

As Introduced

124th General Assembly
Regular Session
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H. B. No. 371

REPRESENTATIVES Trakas, DePiero, Evans, Husted, Schmidt, Setzer,
Sullivan, Sykes

A BILL

To amend sections 1333.82, 1502.07, 3719.44, 4301.01, 1
4301.03, 4301.041, 4301.042, 4301.24, 4301.241, 2
4301.333, 4301.355, 4301.365, 4301.37, 4301.402, 3
4301.42, 4301.47, 4301.54, 4301.55, 4301.62, 4
4303.01, 4303.02, 4303.06, 4303.07, 4303.10, 5
4303.181, 4303.182, 4303.22, 4303.29, 4303.30, 6
4303.332, 4303.35, 4305.01, 4305.03, 4305.04, 7
4399.09, 4399.12, 4399.15, 5733.065, and 5739.02 of 8
the Revised Code to change the definition of beer 9
to explicitly include ale, porter, stout, sake, and 10
other fermented beverages brewed or produced from 11
malt or malt substitutes; to exempt the sale of 12
beer and intoxicating liquor at publicly owned golf 13
courses from the effects of local option elections 14
and to allow Sunday liquor sales at these golf 15
courses whether or not those sales have been 16
approved at local option elections; to forbid an 17
employee or a member of the immediate family of a 18
wholesale distributor from having any financial 19
interest in any retail dealer; to create the D-5k 20
permit to be issued to certain nonprofit 21
organizations that own or operate a botanical 22
garden; to make changes in the Open Container Law 23
and the law governing local option elections on 24

beer and liquor sales at a specific premises; and 25
to make other changes in the Liquor Control Law. 26

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1333.82, 1502.07, 3719.44, 4301.01, 27
4301.03, 4301.041, 4301.042, 4301.24, 4301.241, 4301.333, 28
4301.355, 4301.365, 4301.37, 4301.402, 4301.42, 4301.47, 4301.54, 29
4301.55, 4301.62, 4303.01, 4303.02, 4303.06, 4303.07, 4303.10, 30
4303.181, 4303.182, 4303.22, 4303.29, 4303.30, 4303.332, 4303.35, 31
4305.01, 4305.03, 4305.04, 4399.09, 4399.12, 4399.15, 5733.065, 32
and 5739.02 of the Revised Code be amended to read as follows: 33

Sec. 1333.82. As used in sections 1333.82 to 1333.87 of the 34
Revised Code: 35

(A) "Alcoholic beverages" means beer, ~~malt beverages~~, and 36
wine as defined in section 4301.01 of the Revised Code. 37

(B) "Manufacturer" means a person, whether located in this 38
state or elsewhere, who manufactures or supplies alcoholic 39
beverages to distributors in this state. 40

(C) "Distributor" means a person who sells or distributes 41
alcoholic beverages to retail permit holders in the state, but 42
does not include the state or any of its political subdivisions. 43

(D) "Franchise" means a contract or any other legal device 44
used to establish a contractual relationship between a 45
manufacturer and a distributor. 46

(E) "Good faith" means the duty of any party to any 47
franchise, and all officers, employees, or agents of any party to 48
any franchise, to act in a fair and equitable manner toward each 49
other so as to guarantee each party freedom from coercion or 50
intimidation; except that recommendation, endorsement, exposition, 51

persuasion, urging, or argument shall not be considered to
constitute a lack of good faith or coercion.

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

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(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.

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Sec. 1502.07. No person, agency of the state, municipal
corporation, county, or township shall sell or offer for sale any
beer, ~~malt beverage~~, or mixed beverages as defined in section
4301.01 of the Revised Code, or any soft drink as defined in
section 913.22 of the Revised Code, in a metal container that is
so designed that it may be opened by removing from the container a
part ~~thereof~~ of the container without using a separate opener.
However, nothing in this section prohibits the sale or offering
for sale of a container the only detachable part of which is a
piece of tape or other similar adhesive material.

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Sec. 3719.44. (A) Pursuant to this section, and by rule
adopted in accordance with Chapter 119. of the Revised Code, the
state board of pharmacy may do any of the following with respect
to schedules I, II, III, IV, and V established in section 3719.41
of the Revised Code:

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(1) Add a previously unscheduled compound, mixture,

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preparation, or substance to any schedule;	82
(2) Transfer a compound, mixture, preparation, or substance from one schedule to another, provided the transfer does not have the effect under Chapter 3719. of the Revised Code <u>this chapter</u> of providing less stringent control of the compound, mixture, preparation, or substance than is provided under the federal drug abuse control laws;	83 84 85 86 87 88
(3) Remove a compound, mixture, preparation, or substance from the schedules where the board had previously added the compound, mixture, preparation, or substance to the schedules, provided that the removal shall not have the effect under Chapter 3719. of the Revised Code <u>this chapter</u> of providing less stringent control of the compound, mixture, preparation, or substance than is provided under the federal drug abuse control laws.	89 90 91 92 93 94 95
(B) In making a determination to add, remove, or transfer pursuant to division (A) of this section, the board shall consider the following:	96 97 98
(1) The actual or relative potential for abuse;	99
(2) The scientific evidence of the pharmacological effect of the substance, if known;	100 101
(3) The state of current scientific knowledge regarding the substance;	102 103
(4) The history and current pattern of abuse;	104
(5) The scope, duration, and significance of abuse;	105
(6) The risk to the public health;	106
(7) The potential of the substance to produce psychic or physiological dependence liability;	107 108
(8) Whether the substance is an immediate precursor.	109
(C) The board may add or transfer a compound, mixture,	110

preparation, or substance to schedule I when it appears that there
is a high potential for abuse, that it has no accepted medical use
in treatment in this state, or that it lacks accepted safety for
use in treatment under medical supervision.

(D) The board may add or transfer a compound, mixture,
preparation, or substance to schedule II when it appears that
there is a high potential for abuse, that it has a currently
accepted medical use in treatment in this state, or currently
accepted medical use in treatment with severe restrictions, and
that its abuse may lead to severe physical or severe psychological
dependence.

(E) The board may add or transfer a compound, mixture,
preparation, or substance to schedule III when it appears that
there is a potential for abuse less than the substances included
in schedules I and II, that it has a currently accepted medical
use in treatment in this state, and that its abuse may lead to
moderate or low physical or high psychological dependence.

(F) The board may add or transfer a compound, mixture,
preparation, or substance to schedule IV when it appears that it
has a low potential for abuse relative to substances included in
schedule III, ~~and~~ that it has a currently accepted medical use in
treatment in this state, and that its abuse may lead to limited
physical or psychological dependence relative to the substances
included in schedule III.

(G) The board may add or transfer a compound, mixture,
preparation, or substance to schedule V when it appears that it
has lower potential for abuse than substances included in schedule
IV, ~~and~~ that it has currently accepted medical use in treatment in
this state, and that its abuse may lead to limited physical or
psychological dependence relative to substances included in
schedule IV.

(H) Even though a compound, mixture, preparation, or substance does not otherwise meet the criteria in this section for adding or transferring it to a schedule, the board may nevertheless add or transfer it to a schedule as an immediate precursor when all of the following apply:

(1) It is the principal compound used, or produced primarily for use, in the manufacture of a controlled substance.

(2) It is an immediate chemical intermediary used or likely to be used in the manufacture of such a controlled substance.

(3) Its control is necessary to prevent, curtail, or limit the manufacture of the scheduled compound, mixture, preparation, or substance of which it is the immediate precursor.

(I) Authority to control under this section does not extend to distilled spirits, wine, or ~~malt beverages~~ beer, as those terms are defined or used in Chapter 4301. of the Revised Code.

(J) Authority to control under this section does not extend to any nonnarcotic substance if ~~such~~ the substance may, under the Federal Food, Drug, and Cosmetic Act and the laws of this state, be lawfully sold over the counter without a prescription. ~~Should~~ If a pattern of abuse ~~develop~~ develops for any nonnarcotic drug sold over the counter, the board may, by rule adopted in accordance with Chapter 119. of the Revised Code, after a public hearing and a documented study to determine that the substance actually meets the criteria listed in division (B) of this section, place ~~such~~ the abused substance on a controlled substance schedule.

(K)(1) A drug product containing ephedrine that is known as one of the following and is in the form specified shall not be considered a schedule V controlled substance:

(a) Amesec capsules;

(b) Bronitin tablets;	172
(c) Bronkotabs;	173
(d) Bronkolixir;	174
(e) Bronkaid tablets;	175
(f) Efedron nasal jelly;	176
(g) Guiaphed elixir;	177
(h) Haysma;	178
(i) Pazo hemorrhoid ointment and suppositories;	179
(j) Primatene "M" formula tablets;	180
(k) Primatene "P" formula tablets;	181
(l) Tedrigen tablets;	182
(m) Tedral tablets, suspension and elixir;	183
(n) T.E.P.;	184
(o) Vatronol nose drops.	185
(2)(a) A product containing ephedrine shall not be considered	186
a controlled substance if the product is a food product or dietary	187
supplement that meets all of the following criteria:	188
(i) It contains, per dosage unit or serving, not more than	189
the lesser of twenty-five milligrams of ephedrine alkaloids or the	190
maximum amount of ephedrine alkaloids provided in applicable	191
regulations adopted by the United States food and drug	192
administration, and no other controlled substance.	193
(ii) It contains no hydrochloride or sulfate salts of	194
ephedrine alkaloids.	195
(iii) It is packaged with a prominent label securely affixed	196
to each package that states all of the following: the amount in	197
milligrams of ephedrine in a serving or dosage unit; the amount of	198
the food product or dietary supplement that constitutes a serving	199

or dosage unit; that the maximum recommended dosage of ephedrine
for a healthy adult human is the lesser of one hundred milligrams
in a twenty-four-hour period for not more than twelve weeks or the
maximum recommended dosage or period of use provided in applicable
regulations adopted by the United States food and drug
administration; and that improper use of the product may be
hazardous to a person's health.

(b)(i) Subject to division (K)(2)(b)(ii) of this section, no
person shall dispense, sell, or otherwise give a product described
in division (K)(2)(a) of this section to any individual under
eighteen years of age.

(ii) Division (K)(2)(b)(i) of this section does not apply to
a physician or pharmacist who dispenses, sells, or otherwise gives
a product described in division (K)(2)(a) of this section to an
individual under eighteen years of age, to a parent or guardian of
an individual under eighteen years of age who dispenses, sells, or
otherwise gives a product of that nature to the individual under
eighteen years of age, or to a person who, as authorized by the
individual's parent or legal guardian, dispenses, sells, or
otherwise gives a product of that nature to an individual under
eighteen years of age.

(c) No person in the course of selling, offering for sale, or
otherwise distributing a product described in division (K)(2)(a)
of this section shall advertise or represent in any manner that
the product causes euphoria, ecstasy, a "buzz" or "high," or an
altered mental state; heightens sexual performance; or, because it
contains ephedrine alkaloids, increased muscle mass.

(3) A drug product that contains the isomer pseudoephedrine,
or any of its salts, optical isomers, or salts of optical isomers,
shall not be considered a controlled substance if the drug product
is labeled in a manner consistent with federal law or with the

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product's over-the-counter tentative final monograph or final
monograph issued by the United States food and drug
administration.

(4) At the request of any person, the board may except any
product containing ephedrine not described in division (K)(1) or
(2) of this section or any class of products containing ephedrine
from being included as a schedule V controlled substance if it
determines that the product or class of products does not contain
any other controlled substance. The board shall make the
determination in accordance with this section and by rule adopted
in accordance with Chapter 119. of the Revised Code.

(L) As used in this section:

(1) "Food" has the same meaning as in section 3715.01 of the
Revised Code.

(2) "Dietary supplement" has the same meaning ~~given~~ as in the
"Federal Food, Drug, and Cosmetic Act," 108 Stat. 4327 (1994), 21
U.S.C.A. 321 (ff), as amended.

(3) "Ephedrine alkaloids" means ephedrine, pseudoephedrine,
norephedrine, norpseudoephedrine, methylephedrine, and
methylnpseudoephedrine.

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

(1) "Intoxicating liquor" and "liquor" include all liquids
and compounds, other than beer, 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~~ they are
medicated, proprietary, or patented. "Intoxicating liquor" and
"liquor" include wine even if it contains less than four per cent
of alcohol by volume, mixed beverages even if they contain less
than four per cent of alcohol by volume, cider, alcohol, and all

solids and confections which contain any alcohol. 262

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 263
4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the 264
Revised Code, "sale" and "sell" include exchange, barter, gift, 265
offer for sale, sale, distribution and delivery of any kind, and 266
the transfer of title or possession of beer and intoxicating 267
liquor either by constructive or actual delivery by any means or 268
devices whatever, including the sale of beer or intoxicating 269
liquor by means of a controlled access alcohol and beverage 270
cabinet pursuant to section 4301.21 of the Revised Code. "Sale" 271
and "sell" do not include the mere solicitation of orders for beer 272
or intoxicating liquor from the holders of permits issued by the 273
division of liquor control authorizing the sale of the beer or 274
intoxicating liquor, but no solicitor shall solicit any such 275
orders until the solicitor has been registered with the division 276
pursuant to section 4303.25 of the Revised Code. 277

(3) "Vehicle" includes all means of transportation by land, 278
by water, or by air, and everything made use of in any way for 279
such transportation. 280

(B) As used in ~~sections 4301.01 to 4301.74 of the Revised~~ 281
~~Code~~ this chapter: 282

(1) "Alcohol" means ethyl alcohol, whether rectified or 283
diluted with water or not, whatever its origin may be, and 284
includes synthetic ethyl alcohol. "Alcohol" does not include 285
denatured alcohol and wood alcohol. 286

(2) ~~"Beer," "malt liquor," or "malt beverages" includes all~~ 287
~~brewed or~~ means beer, ale, porter, stout, and other similar 288
fermented malt products containing beverages, including sake or 289
similar products, of any name or description, that contain 290
one-half of one per cent or more of alcohol by volume ~~but not more~~ 291
~~than six per cent of alcohol by weight~~ and that are brewed or 292
produced from malt, wholly or in part, or from any product used as 293

<u>a substitute for malt.</u>	294
(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.	295 296 297 298 299 300 301 302 303
(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.	304 305 306 307 308 309 310 311
(5) "Spirituous liquor" includes all intoxicating liquors containing more than twenty-one per cent of alcohol by volume.	312 313
(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.	314 315 316
(7) "Person" includes firms and corporations.	317
(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.	318 319 320 321
(9) "Manufacturer" means any person engaged in the business of manufacturing beer or intoxicating liquor.	322 323
(10) "Wholesale distributor" and "distributor" means a person	324

engaged in the business of selling to retail dealers for purposes
of resale.

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

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(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.

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(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 of a permanent building operated solely for those purposes,
membership in which entails the prepayment of regular dues, and
includes the place so operated.

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(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
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
patrons.

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

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

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(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 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.

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(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.

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(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.

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Sec. 4301.03. The liquor control commission may adopt and promulgate, repeal, rescind, and amend, in the manner required by this section, rules, standards, requirements, and orders necessary to carry out ~~Chapters 4301.~~ this chapter and Chapter 4303. of the Revised Code, but all rules of the board of liquor control which were in effect immediately prior to April 17, 1963, shall remain in full force and effect as rules of the liquor control commission until and unless amended or repealed by the liquor control commission. The rules of the commission may include the following:

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(A) Rules with reference to applications for and the issuance of permits for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor, and the sale of alcohol; and

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rules governing the procedure of the division of liquor control in
the suspension, revocation, and cancellation of ~~such~~ those
permits;

(B) Rules and orders providing in detail for the conduct of
any retail business authorized under permits issued pursuant to
~~such chapters~~ this chapter and Chapter 4303. of the Revised Code,
with a view to ensuring compliance with ~~such~~ those chapters and
laws relative ~~thereto~~ to them, and the maintenance of public
decency, sobriety, and good order in any place licensed under ~~such~~
the permits. No rule or order shall prohibit the sale of lottery
tickets issued pursuant to Chapter 3770. of the Revised Code by
any retail business authorized under permits issued pursuant to
~~such~~ that chapter.

No rule or order shall prohibit pari-mutuel wagering on
simulcast horse races at a satellite facility that has been issued
a D liquor permit under Chapter 4303. of the Revised Code. No rule
or order shall prohibit a charitable organization that holds a D-4
permit from selling or serving beer or intoxicating liquor under
its permit in a portion of its premises merely because that
portion of its premises is used at other times for the conduct of
a charitable bingo game. However, such an organization shall not
sell or serve beer or intoxicating liquor or permit beer or
intoxicating liquor to be consumed or seen in the same location in
its premises where a charitable bingo game is being conducted
while the game is being conducted. As used in this division,
"charitable organization" has the same meaning as in division (H)
of section 2915.01 of the Revised Code, and "charitable bingo
game" has the same meaning as in division (R) of that section
~~2915.01 of the Revised Code.~~ No rule or order pertaining to
visibility into the premises of a permit holder after the legal
hours of sale shall be adopted or maintained by the commission.

(C) Standards, not in conflict with those prescribed by any

law of this state or the United States, to secure the use of 450
proper ingredients and methods in the manufacture of beer, ~~malt~~ 451
~~liquor~~, mixed beverages, and wine to be sold within this state; 452

(D) Rules determining the nature, form, and capacity of all 453
packages and bottles to be used for containing beer or 454
intoxicating liquor except for spirituous liquor to be kept or 455
sold, governing the form of all seals and labels to be used 456
~~thereon~~ on those packages and bottles, and requiring the label on 457
every package, bottle, and container to state the ingredients in 458
the contents and, except on ~~malt beverages~~ beer, the terms of 459
weight, volume, or proof spirits, and whether the same is beer, 460
wine, alcohol, or any intoxicating liquor except for spirituous 461
liquor; 462

(E) Uniform rules governing all advertising with reference to 463
the sale of beer and intoxicating liquor throughout the state and 464
advertising upon and in the premises licensed for the sale of beer 465
or intoxicating liquor; 466

(F) Rules restricting and placing conditions upon the 467
transfer of permits; 468

(G) Rules and orders limiting the number of permits of any 469
class within the state or within any political subdivision of the 470
state; and, for ~~such~~ that purpose, adopting reasonable 471
classifications of persons or establishments to which any 472
authorized class of permits may be issued within any ~~such~~ 473
political subdivision; 474

(H) Rules and orders with reference to sales of beer and 475
intoxicating liquor on Sundays and holidays and with reference to 476
the hours of the day during which and the persons to whom 477
intoxicating liquor of any class may be sold, and rules with 478
reference to the manner of sale; 479

(I) Rules requiring permit holders buying beer ~~and malt~~ 480

~~beverages~~ to pay and permit holders selling beer and ~~malt~~ 481
~~beverages~~ to collect minimum cash deposits for kegs, cases, 482
bottles, or other returnable containers of ~~such the~~ beer and ~~malt~~ 483
~~beverages~~; requiring the repayment, or credit ~~therefor~~, of ~~such~~ 484
~~the~~ minimum cash deposit charges upon the return of ~~such the~~ empty 485
containers;ⁱ and requiring the posting of such form of indemnity 486
or such other conditions with respect to the charging, collection, 487
and repayment of minimum cash deposit charges for returnable 488
containers of beer or ~~malt beverages~~ as are necessary to ensure 489
the return of ~~such the~~ empty containers or the repayment upon ~~such~~ 490
~~that~~ return of the minimum cash deposits paid ~~therefor~~.ⁱ 491

(J) Rules establishing the method by which alcohol products 492
may be imported for sale by wholesale distributors and the method 493
by which manufacturers and suppliers may sell alcohol products to 494
wholesale distributors. 495

Every rule, standard, requirement, or order of the 496
commission, and every repeal, amendment, or rescission ~~thereof of~~ 497
~~them~~ shall be posted for public inspection in the principal office 498
of the commission and the principal office of the division of 499
liquor control, and a certified copy ~~thereof of them~~ shall be 500
filed in the office of the secretary of state. An order applying 501
only to persons named ~~therein in it~~ shall be served on the persons 502
affected by personal delivery of a certified copy, or by mailing 503
~~such a~~ certified copy to each person affected ~~thereby, by it~~ or, 504
in the case of a corporation, to any officer or agent ~~thereof of~~ 505
~~the corporation~~ upon whom a service of summons may be served in a 506
civil action. The posting and filing required by this section 507
constitutes sufficient notice to all persons affected by such rule 508
or order which is not required to be served. General rules of the 509
commission promulgated pursuant to this section shall be published 510
in ~~such a the~~ manner ~~as~~ the commission determines. 511

Sec. 4301.041. The liquor control commission may determine 512

and fix by ~~regulation~~ rule the minimum percentage mark-up for 513
sales at retail of beer, ~~lager beer, ale, stout, porter, or any~~ 514
~~other brewed or malt liquor or malt beverages,~~ whether in case lot 515
or less. 516

To determine the retail price of ~~such products~~ beer, the 517
minimum percentage mark-up may be applied to the wholesale price 518
of the manufacturer or wholesale distributor charged to the retail 519
permit holder. Such prices shall apply to sales made at retail by 520
a permit holder for off-premise consumption only. 521

Sec. 4301.042. The liquor control commission may adopt, 522
repeal, and amend rules providing for and controlling pricing 523
practices and the manner and frequency with which any person sets 524
or changes prices at which beer ~~and other malt beverages are~~ is 525
sold to or by the holders of B-1 permits, but the commission shall 526
not set prices or markups between manufacturers or other suppliers 527
and the holders of B-1 permits. 528

Sec. 4301.24. No manufacturer shall aid or assist the holder 529
of any permit for sale at wholesale, and no manufacturer or 530
wholesale distributor shall aid or assist the holder of any permit 531
for sale at retail, by gift or loan of any money or property of 532
any description or other valuable thing, or by giving premiums or 533
rebates. No holder of any such permit shall accept the same, 534
provided that the manufacturer or wholesale distributor may 535
furnish to a retail permittee the inside signs or advertising and 536
the tap signs or devices authorized by divisions (F) and (G) of 537
section 4301.22 of the Revised Code. 538

No manufacturer shall have any financial interest, directly 539
or indirectly, by stock ownership, or through interlocking 540
directors in a corporation, or otherwise, in the establishment, 541
maintenance, or promotion in the business of any wholesale 542

distributor. No retail permit holder shall have any interest, 543
directly or indirectly, in the operation of, or any ownership in, 544
the business of any wholesale distributor or manufacturer. 545

No manufacturer ~~or wholesale distributor~~ shall, except as 546
authorized by section 4303.021 of the Revised Code, have any 547
financial interest, directly or indirectly, by stock ownership, or 548
through interlocking directors in a corporation, or otherwise, in 549
the establishment, maintenance, or promotion of the business of 550
any retail dealer; ~~nor shall any. No wholesale distributor, or~~ 551
employee or member of the immediate family of a wholesale 552
distributor, shall have any financial interest, directly or 553
indirectly, by stock ownership, interlocking directors in a 554
corporation, or otherwise, in the establishment, maintenance, or 555
promotion of the business of any retail dealer. No manufacturer or 556
wholesale distributor or any stockholder of a manufacturer or 557
wholesale distributor shall acquire, by ownership in fee, 558
leasehold, mortgage, or otherwise, directly or indirectly, any 559
interest in the premises on which the business of any other person 560
engaged in the business of trafficking in beer or intoxicating 561
liquor is conducted. All contracts, covenants, conditions, and 562
limitations whereby any person engaged or proposing to engage in 563
the sale of beer or intoxicating liquors promises to confine the 564
person's sales of a particular kind or quality of beer or 565
intoxicating liquor to one or more products, or the products of a 566
specified manufacturer or wholesale distributor, or to give 567
preference to those products, shall to the extent of that promise 568
be void. The making of a promise in any such form shall be cause 569
for the revocation or suspension of any permit issued to any 570
party. This section does not prevent the holder of an A permit 571
from securing and holding a wholesale distributor's permit or 572
permits and operating as a wholesale distributor. 573

No manufacturer shall sell or offer to sell to any wholesale 574

distributor or retail permit holder, ~~and~~ no wholesale distributor 575
shall sell or offer to sell to any retail permit holder, and no 576
wholesale distributor or retail permit holder shall purchase or 577
receive from any manufacturer or wholesale distributor, any ~~malt~~ 578
~~or beer,~~ brewed beverages, or wine manufactured in the United 579
States except for cash. No right of action shall exist to collect 580
any claims for credit extended contrary to this section. This 581
section does not prohibit a licensee from crediting to a purchaser 582
the actual prices charged for packages or containers returned by 583
the original purchaser as a credit on any sale or from refunding 584
to any purchaser the amount paid by that purchaser for containers 585
or as a deposit on containers when title is retained by the 586
vendor, if those containers or packages have been returned to the 587
manufacturer or distributor. This section does not prohibit a 588
manufacturer from extending usual and customary credit for ~~malt or~~ 589
~~beer,~~ brewed beverages, or wine manufactured in the United States 590
and sold to customers who live or maintain places of business 591
outside this state when the beverages so sold are actually 592
transported and delivered to points outside this state. No 593
wholesale or retail permit shall be issued to an applicant unless 594
the applicant has paid in full all accounts for beer ~~and malt~~ 595
~~beverages~~ or wine, manufactured in the United States, outstanding 596
as of September 6, 1939. No beer ~~or malt beverages~~ or wine 597
manufactured in the United States shall be imported into the state 598
unless the beer ~~or malt beverages~~ or wine has been paid for in 599
cash, and no consent to import any such beer ~~or malt beverages~~ or 600
wine manufactured in the United States shall be issued by the 601
division of liquor control until the A-2, B-1, or B-5 permit 602
holder establishes to the satisfaction of the division that the 603
beer ~~or malt beverages~~ or wine has been paid for in cash. 604

This section does not prevent a manufacturer from securing 605
and holding any financial interest, directly or indirectly, by 606

stock ownership or through interlocking directors in a
corporation, or otherwise, in the establishment, maintenance, or
promotion of the business or premises of any C or D permit holder,
provided that the following conditions are met:

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(A) Either the manufacturer or one of its parent companies is
listed on a national securities exchange.

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(B) All purchases of alcoholic beverages by the C or D permit
holder are made from wholesale distributors in this state or
agency stores licensed by the division of liquor control.

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(C) If the C or D permit holder sells brands of alcoholic
beverages that are produced or distributed by the manufacturer
that holds the financial interest, the C or D permit holder also
sells other competing brands of alcoholic beverages produced by
other manufacturers, no preference is given to the products of the
manufacturer, and there is no exclusion, in whole or in part, of
products sold or offered for sale by other manufacturers,
suppliers, or importers of alcoholic beverages that constitutes a
substantial impairment of commerce.

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(D) The primary purpose of the C or D permit premises is a
purpose other than to sell alcoholic beverages, and the sale of
other goods and services exceeds fifty per cent of the total gross
receipts of the C or D permit holder at its premises.

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This section does not prevent a manufacturer from giving
financial assistance to the holder of a B permit for the purpose
of the holder purchasing an ownership interest in the business,
existing inventory and equipment, or property of another B permit
holder, including, but not limited to, participation in a limited
liability partnership, limited liability company, or any other
legal entity authorized to do business in this state. This section
does not permit a manufacturer to give financial assistance to the
holder of a B permit to purchase inventory or equipment used in

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the daily operation of a B permit holder.

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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 the manufacturer's or supplier's B-1 distributors a sales area or territory within which each such B-1 permit holder shall be the distributor of the brand or brands of the manufacturer or supplier, provided that, if the manufacturer or supplier manufactures or supplies more than one brand of beer ~~and malt beverage~~, the manufacturer or supplier may assign 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 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 area or territory assigned to the distributor.

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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:

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

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

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

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

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or (3) of this section.

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(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 for that office and shall contain all of the following:

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

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(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, holder, or liquor agency store either intends to do or does business at the particular location;

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(3) 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:

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(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;

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

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

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(4) If the petition seeks approval of Sunday sales under

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question (B)(2) as set forth in section 4301.355 of the Revised Code, a statement indicating whether the hours of sale sought is between ten a.m. and midnight or between one p.m. and midnight.

(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 and that states the proposed use of the location following the election held to authorize the sale of beer or intoxicating liquor 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. 729

(E) A petition filed with the board of elections under this 730
section shall be open to public inspection under rules adopted by 731
the board. 732

(F) An elector who is eligible to vote on the question or 733
questions set forth in section 4301.355 of the Revised Code may 734
file, not later than four p.m. of the sixty-fourth day before the 735
day of the election at which the question or questions will be 736
submitted to the electors, a protest against a local option 737
petition circulated and filed pursuant to this section. The 738
protest shall be in writing and shall be filed with the election 739
officials with whom the petition was filed. Upon the filing of the 740
protest, the election officials with whom it is filed shall 741
promptly establish a time and place for hearing the protest and 742
shall mail notice of the time and place for the hearing to the 743
applicant for, or the holder of, the liquor permit who is 744
specified in the petition and to the elector who filed the 745
protest. At the time and place established in the notice, the 746
election officials shall hear the protest and determine the 747
validity of the petition. 748

Sec. 4301.355. (A) If a petition is filed under section 749
4301.333 of the Revised Code for the submission of the question or 750
questions set forth in this section, it shall be held in the 751
precinct as ordered by the board of elections under that section. 752
The expense of holding the election shall be charged to the 753
municipal corporation or township of which the precinct is a part. 754

(B) At the election, one or more of the following questions, 755
as designated in a valid petition, shall be submitted to the 756
electors of the precinct: 757

(1) "Shall the sale of (insert beer, wine and mixed 758
beverages, or intoxicating liquor) be permitted by.....(insert 759

name of applicant, liquor permit holder, or liquor agency store, 760
including trade or fictitious name under which applicant for, or 761
holder of, liquor permit or liquor agency store either intends to 762
do, or does, business at the particular location), an 763
(insert "applicant for" or "holder of" or "operator of") a 764
.....(insert class name of liquor permit or permits followed by 765
the words "liquor permit(s)" or, if appropriate, the words "liquor 766
agency store for the State of Ohio"), who is engaged in the 767
business of(insert general nature of the business in which 768
applicant or liquor permit holder is engaged or will be engaged in 769
at the particular location, as described in the petition) at 770
.....(insert address of the particular location within the 771
precinct as set forth in the petition) in this precinct?" 772

(2) "Shall the sale of (insert beer, wine and mixed 773
beverages, or intoxicating liquor) be permitted for sale on Sunday 774
between the hours of (insert "ten a.m. and midnight" or 775
"one p.m. and midnight") by (insert name of applicant, 776
liquor permit holder, or liquor agency store, including trade or 777
fictitious name under which applicant for, or holder of, liquor 778
permit or liquor agency store either intends to do, or does, 779
business at the particular location), an(insert "applicant 780
for a D-6 liquor permit," "holder of a D-6 liquor permit," 781
"applicant for or holder of an A-1-A, A-2, C-1, C-2x, D-1, D-2x, 782
D-3, D-3x, D-4, D-5, D-5b, D-5c, D-5e, D-5f, D-5g, D-5h, D-5i, 783
D-5j, D-5k, or D-7 liquor permit," if only the approval of beer 784
sales is sought, or "liquor agency store") who is engaged in the 785
business of(insert general nature of the business in 786
which applicant or liquor permit holder is engaged or will be 787
engaged in at the particular location, as described in the 788
petition) at..... (insert address of the particular location 789
within the precinct) in this precinct?" 790

(C) If the sale of beer, wine and mixed beverages, or 791

intoxicating liquor has been approved at a particular location 792
within the precinct at a previous election held under this 793
section, the ballot also shall include the following statement: 794

"At a previous election held under section 4301.355 of the 795
Revised Code, the electors approved the sale of (insert 796
beer, wine and mixed beverages, or intoxicating liquor, as 797
appropriate) at(insert business name and address of the 798
particular location or locations within the precinct where ~~such~~ 799
that sale has been approved at a previous election under section 800
4301.355 of the Revised Code)." 801

(D) The board of elections shall furnish printed ballots at 802
the election as provided under section 3505.06 of the Revised 803
Code, except that a separate ballot shall be used for the election 804
under this section. The question and, if applicable, the statement 805
set forth in this section shall be printed on each ballot, and the 806
board shall insert in the question and statement appropriate words 807
to complete each. Votes shall be cast as provided under section 808
3505.06 of the Revised Code. 809

Sec. 4301.365. (A) If a majority of the electors in a 810
precinct vote "yes" on questions (B)(1) and (2) as set forth in 811
section 4301.355 of the Revised Code, the sale of beer, wine and 812
mixed beverages, or intoxicating liquor, whichever was the subject 813
of the election, shall be allowed at the particular location and 814
for the use, and during the hours on Sunday, specified in the 815
~~question~~ questions under each permit applied for by the petitioner 816
or at the address listed for the liquor agency store subject only 817
to Chapters 4301. and 4303. of the Revised Code. Failure to 818
continue to use the particular location for any proposed or stated 819
use set forth in the petition ~~shall constitute good cause~~ is 820
grounds for the denial of a renewal of the liquor permit under 821
division (A) of section 4303.271 of the Revised Code or ~~cause~~ is 822
grounds for the nonrenewal or cancellation of the liquor agency 823

store contract by the division of liquor control, except in the 824
case where the liquor permit holder or liquor agency store decides 825
to cease the sale of beer, wine and mixed beverages, or 826
intoxicating liquor, whichever was the subject of the election, on 827
Sundays. 828

(B) If a majority of the electors in a precinct vote "yes" on 829
question (B)(1) and "no" on question (B)(2) as set forth in 830
section 4301.355 of the Revised Code, the sale of beer, wine and 831
mixed beverages, or intoxicating liquor, whichever was the subject 832
of the election, shall be allowed at the particular location for 833
the use specified in question (B)(1) of section 4301.355 of the 834
Revised Code and under each permit applied for by the petitioner, 835
except for a D-6 permit, subject only to Chapters 4301. and 4303. 836
of the Revised Code. 837

(C) If a majority of the electors in a precinct vote "no" on 838
question (B)(1) as set forth in section 4301.355 of the Revised 839
Code, no sales of beer, wine and mixed beverages, or intoxicating 840
liquor, whichever was the subject of the election, shall be 841
allowed at the particular location for the use specified in the 842
petition during the period the election is in effect as defined in 843
section 4301.37 of the Revised Code. 844

(D) If a majority of the electors in a precinct vote only on 845
question (B)(2) as set forth in section 4301.355 of the Revised 846
Code and that vote results in a majority "yes" vote, sales of 847
beer, wine and mixed beverages, or intoxicating liquor, whichever 848
was the subject of the election, shall be allowed at the 849
particular location for the use and during the hours specified in 850
the petition on Sunday during the period the election is in effect 851
as defined in section 4301.37 of the Revised Code. 852

(E) If a majority of the electors in a precinct vote only on 853
question (B)(2) as set forth in section 4301.355 of the Revised 854
Code and that vote results in a majority "no" vote, no sales of 855

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 and during the hours 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 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.

(G) Sections 4301.32 to 4301.41 of the Revised Code do not
prohibit the transfer of ownership of a permit that was issued to
a particular location as the result of an election held on sales
of beer, wine and mixed beverages, or intoxicating liquor at that
particular location as long as the general nature of the business
at that particular location described in the petition for that
election remains the same after the transfer.

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 887
the Revised Code is held in any precinct, except as provided in 888
divisions (G) and (H) of section 4301.39 of the Revised Code, the 889
result of the election shall be effective in the precinct until 890
another election is called and held pursuant to sections 4301.32 891
to 4301.361 of the Revised Code, but no such election shall be 892
held under section 4301.351 of the Revised Code in the precinct on 893
the same question more than once in each four years. 894

(C) When a local option election is held in a precinct under 895
section 4301.352 of the Revised Code and a majority of the 896
electors voting on the question vote "yes," no subsequent local 897
option election shall be held in the precinct upon the sale of 898
beer or intoxicating liquor by the class C or D permit holder at 899
the specified premises for a period of at least four years from 900
the date of the most recent local option election, except that 901
this division shall not be construed to prohibit the holding or 902
affect the results of a local option election under section 903
4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the 904
Revised Code. 905

(D) When a local option election is held in a precinct under 906
section 4301.353 or 4301.354 of the Revised Code, except as 907
provided in divisions (G) and (H) of section 4301.39 of the 908
Revised Code, the results of the election shall be effective until 909
another election is held under that section on the same question, 910
but no such election shall be held in a precinct under that 911
section on the same question for a period of at least four years 912
from the date of the most recent election on that question. This 913
division shall not be construed to prohibit the future holding of, 914
or affect the future results of, a local option election held 915
under section 4301.35, 4301.351, 4301.355, 4303.29, or 4305.14 of 916
the Revised Code. 917

(E)(1) When a local option election is held in a precinct 918

under section 4301.355 of the Revised Code, the results of that 919
election shall be effective at the particular location designated 920
in the petition until another election is held pursuant to that 921
~~section 4301.355 of the Revised Code~~ or until ~~such time as~~ an 922
election is held pursuant to section 4301.352 of the Revised Code, 923
but, except as provided in division (E)(2) of this section, no 924
election shall be held under section 4301.355 of the Revised Code 925
regarding the same use at that particular location for a period of 926
at least four years from the date of the most recent election on 927
that question. ~~The~~ 928

(2) A local option election may be held in a precinct under 929
section 4301.355 of the Revised Code for approval of the sale of 930
beer, wine and mixed beverages, or intoxicating liquor at a 931
particular location, on a date occurring less than four years from 932
the date of the most recent election under that section on any 933
such sale at that particular location, if the petitioner for the 934
new local option election under section 4301.333 of the Revised 935
Code is not the same applicant, liquor permit holder, or liquor 936
agency store that was the petitioner under that section for that 937
most recent election. 938

(3) The results of a local option election held in a precinct 939
under section 4301.355 of the Revised Code shall not prohibit the 940
holding of, ~~and shall or~~ be affected by the results of, a local 941
option election held under section 4301.35, 4301.351, 4301.353, 942
4301.354, 4303.29, or 4305.14 of the Revised Code. 943

(F) When a local option election is held in a municipal 944
corporation or unincorporated area of a township under section 945
4301.356 of the Revised Code, the results of the election shall be 946
effective at the community facility that was the subject of the 947
election until another such election is held regarding that 948
community facility, but no such election shall be held for a 949
period of at least four years from the date of the election. The 950

results of a local option election held in a municipal corporation 951
or unincorporated area of a township under section 4301.356 of the 952
Revised Code shall not prohibit the holding of, or affect or be 953
affected by the results of, a local option election held under 954
section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 955
of the Revised Code. 956

(G) If a community facility is located in an election 957
precinct in which a previous local option election in the precinct 958
resulted in approval of the sale of beer or intoxicating liquor in 959
the precinct, the community facility shall sell beer or 960
intoxicating liquor only to the extent permitted by the previous 961
local option election until an election is held pursuant to 962
section 4301.356 of the Revised Code. 963

(H) A community facility shall not be affected by a local 964
option election held on or after March 30, 1999, unless the 965
election is held under section 4301.356 of the Revised Code. 966

Sec. 4301.402. Sections 4301.32 to 4301.391, 4301.41, and 967
4305.14 of the Revised Code and the provisions for local option 968
elections and the election on the question of the repeal of 969
Section 9 of Article XV, Ohio Constitution, in section 4303.29 of 970
the Revised Code, do not affect or prohibit the sale of beer or 971
intoxicating liquor at a golf course or at a hotel, motel, or 972
lodge required to be licensed under section 3731.03 of the Revised 973
Code that contains at least fifty rooms for registered transient 974
guests ~~and~~ if the golf course, hotel, motel, or lodge is owned by 975
the state or a ~~political subdivision or conservancy district, park~~ 976
district created under Chapter 1545. of the Revised Code, or other 977
political subdivision of the state, ~~provided that~~ and the permit 978
holder for the golf course, hotel, motel, or lodge operates 979
~~pursuant to~~ under the authority of ~~the~~ a liquor permit issued 980
~~pursuant to~~ under Chapter 4303. of the Revised Code. 981

Sec. 4301.42. For the purpose of providing revenue for the support of the state, a tax is hereby levied on the sale of beer, ~~ale, porter, stout, and other malt liquor beverages~~ in sealed bottles and cans having twelve ounces or less of liquid content, at the rate of fourteen one-hundredths of one cent on each ounce of liquid content or fractional part ~~thereof~~ of each ounce of liquid content, and on such containers in excess of twelve ounces, at the rate of eighty-four one-hundredths of one cent on each six ounces of liquid content or fractional part ~~thereof~~ of each six ounces of liquid content. Sections 4307.01 to 4307.12 of the Revised Code apply in the administration of ~~said~~ that tax. Manufacturers, bottlers, and canners of and wholesale dealers in beer, ~~ale, porter, stout, and other malt liquor beverages~~ have the duty to pay the tax imposed by this section and are entitled to the privileges in the manner provided in section 4303.33 of the Revised Code.

Sec. 4301.47. Every class A-1, A-2, and A-4 permit holder and each class B permit holder shall maintain and keep for a period of three years a record of the beer, wine, ~~malt beverages~~, and mixed beverages purchased, distributed, or sold within this state by the permit holder, together with invoices, records, receipts, bills of lading, and other pertinent papers required by the tax commissioner and, upon demand by the tax commissioner, shall produce these records for a three-year period prior to the demand unless upon satisfactory proof it is shown that the ~~non-production~~ nonproduction is due to causes beyond ~~his~~ the permit holder's control.

Sec. 4301.54. If the laws of another state, territory, or nation, or the rules and regulations of an administrative body therein in another state, territory, or nation, provide for the

levy and collection of taxes, fees, and charges upon the products 1012
of Ohio manufacturers of wine or manufacturers or brewers of beer 1013
~~and other malt liquors~~ when ~~such~~ those products are sold in, 1014
delivered, or shipped into ~~such~~ the other state, territory, or 1015
nation, in excess of the taxes, fees, and charges levied and 1016
collected on the products of ~~manufactures~~ manufacturers or brewers 1017
of ~~said~~ those states, territories, or nations, whether ~~such~~ those 1018
taxes, fees, and charges are in the nature of an excise, sales, or 1019
import tax, or by whatever name designated, the tax commissioner 1020
shall levy and collect additional taxes, fees, and charges on the 1021
products of manufacturers of wine or manufacturers and brewers of 1022
beer ~~and other malt liquor~~ of ~~said~~ that other state, territory, or 1023
nation when sold in, delivered, or shipped into this state. 1024

~~Such~~ The additional taxes, fees, and charges shall be in 1025
excess of those provided for in other sections of this chapter or 1026
Chapters ~~4301.,~~ 4303. and 4307. and section 4305.13 of the Revised 1027
Code, in the same proportion or in the same amount as taxes, fees, 1028
and charges levied and collected in ~~said~~ the other state, 1029
territory, or nation upon the products of Ohio manufacturers of 1030
wine or manufacturers or brewers of beer ~~and other malt liquor~~ are 1031
in excess of those levied and collected on the products of 1032
manufacturers and brewers of ~~said~~ the other state, territory, or 1033
nation. 1034

If the laws of another state, territory, or nation, or the 1035
rules and regulations of ~~the~~ an administrative body ~~therein~~ in 1036
another state, territory, or nation, provide for the levy and 1037
collection of taxes, fees, or charges against Ohio ~~manufactures~~ 1038
manufacturers of wine or ~~manufactures~~ manufacturers or brewers of 1039
beer ~~and other malt liquor~~ for the privilege of doing business 1040
~~therein~~ in that state, territory, or nation, like amounts shall be 1041
levied and collected on manufacturers or brewers of ~~said~~ that 1042
state, territory, or nation for the privilege of doing business in 1043

this state. 1044

Sec. 4301.55. If the laws of another state, territory, or 1045
nation, or the rules and regulations of any administrative body 1046
therein in another state, territory, or nation, authorize or 1047
impose any tax, fee, or charge upon the right to transport or 1048
import into such that state, territory, or nation any beer, ~~malt~~ 1049
~~liquor~~, or wine manufactured in this state; or authorize or impose 1050
any different warehousing requirements or higher warehousing or 1051
inspection fees upon any beer, ~~malt liquor~~, or wine manufactured 1052
in this state and imported into or sold in such that state, 1053
territory, or nation than are imposed upon beer, ~~malt liquor~~, and 1054
wine manufactured in such that state, territory, or nation; or 1055
impose any higher fee for the privilege of selling or handling 1056
beer, ~~malt liquor~~, or wine manufactured in this state than is 1057
imposed for the privilege of handling or selling the same kind of 1058
beverages manufactured within such that state, territory, or 1059
nation or any other state, territory, or nation, the tax 1060
commissioner shall levy and collect similar taxes, fees, and 1061
charges from licensees or persons selling in ~~Ohio~~ this state beer, 1062
~~malt liquor~~, and wine manufactured in such that other state, 1063
territory, or nation. Such The taxes, fees, and charges shall be 1064
in addition to the taxes, fees, and charges assessed and collected 1065
by the commissioner under section 4301.54 of the Revised Code. 1066

Sec. 4301.62. (A) As used in this section: 1067

(1) "Chauffeured limousine" means a vehicle registered under 1068
section 4503.24 of the Revised Code. 1069

(2) "Street," "highway," and "motor vehicle" have the same 1070
meanings as in section 4511.01 of the Revised Code. 1071

(B) No person shall have in the person's possession an opened 1072
container of beer or intoxicating liquor in any of the following 1073

circumstances:	1074
(1) In a state liquor store;	1075
(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;	1076 1077 1078
(3) In any other public place;	1079
(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;	1080 1081 1082 1083
(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.	1084 1085 1086 1087
(C)(1) A person may have in the person's possession an opened container of any of the following:	1088 1089
(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, <u>D-5k</u> , D-7, D-8, E, F, or F-2 permit;	1090 1091 1092 1093 1094
(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit;	1095 1096
(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code;	1097 1098 1099
(d) <u>Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission.</u>	1100 1101 1102

(2) A person may have in the person's possession on an F 1103
liquor permit premises an opened container of beer or intoxicating 1104
liquor that was not purchased from the holder of the F permit if 1105
the premises for which the F permit is issued is a music festival 1106
and the holder of the F permit grants permission for that 1107
possession on the premises during the period for which the F 1108
permit is issued. As used in this division, "music festival" means 1109
a series of outdoor live musical performances, extending for a 1110
period of at least three consecutive days and located on an area 1111
of land of at least forty acres. 1112

(D) This section does not apply to a person who pays all or a 1113
portion of the fee imposed for the use of a chauffeured limousine 1114
pursuant to a prearranged contract, or the guest of the person, 1115
when all of the following apply: 1116

(1) The person or guest is a passenger in the limousine. 1117

(2) The person or guest is located in the limousine, but is 1118
not occupying a seat in the front compartment of the limousine 1119
where the operator of the limousine is located. 1120

(3) The limousine is located on any street, highway, or other 1121
public or private property open to the public for purposes of 1122
vehicular travel or parking. 1123

Sec. 4303.01. As used in sections 4303.01 to 4303.37 of the 1124
Revised Code, "intoxicating liquor," "liquor," "sale," "sell," 1125
"vehicle," "alcohol," "beer," ~~"malt liquor," "malt beverage,"~~ 1126
"wine," "mixed beverages," "spirituous liquor," "sealed 1127
container," "person," "manufacture," "manufacturer," "wholesale 1128
distributor," "distributor," "hotel," "restaurant," "club," "night 1129
club," "at retail," "pharmacy," and "enclosed shopping center" 1130
have the same meanings as in section 4301.01 of the Revised Code. 1131

Sec. 4303.02. Permit A-1 may be issued to a manufacturer to 1132

manufacture beer, ~~ale, stout, and other malt liquor~~ containing not 1133
~~more than six per cent of alcohol by weight~~ and sell such beer 1134
products in bottles or containers for home use and to retail and 1135
wholesale permit holders under ~~such~~ rules ~~as are~~ promulgated by 1136
the division of liquor control. The fee for this permit is three 1137
thousand one hundred twenty-five dollars for each plant during the 1138
year covered by the permit. 1139

Sec. 4303.06. Permit B-1 may be issued to a wholesale 1140
distributor of beer to purchase from the holders of A-1 permits 1141
and to import and distribute or sell beer, ~~ale, lager, stout, and~~ 1142
~~other malt liquors containing not more than six per cent of~~ 1143
~~alcohol by weight~~ for home use and to retail permit holders under 1144
~~such~~ rules ~~as are~~ adopted by the division of liquor control. The 1145
fee for this permit is two thousand five hundred dollars for each 1146
distributing plant or warehouse during the year covered by the 1147
permit. 1148

Sec. 4303.07. Permit B-2 may be issued to a wholesale 1149
distributor of wine to purchase from holders of A-2 and B-5 1150
permits and distribute or sell such product, in the original 1151
container in which it was placed by the B-5 permit holder or 1152
manufacturer at the place where manufactured, to A-1-A, C-2, D-2, 1153
D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, 1154
D-5h, D-5i, D-5j, D-5k, and E permit holders, and for home use. 1155
The fee for this permit is two hundred fifty dollars for each 1156
distributing plant or warehouse. The initial fee shall be 1157
increased ten cents per wine barrel of fifty gallons for all wine 1158
distributed and sold in this state in excess of twelve hundred 1159
fifty such barrels during the year covered by the permit. 1160

Sec. 4303.10. Permit B-5 may be issued to a wholesale 1161
distributor of wine to purchase wine from the holders of A-2 1162

permits, to purchase and import wine in bond or otherwise, in bulk 1163
or in containers of any size, and to bottle wine for distribution 1164
and sale to holders of A-1-A, B-2, B-3, B-5, C-2, D-2, D-3, D-4, 1165
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, 1166
D-5j, D-5k, and E permits and for home use in sealed containers. 1167
No wine shall be bottled by a B-5 permit holder in containers 1168
supplied by any person who intends the wine for home use. The fee 1169
for this permit is one thousand two hundred fifty dollars. 1170

Sec. 4303.181. (A) Permit D-5a may be issued either to the 1171
owner or operator of a hotel or motel that is required to be 1172
licensed under section 3731.03 of the Revised Code, that contains 1173
at least fifty rooms for registered transient guests, and that 1174
qualifies under the other requirements of this section, or to the 1175
owner or operator of a restaurant specified under this section, to 1176
sell beer and any intoxicating liquor at retail, only by the 1177
individual drink in glass and from the container, for consumption 1178
on the premises where sold, and to registered guests in their 1179
rooms, which may be sold by means of a controlled access alcohol 1180
and beverage cabinet in accordance with division (B) of section 1181
4301.21 of the Revised Code; and to sell the same products in the 1182
same manner and amounts not for consumption on the premises as may 1183
be sold by holders of D-1 and D-2 permits. The premises of the 1184
hotel or motel shall include a restaurant that is licensed 1185
pursuant to section 3717.43 of the Revised Code, that is 1186
affiliated with the hotel or motel and within or contiguous to the 1187
hotel or motel, and that serves food within the hotel or motel, 1188
but the principal business of the owner or operator of the hotel 1189
or motel shall be the accommodation of transient guests. In 1190
addition to the privileges authorized in this division, the holder 1191
of a D-5a permit may exercise the same privileges as the holder of 1192
a D-5 permit. 1193

The owner or operator of a hotel, motel, or restaurant who 1194

qualified for and held a D-5a permit on August 4, 1976, may, if 1195
the owner or operator held another permit before holding a D-5a 1196
permit, either retain a D-5a permit or apply for the permit 1197
formerly held, and the division of liquor control shall issue the 1198
permit for which the owner or operator applies and formerly held, 1199
notwithstanding any quota. 1200

A D-5a permit shall not be transferred to another location. 1201
No quota restriction shall be placed on the number of such permits 1202
that may be issued. 1203

The fee for this permit is one thousand eight hundred 1204
seventy-five dollars. 1205

(B) Permit D-5b may be issued to the owner, operator, tenant, 1206
lessee, or occupant of an enclosed shopping center to sell beer 1207
and intoxicating liquor at retail, only by the individual drink in 1208
glass and from the container, for consumption on the premises 1209
where sold; and to sell the same products in the same manner and 1210
amount not for consumption on the premises as may be sold by 1211
holders of D-1 and D-2 permits. In addition to the privileges 1212
authorized in this division, the holder of a D-5b permit may 1213
exercise the same privileges as a holder of a D-5 permit. 1214

A D-5b permit shall not be transferred to another location. 1215
1216

One D-5b permit may be issued at an enclosed shopping center 1217
containing at least two hundred twenty-five thousand, but less 1218
than four hundred thousand, square feet of floor area. 1219

Two D-5b permits may be issued at an enclosed shopping center 1220
containing at least four hundred thousand square feet of floor 1221
area. No more than one D-5b permit may be issued at an enclosed 1222
shopping center for each additional two hundred thousand square 1223
feet of floor area or fraction of that floor area, up to a maximum 1224
of five D-5b permits for each enclosed shopping center. The number 1225

of D-5b permits that may be issued at an enclosed shopping center 1226
shall be determined by subtracting the number of D-3 and D-5 1227
permits issued in the enclosed shopping center from the number of 1228
D-5b permits that otherwise may be issued at the enclosed shopping 1229
center under the formulas provided in this division. Except as 1230
provided in this section, no quota shall be placed on the number 1231
of D-5b permits that may be issued. Notwithstanding any quota 1232
provided in this section, the holder of any D-5b permit first 1233
issued in accordance with this section is entitled to its renewal 1234
in accordance with section 4303.271 of the Revised Code. 1235
1236

The holder of a D-5b permit issued before April 4, 1984, 1237
whose tenancy is terminated for a cause other than nonpayment of 1238
rent, may return the D-5b permit to the division of liquor 1239
control, and the division shall cancel that permit. Upon 1240
cancellation of that permit and upon the permit holder's payment 1241
of taxes, contributions, premiums, assessments, and other debts 1242
owing or accrued upon the date of cancellation to this state and 1243
its political subdivisions and a filing with the division of a 1244
certification of that payment, the division shall issue to that 1245
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 1246
that person requests. The division shall issue the D-5 permit, or 1247
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 1248
D-3, or D-5 permits currently issued in the municipal corporation 1249
or in the unincorporated area of the township where that person's 1250
proposed premises is located equals or exceeds the maximum number 1251
of such permits that can be issued in that municipal corporation 1252
or in the unincorporated area of that township under the 1253
population quota restrictions contained in section 4303.29 of the 1254
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 1255
be transferred to another location. If a D-5b permit is canceled 1256
under the provisions of this paragraph, the number of D-5b permits 1257
that may be issued at the enclosed shopping center for which the 1258

D-5b permit was issued, under the formula provided in this 1259
division, shall be reduced by one if the enclosed shopping center 1260
was entitled to more than one D-5b permit under the formula. 1261
1262

The fee for this permit is one thousand eight hundred 1263
seventy-five dollars. 1264

(C) Permit D-5c may be issued either to the owner or operator 1265
of a restaurant that is licensed pursuant to section 3717.43 of 1266
the Revised Code and that qualifies under the other requirements 1267
of this section to sell beer and any intoxicating liquor at 1268
retail, only by the individual drink in glass and from the 1269
container, for consumption on the premises where sold, and to sell 1270
the same products in the same manner and amounts not for 1271
consumption on the premises as may be sold by holders of D-1 and 1272
D-2 permits. In addition to the privileges authorized in this 1273
division, the holder of a D-5c permit may exercise the same 1274
privileges as the holder of a D-5 permit. 1275

To qualify for a D-5c permit, the owner or operator of a 1276
restaurant that is licensed pursuant to section 3717.43 of the 1277
Revised Code shall have operated the restaurant at the proposed 1278
premises for not less than twenty-four consecutive months 1279
immediately preceding the filing of the application for the 1280
permit, have applied for a D-5 permit no later than December 31, 1281
1988, and appear on the division's quota waiting list for not less 1282
than six months immediately preceding the filing of the 1283
application for the permit. In addition to these requirements, the 1284
proposed D-5c permit premises shall be located within a municipal 1285
corporation and further within an election precinct that, at the 1286
time of the application, has no more than twenty-five per cent of 1287
its total land area zoned for residential use. 1288

A D-5c permit shall not be transferred to another location. 1289
1290

No quota restriction shall be placed on the number of such permits that may be issued. 1291
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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. 1293
1294
1295
1296
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The fee for this permit is one thousand two hundred fifty dollars. 1298
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(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. 1300
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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 that may be issued. 1315
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The fee for this permit is one thousand eight hundred seventy-five dollars. 1319
1320

(E) Permit D-5e may be issued to any nonprofit organization 1321

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 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
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) It contains not less than twenty-five hundred square feet

of floor area. 1352

(2) It is located on or in, or immediately adjacent to, the 1353
shoreline of, a navigable river. 1354

(3) It provides docking space for twenty-five boats. 1355

(4) It provides entertainment and recreation, provided that 1356
not less than fifty per cent of the business on the permit 1357
premises shall be preparing and serving meals for a consideration. 1358

In addition, each application for a D-5f permit shall be 1359
accompanied by a certification from the local legislative 1360
authority that the issuance of the D-5f permit is not inconsistent 1361
with that political subdivision's comprehensive development plan 1362
or other economic development goal as officially established by 1363
the local legislative authority. 1364

The holder of a D-5f permit may sell beer and intoxicating 1365
liquor at retail, only by the individual drink in glass and from 1366
the container, for consumption on the premises where sold. 1367

A D-5f permit shall not be transferred to another location. 1368
No more than fifteen D-5f permits shall be issued by the division 1369
of liquor control, and no more than two such permits shall be 1370
issued in any county. However, the division shall not issue a D-5f 1371
permit if the permit premises or proposed permit premises are 1372
located within an area in which the sale of spirituous liquor by 1373
the glass is prohibited. 1374

A fee for this permit is one thousand eight hundred 1375
seventy-five dollars. 1376

As used in this division, "navigable river" means a river 1377
that is also a "navigable water" as defined in the "Federal Power 1378
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 1379

(G) Permit D-5g may be issued to a nonprofit corporation that 1380
is either the owner or the operator of a national professional 1381

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 four thousand square feet of floor area.	1413
	1414
(4) It offers full-course meals, appetizers, and sandwiches.	1415
(5) Its receipts from beer and liquor sales do not exceed	1416
twenty-five per cent of its total gross receipts.	1417
(6) The value of its real and personal property exceeds seven	1418
hundred twenty-five thousand dollars.	1419
The holder of a D-5i permit shall cause an independent audit	1420
to be performed at the end of one full year of operation following	1421
issuance of the permit in order to verify the requirements of	1422
division (I)(5) of this section. The results of the independent	1423
audit shall be transmitted to the division. Upon determining that	1424
the receipts of the holder from beer and liquor sales exceeded	1425
twenty-five per cent of its total gross receipts, the division	1426
shall suspend the permit of the permit holder under section	1427
4301.25 of the Revised Code and may allow the permit holder to	1428
elect a forfeiture under section 4301.252 of the Revised Code.	1429
The holder of a D-5i permit may sell beer and any	1430
intoxicating liquor at retail, only by the individual drink in	1431
glass and from the container, for consumption on the premises	1432
where sold, and may sell the same products in the same manner and	1433
amounts not for consumption on the premises where sold as may be	1434
sold by the holders of D-1 and D-2 permits. The holder of a D-5i	1435
permit shall sell no beer or intoxicating liquor for consumption	1436
on the premises where sold after two-thirty a.m. In addition to	1437
the privileges authorized in this division, the holder of a D-5i	1438
permit may exercise the same privileges as the holder of a D-5	1439
permit.	1440
A D-5i permit shall not be transferred to another location.	1441
The division of liquor control shall not renew a D-5i permit	1442
unless the food service operation for which it is issued continues	1443

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 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.

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(K)(1) Permit D-5k 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 is the owner or operator of a botanical garden, and that has not less than twenty-five hundred bona fide members.

(2) The holder of a D-5k permit and its food service provider may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, on the premises where sold. The D-5k permit allows sales of beer and intoxicating liquor at all public buildings owned or operated by the botanical garden.

(3) The holder of a D-5k permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m.

(4) A D-5k permit shall not be transferred to another location.

(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued.

(6) The fee for the D-5k permit is one thousand five hundred dollars.

Sec. 4303.182. (A) Except as otherwise provided in divisions (B) to ~~(F)~~(G) 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, D-5k, or D-7 permit to allow sale under that permit between the hours of ten a.m. and midnight, or between the hours of one p.m. and midnight, on Sunday, as applicable, if that sale has been authorized under section 4301.361, 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, 1505
including a D-4a and D-5d permit, authorizing the sale of 1506
intoxicating liquor issued for a premises located at any publicly 1507
owned airport, as defined in section 4563.01 of the Revised Code, 1508
at which commercial airline companies operate regularly scheduled 1509
flights on which space is available to the public, to allow sale 1510
under such permit between the hours of ten a.m. and midnight on 1511
Sunday, whether or not that sale has been authorized under section 1512
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 1513

(C) Permit D-6 shall be issued to the holder of a D-5a 1514
permit, and to the holder of a D-3 or D-3a permit who is the owner 1515
or operator of a hotel or motel that is required to be licensed 1516
under section 3731.03 of the Revised Code, that contains at least 1517
fifty rooms for registered transient guests, and that has on its 1518
premises a restaurant licensed pursuant to section 3717.43 of the 1519
Revised Code affiliated with the hotel or motel and within or 1520
contiguous to the hotel or motel and serving food within the hotel 1521
or motel, to allow sale under such permit between the hours of ten 1522
a.m. and midnight on Sunday, whether or not that sale has been 1523
authorized under section 4301.361, 4301.364, 4301.365, or 1524
4301.366 of the Revised Code. 1525

(D) The holder of a D-6 permit that is issued to a sports 1526
facility may make sales under the permit between the hours of 1527
eleven a.m. and midnight on any Sunday on which a professional 1528
baseball, basketball, football, hockey, or soccer game is being 1529
played at the sports facility. As used in this division, "sports 1530
facility" means a stadium or arena that has a seating capacity of 1531
at least four thousand and that is owned or leased by a 1532
professional baseball, basketball, football, hockey, or soccer 1533
franchise or any combination of those franchises. 1534

(E) Permit D-6 shall be issued to the holder of any permit 1535
that authorizes the sale of beer or intoxicating liquor and that 1536

is issued to a premises located in or at the Ohio historical 1537
society area or the state fairgrounds, as defined in division (B) 1538
of section 4301.40 of the Revised Code, to allow sale under that 1539
permit between the hours of ten a.m. and midnight on Sunday, 1540
whether or not that sale has been authorized under section 1541
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 1542

(F) Permit D-6 shall be issued to the holder of any permit 1543
that authorizes the sale of intoxicating liquor and that is issued 1544
to an outdoor performing arts center to allow sale under that 1545
permit between the hours of one p.m. and midnight on Sunday, 1546
whether or not that sale has been authorized under section 1547
4301.361 of the Revised Code. A D-6 permit issued under this 1548
division is subject to the results of an election, held after the 1549
D-6 permit is issued, on question (B)(4) as set forth in section 1550
4301.351 of the Revised Code. Following the end of the period 1551
during which an election may be held on question (B)(4) as set 1552
forth in that section, sales of intoxicating liquor may continue 1553
at an outdoor performing arts center under a D-6 permit issued 1554
under this division, unless an election on that question is held 1555
during the permitted period and a majority of the voters voting in 1556
the precinct on that question vote "no." 1557

As used in this division, "outdoor performing arts center" 1558
means an outdoor performing arts center that is located on not 1559
less than eight hundred acres of land and that is open for 1560
performances from the first day of April to the last day of 1561
October of each year. 1562

(G) Permit D-6 shall be issued to the holder of any permit 1563
that authorizes the sale of beer or intoxicating liquor and that 1564
is issued to a golf course owned by the state, a conservancy 1565
district, a park district created under Chapter 1545. of the 1566
Revised Code, or another political subdivision to allow sale under 1567
that permit between the hours of ten a.m. and midnight on Sunday, 1568

whether or not that sale has been authorized under section 1569
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 1570

(H) If the restriction to licensed premises where the sale of 1571
food and other goods and services exceeds fifty per cent of the 1572
total gross receipts of the permit holder at the premises is 1573
applicable, the division of liquor control may accept an affidavit 1574
from the permit holder to show the proportion of the permit 1575
holder's gross receipts derived from the sale of food and other 1576
goods and services. If the liquor control commission determines 1577
that affidavit to have been false, it shall revoke the permits of 1578
the permit holder at the premises concerned. 1579

~~(H)~~(I) The fee for the D-6 permit is two hundred fifty 1580
dollars when it is issued to the holder of an A-1-A, A-2, D-2, 1581
D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, 1582
D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 1583
permit is two hundred dollars when it is issued to the holder of a 1584
C-2 permit. 1585

Sec. 4303.22. Permit H may be issued for a fee of one hundred 1586
fifty dollars to a carrier by motor vehicle who also holds a 1587
license issued by the public utilities commission to transport 1588
beer, intoxicating liquor, and alcohol, or any of them, in this 1589
state for delivery or use in this state. This section does not 1590
prevent the division of liquor control from contracting with 1591
common or contract carriers for the delivery or transportation of 1592
liquor for the division, and any contract or common carrier so 1593
contracting with the division is eligible for an H permit. 1594
Manufacturers or wholesale distributors of beer or intoxicating 1595
liquor other than spirituous liquor who transport or deliver their 1596
own products to or from their premises licensed under ~~Chapters~~ 1597
this chapter and Chapter 4301. and ~~4303.~~ of the Revised Code by 1598
their own trucks as an incident to the purchase or sale of such 1599
beverages need not obtain an H permit. Carriers by rail shall 1600

receive ~~such an~~ H permit upon application ~~therefor~~ for it. 1601

This section does not prevent the division from issuing, upon 1602
the payment of the permit fee, an H permit to any person, 1603
partnership, firm, or corporation, licensed by any other state to 1604
engage in the business of manufacturing and brewing or producing 1605
beer, ~~malt liquor~~, wine, and mixed beverages or any person, 1606
partnership, firm, or corporation, licensed by the United States 1607
or any other state to engage in the business of importing beer, 1608
~~malt liquor~~, wine, and mixed beverages manufactured outside the 1609
United States. ~~Such~~ The manufacturer, brewer, or importer of 1610
products manufactured outside the United States, upon the issuance 1611
of an H permit, may transport, ship, and deliver only its own 1612
products to holders of B-1 or B-5 permits in Ohio in motor trucks 1613
and equipment owned and operated by such class H permit holder. No 1614
H permit shall be issued by the division to such applicant until 1615
the applicant files with the division a liability insurance 1616
certificate or policy satisfactory to the division, in a sum of 1617
not less than one thousand nor more than five thousand dollars for 1618
property damage and for not less than five thousand nor more than 1619
fifty thousand dollars for loss sustained by reason of injury or 1620
death and with such other terms as the division considers 1621
necessary to adequately protect the interest of the public, having 1622
due regard for the number of persons and amount of property 1623
affected. ~~Such~~ The certificate or policy shall insure the 1624
manufacturer, brewer, or importer of products manufactured outside 1625
the United States against loss sustained by reason of the death of 1626
or injury to persons, and for loss of or damage to property, from 1627
the negligence of such class H permit holder in the operation of 1628
its motor vehicles or equipment in this state. 1629

Sec. 4303.29. (A) No permit, other than an H permit, shall be 1630
issued to a firm or partnership unless all the members of ~~said the~~ 1631

firm or partnership are citizens of the United States and a 1632
majority have resided in this state for one year prior to 1633
application for ~~such~~ the permit. No permit, other than an H 1634
permit, shall be issued to an individual who is not a citizen of 1635
the United States who has resided in this state for at least one 1636
year prior to application for ~~such~~ the permit. No permit, other 1637
than an E or H permit, shall be issued to any corporation 1638
organized under the laws of any country, territory, or state other 1639
than ~~Ohio~~ this state until it has furnished the division of liquor 1640
control with evidence that it has complied with the laws of this 1641
state relating to the transaction of business in this state. 1642

The division may refuse to issue any permit to or refuse to 1643
renew any permit of any person convicted of any felony that is 1644
reasonably related to the person's fitness to operate a liquor 1645
permit business in this state. No holder of a permit shall sell, 1646
assign, transfer, or pledge ~~such~~ the permit, without the written 1647
consent of the division. 1648

(B)(1) No more than one of each type of C or D ~~permits~~ permit 1649
shall be issued to any one person, firm, or corporation in any 1650
county having a population of less than twenty-five thousand, and 1651
no more than one of each type of C or D ~~permits~~ permit shall be 1652
issued to any one person, firm, or corporation for any additional 1653
twenty-five thousand or major fraction thereof in any county 1654
having a greater population than twenty-five thousand, provided 1655
that, in the case of D-3, D-3a, D-4, and D-5 ~~permits~~, no more than 1656
one permit shall be issued to any one person, firm, or corporation 1657
in any county having a population of less than fifty thousand, and 1658
no more than one such permit shall be issued to any one person, 1659
firm, or corporation for any additional fifty thousand or major 1660
fraction thereof in any county having a greater population than 1661
fifty thousand. 1662

(2) No D-3 permit shall be issued to any club unless ~~such~~ the 1663

club has been continuously engaged in the activity specified in 1664
section 4303.15 of the Revised Code, as a qualification for ~~such~~ 1665
that class of permit, for two years at the time ~~such~~ the permit is 1666
issued. 1667

(3)(a) Subject to division (B)(3)(b) of this section, upon 1668
application by properly qualified persons, one C-1 and C-2 permit 1669
shall be issued for each one thousand population or part ~~thereof~~ 1670
of that population, and one D-1 and D-2 permit shall be issued for 1671
each two thousand population or part ~~thereof~~ of that population, 1672
in each municipal corporation and in the unincorporated area of 1673
each township. 1674

Subject to division (B)(3)(b) of this section, not more than 1675
one D-3, D-4, or D-5 permit shall be issued for each two thousand 1676
population, ~~or part thereof,~~ of that population in any municipal 1677
corporation and in the unincorporated area of any township, except 1678
that, in any city of a population of fifty-five thousand or more, 1679
one D-3 permit may be issued for each fifteen hundred population, 1680
or part ~~thereof~~ of that population. 1681

(b) ~~Nothing in division (i) Division~~ (B)(3)(a) of this 1682
section ~~shall be construed to~~ does not prohibit the transfer of 1683
location or the transfer of ownership and location of a C-1, C-2, 1684
D-1, D-2, D-3, or D-5 permit from a municipal corporation or the 1685
unincorporated area of a township in which the number of permits 1686
of that class exceeds the number of such permits authorized to be 1687
issued under division (B)(3)(a) of this section to an economic 1688
development project located in another municipal corporation or 1689
the unincorporated area of another township in which no additional 1690
permits of that class may be issued to the applicant under 1691
division (B)(3)(a) of this section, but the transfer of location 1692
or transfer of ownership and location of the permit may occur only 1693
if the applicant notifies, in writing and at the time the 1694
application for the transfer of location of the permit is filed, 1695

the municipal corporation or township to which the location of the permit will be transferred regarding the transfer, and that municipal corporation or township acknowledges the notification in writing to the division of liquor control. The applicant is eligible to apply for and receive the transfer of location of the permit under division (B)(3)(b) of this section if all permits of that class that may be issued under division (B)(3)(a) of this section in the applicable municipal corporation or unincorporated area of the township have already been issued or if the number of applications filed for permits of that class in that municipal corporation or the unincorporated area of that township exceed the number of permits of that class that may be issued there under division (B)(3)(a) of this section.

The ownership and location, or the location, of a permit transferred under division (B)(3)(b) of this section may be subsequently transferred to a different owner at the same location, or to a different location in the same municipal corporation or in the unincorporated area of the same township, as long as the new permit holder or new location meets the same economic development project criteria as did the original permit holder and location.

(ii) Factors that shall be used to determine the designation of an economic development project include, but are not limited to, architectural certification of the plans and the cost of the project, the number of jobs that will be created by the project, projected earnings of the project, projected tax revenues for the political subdivisions in which the project will be located, and the amount of financial investment in the project. The superintendent of liquor control shall determine whether the existing or proposed business that is seeking a permit described in division (B)(3)(b) of this section qualifies as an economic development project and, if the superintendent determines that it

so qualifies, shall designate the business as an economic 1728
development project. 1729

(4) Nothing in this section shall be construed to restrict 1730
the issuance of a permit to a municipal corporation for use at a 1731
municipally owned airport at which commercial airline companies 1732
operate regularly scheduled flights on which space is available to 1733
the public. A municipal corporation applying for a permit for such 1734
a municipally owned airport is exempt, in regard to that 1735
application, from the population restrictions contained in this 1736
section and from population quota restrictions contained in any 1737
rule of the liquor control commission. A municipal corporation 1738
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a 1739
municipally owned airport is subject to section 4303.31 of the 1740
Revised Code. 1741

(5) Nothing in this section shall be construed to prohibit 1742
the issuance of a D permit to the board of trustees of a soldiers' 1743
memorial for a premises located at a soldiers' memorial 1744
established pursuant to Chapter 345. of the Revised Code. An 1745
application for a D permit by ~~such a~~ the board for ~~such a~~ those 1746
premises is exempt from the population restrictions contained in 1747
this section and from the population quota restrictions contained 1748
in any rule of the liquor control commission. The location of a D 1749
permit issued to the board of ~~trustees of a soldiers' memorial~~ for 1750
~~a~~ those premises located at a soldiers' memorial shall not be 1751
transferred. A board of trustees of a soldiers' memorial applying 1752
for a D-1, D-2, D-3, D-4, or D-5 permit for ~~such a~~ the soldiers' 1753
memorial is subject to section 4303.31 of the Revised Code. 1754

(6) Nothing in this section shall be construed to restrict 1755
the issuance of a permit for a premises located at a golf course 1756
owned by a municipal corporation, township, or county, owned by a 1757
park district created under Chapter 1545. of the Revised Code, or 1758
owned by the state. The location of such a permit issued on or 1759

after September 26, 1984, for a premises located at such a golf 1760
course shall not be transferred. Any application for such a permit 1761
is exempt from the population quota restrictions contained in this 1762
section and from the population quota restrictions contained in 1763
any rule of the liquor control commission. A municipal 1764
corporation, township, county, park district, or state agency 1765
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a golf 1766
course is subject to section 4303.31 of the Revised Code. 1767

(7) As used in division (B)(7) of this section, "fair" has 1768
the same meaning as in section 991.01 of the Revised Code, "state 1769
fairgrounds" means the property that is held by the state for the 1770
purpose of conducting fairs, expositions, and exhibits and that is 1771
maintained and managed by the Ohio expositions commission under 1772
section 991.03 of the Revised Code, and "capitol square" has the 1773
same meaning as in section 105.41 of the Revised Code. 1774

Nothing in this section shall be construed to restrict the 1775
issuance of one or more D permits to one or more applicants for 1776
all or a part of either the state fairgrounds or capitol square. 1777
An application for a D permit for the state fairgrounds or capitol 1778
square is exempt from the population quota restrictions contained 1779
in this section and from the population quota restrictions 1780
contained in any rule of the liquor control commission. The 1781
location of a D permit issued for the state fairgrounds or capitol 1782
square shall not be transferred. An applicant for a D-1, D-2, D-3, 1783
or D-5 permit for the state fairgrounds is not subject to section 1784
4303.31 of the Revised Code. 1785

Pursuant to section 1711.09 of the Revised Code, the holder 1786
of a D permit issued for the state fairgrounds shall not deal in 1787
spirituous liquor at the state fairgrounds during, or for one week 1788
before or for three days after, any fair held at the state 1789
fairgrounds. 1790

(8) Nothing in this section shall be construed to prohibit 1791

the issuance of a D permit for a premises located at a zoological 1792
park at which sales have been approved in an election held under 1793
former section 4301.356 of the Revised Code. An application for a 1794
D permit for such a premises is exempt from the population 1795
restrictions contained in this section, from the population quota 1796
restrictions contained in any rule of the liquor control 1797
commission, and from section 4303.31 of the Revised Code. The 1798
location of a D permit issued for a premises at such a zoological 1799
park shall not be transferred, and no quota or other restrictions 1800
shall be placed on the number of D permits that may be issued for 1801
a premises at such a zoological park. 1802

(C)(1) No D-3, D-4, D-5, or D-5a permit shall be issued in 1803
any election precinct in any municipal corporation or in any 1804
election precinct in the unincorporated area of any township, in 1805
which at the November, 1933, election a majority of the electors 1806
voting thereon in the municipal corporation or in the 1807
unincorporated area of the township voted against the repeal of 1808
Section 9 of Article XV, Ohio Constitution, unless the sale of 1809
spirituous liquor by the glass is authorized by a majority vote of 1810
the electors voting on the question in the precinct at an election 1811
held pursuant to this section or by a majority vote of the 1812
electors of the precinct voting on question (C) at a special local 1813
option election held in the precinct pursuant to section 4301.35 1814
of the Revised Code. Upon the request of an elector, the board of 1815
elections of the county that encompasses the precinct shall 1816
furnish the elector with a copy of the instructions prepared by 1817
the secretary of state under division (P) of section 3501.05 of 1818
the Revised Code and, within fifteen days after the request, a 1819
certificate of the number of signatures required for a valid 1820
petition under this section. 1821

Upon the petition of thirty-five per cent of the total number 1822
of voters voting in any such precinct for the office of governor 1823

at the preceding general election, filed with the board of
elections of the county in which such precinct is located not
later than seventy-five days before a general election, ~~such~~ the
board shall prepare ballots and hold an election at such general
election upon the question of allowing spirituous liquor to be
sold by the glass in such precinct. ~~Such~~ The ballots shall be
approved in form by the secretary of state. The results of ~~such~~
the election shall be certified by the board to the secretary of
state, who shall certify the ~~same~~ results to the division.

(2) No holder of a class D-3 permit issued for a boat or
vessel shall sell spirituous liquor in any precinct, in which the
election provided for in this section may be held, unless the sale
of ~~such~~ spirituous liquor by the drink has been authorized by vote
of the electors as provided in this section or in section 4301.35
of the Revised Code.

(D) Any holder of a C or D permit whose permit premises were
purchased in 1986 or 1987 by the state of Ohio or any state agency
for highway purposes shall be issued the same permit at another
location notwithstanding any quota restrictions contained in this
chapter or in any rule of the liquor control commission.

Sec. 4303.30. The rights granted by any D-2, D-3, D-3a, D-4,
D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k,
or D-6 permit shall be exercised at not more than two fixed
counters, commonly known as bars, in rooms or places on the permit
premises, where ~~malt beverages~~ beer, mixed beverages, wine, or
spirituous liquor is sold to the public for consumption on the
premises. For each additional fixed counter on the permit premises
where those beverages are sold for consumption on the premises,
the permit holder shall obtain a duplicate D-2, D-3, D-3a, D-4,
D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k,
or D-6 permit.

The holder of any D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, 1855
D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-6 permit shall be 1856
granted, upon application to the division of liquor control, a 1857
duplicate D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e, D-5f, 1858
D-5g, D-5h, D-5i, D-5j, D-5k, or D-6 permit for each additional 1859
fixed counter on the permit premises at which beer, ~~malt~~ 1860
~~beverages~~, mixed beverages, wine, or spirituous liquor is sold for 1861
consumption on the premises, provided the application is made in 1862
the same manner as an application for an original permit. The 1863
application shall be identified with DUPLICATE printed on the 1864
permit application form furnished by the department, in boldface 1865
type. The application shall identify by name, or otherwise amply 1866
describe, the room or place on the premises where the duplicate 1867
permit is to be operative. Each duplicate permit shall be issued 1868
only to the same individual, firm, or corporation as that of the 1869
original permit and shall be an exact duplicate in size and word 1870
content as the original permit, except that it shall show on it 1871
the name or other ample identification of the room, or place, for 1872
which it is issued and shall have DUPLICATE printed on it in 1873
boldface type. A duplicate permit shall bear the same number as 1874
the original permit. The fee for a duplicate permit is: D-1, one 1875
hundred dollars; D-2, one hundred dollars; D-3, four hundred 1876
dollars; D-3a, four hundred dollars; D-4, two hundred dollars; 1877
D-5, one thousand dollars; D-5a, one thousand dollars; D-5b, one 1878
thousand dollars; D-5c, four hundred dollars; D-5e, six hundred 1879
fifty dollars; D-5f, one thousand dollars; D-6, one hundred 1880
dollars when issued to the holder of a D-4a permit; and in all 1881
other cases one hundred dollars or an amount which is twenty per 1882
cent of the fees payable for the A-1-A, D-2, D-3, D-3a, D-4, D-5, 1883
D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, and D-6 1884
permits issued to the same premises, whichever is higher. 1885
Application for a duplicate permit may be filed any time during 1886
the life of an original permit. The fee for each duplicate D-2, 1887

D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, 1888
D-5i, D-5j, D-5k, or D-6 permit shall accompany the application 1889
for each such duplicate permit. 1890

Sec. 4303.332. An A-1 permit holder in this state whose total 1891
production of beer ~~and malt beverages~~, wherever produced, does not 1892
exceed thirty-one million gallons in a calendar year, as reported 1893
under section 4303.33 of the Revised Code, shall receive a credit 1894
against taxes levied in the following calendar year under sections 1895
4301.42 and 4305.01 of the Revised Code on not more than nine 1896
million three hundred thousand gallons of beer ~~or malt beverages~~ 1897
sold or distributed in this state. The credit may be claimed 1898
monthly against taxes levied under one or more of ~~such~~ those 1899
sections as the reports required by section 4303.33 of the Revised 1900
Code are due. At the time the report for December is due for a 1901
calendar year during which a permit holder is eligible to receive 1902
a credit under this section, if the permit holder has claimed less 1903
than the credit due on nine million three hundred thousand 1904
gallons, including credit claimed on the December report, the 1905
permit holder may claim a refund of taxes previously reported and 1906
paid under section 4303.33 of the Revised Code during the calendar 1907
year on a number of gallons equal to the difference between nine 1908
million three hundred thousand gallons and the number of gallons 1909
for which a credit has been claimed under this section. For the 1910
purpose of providing this refund, taxes previously paid under 1911
section 4303.33 of the Revised Code during the calendar year shall 1912
not be considered final until the December report is filed. The 1913
tax commissioner shall prescribe forms for and allow the credits 1914
and refunds authorized by this section. 1915

Sec. 4303.35. No holders of A-1-A, C-1, C-2, D-1, D-2, D-3, 1916
D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, 1917
D-5h, D-5i, D-5j, D-5k, F, or F-3 permits shall purchase any beer 1918

~~or malt beverage~~ subject to the tax imposed by sections 4301.42 1919
and 4305.01 of the Revised Code or any wine or mixed beverage 1920
subject to the tax imposed by section 4301.43 of the Revised Code 1921
for resale, except from holders of A or B permits. 1922

No holders of A-1-A, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, 1923
D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, ~~or D-5j, or D-5k~~ permits 1924
shall purchase spirituous liquor for resale except from the 1925
division of liquor control, unless with the special consent of the 1926
division under particular regulations and markup provisions 1927
prescribed by the superintendent of liquor control. 1928

Sec. 4305.01. For the purpose of reimbursing the state for 1929
the expenses of administering Chapters 4301. and 4303. of the 1930
Revised Code and to provide revenues for the support of the state, 1931
a tax is hereby levied on the sale or distribution in ~~Ohio~~ this 1932
state of beer, whether in barrels or other containers, excepting 1933
in sealed bottles or cans, at the rate of five dollars and 1934
fifty-eight cents per barrel of thirty-one gallons. 1935

The tax commissioner shall exercise, with respect to the 1936
administration of the tax imposed by this section, all the powers 1937
and duties vested in or imposed by sections 4307.04 to 4307.07 of 1938
the Revised Code, so far as consistent with this section. 1939
Manufacturers and consignees of beer in barrels or other 1940
containers, excepting in sealed bottles or cans, and railroad 1941
companies, express companies, and other public carriers 1942
transporting shipments of such beer are subject, with respect to 1943
such tax, to the same duties and entitled to the same privileges 1944
as are required or permitted by ~~such~~ those sections. 1945

The revenue derived from the tax on the sale and distribution 1946
of beer pursuant to this section and section 4301.42 of the 1947
Revised Code shall be for the use of the general revenue fund. 1948

The tax refund fund created by section 5703.052 of the 1949

Revised Code may be drawn upon by the tax commissioner for any 1950
refunds authorized to be made by ~~him~~ the commissioner in sections 1951
4303.33, 4307.05, and 4307.07 of the Revised Code for ~~malt~~ 1952
~~beverages~~ beer. 1953

Sec. 4305.03. No person shall make any false entry upon an 1954
invoice, ~~or container of beer, ale, porter, stout, or other malt~~ 1955
~~beverage,~~ when the entry is required to be made under section 1956
4305.01 of the Revised Code, or present any such false entry for 1957
the inspection of the tax commissioner. 1958

Sec. 4305.04. No person shall prevent or hinder the tax 1959
commissioner from making a full inspection of any place where 1960
~~beer, ale, porter, stout, or other malt beverages~~ subject to the 1961
tax imposed by section 4305.01 of the Revised Code ~~are~~ is sold or 1962
stored, or prevent or hinder the full inspection of invoices, 1963
books, records, or papers required to be kept under ~~such~~ that 1964
section. 1965

Sec. 4399.09. (A) No person shall keep a place where beer or 1966
intoxicating liquors are sold, furnished, or given away in 1967
violation of law. The court, on conviction for a subsequent 1968
~~offense~~ violation of this section, shall order the place where 1969
~~such~~ the beer or intoxicating liquor is sold, furnished, or given 1970
away to be abated as a nuisance, ~~or shall order the person so~~ 1971
convicted ~~for such offense~~ to give bond payable to the state in 1972
the sum of one thousand dollars, with sureties to the acceptance 1973
of the court, that ~~such~~ the person will not sell, furnish, or give 1974
away beer or intoxicating liquor in violation of law, ~~and will pay~~ 1975
all fines, costs, and damages assessed against ~~him~~ the person for 1976
~~such~~ that subsequent violation of this section. The giving away of 1977
beer or intoxicating liquors, or any other device to evade this 1978
~~section~~ division, constitutes unlawful selling. 1979

As used in this ~~section~~ division, "beer" has the same meaning 1980
~~set forth~~ as in section 4301.01 of the Revised Code. 1981

(B) Division (A) of this section does not apply to any 1982
premises for which a permit has been issued under Chapter 4303. of 1983
the Revised Code while that permit is in effect. 1984

Sec. 4399.12. No provision contained in Title XLIII of the 1985
Revised Code that prohibits the sale of intoxicating liquors in 1986
any of the circumstances described in section 4399.11 of the 1987
Revised Code extends to or prevents the holder of an A, B, C-2, 1988
D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, 1989
D-5h, D-5i, D-5j, D-5k, G, or I permit issued by the division of 1990
liquor control from distributing or selling intoxicating liquor at 1991
the place of business described in the permit of the holder. 1992

Sec. 4399.15. No person, for the purpose of sale, shall 1993
adulterate spirituous liquor, alcoholic liquor, or ~~malt liquor~~ 1994
beer used or intended for drink or medicinal or mechanical 1995
purposes, with cocculus indicus, vitriol, grains of paradise, 1996
opium, alum, capsicum, copperas, laurel water, logwood, 1997
Brazilwood, cochineal, sugar of lead, aloes, glucose, tannic acid, 1998
or any other substance ~~which~~ that is poisonous or injurious to 1999
health, or with a substance not a necessary ingredient in the 2000
manufacture ~~thereof~~ of the spirituous liquor, alcoholic liquor, or 2001
beer, or sell, offer, or keep for sale ~~liquors~~ spirituous liquor, 2002
alcoholic liquor, or beer that is so adulterated. 2003

In addition to the penalties provided in division (E) of 2004
section 4399.99 of the Revised Code, a person convicted of 2005
violating this section shall pay all necessary costs and expenses 2006
incurred in inspecting and analyzing ~~liquors~~ spirituous liquor, 2007
alcoholic liquor, or beer that is so adulterated, sold, kept, or 2008
offered for sale. 2009

Sec. 5733.065. (A) As used in this section, "litter stream	2010
products" means:	2011
(1) Intoxicating liquor, beer, malt beverages , wine, mixed	2012
beverages, or spirituous liquor as defined in section 4301.01 of	2013
the Revised Code;	2014
(2) Soft drinks as defined in section 913.22 of the Revised	2015
Code;	2016
(3) Glass, metal, plastic, or fiber containers with a	2017
capacity of less than two gallons sold for the purpose of being	2018
incorporated into or becoming a part of a product enumerated in	2019
divisions (A)(1) and (2) of this section;	2020
(4) Container crowns and closures sold for the purpose of	2021
being incorporated into or becoming a part of a product enumerated	2022
in divisions (A)(1) and (2) of this section;	2023
(5) Packaging materials transferred or intended for transfer	2024
of use or possession in conjunction with retail sales of products	2025
enumerated in divisions (A)(1) and (2) of this section;	2026
(6) Packaging materials in the finished form in which they	2027
are to be used, including sacks, bags, cups, lids, straws, plates,	2028
wrappings, boxes, or containers of any type used in the packaging	2029
or serving of food or beverages, when the food or beverages are	2030
prepared for human consumption by a restaurant or take-out food	2031
outlet at the premises where sold at retail and are delivered to a	2032
purchaser for consumption off the premises where the food or	2033
beverages are sold;	2034
(7) Cigarettes, cigars, tobacco, matches, candy, and gum.	2035
(B) For the purpose of providing additional funding for the	2036
division of recycling and litter prevention under Chapter 1502. of	2037
the Revised Code, there is hereby levied an additional tax on	2038
corporations for the privilege of manufacturing or selling litter	2039

stream products in this state. The tax imposed by this section is 2040
in addition to the tax charged under section 5733.06 of the 2041
Revised Code, computed at the rate prescribed by section 5733.066 2042
of the Revised Code. This section does not apply for tax year 1981 2043
to a corporation whose taxable year for tax year 1981 ended on or 2044
before June 30, 1980. 2045

(C) The tax shall be imposed upon each corporation subject to 2046
the tax imposed by section 5733.06 of the Revised Code that 2047
manufactures or sells litter stream products in this state. The 2048
tax for each year shall be in an amount equal to the greater of 2049
either: 2050

(1) Twenty-two hundredths of one per cent upon the value of 2051
that portion of the taxpayer's issued and outstanding shares of 2052
stock as determined under division (B) of section 5733.05 of the 2053
Revised Code that is subject to the rate contained in division (B) 2054
of section 5733.06 of the Revised Code; 2055

(2) Fourteen one-hundredths of a mill times the value of the 2056
taxpayer's issued and outstanding shares of stock as determined 2057
under division (C) of section 5733.05 of the Revised Code. 2058

The additional tax charged any taxpayer or group of combined 2059
taxpayers pursuant to this section for any tax year shall not 2060
exceed five thousand dollars. 2061

(D)(1) In the case of a corporation engaged in the business 2062
of manufacturing litter stream products, no tax shall be due under 2063
this section unless the sale of litter stream products in this 2064
state during the taxable year exceeds five per cent of the total 2065
sales in this state of the corporation during that period or 2066
unless the total sales in this state of litter stream products by 2067
the corporation during the taxable year exceed ten million 2068
dollars. 2069

(2) In the case of a corporation engaged in the business of 2070

selling litter stream products in the form in which the item is or 2071
is to be received, no tax shall be due under this section unless 2072
the corporation's sales of litter stream products in this state 2073
during the taxable year constitute more than five per cent of its 2074
total sales in this state during that period. 2075

(3) In the case of a corporation transferring possession of 2076
litter stream products included in division (A)(6) of this 2077
section, in which food or beverages prepared for human consumption 2078
are placed, when the food or beverages are prepared for retail 2079
sale at the premises where sold and are delivered to a purchaser 2080
for consumption off the premises where the food or beverages are 2081
sold, no tax shall be due under this section unless such sales for 2082
off-premises consumption during the taxable year exceed five per 2083
cent of the corporation's total annual sales during the taxable 2084
year. 2085

(E)(1) The tax imposed by this section is due in the 2086
proportions and on the dates on which the tax imposed by section 2087
5733.06 of the Revised Code may be paid without penalty. 2088

(2) Payment of the tax and any reports or returns required to 2089
enable the tax commissioner to determine the correct amount of the 2090
tax shall be submitted with and are due at the same time as 2091
payments and reports required to be submitted under this chapter. 2092

(3) If the tax is not paid in full on or before the date 2093
required by division (E)(1) of this section, the unpaid portion of 2094
the tax due and unpaid shall be subject to all provisions of this 2095
chapter for the collection of unpaid, delinquent taxes imposed by 2096
section 5733.06 of the Revised Code, except that all such taxes, 2097
interest, and penalties, when collected, shall be treated as 2098
proceeds arising from the tax imposed by this section and shall be 2099
deposited in the general revenue fund. 2100

The tax levied on corporations under this section does not 2101

prohibit or otherwise limit the authority of municipal 2102
corporations to impose an income tax on the income of such 2103
corporations. 2104

Sec. 5739.02. For the purpose of providing revenue with which 2105
to meet the needs of the state, for the use of the general revenue 2106
fund of the state, for the purpose of securing a thorough and 2107
efficient system of common schools throughout the state, for the 2108
purpose of affording revenues, in addition to those from general 2109
property taxes, permitted under constitutional limitations, and 2110
from other sources, for the support of local governmental 2111
functions, and for the purpose of reimbursing the state for the 2112
expense of administering this chapter, an excise tax is hereby 2113
levied on each retail sale made in this state. 2114

(A) The tax shall be collected pursuant to the schedules in 2115
section 5739.025 of the Revised Code. 2116

The tax applies and is collectible when the sale is made, 2117
regardless of the time when the price is paid or delivered. 2118

In the case of a sale, the price of which consists in whole 2119
or in part of rentals for the use of the thing transferred, the 2120
tax, as regards ~~such~~ those rentals, shall be measured by the 2121
installments ~~thereof~~ of those rentals. 2122

In the case of a sale of a service defined under division 2123
(MM) or (NN) of section 5739.01 of the Revised Code, the price of 2124
which consists in whole or in part of a membership for the receipt 2125
of the benefit of the service, the tax applicable to the sale 2126
shall be measured by the installments thereof. 2127

(B) The tax does not apply to the following: 2128

(1) Sales to the state or any of its political subdivisions, 2129
or to any other state or its political subdivisions if the laws of 2130
that state exempt from taxation sales made to this state and its 2131

political subdivisions;	2132
(2) Sales of food for human consumption off the premises where sold;	2133 2134
(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;	2135 2136 2137
(4) Sales of newspapers, and of magazine subscriptions shipped by second class mail, and sales or transfers of magazines distributed as controlled circulation publications;	2138 2139 2140
(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;	2141 2142 2143 2144
(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;	2145 2146 2147 2148 2149 2150 2151 2152 2153
(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telephone or telegraph company, all terms as defined in section 5727.01 of the Revised Code;	2154 2155 2156 2157 2158 2159
(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be	2160 2161 2162

titled under section 1548.06 of the Revised Code, watercraft 2163
documented with the United States coast guard, snowmobiles, and 2164
all-purpose vehicles as defined in section 4519.01 of the Revised 2165
Code; 2166

(9) Sales of services or tangible personal property, other 2167
than motor vehicles, mobile homes, and manufactured homes, by 2168
churches, organizations exempt from taxation under section 2169
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 2170
organizations operated exclusively for charitable purposes as 2171
defined in division (B)(12) of this section, provided that the 2172
number of days on which such tangible personal property or 2173
services, other than items never subject to the tax, are sold does 2174
not exceed six in any calendar year. If the number of days on 2175
which such sales are made exceeds six in any calendar year, the 2176
church or organization shall be considered to be engaged in 2177
business and all subsequent sales by it shall be subject to the 2178
tax. In counting the number of days, all sales by groups within a 2179
church or within an organization shall be considered to be sales 2180
of that church or organization, except that sales made by separate 2181
student clubs and other groups of students of a primary or 2182
secondary school, and sales made by a parent-teacher association, 2183
booster group, or similar organization that raises money to 2184
support or fund curricular or extracurricular activities of a 2185
primary or secondary school, shall not be considered to be sales 2186
of such school, and sales by each such club, group, association, 2187
or organization shall be counted separately for purposes of the 2188
six-day limitation. This division does not apply to sales by a 2189
noncommercial educational radio or television broadcasting 2190
station. 2191

(10) Sales not within the taxing power of this state under 2192
the Constitution of the United States; 2193

(11) The transportation of persons or property, unless the 2194

transportation is by a private investigation and security service; 2195

(12) Sales of tangible personal property or services to 2196
churches, to organizations exempt from taxation under section 2197
501(c)(3) of the Internal Revenue Code of 1986, and to any other 2198
nonprofit organizations operated exclusively for charitable 2199
purposes in this state, no part of the net income of which inures 2200
to the benefit of any private shareholder or individual, and no 2201
substantial part of the activities of which consists of carrying 2202
on propaganda or otherwise attempting to influence legislation; 2203
sales to offices administering one or more homes for the aged or 2204
one or more hospital facilities exempt under section 140.08 of the 2205
Revised Code; and sales to organizations described in division (D) 2206
of section 5709.12 of the Revised Code. 2207

"Charitable purposes" means the relief of poverty; the 2208
improvement of health through the alleviation of illness, disease, 2209
or injury; the operation of an organization exclusively for the 2210
provision of professional, laundry, printing, and purchasing 2211
services to hospitals or charitable institutions; the operation of 2212
a home for the aged, as defined in section 5701.13 of the Revised 2213
Code; the operation of a radio or television broadcasting station 2214
that is licensed by the federal communications commission as a 2215
noncommercial educational radio or television station; the 2216
operation of a nonprofit animal adoption service or a county 2217
humane society; the promotion of education by an institution of 2218
learning that maintains a faculty of qualified instructors, 2219
teaches regular continuous courses of study, and confers a 2220
recognized diploma upon completion of a specific curriculum; the 2221
operation of a parent-teacher association, booster group, or 2222
similar organization primarily engaged in the promotion and 2223
support of the curricular or extracurricular activities of a 2224
primary or secondary school; the operation of a community or area 2225
center in which presentations in music, dramatics, the arts, and 2226

related fields are made in order to foster public interest and 2227
education therein; the production of performances in music, 2228
dramatics, and the arts; or the promotion of education by an 2229
organization engaged in carrying on research in, or the 2230
dissemination of, scientific and technological knowledge and 2231
information primarily for the public. 2232

Nothing in this division shall be deemed to exempt sales to 2233
any organization for use in the operation or carrying on of a 2234
trade or business, or sales to a home for the aged for use in the 2235
operation of independent living facilities as defined in division 2236
(A) of section 5709.12 of the Revised Code. 2237

(13) Building and construction materials and services sold to 2238
construction contractors for incorporation into a structure or 2239
improvement to real property under a construction contract with 2240
this state or a political subdivision ~~thereof~~ of this state, or 2241
with the United States government or any of its agencies; building 2242
and construction materials and services sold to construction 2243
contractors for incorporation into a structure or improvement to 2244
real property that are accepted for ownership by this state or any 2245
of its political subdivisions, or by the United States government 2246
or any of its agencies at the time of completion of ~~such the~~ 2247
structures or improvements; building and construction materials 2248
sold to construction contractors for incorporation into a 2249
horticulture structure or livestock structure for a person engaged 2250
in the business of horticulture or producing livestock; building 2251
materials and services sold to a construction contractor for 2252
incorporation into a house of public worship or religious 2253
education, or a building used exclusively for charitable purposes 2254
under a construction contract with an organization whose purpose 2255
is as described in division (B)(12) of this section; building 2256
materials and services sold to a construction contractor for 2257
incorporation into a building under a construction contract with 2258

an organization exempt from taxation under section 501(c)(3) of 2259
the Internal Revenue Code of 1986 when the building is to be used 2260
exclusively for the organization's exempt purposes; building and 2261
construction materials sold for incorporation into the original 2262
construction of a sports facility under section 307.696 of the 2263
Revised Code; and building and construction materials and services 2264
sold to a construction contractor for incorporation into real 2265
property outside this state if such materials and services, when 2266
sold to a construction contractor in the state in which the real 2267
property is located for incorporation into real property in that 2268
state, would be exempt from a tax on sales levied by that state; 2269

(14) Sales of ships or vessels or rail rolling stock used or 2270
to be used principally in interstate or foreign commerce, and 2271
repairs, alterations, fuel, and lubricants for such ships or 2272
vessels or rail rolling stock; 2273

(15) Sales to persons engaged in any of the activities 2274
mentioned in division (E)(2) or (9) of section 5739.01 of the 2275
Revised Code, to persons engaged in making retail sales, or to 2276
persons who purchase for sale from a manufacturer tangible 2277
personal property that was produced by the manufacturer in 2278
accordance with specific designs provided by the purchaser, of 2279
packages, including material, labels, and parts for packages, and 2280
of machinery, equipment, and material for use primarily in 2281
packaging tangible personal property produced for sale, including 2282
any machinery, equipment, and supplies used to make labels or 2283
packages, to prepare packages or products for labeling, or to 2284
label packages or products, by or on the order of the person doing 2285
the packaging, or sold at retail. "Packages" includes bags, 2286
baskets, cartons, crates, boxes, cans, bottles, bindings, 2287
wrappings, and other similar devices and containers, and 2288
"packaging" means placing therein. 2289

(16) Sales of food to persons using food stamp benefits to 2290

purchase the food. As used in division (B)(16) of this section, 2291
"food" has the same meaning as in the "Food Stamp Act of 1977," 91 2292
Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations 2293
adopted pursuant to that act. 2294

(17) Sales to persons engaged in farming, agriculture, 2295
horticulture, or floriculture, of tangible personal property for 2296
use or consumption directly in the production by farming, 2297
agriculture, horticulture, or floriculture of other tangible 2298
personal property for use or consumption directly in the 2299
production of tangible personal property for sale by farming, 2300
agriculture, horticulture, or floriculture; or material and parts 2301
for incorporation into any such tangible personal property for use 2302
or consumption in production; and of tangible personal property 2303
for such use or consumption in the conditioning or holding of 2304
products produced by and for such use, consumption, or sale by 2305
persons engaged in farming, agriculture, horticulture, or 2306
floriculture, except where such property is incorporated into real 2307
property; 2308

(18) Sales of drugs dispensed by a licensed pharmacist upon 2309
the order of a licensed health professional authorized to 2310
prescribe drugs to a human being, as the term "licensed health 2311
professional authorized to prescribe drugs" is defined in section 2312
4729.01 of the Revised Code; insulin as recognized in the official 2313
United States pharmacopoeia; urine and blood testing materials 2314
when used by diabetics or persons with hypoglycemia to test for 2315
glucose or acetone; hypodermic syringes and needles when used by 2316
diabetics for insulin injections; epoetin alfa when purchased for 2317
use in the treatment of persons with end-stage renal disease; 2318
hospital beds when purchased for use by persons with medical 2319
problems for medical purposes; and oxygen and oxygen-dispensing 2320
equipment when purchased for use by persons with medical problems 2321
for medical purposes; 2322

(19)(a) Sales of artificial limbs or portion thereof, breast 2323
prostheses, and other prosthetic devices for humans; braces or 2324
other devices for supporting weakened or nonfunctioning parts of 2325
the human body; crutches or other devices to aid human 2326
perambulation; and items of tangible personal property used to 2327
supplement impaired functions of the human body such as 2328
respiration, hearing, or elimination; 2329

(b) Sales of wheelchairs; items incorporated into or used in 2330
conjunction with a motor vehicle for the purpose of transporting 2331
wheelchairs, other than transportation conducted in connection 2332
with the sale or delivery of wheelchairs; and items incorporated 2333
into or used in conjunction with a motor vehicle that are 2334
specifically designed to assist a person with a disability to 2335
access or operate the motor vehicle. As used in this division, 2336
"person with a disability" means any person who has lost the use 2337
of one or both legs or one or both arms, who is blind, deaf, or 2338
disabled to the extent that the person is unable to move about 2339
without the aid of crutches or a wheelchair, or whose mobility is 2340
restricted by a permanent cardiovascular, pulmonary, or other 2341
disabling condition. 2342

(c) No exemption under this division shall be allowed for 2343
nonprescription drugs, medicines, or remedies; items or devices 2344
used to supplement vision; items or devices whose function is 2345
solely or primarily cosmetic; or physical fitness equipment. This 2346
division does not apply to sales to a physician or medical 2347
facility for use in the treatment of a patient. 2348

(20) Sales of emergency and fire protection vehicles and 2349
equipment to nonprofit organizations for use solely in providing 2350
fire protection and emergency services, including trauma care and 2351
emergency medical services, for political subdivisions of the 2352
state; 2353

(21) Sales of tangible personal property manufactured in this 2354

state, if sold by the manufacturer in this state to a retailer for 2355
use in the retail business of the retailer outside of this state 2356
and if possession is taken from the manufacturer by the purchaser 2357
within this state for the sole purpose of immediately removing the 2358
same from this state in a vehicle owned by the purchaser; 2359
2360

(22) Sales of services provided by the state or any of its 2361
political subdivisions, agencies, instrumentalities, institutions, 2362
or authorities, or by governmental entities of the state or any of 2363
its political subdivisions, agencies, instrumentalities, 2364
institutions, or authorities; 2365

(23) Sales of motor vehicles to nonresidents of this state 2366
upon the presentation of an affidavit executed in this state by 2367
the nonresident purchaser affirming that the purchaser is a 2368
nonresident of this state, that possession of the motor vehicle is 2369
taken in this state for the sole purpose of immediately removing 2370
it from this state, that the motor vehicle will be permanently 2371
titled and registered in another state, and that the motor vehicle 2372
will not be used in this state; 2373

(24) Sales to persons engaged in the preparation of eggs for 2374
sale of tangible personal property used or consumed directly in 2375
such preparation, including such tangible personal property used 2376
for cleaning, sanitizing, preserving, grading, sorting, and 2377
classifying by size; packages, including material and parts for 2378
packages, and machinery, equipment, and material for use in 2379
packaging eggs for sale; and handling and transportation equipment 2380
and parts therefor, except motor vehicles licensed to operate on 2381
public highways, used in intraplant or interplant transfers or 2382
shipment of eggs in the process of preparation for sale, when the 2383
plant or plants within or between which such transfers or 2384
shipments occur are operated by the same person. "Packages" 2385
includes containers, cases, baskets, flats, fillers, filler flats, 2386

cartons, closure materials, labels, and labeling materials, and	2387
"packaging" means placing therein.	2388
(25)(a) Sales of water to a consumer for residential use,	2389
except the sale of bottled water, distilled water, mineral water,	2390
carbonated water, or ice;	2391
(b) Sales of water by a nonprofit corporation engaged	2392
exclusively in the treatment, distribution, and sale of water to	2393
consumers, if such water is delivered to consumers through pipes	2394
or tubing.	2395
(26) Fees charged for inspection or reinspection of motor	2396
vehicles under section 3704.14 of the Revised Code;	2397
(27) Sales to persons licensed to conduct a food service	2398
operation pursuant to section 3717.43 of the Revised Code, of	2399
tangible personal property primarily used directly for the	2400
following:	2401
(a) To prepare food for human consumption for sale;	2402
(b) To preserve food that has been or will be prepared for	2403
human consumption for sale by the food service operator, not	2404
including tangible personal property used to display food for	2405
selection by the consumer;	2406
(c) To clean tangible personal property used to prepare or	2407
serve food for human consumption for sale.	2408
(28) Sales of animals by nonprofit animal adoption services	2409
or county humane societies;	2410
(29) Sales of services to a corporation described in division	2411
(A) of section 5709.72 of the Revised Code, and sales of tangible	2412
personal property that qualifies for exemption from taxation under	2413
section 5709.72 of the Revised Code;	2414
(30) Sales and installation of agricultural land tile, as	2415
defined in division (B)(5)(a) of section 5739.01 of the Revised	2416

Code;	2417
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	2418 2419 2420
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property by a person engaged in highway transportation for hire;	2421 2422 2423 2424
(33) Sales to the state headquarters of any veterans' organization in Ohio that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;	2425 2426 2427 2428 2429
(34) Sales to a telecommunications service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in division (B)(34) of this section shall be in lieu of all other exceptions under division (E)(2) of section 5739.01 of the Revised Code to which a telecommunications service vendor may otherwise be entitled based upon the use of the thing purchased in providing the telecommunications service.	2430 2431 2432 2433 2434 2435 2436 2437 2438 2439 2440 2441 2442
(35) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal that has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, and palladium, and which is in such state or condition that its value	2443 2444 2445 2446 2447

depends upon its content and not upon its form. "Investment metal
bullion" does not include fabricated precious metal that has been
processed or manufactured for one or more specific and customary
industrial, professional, or artistic uses. "Investment coins"
means numismatic coins or other forms of money and legal tender
manufactured of gold, silver, platinum, palladium, or other metal
under the laws of the United States or any foreign nation with a
fair market value greater than any statutory or nominal value of
such coins.

(36)(a) Sales where the purpose of the consumer is to use or
consume the things transferred in making retail sales and
consisting of newspaper inserts, catalogues, coupons, flyers, gift
certificates, or other advertising material that prices and
describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary
materials such as photographs, artwork, and typesetting that will
be used in printing advertising material; of printed matter that
offers free merchandise or chances to win sweepstake prizes and
that is mailed to potential customers with advertising material
described in division (B)(36)(a) of this section; and of equipment
such as telephones, computers, facsimile machines, and similar
tangible personal property primarily used to accept orders for
direct marketing retail sales.

(c) Sales of automatic food vending machines that preserve
food with a shelf life of forty-five days or less by refrigeration
and dispense it to the consumer.

For purposes of division (B)(36) of this section, "direct
marketing" means the method of selling where consumers order
tangible personal property by United States mail, delivery
service, or telecommunication and the vendor delivers or ships the
tangible personal property sold to the consumer from a warehouse,
catalogue distribution center, or similar fulfillment facility by

means of the United States mail, delivery service, or common carrier.	2480 2481
(37) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;	2482 2483 2484
(38) The sale of a motor vehicle that is used exclusively for a vanpool ridesharing arrangement to persons participating in the vanpool ridesharing arrangement when the vendor is selling the vehicle pursuant to a contract between the vendor and the department of transportation;	2485 2486 2487 2488 2489
(39) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;	2490 2491 2492 2493 2494 2495
(40) Sales to a professional racing team of any of the following:	2496 2497
(a) Motor racing vehicles;	2498
(b) Repair services for motor racing vehicles;	2499
(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.	2500 2501 2502 2503 2504 2505 2506 2507
(41) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or	2508 2509

after January 1, 2000; 2510

(42) Sales of tangible personal property and services to a 2511
provider of electricity used or consumed directly and primarily in 2512
generating, transmitting, or distributing electricity for use by 2513
others, including property that is or is to be incorporated into 2514
and will become a part of the consumer's production, transmission, 2515
or distribution system and that retains its classification as 2516
tangible personal property after incorporation; fuel or power used 2517
in the production, transmission, or distribution of electricity; 2518
and tangible personal property and services used in the repair and 2519
maintenance of the production, transmission, or distribution 2520
system, including only those motor vehicles as are specially 2521
designed and equipped for such use. The exemption provided in this 2522
division shall be in lieu of all other exceptions in division 2523
(E)(2) of section 5739.01 of the Revised Code to which a provider 2524
of electricity may otherwise be entitled based on the use of the 2525
tangible personal property or service purchased in generating, 2526
transmitting, or distributing electricity. 2527

For the purpose of the proper administration of this chapter, 2528
and to prevent the evasion of the tax, it is presumed that all 2529
sales made in this state are subject to the tax until the contrary 2530
is established. 2531

As used in this section, except in division (B)(16) of this 2532
section, "food" includes cereals and cereal products, milk and 2533
milk products including ice cream, meat and meat products, fish 2534
and fish products, eggs and egg products, vegetables and vegetable 2535
products, fruits, fruit products, and pure fruit juices, 2536
condiments, sugar and sugar products, coffee and coffee 2537
substitutes, tea, and cocoa and cocoa products. It does not 2538
include: spirituous ~~or malt~~ liquors or beer; soft drinks; sodas 2539
and beverages that are ordinarily dispensed at or in connection 2540
with bars and soda fountains ~~or in connection therewith~~, other 2541

than coffee, tea, and cocoa; root beer and root beer extracts; 2542
malt and malt extracts; mineral oils, cod liver oils, and halibut 2543
liver oil; medicines, including tonics, vitamin preparations, and 2544
other products sold primarily for their medicinal properties; and 2545
water, including mineral, bottled, and carbonated waters, and ice. 2546

(C) The levy of an excise tax on transactions by which 2547
lodging by a hotel is or is to be furnished to transient guests 2548
pursuant to this section and division (B) of section 5739.01 of 2549
the Revised Code does not prevent any of the following: 2550

(1) A municipal corporation or township from levying an 2551
excise tax for any lawful purpose not to exceed three per cent on 2552
transactions by which lodging by a hotel is or is to be furnished 2553
to transient guests in addition to the tax levied by this section. 2554
If a municipal corporation or township repeals a tax imposed under 2555
division (C)(1) of this section and a county in which the 2556
municipal corporation or township has territory has a tax imposed 2557
under division (C) of section 5739.024 of the Revised Code in 2558
effect, the municipal corporation or township may not reimpose its 2559
tax as long as that county tax remains in effect. A municipal 2560
corporation or township in which a tax is levied under division 2561
(B)(2) of section 351.021 of the Revised Code may not increase the 2562
rate of its tax levied under division (C)(1) of this section to 2563
any rate that would cause the total taxes levied under both of 2564
those divisions to exceed three per cent on any lodging 2565
transaction within the municipal corporation or township. 2566

(2) A municipal corporation or a township from levying an 2567
additional excise tax not to exceed three per cent on such 2568
transactions pursuant to division (B) of section 5739.024 of the 2569
Revised Code. Such tax is in addition to any tax imposed under 2570
division (C)(1) of this section. 2571

(3) A county from levying an excise tax pursuant to division 2572
(A) of section 5739.024 of the Revised Code. 2573

(4) A county from levying an excise tax not to exceed three 2574
per cent of such transactions pursuant to division (C) of section 2575
5739.024 of the Revised Code. Such a tax is in addition to any tax 2576
imposed under division (C)(3) of this section. 2577

(5) A convention facilities authority, as defined in division 2578
(A) of section 351.01 of the Revised Code, from levying the excise 2579
taxes provided for in division (B) of section 351.021 of the 2580
Revised Code. 2581

(6) A county from levying an excise tax not to exceed one and 2582
one-half per cent of such transactions pursuant to division (D) of 2583
section 5739.024 of the Revised Code. Such tax is in addition to 2584
any tax imposed under division (C)(3) or (4) of this section. 2585
2586

(7) A county from levying an excise tax not to exceed one and 2587
one-half per cent of such transactions pursuant to division (E) of 2588
section 5739.024 of the Revised Code. Such a tax is in addition to 2589
any tax imposed under division (C)(3), (4), or (6) of this 2590
section. 2591

(D) The levy of this tax on retail sales of recreation and 2592
sports club service shall not prevent a municipal corporation from 2593
levying any tax on recreation and sports club dues or on any 2594
income generated by recreation and sports club dues. 2595

Section 2. That existing sections 1333.82, 1502.07, 3719.44, 2596
4301.01, 4301.03, 4301.041, 4301.042, 4301.24, 4301.241, 4301.333, 2597
4301.355, 4301.365, 4301.37, 4301.402, 4301.42, 4301.47, 4301.54, 2598
4301.55, 4301.62, 4303.01, 4303.02, 4303.06, 4303.07, 4303.10, 2599
4303.181, 4303.182, 4303.22, 4303.29, 4303.30, 4303.332, 4303.35, 2600
4305.01, 4305.03, 4305.04, 4399.09, 4399.12, 4399.15, 5733.065, 2601
and 5739.02 of the Revised Code are hereby repealed. 2602

Section 3. Section 5739.02 of the Revised Code is presented 2604
in this act as a composite of the section as amended by both Am. 2605
Sub. H.B. 94 and Sub. H.B. 117 of the 124th General Assembly. The 2606
General Assembly, applying the principle stated in division (B) of 2607
section 1.52 of the Revised Code that amendments are to be 2608
harmonized if reasonably capable of simultaneous operation, finds 2609
that the composite is the resulting version of the section in 2610
effect prior to the effective date of the section as presented in 2611
this act. 2612