth day before the day of the next general or primary election, whichever occurs first, the board shall examine and determine the sufficiency of the signatures and the validity of the petition. If the board finds that the petition contains sufficient signatures and in other respects is valid, it shall order the holding of an election in the precinct on the day of the next general or primary election, whichever occurs first, for the submission of the question or questions set forth in section 4301.355 of the Revised Code.

~~(D)~~(E) A petition filed with the board of elections under this section shall be open to public inspection under rules adopted by the board.

~~(E)~~(F) An elector who is eligible to vote on the question or questions set forth in section 4301.355 of the Revised Code may file, not later than four p.m. of the sixty-fourth day before the day of the election at which the question or questions will be submitted to the electors, a protest against a local option petition circulated and filed pursuant to this section. The protest shall be in writing and shall be filed with the election officials with whom the petition was filed. Upon the filing of the protest, the election officials with whom it is filed shall promptly establish a time and place for hearing the protest and shall mail notice of the time and place for the hearing to the applicant for, or the holder of, the liquor permit who is specified in the petition and to the elector who filed the protest. At the time and place established in the notice, the election officials shall hear the protest and determine the validity of the petition.

Sec. 4301.351. (A) If a petition is for submission of the question of whether the sale of intoxicating liquor shall be permitted on Sunday, a special election shall be held in the precinct at the time fixed as provided in section 4301.33 of the Revised Code. The expenses of holding the election shall be charged to the municipal corporation or township of which the precinct is a part.

(B) At the election, one or more of the following questions, question (B)(1), (B)(2), or (B)(3) as designated in a valid petition or question (B)(4) as submitted by the legislative authority of a municipal corporation or the board of trustees of a township, shall be submitted to the electors of the precinct:

~~(A)~~(1) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption on the premises where sold, between the hours of one p.m. and midnight on Sunday?"

~~(B)~~(2) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption on the premises where sold, between the hours of one p.m. and midnight on Sunday, at licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises?"

~~(C)~~(3) "Shall the sale of wine and mixed beverages, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption off the premises where sold, between the hours of one p.m. and midnight on Sunday?"

(4) "shall the sale of intoxicating liquor, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this

..... for consumption on the premises where sold, between the hours of one p.m. and midnight on Sunday, at outdoor performing arts centers, as defined in section 4303.182 of the Revised Code, that have been issued a d-6 permit?"

QUESTION (B)(4) SHALL BE PRESENTED TO THE ELECTORS OF A PRECINCT IN WHICH AN OUTDOOR PERFORMING ARTS CENTER IS LOCATED ONLY IF THE LEGISLATIVE AUTHORITY OF THE MUNICIPAL CORPORATION IN WHICH, OR THE BOARD OF TRUSTEES OF THE TOWNSHIP IN WHICH, THE OUTDOOR PERFORMING ARTS CENTER IS LOCATED SUBMITS, NOT LATER THAN FOUR p.m. OF THE SEVENTY-FIFTH DAY BEFORE THE DAY OF A PRIMARY OR GENERAL ELECTION THAT OCCURS WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT, TO THE BOARD OF ELECTIONS OF THE COUNTY IN WHICH THE PRECINCT IS LOCATED, A COPY OF AN ORDINANCE OR RESOLUTION REQUESTING THE SUBMISSION OF THAT QUESTION TO THE ELECTORS OF THE PRECINCT. AN ELECTION ON QUESTION (B)(4) MAY NOT BE SOUGHT BY A PETITION UNDER SECTION 4301.33 OF THE REVISED CODE.

(C) At the election, one or more of the following questions, as designated in a valid petition, shall be submitted to the electors of the precinct:

(1) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption on the premises where sold, between the hours of ten a.m. and midnight on Sunday?"

(2) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption on the premises where sold, between the hours of ten a.m. and midnight on Sunday, at licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises?"

(3) "Shall the sale of wine and mixed beverages, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption off the premises where sold, between the hours of ten a.m. and midnight on Sunday?"

(D) No C or D permit holder who first applied for such a permit after April 15, 1982, shall sell beer on Sunday unless the sale of intoxicating liquor is authorized in the precinct or portion thereof of the precinct at an election on question ~~(A)~~, (B)(1), (B)(2), or (B)(3) of this section, or on

question (C)(1), (C)(2), or (C)(3) of this section or at an election, on question (A), (B)(1), (B)(2), or (B)(3) of section 4301.354 of the Revised Code, or on question (C)(1), (C)(2), or (C)(3) of section 4301.354 of the Revised Code, whichever question or questions are appropriate or on question (B)(2) of section 4301.355 of the Revised Code No D-6 permit is required for the sale of beer on Sunday.

The board of elections to which the petition is presented shall furnish printed ballots at the election in accordance with section 3505.06 of the Revised Code, and separate ballots shall be used for the special election. One or more of the questions prescribed by divisions (B) and (C) of this section, as designated in the petition, shall be set forth on each ballot, and the board shall insert in each question the name or an accurate description of the precinct in which the election is to be held. Votes shall be cast as provided in section 3505.06 of the Revised Code.

Sec. 4301.354. (A) If a petition is filed under section 4301.332 of the Revised Code for the submission of ~~the~~ one or more questions set forth in this section, a special election shall be held in the precinct as ordered by the board of elections under that section. The expense of holding the special election shall be charged to the municipal corporation or township of which the precinct is a part.

(B) At the election, one or more of the following questions, as designated in a valid petition, shall be submitted to the electors of the precinct concerning Sunday sales:

~~(A)(1)~~ "Shall the sale of intoxicating liquor be permitted in a portion of this precinct between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

~~(B)(2)~~ "Shall the sale of intoxicating liquor be permitted in a portion of this precinct between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold at licensed premises where the sale of food and other goods exceeds fifty per cent of the total gross receipts of the permit holder at the premises, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

~~(C)(3)~~ "Shall the sale of wine and mixed beverages be permitted in a portion of this precinct between the hours of one p.m. and midnight on Sunday for consumption off the premises where sold, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

(C) At the election, one or more of the following questions, as designated in a valid petition, shall be submitted to the electors of the precinct concerning Sunday sales:

(1) "Shall the sale of intoxicating liquor be permitted in a portion of this precinct between the hours of ten a.m. and midnight on Sunday for consumption on the premises where sold, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

(2) "Shall the sale of intoxicating liquor be permitted in a portion of this precinct between the hours of ten a.m. and midnight on Sunday for consumption on the premises where sold at licensed premises where the sale of food and other goods exceeds fifty per cent of the total gross receipts of the permit holder at the premises, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

(3) "Shall the sale of wine and mixed beverages be permitted in a portion of this precinct between the hours of ten a.m. and midnight on Sunday for consumption off the premises where sold, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

(D) The board of elections shall furnish printed ballots at the special election as provided under section 3505.06 of the Revised Code, except that a separate ballot shall be used for the special election. The one or more questions set forth in divisions (B) and (C) of this section shall be printed on each ballot, and the board shall insert in the question and statement appropriate words to complete each and a description of the portion of the precinct that would be affected by the results of the election.

The description of the portion of the precinct shall include either the complete listing of street addresses in that portion or a condensed text that accurately describes the boundaries of the portion of the precinct by street name or by another name generally known by the residents of the portion of the precinct. If other than a full street listing is used, the full street listing also shall be posted in each polling place in a location that is easily accessible to all voters. Failure of the board of elections to completely and accurately list all street addresses in the affected area of the precinct does not affect the validity of the election at which the failure occurred and is not grounds for contesting an election under section 3515.08 of the Revised Code. Votes shall be cast as provided under section 3505.06 of the Revised Code.

Sec. 4301.355. (A) If a petition is filed under section 4301.333 of the

Revised Code for the submission of the question or questions set forth in this section, it shall be held in the precinct as ordered by the board of elections under that section. The expense of holding the election shall be charged to the municipal corporation or township of which the precinct is a part.

(B) At the election, one or more of the following questions, as designated in a valid petition, shall be submitted to the electors of the precinct:

(1) "Shall the sale of ~~beer and any~~ (insert beer, wine and mixed beverages, or intoxicating liquor) be permitted by.....(insert name of applicant, liquor permit holder, or liquor agency store, including trade or fictitious name under which applicant for, or holder of, liquor permit or liquor agency store either intends to do, or does, ~~do~~ business at the particular location), an (insert "applicant for" or "holder of" or "operator of") a(insert class name of liquor permit or permits followed by the words "liquor permit(s)" or, if appropriate, the words "liquor agency store for the State of Ohio"), who is engaged in the business of(insert general nature of the business in which applicant or liquor permit holder is engaged or ~~to~~ will be engaged in at the particular location, as described in the petition) at(insert address of the particular location within the precinct as set forth in the petition) in this precinct?"

(2) "Shall the sale of ~~beer and~~ (insert beer, wine and mixed beverages, or intoxicating liquor) be permitted for sale on Sunday by (insert name of applicant, liquor permit holder, or liquor agency store, including trade or fictitious name under which applicant for, or holder of, liquor permit or liquor agency store either intends to do, or does, ~~do~~ business at the particular location), an(insert "applicant for a D-6 liquor permit," "holder of a D-6 liquor permit," "applicant for or holder of an A-1-A, A-2, C-1, C-2x, D-1, D-2x, D-3, D-3x, D-4, D-5, D-5b, D-5c, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, or D-7 liquor permit," if only the approval of beer sales is sought, or "liquor agency store") who is engaged in the business of(insert general nature of the business in which applicant or liquor permit holder is engaged or ~~to~~ will be engaged in at the particular location, as described in the petition) at..... (insert address of the particular location within the precinct) in this precinct?"

If the sale of beer ~~and~~ wine and mixed beverages, or intoxicating liquor has been approved at a particular location within the precinct at a previous election held under this section ~~4301.355 of the Revised Code~~, the ballot also shall include the following statement:

"At a previous election held under section 4301.355 of the Revised

Code, the electors approved the sale of ~~beer and~~ (insert beer, wine and mixed beverages, or intoxicating liquor, as appropriate) at.....(insert business name and address of the particular location or locations within the precinct where such sale has been approved at a previous election under section 4301.355 of the Revised Code)."

The board of elections shall furnish printed ballots at the election as provided under section 3505.06 of the Revised Code, except that a separate ballot shall be used for the election under this section ~~4301.355 of the Revised Code~~. The question and, if applicable, the statement set forth in this section shall be printed on each ballot, and the board shall insert in the question and statement appropriate words to complete each. Votes shall be cast as provided under section 3505.06 of the Revised Code.

Sec. 4301.361. If a majority of the electors voting on questions set forth in section 4301.351 of the Revised Code in a precinct vote "yes" on question ~~(A)(B)(1) or (C)(1)~~, or, if both questions ~~(A)(B)(1) and (B)(2)~~, or questions (C)(1) and (C)(2), are submitted, "yes" on both questions or "yes" on question ~~(A)(B)(1) or (C)(1)~~ but "no" on question ~~(B)(2) or (C)(2)~~, sales of intoxicating liquor shall be allowed in the manner and under the conditions specified in question ~~(A)(B)(1) or (C)(1)~~, under a D-6 permit, within the precinct concerned, during the period the election is in effect as defined in section 4301.37 of the Revised Code.

If only question (B)(2) or (C)(2) is submitted to the voters or if questions (B)(2) and (B)(3) or (C)(2) and (C)(3) are submitted and a majority of the electors voting in a precinct vote "yes" on question (B)(2) or (C)(2) as set forth in section 4301.351 of the Revised Code, sales of intoxicating liquor shall be allowed in the manner and under the conditions specified in question (B)(2) or (C)(2), under a D-6 permit, within the precinct concerned, during the period the election is in effect as defined in section 4301.37 of the Revised Code, even if question ~~(A)(B)(1) or (C)(1)~~ was also submitted and a majority of the electors voting in the precinct voted "no."

If question (B)(3) or (C)(3) is submitted and a majority of electors voting on ~~the question (B)(3) or (C)(3)~~ as set forth in section 4301.351 of the Revised Code in a precinct vote "yes," sales of wine and mixed beverages shall be allowed in the manner and under the conditions specified in question (B)(3) or (C)(3), under a D-6 permit, within the precinct concerned, during the period the election is in effect as defined in section 4301.37 of the Revised Code.

If questions ~~(A)(B)(1), (B)(2), and (C)(B)(3)~~, or questions (C)(1), (C)(2), and (C)(3), as set forth in section 4301.351 of the Revised Code, are

all submitted and a majority of the electors voting in such precinct vote "no" on all three questions, no sales of intoxicating liquor shall be made within the precinct concerned after two-thirty a.m. on Sunday as specified in the questions submitted, during the period the election is in effect as defined in section 4301.37 of the Revised Code.

if question (b)(4) as set forth in section 4301.351 of the Revised Code is submitted and a majority of the electors voting in the precinct vote "yes," sales of intoxicating liquor shall be allowed at outdoor performing arts centers in the manner and under the conditions specified in question (b)(4) under a D-6 permit, within the precinct concerned, during the period the election is in effect as defined in section 4301.37 of the Revised Code. if question (b)(4) as set forth in section 4301.351 of the Revised Code is submitted and a majority of the electors voting in the precinct vote "no," no sales of intoxicating liquor shall be allowed at outdoor performing arts centers in the precinct concerned under a D-6 permit, after 2:30 a.m. on Sunday, during the period the election is in effect as defined in section 4301.37 of the Revised Code.

Sec. 4301.364. (A) If a majority of the electors in a precinct vote "yes" on question ~~(A)(B)(1) or (C)(1)~~ as set forth in section 4301.354 of the Revised Code, the sale of intoxicating liquor, of the same types as may be legally sold in the precinct on other days of the week, shall be permitted in the portion of the precinct affected by the results of the election ~~between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold~~ in the manner and under the conditions specified in the question, subject only to Chapters 4301. and 4303. of the Revised Code.

(B) If a majority of the electors in a precinct vote "yes" on question ~~(B)(2) or (C)(2)~~ as set forth in section 4301.354 of the Revised Code, the sale of intoxicating liquor, of the same types as may be legally sold in the precinct on other days of the week, shall be permitted in the portion of the precinct affected by the results of the election ~~between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold at licensed premises where the sale of food and other goods exceeds fifty per cent of the total gross receipts of the permit holder at the premises in the manner and under the conditions specified in the question~~, subject only to Chapters 4301. and 4303. of the Revised Code.

(C) If a majority of the electors in a precinct vote "yes" on question ~~(B)(3) or (C)(3)~~ as set forth in section 4301.354 of the Revised Code, the sale of wine and mixed beverages shall be permitted in the portion of the precinct affected by the results of the election ~~between the hours of one p.m. and midnight on Sunday for consumption off the premises where sold in the~~

manner and under the conditions specified in the question, subject only to Chapters 4301. and 4303. of the Revised Code.

(D) If a majority of the electors in a precinct vote "no" on question ~~(A)(B)(1) or (C)(1)~~ as set forth in section 4301.354 of the Revised Code, no sale of intoxicating liquor shall be permitted ~~between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold~~ in the manner and under the conditions specified in the question in the portion of the precinct affected by the results of the election.

(E) If a majority of the electors in a precinct vote "no" on question ~~(B)(2) or (C)(2)~~ as set forth in section 4301.354 of the Revised Code, no sale of intoxicating liquor; shall be permitted ~~between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold at licensed premises where the sale of food and other goods exceeds fifty per cent of the total gross receipts of the permit holder at the premises,~~ in the manner and under the conditions specified in the question in the portion of the precinct affected by the results of the election.

(F) If a majority of the electors in a precinct vote "no" on question ~~(B)(3) or (C)(3)~~ as set forth in section 4301.354 of the Revised Code, no sale of wine or mixed beverages shall be permitted ~~between the hours of one p.m. and midnight on Sunday for consumption off the premises where sold~~ in the manner and under the conditions specified in the question in the portion of the precinct affected by the results of the election.

Sec. 4301.365. (A) If a majority of the electors in a precinct vote "yes" on questions (B)(1) and (2); as set forth in section 4301.355 of the Revised Code, the sale of beer, wine and mixed beverages, or intoxicating liquor, whichever was the subject of the election, shall be allowed at the particular location and for the use specified in the question under each permit applied for by the petitioner or at the address listed for the liquor agency store subject only to Chapters 4301. and 4303. of the Revised Code. Failure to continue to use the particular location for any proposed or stated use set forth in the petition shall constitute good cause for the denial of a renewal of the liquor permit under division (A) of section 4303.271 of the Revised Code or cause for the nonrenewal or cancellation of the liquor agency store contract by the division of liquor control, except in the case where the liquor permit holder or liquor agency store decides to cease the sale of beer, wine and mixed beverages, or intoxicating liquor, whichever was the subject of the election, on Sundays.

(B) If a majority of the electors in a precinct vote "yes" on question (B)(1) and "no" on question (B)(2) as set forth in section 4301.355 of the Revised Code, the sale of beer, wine and mixed beverages, or intoxicating

liquor, whichever was the subject of the election, shall be allowed at the particular location for the use specified in question (B)(1) of section 4301.355 of the Revised Code and under each permit applied for by the petitioner, except for a D-6 permit, subject only to Chapters 4301. and 4303. of the Revised Code.

(C) If a majority of the electors in a precinct vote "no" on question (B)(1) as set forth in section 4301.355 of the Revised Code, no sales of beer, wine and mixed beverages, or intoxicating liquor, whichever was the subject of the election, shall be allowed at the particular location for the use specified in the petition during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(D) If a majority of the electors in a precinct vote only on question (B)(2) as set forth in section 4301.355 of the Revised Code; and that vote results in a majority "yes" vote, sales of beer, wine and mixed beverages, or intoxicating liquor, whichever was the subject of the election, shall be allowed at the particular location for the use specified in the petition on Sunday during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(E) If a majority of the electors in a precinct vote only on question (B)(2) as set forth in section 4301.355 of the Revised Code; and that vote results in a majority "no" vote, no sales of beer, wine and mixed beverages, or intoxicating liquor, whichever was the subject of the election, shall be allowed at the particular location for the use specified in the petition on Sunday during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(F) In case of elections in the same precinct ~~or overlapping precincts~~ for the question or questions set forth in section 4301.355 of the Revised Code and for a question or questions set forth in section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised Code, the results of the election held on the question or questions set forth in section 4301.355 of the Revised Code shall apply to the particular location notwithstanding the results of the election held on the question or questions set forth in section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised Code.

Sec. 4301.37. (A) When a local option election, other than an election under section 4301.351, 4301.352, 4301.353, 4301.354, 4301.355, or 4301.356 of the Revised Code, is held in any precinct, except as provided in divisions (G) and (H) of section 4301.39 of the Revised Code, the result of the election shall be effective in the precinct until another election is called and held pursuant to sections 4301.32 to 4301.36 of the Revised Code, but

no such election shall be held in the precinct on the same question more than once in each four years.

(B) When a local option election under section 4301.351 of the Revised Code is held in any precinct, except as provided in divisions (G) and (H) of section 4301.39 of the Revised Code, the result of the election shall be effective in the precinct until another election is called and held pursuant to sections 4301.32 to 4301.361 of the Revised Code, but no such election shall be held under section 4301.351 of the Revised Code in the precinct on the same question more than once in each four years.

(C) When a local option election is held in a precinct under section 4301.352 of the Revised Code, and a majority of the electors voting on the question vote "yes," no subsequent local option election shall be held in the precinct upon the sale of beer or intoxicating liquor by the class C or D permit holder at the specified premises for a period of at least four ~~calendar~~ years from the date of the most recent local option election, except that this division shall not be construed to prohibit the holding or affect the results of a local option election under section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised Code.

(D) When a local option election is held in a precinct under section 4301.353 or 4301.354 of the Revised Code, except as provided in divisions (G) and (H) of section 4301.39 of the Revised Code, the results of the election shall be effective until another election is held under that section on the same question, but no such election shall be held in a precinct under that section on the same question for a period of at least four years from the date of the most recent election on ~~such~~ that question. This division shall not be construed to prohibit the future holding of, or affect the future results of, a local option election held under section 4301.35, 4301.351, 4301.355, 4303.29, or 4305.14 of the Revised Code.

(E) When a local option election is held in a precinct under section 4301.355 of the Revised Code, the results of that election shall be effective at the particular location designated in the petition until another election is held pursuant to section 4301.355 of the Revised Code, or until such time as an election is held pursuant to section 4301.352 of the Revised Code, but no election shall be held under section 4301.355 of the Revised Code regarding the same use at that particular location for a period of at least four ~~calendar~~ years from the date of the most recent election on ~~such~~ that question. The results of a local option election held in a precinct under section 4301.355 of the Revised Code shall not prohibit the holding of, and shall be affected by the results of, a local option election held under section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised Code.

(F) When a local option election is held in a municipal corporation or unincorporated area of a township under section 4301.356 of the Revised Code, the results of the election shall be effective at the community facility that was the subject of the election until another such election is held regarding that community facility, but no such election shall be held for a period of at least four ~~calendar~~ years from the date of the election. The results of a local option election held in a municipal corporation or unincorporated area of a township under section 4301.356 of the Revised Code shall not prohibit the holding of, or affect or be affected by the results of, a local option election held under section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised Code.

(G) If a community facility is located in an election precinct in which a previous local option election in the precinct resulted in approval of the sale of beer or intoxicating liquor in the precinct, the community facility shall sell beer or intoxicating liquor only to the extent permitted by the previous local option election until an election is held pursuant to section 4301.356 of the Revised Code.

(H) A community facility shall not be affected by a local option election held on or after ~~the effective date of this amendment~~ March 30, 1999, unless the election is held under section 4301.356 of the Revised Code.

Sec. 4301.40. (A) No local option election held pursuant to sections 4301.32 to 4301.39 of the Revised Code shall affect or prohibit the following:

~~(A)~~(1) The transportation, possession, or consumption of intoxicating liquors within the precinct in which ~~such~~ the election is held, ~~nor~~ or sales in ~~such~~ the precinct under B-3, E, or G permits;

~~(B)~~(2) The sale of intoxicating liquors, at a permit premises located at any publicly owned airport, as defined in section 4563.01 of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public, provided the permit holder operates pursuant to the authority of a liquor permit issued pursuant to Chapter 4303. of the Revised Code.

(B)(1) As used in this division:

(a) "Ohio historical society area" means the Ohio Historical Center and Ohio village, both located contiguous to the State fairgrounds.

(b) "State fairgrounds" means the property that is held by the state for the purpose of conducting fairs, expositions, and exhibits and all other contiguous property that is owned, maintained, or managed by the ohio expositions commission under section 991.03 of the Revised Code.

(2) No local option election held under sections 4301.32 to 4301.41 and

4305.14 of the Revised Code, or held under the provisions for local option elections and the election on the question of the repeal of Section 9 of Article XV, Ohio Constitution, in section 4303.29 of the Revised Code, whether held before, on, or after the effective date of this amendment, prohibits or otherwise affects the sale of beer or intoxicating liquor in or at the Ohio historical society area or the state fairgrounds under a permit issued under chapter 4303. of the Revised Code.

Sec. 4301.62. (A) As used in this section:

(1) "Chauffeured limousine" means a vehicle registered under section 4503.24 of the Revised Code.

(2) "Street," "highway," and "motor vehicle" have the same meanings as in section 4511.01 of the Revised Code.

(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) In a state liquor store;

(2) Except as provided in division (C) of this section, on the premises of the holder of any permit issued by the division of liquor control;

(3) In any other public place;

(4) Except as provided in division (D) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in division (D) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(C)(1) A person may have in the person's possession an opened container of any of the following:

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-7, ~~D-8~~, E, F, or F-2 permit;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit;

(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants

permission for that possession on the premises during the period for which the F permit is issued. As used in this division, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

(D) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply:

(1) The person or guest is a passenger in the limousine.

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.

(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

Sec. 4303.181. (A) Permit D-5a may be issued either to the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code containing, that contains at least fifty rooms for registered transient guests, and ~~which~~ that qualifies under the other requirements of this section, or to the owner or operator of a restaurant specified under this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to registered guests in their rooms, which may be sold by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code; and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. The premises of the hotel or motel shall include a restaurant that is licensed pursuant to section 3717.43 of the Revised Code, that is affiliated with the hotel or motel and within or contiguous to the hotel or motel, ~~and~~ that serves food within the hotel or motel, but the principal business of the owner or operator of the hotel or motel shall be the accommodation of transient guests. In addition to the privileges authorized in this division, the holder of a D-5a permit may exercise the same privileges as the holder of a D-5 permit.

The owner or operator of a hotel, motel, or restaurant who qualified for and held a D-5a permit on August 4, 1976, may, if the owner or operator held another permit before holding a D-5a permit, either retain a D-5a permit or apply for the permit formerly held, and the division of liquor

control shall issue the permit for which the owner or operator applies and formerly held, notwithstanding any quota.

A D-5a permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits ~~which~~ that may be issued.

The fee for this permit is one thousand eight hundred seventy-five dollars.

(B) Permit D-5b may be issued to the owner, operator, tenant, lessee, or occupant of an enclosed shopping center to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold; and to sell the same products in the same manner and amount not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5b permit may exercise the same privileges as a holder of a D-5 permit.

A D-5b permit shall not be transferred to another location.

One D-5b permit may be issued at an enclosed shopping center containing at least two hundred twenty-five thousand, but less than four hundred thousand, square feet of floor area.

Two D-5b permits may be issued at an enclosed shopping center containing at least four hundred thousand square feet of floor area. No more than one D-5b permit may be issued at an enclosed shopping center for each additional two hundred thousand square feet of floor area or fraction ~~thereof~~ of that floor area, up to a maximum of five D-5b permits for each enclosed shopping center. The number of D-5b permits that may be issued at an enclosed shopping center shall be determined by subtracting the number of D-3 and D-5 permits issued in the enclosed shopping center from the number of D-5b permits that otherwise may be issued at the enclosed shopping center under the formulas provided in this division. Except as provided in this section, no quota shall be placed on the number of D-5b permits that may be issued. Notwithstanding any quota provided in this section, the holder of any D-5b permit first issued in accordance with this section is entitled to its renewal in accordance with section 4303.271 of the Revised Code.

The holder of a D-5b permit issued before April 4, 1984, whose tenancy is terminated for a cause other than nonpayment of rent, may return the D-5b permit to the division of liquor control, and the division shall cancel that permit. Upon cancellation of that permit and upon the permit holder's payment of taxes, contributions, premiums, assessments, and other debts owing or accrued upon the date of cancellation to this state and its political

subdivisions and a filing with the division of a certification ~~thereof~~ of that payment, the division shall issue to that person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as that person requests. The division shall issue the D-5 permit, or the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, D-3, or D-5 permits currently issued in the municipal corporation or in the unincorporated area of the township where that person's proposed premises is located equals or exceeds the maximum number of such permits that can be issued in that municipal corporation or in the unincorporated area of that township under the population quota restrictions contained in section 4303.29 of the Revised Code. Any ~~such~~ D-1, D-2, D-3, or D-5 permit so issued shall not be transferred to another location. If a D-5b permit is canceled under the provisions of this paragraph, the number of D-5b permits that may be issued at the enclosed shopping center for which the D-5b permit was issued, under the formula provided in this division, shall be reduced by one if the enclosed shopping center was entitled to more than one D-5b permit under the formula.

The fee for this permit is one thousand eight hundred seventy-five dollars.

(C) Permit D-5c may be issued either to the owner or operator of a restaurant that is licensed pursuant to section 3717.43 of the Revised Code; and ~~which that~~ that qualifies under the other requirements of this section to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5c permit may exercise the same privileges as the holder of a D-5 permit.

To qualify for a D-5c permit, the owner or operator of a restaurant that is licensed pursuant to section 3717.43 of the Revised Code shall have operated the restaurant at the proposed premises for not less than twenty-four consecutive months immediately preceding the filing of ~~an~~ the application for the permit, have applied for a D-5 permit no later than December 31, 1988, and appear on the division's quota waiting list for not less than six months immediately preceding the filing of ~~an~~ the application for the permit. In addition to these requirements, the proposed D-5c permit premises shall be located within a municipal corporation and further within an election precinct ~~which that~~ that, at the time of the ~~applications~~ application, has no more than twenty-five per cent of its total land area zoned for residential use.

A D-5c permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits ~~which~~ that may be issued.

Any person who has held a D-5c permit for at least two years may apply for a D-5 permit, and the division of liquor control shall issue the D-5 permit notwithstanding the quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission.

The fee for this permit is one thousand two hundred fifty dollars.

(D) Permit D-5d may be issued to either the owner or operator of a restaurant that is licensed pursuant to section 3717.43 of the Revised Code and located at an airport operated by a board of county commissioners pursuant to section 307.20 of the Revised Code or at an airport operated by a regional airport authority pursuant to Chapter 308. of the Revised Code. Not more than one D-5d permit shall be issued in each county. The holder of a D-5d permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5d permit may exercise the same privileges as the holder of a D-5 permit.

A D-5d permit shall not be transferred to another location. Except as otherwise provided in this division, no quota restrictions shall be placed on the number of such permits ~~which~~ that may be issued.

The fee for this permit is one thousand eight hundred seventy-five dollars.

(E) Permit D-5e may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, or that is a charitable organization under any chapter of the Revised Code, and that owns or operates a riverboat ~~which~~ that meets all of the following:

- (1) Is permanently docked at one location;
- (2) Is designated as an historical riverboat by the Ohio historical society;
- (3) Contains not less than fifteen hundred square feet of floor area;
- (4) Has a seating capacity of fifty or more persons.

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits ~~which~~ that may be

issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

The fee for this permit is nine hundred seventy-five dollars.

(F) Permit D-5f may be issued to either the owner or the operator of a food service operation that is licensed under section 3717.43 of the Revised Code and that meets all of the following:

(1) ~~Contains~~ It contains not less than twenty-five hundred square feet of floor area;

(2) ~~Is~~ It is located on or in, or immediately adjacent to, the shoreline of, a navigable river;

(3) ~~Provides~~ It provides docking space for twenty-five boats;

(4) ~~Provides~~ It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative authority that the issuance of the D-5f permit is not inconsistent with that political subdivision's comprehensive development plan or other economic development goal as officially established by the local legislative authority.

The holder of a D-5f permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5f permit shall not be transferred to another location. No more than fifteen D-5f permits shall be issued by the division of liquor control, and no more than two such permits shall be issued in any county. However, the division shall not issue a D-5f permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

A fee for this permit is one thousand eight hundred seventy-five dollars.

As used in this division, "navigable river" means a river ~~which~~ that is also a "navigable water" as defined in the "Federal Power Act," 94 Stat. 770 (1980), 16 U.S.C. 796.

(G) Permit D-5g may be issued to a nonprofit corporation that is either the owner or the operator of a national professional sports museum. The holder of a D-5g permit may sell beer and any intoxicating liquor at retail,

only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5g permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5g permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5g permits that may be issued. The fee for this permit is one thousand five hundred dollars.

(H) Permit D-5h may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that owns or operates a fine arts museum and has no less than five thousand bona fide members possessing full membership privileges. The holder of a D-5h permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5h permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued. The fee for this permit is one thousand five hundred dollars.

(I) Permit D-5i may be issued to either the owner or the operator of a food service operation that is licensed under section 3717.43 of the Revised Code and that meets all of the following requirements:

(1) It is located in a municipal corporation or a township with a population of fifty thousand or less.

(2) It has inside seating capacity for at least one hundred forty persons.

(3) It has at least ~~five~~ four thousand square feet of floor area.

(4) It offers full-course meals, appetizers, and sandwiches.

(5) Its receipts from beer and liquor sales do not exceed twenty-five per cent of its total gross receipts.

(6) The value of its real and personal property exceeds ~~nine~~ seven hundred twenty-five thousand dollars.

The holder of a D-5i permit shall cause an independent audit to be performed at the end of one full year of operation following issuance of the permit in order to verify the requirements of division (I)(5) of this section. The results of the independent audit shall be transmitted to the division. Upon determining that the receipts of the holder from beer and liquor sales exceeded twenty-five per cent of its total gross receipts, the division shall suspend the permit of the permit holder under section 4301.25 of the Revised Code and may allow the permit holder to elect a forfeiture under section 4301.252 of the Revised Code.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5i permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. In addition to the privileges authorized in this division, the holder of a D-5i permit may exercise the same privileges as the holder of a D-5 permit.

A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit unless the food service operation for which it is issued continues to meet the requirements described in divisions (I)(1) to (6) of this section. No quota restrictions shall be placed on the number of D-5i permits that may be issued. The fee for this permit is one thousand eight hundred seventy-five dollars.

(J)(1) Permit D-5j may be issued to either the owner or the operator of a food service operation that is licensed under section ~~3732.03~~ 3717.43 of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5j permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(2) The D-5j permit shall be issued only within a community entertainment district that is designated under section 4301.80 of the Revised Code and that is located in a municipal corporation with a population of at least one hundred thousand.

(3) The location of a D-5j permit may be transferred only within the geographic boundaries of the community entertainment district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

(4) Not more than one D-5j permit shall be issued within each community entertainment district for each five acres of land located within the district. Not more than fifteen D-5j permits may be issued within a single community entertainment district. Except as otherwise provided in division (J)(4) of this section, no quota restrictions shall be placed upon the number of D-5j permits that may be issued.

(5) The fee for a D-5j permit is one thousand eight hundred seventy-five dollars.

Sec. 4303.182. (A) Except as otherwise provided in divisions (B), ~~(C), and (D)~~ to (F) of this section, permit D-6 shall be issued to the holder of an A-1-A, A-2, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, or D-7 permit to allow sale under ~~such that~~ that permit between the hours of ~~ten a.m. and midnight, or between the hours of~~ one p.m. and midnight, as applicable, if that sale has been authorized under section 4301.361 ~~or, 4301.364, 4301.365, or 4301.366~~ of the Revised Code and under the restrictions of that authorization.

(B) Permit D-6 shall be issued to the holder of any permit, including a D-4a and D-5d permit, authorizing the sale of intoxicating liquor issued for a premises located at any publicly owned airport, as defined in section 4563.01 of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public, to allow sale under such permit between the hours of ~~one p.m. and~~ ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 ~~or 4301.364, 4301.365, or, 4301.366~~ of the Revised Code.

(C) Permit D-6 shall be issued to the holder of a D-5a permit, and to the holder of a D-3 or D-3a permit who is the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and that has on its premises a restaurant licensed pursuant to section 3717.43 of the Revised Code affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ~~one p.m. and~~ ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 ~~or, 4301.364, 4301.365, or 4301.366~~ of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio historical society area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under

ion 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(E) permit d-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 of the Revised Code. a d-6 permit issued under this division is subject to the results of an election, held after the d-6 permit is issued, on question (b)(4) as set FORTH in section 4301.351 of the Revised Code. following the end of the period during which an election may be held on question (b)(4) as set forth in that section, sales of intoxicating liquor may continue at an outdoor performing arts center under a d-6 permit issued under this division, unless an election on that question is held during the permitted period and a majority of the voters voting in the precinct on that question vote "no."

as used in this division, "outdoor performing arts center" means an outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of april to the last day of october of each year.

(G) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

~~(F)~~(H) The fee for the D-6 permit is two hundred fifty dollars when it is issued to the holder of an A-1-A, A-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, or D-7 permit. The fee for the D-6 permit is two hundred dollars when it is issued to the holder of a C-2 permit.

Sec. 4303.184. (A) Permit D-8 may be issued to the holder of a C-1, C-2, or C-2x permit issued to a retail store that has either of the following characteristics:

(1) The store has at least five thousand five hundred square feet of floor area, and it generates more than sixty per cent of its sales in general merchandise items and food for consumption off the premises where sold.

(2) Wine constitutes at least sixty per cent of the value of the store's inventory.

(B) The holder of a D-8 permit may sell tasting samples of beer, wine,

and mixed beverages, but not spirituous liquor, at retail, for consumption on the premises where sold in an amount not to exceed two ounces or another amount designated by rule of the liquor control commission. A tasting sample shall not be sold for general consumption. No D-8 permit holder shall allow any authorized purchaser to consume more than four tasting samples of beer, wine, or mixed beverages, or any combination of beer, wine, or mixed beverages, per day.

(C) The privileges authorized under a D-8 permit may only be exercised in conjunction with and during the hours of operation authorized by a C-1, C-2, C-2x, or D-6 permit.

(D) A D-8 permit shall not be transferred to another location.

(E) The fee for the D-8 permit is two hundred fifty dollars.

(F) The holder of a D-8 permit shall cause an independent audit to be performed at the end of the first full year of operation following issuance of the permit, and at the end of each second year thereafter, in order to verify that the permit holder satisfies the applicable requirement of division (A)(1) or (2) of this section. The permit holder shall transmit the results of the independent audit to the division of liquor control. If the results of the audit indicate noncompliance with division (A) of this section, the division shall not renew the D-8 permit of the permit holder.

SECTION 2. That existing sections 1333.82, 4301.01, 4301.241, 4301.28, 4301.333, 4301.351, 4301.354, 4301.355, 4301.361, 4301.364, 4301.365, 4301.37, 4301.40, 4301.62, 4303.181, and 4303.182 of the Revised Code are hereby repealed.

SECTION 3. Section 4303.181 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 223 and Am. Sub. H.B. 283 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____