

**As Re-Reported by the House State Government Committee**

**124th General Assembly**

**Regular Session**

**2001-2002**

**Sub. H. B. No. 371**

**REPRESENTATIVES Trakas, DePiero, Evans, Husted, Schmidt, Setzer,  
Sullivan, Seitz, Young**

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**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, 4301.402, 4301.42, 3  
4301.47, 4301.54, 4301.55, 4301.62, 4303.01, 4  
4303.02, 4303.06, 4303.07, 4303.10, 4303.181, 5  
4303.182, 4303.22, 4303.29, 4303.30, 4303.332, 6  
4303.35, 4305.01, 4305.03, 4305.04, 4399.09, 7  
4399.12, 4399.15, 5733.065, and 5739.02 and to 8  
enact section 4303.204 of the Revised Code to 9  
change the definition of beer to explicitly include 10  
ale, porter, stout, sake, and other fermented 11  
beverages brewed or produced from malt or malt 12  
substitutes; to exempt the sale of beer and 13  
intoxicating liquor at publicly owned golf courses 14  
from the effects of local option elections and to 15  
allow Sunday liquor sales at these golf courses 16  
whether or not those sales have been approved at 17  
local option elections; to forbid an employee 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 create the F-4 permit to be issued for 23  
certain events coordinated by nonprofit 24

associations and corporations; to make changes in 25  
the Open Container Law and the law governing local 26  
option elections on beer and liquor sales at a 27  
specific premises; and to make other changes in the 28  
Liquor Control Law. 29

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

**Section 1.** That sections 1333.82, 1502.07, 3719.44, 4301.01, 30  
4301.03, 4301.041, 4301.042, 4301.24, 4301.241, 4301.333, 31  
4301.355, 4301.365, 4301.402, 4301.42, 4301.47, 4301.54, 4301.55, 32  
4301.62, 4303.01, 4303.02, 4303.06, 4303.07, 4303.10, 4303.181, 33  
4303.182, 4303.22, 4303.29, 4303.30, 4303.332, 4303.35, 4305.01, 34  
4305.03, 4305.04, 4399.09, 4399.12, 4399.15, 5733.065, and 5739.02 35  
be amended and section 4303.204 of the Revised Code be enacted to 36  
read as follows: 37

**Sec. 1333.82.** As used in sections 1333.82 to 1333.87 of the 38  
Revised Code: 39

(A) "Alcoholic beverages" means beer, ~~malt beverages~~, and 40  
wine as defined in section 4301.01 of the Revised Code. 41

(B) "Manufacturer" means a person, whether located in this 42  
state or elsewhere, who manufactures or supplies alcoholic 43  
beverages to distributors in this state. 44

(C) "Distributor" means a person who sells or distributes 45  
alcoholic beverages to retail permit holders in the state, but 46  
does not include the state or any of its political subdivisions. 47

(D) "Franchise" means a contract or any other legal device 48  
used to establish a contractual relationship between a 49  
manufacturer and a distributor. 50

(E) "Good faith" means the duty of any party to any 51

franchise, and all officers, employees, or agents of any party to  
any franchise, to act in a fair and equitable manner toward each  
other so as to guarantee each party freedom from coercion or  
intimidation; except that recommendation, endorsement, exposition,  
persuasion, urging, or argument shall not be 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

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to schedules I, II, III, IV, and V established in section 3719.41	83
of the Revised Code:	84
(1) Add a previously unscheduled compound, mixture,	85
preparation, or substance to any schedule;	86
(2) Transfer a compound, mixture, preparation, or substance	87
from one schedule to another, provided the transfer does not have	88
the effect under <del>Chapter 3719. of the Revised Code</del> <u>this chapter</u> of	89
providing less stringent control of the compound, mixture,	90
preparation, or substance than is provided under the federal drug	91
abuse control laws;	92
(3) Remove a compound, mixture, preparation, or substance	93
from the schedules where the board had previously added the	94
compound, mixture, preparation, or substance to the schedules,	95
provided that the removal shall not have the effect under <del>Chapter</del>	96
<del>3719. of the Revised Code</del> <u>this chapter</u> of providing less stringent	97
control of the compound, mixture, preparation, or substance than	98
is provided under the federal drug abuse control laws.	99
(B) In making a determination to add, remove, or transfer	100
pursuant to division (A) of this section, the board shall consider	101
the following:	102
(1) The actual or relative potential for abuse;	103
(2) The scientific evidence of the pharmacological effect of	104
the substance, if known;	105
(3) The state of current scientific knowledge regarding the	106
substance;	107
(4) The history and current pattern of abuse;	108
(5) The scope, duration, and significance of abuse;	109
(6) The risk to the public health;	110
(7) The potential of the substance to produce psychic or	111

physiological dependence liability; 112

(8) Whether the substance is an immediate precursor. 113

(C) The board may add or transfer a compound, mixture, 114  
preparation, or substance to schedule I when it appears that there 115  
is a high potential for abuse, that it has no accepted medical use 116  
in treatment in this state, or that it lacks accepted safety for 117  
use in treatment under medical supervision. 118

(D) The board may add or transfer a compound, mixture, 119  
preparation, or substance to schedule II when it appears that 120  
there is a high potential for abuse, that it has a currently 121  
accepted medical use in treatment in this state, or currently 122  
accepted medical use in treatment with severe restrictions, and 123  
that its abuse may lead to severe physical or severe psychological 124  
dependence. 125

(E) The board may add or transfer a compound, mixture, 126  
preparation, or substance to schedule III when it appears that 127  
there is a potential for abuse less than the substances included 128  
in schedules I and II, that it has a currently accepted medical 129  
use in treatment in this state, and that its abuse may lead to 130  
moderate or low physical or high psychological dependence. 131

(F) The board may add or transfer a compound, mixture, 132  
preparation, or substance to schedule IV when it appears that it 133  
has a low potential for abuse relative to substances included in 134  
schedule III, ~~and~~ that it has a currently accepted medical use in 135  
treatment in this state, and that its abuse may lead to limited 136  
physical or psychological dependence relative to the substances 137  
included in schedule III. 138

(G) The board may add or transfer a compound, mixture, 139  
preparation, or substance to schedule V when it appears that it 140  
has lower potential for abuse than substances included in schedule 141  
IV, ~~and~~ that it has currently accepted medical use in treatment in 142

this state, and that its abuse may lead to limited physical or 143  
psychological dependence relative to substances included in 144  
schedule IV. 145

(H) Even though a compound, mixture, preparation, or 146  
substance does not otherwise meet the criteria in this section for 147  
adding or transferring it to a schedule, the board may 148  
nevertheless add or transfer it to a schedule as an immediate 149  
precursor when all of the following apply: 150

(1) It is the principal compound used, or produced primarily 151  
for use, in the manufacture of a controlled substance~~+~~. 152

(2) It is an immediate chemical intermediary used or likely 153  
to be used in the manufacture of such a controlled substance~~+~~. 154

(3) Its control is necessary to prevent, curtail, or limit 155  
the manufacture of the scheduled compound, mixture, preparation, 156  
or substance of which it is the immediate precursor. 157

(I) Authority to control under this section does not extend 158  
to distilled spirits, wine, or ~~malt beverages~~ beer, as those terms 159  
are defined or used in Chapter 4301. of the Revised Code. 160

(J) Authority to control under this section does not extend 161  
to any nonnarcotic substance if ~~such~~ the substance may, under the 162  
Federal Food, Drug, and Cosmetic Act and the laws of this state, 163  
be lawfully sold over the counter without a prescription. ~~Should~~ 164  
If a pattern of abuse ~~develop~~ develops for any nonnarcotic drug 165  
sold over the counter, the board may, by rule adopted in 166  
accordance with Chapter 119. of the Revised Code, after a public 167  
hearing and a documented study to determine that the substance 168  
actually meets the criteria listed in division (B) of this 169  
section, place ~~such~~ the abused substance on a controlled substance 170  
schedule. 171

(K)(1) A drug product containing ephedrine that is known as 172  
one of the following and is in the form specified shall not be 173

considered a schedule V controlled substance:	174
(a) Amesec capsules;	175
(b) Bronitin tablets;	176
(c) Bronkotabs;	177
(d) Bronkolixir;	178
(e) Bronkaid tablets;	179
(f) Efedron nasal jelly;	180
(g) Guiaphed elixir;	181
(h) Haysma;	182
(i) Pazo hemorrhoid ointment and suppositories;	183
(j) Primatene "M" formula tablets;	184
(k) Primatene "P" formula tablets;	185
(l) Tedrigen tablets;	186
(m) Tedral tablets, suspension and elixir;	187
(n) T.E.P.;	188
(o) Vatronol nose drops.	189
(2)(a) A product containing ephedrine shall not be considered	190
a controlled substance if the product is a food product or dietary	191
supplement that meets all of the following criteria:	192
(i) It contains, per dosage unit or serving, not more than	193
the lesser of twenty-five milligrams of ephedrine alkaloids or the	194
maximum amount of ephedrine alkaloids provided in applicable	195
regulations adopted by the United States food and drug	196
administration, and no other controlled substance.	197
(ii) It contains no hydrochloride or sulfate salts of	198
ephedrine alkaloids.	199
(iii) It is packaged with a prominent label securely affixed	200

to each package that states all of the following: the amount in  
milligrams of ephedrine in a serving or dosage unit; the amount of  
the food product or dietary supplement that constitutes a serving  
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.

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(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.

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(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.

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(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.

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(3) A drug product that contains the isomer pseudoephedrine,

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

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(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.

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(L) As used in this section:

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

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(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.

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

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

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(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

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"liquor" include wine even if it contains less than four per cent 263  
of alcohol by volume, mixed beverages even if they contain less 264  
than four per cent of alcohol by volume, cider, alcohol, and all 265  
solids and confections which contain any alcohol. 266

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 267  
4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the 268  
Revised Code, "sale" and "sell" include exchange, barter, gift, 269  
offer for sale, sale, distribution and delivery of any kind, and 270  
the transfer of title or possession of beer and intoxicating 271  
liquor either by constructive or actual delivery by any means or 272  
devices whatever, including the sale of beer or intoxicating 273  
liquor by means of a controlled access alcohol and beverage 274  
cabinet pursuant to section 4301.21 of the Revised Code. "Sale" 275  
and "sell" do not include the mere solicitation of orders for beer 276  
or intoxicating liquor from the holders of permits issued by the 277  
division of liquor control authorizing the sale of the beer or 278  
intoxicating liquor, but no solicitor shall solicit any such 279  
orders until the solicitor has been registered with the division 280  
pursuant to section 4303.25 of the Revised Code. 281

(3) "Vehicle" includes all means of transportation by land, 282  
by water, or by air, and everything made use of in any way for 283  
such transportation. 284

(B) As used in ~~sections 4301.01 to 4301.74 of the Revised~~ 285  
~~Code~~ this chapter: 286

(1) "Alcohol" means ethyl alcohol, whether rectified or 287  
diluted with water or not, whatever its origin may be, and 288  
includes synthetic ethyl alcohol. "Alcohol" does not include 289  
denatured alcohol and wood alcohol. 290

(2) ~~"Beer," "malt liquor," or "malt beverages" includes all~~ 291  
~~brewed or~~ means beer, ale, porter, stout, and other similar 292  
fermented malt products containing beverages, including sake or 293  
similar products, of any name or description, that contain 294

one-half of one per cent or more, but not more than twelve per 295  
cent, of alcohol by volume ~~but not more than six per cent of~~ 296  
~~alcohol by weight~~ and that are brewed or produced from malt, 297  
wholly or in part, or from any product used as a substitute for 298  
malt. 299

(3) "Wine" includes all liquids fit to use for beverage 300  
purposes containing not less than one-half of one per cent of 301  
alcohol by volume and not more than twenty-one per cent of alcohol 302  
by volume, which is made from the fermented juices of grapes, 303  
fruits, or other agricultural products, except that as used in 304  
sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the 305  
Revised Code, and, for purposes of determining the rate of the tax 306  
that applies, division (B) of section 4301.43 of the Revised Code, 307  
"wine" does not include cider. 308

(4) "Mixed beverages," such as bottled and prepared cordials, 309  
cocktails, and highballs, are products obtained by mixing any type 310  
of whiskey, neutral spirits, brandy, gin, or other distilled 311  
spirits with, or over, carbonated or plain water, pure juices from 312  
flowers and plants, and other flavoring materials. The completed 313  
product shall contain not less than one-half of one per cent of 314  
alcohol by volume and not more than twenty-one per cent of alcohol 315  
by volume. 316

(5) "Spirituous liquor" includes all intoxicating liquors 317  
containing more than twenty-one per cent of alcohol by volume. 318

(6) "Sealed container" means any container having a capacity 319  
of not more than one hundred twenty-eight fluid ounces, the 320  
opening of which is closed to prevent the entrance of air. 321

(7) "Person" includes firms and corporations. 322

(8) "Manufacture" includes all processes by which beer or 323  
intoxicating liquor is produced, whether by distillation, 324  
rectifying, fortifying, blending, fermentation, or brewing, or in 325

any other manner. 326

(9) "Manufacturer" means any person engaged in the business 327  
of manufacturing beer or intoxicating liquor. 328

(10) "Wholesale distributor" and "distributor" means a person 329  
engaged in the business of selling to retail dealers for purposes 330  
of resale. 331

(11) "Hotel" has the same meaning as in section 3731.01 of 332  
the Revised Code, subject to the exceptions mentioned in section 333  
3731.03 of the Revised Code. 334

(12) "Restaurant" means a place located in a permanent 335  
building provided with space and accommodations wherein, in 336  
consideration of the payment of money, hot meals are habitually 337  
prepared, sold, and served at noon and evening, as the principal 338  
business of the place. "Restaurant" does not include pharmacies, 339  
confectionery stores, lunch stands, night clubs, and filling 340  
stations. 341

(13) "Club" means a corporation or association of individuals 342  
organized in good faith for social, recreational, benevolent, 343  
charitable, fraternal, political, patriotic, or athletic purposes, 344  
which is the owner, lessor, or occupant of a permanent building or 345  
part of a permanent building operated solely for those purposes, 346  
membership in which entails the prepayment of regular dues, and 347  
includes the place so operated. 348

(14) "Night club" means a place operated for profit, where 349  
food is served for consumption on the premises and one or more 350  
forms of amusement are provided or permitted for a consideration 351  
that may be in the form of a cover charge or may be included in 352  
the price of the food and beverages, or both, purchased by 353  
patrons. 354

(15) "At retail" means for use or consumption by the 355  
purchaser and not for resale. 356

(16) "Pharmacy" means an establishment, as defined in section 357  
4729.01 of the Revised Code, that is under the management or 358  
control of a licensed pharmacist in accordance with section 359  
4729.27 of the Revised Code. 360

(17) "Enclosed shopping center" means a group of retail sales 361  
and service business establishments that face into an enclosed 362  
mall, share common ingress, egress, and parking facilities, and 363  
are situated on a tract of land that contains an area of not less 364  
than five hundred thousand square feet. "Enclosed shopping center" 365  
also includes not more than one business establishment that is 366  
located within a free-standing building on such a tract of land, 367  
so long as the sale of beer and intoxicating liquor on the tract 368  
of land was approved in an election held under former section 369  
4301.353 of the Revised Code. 370

(18) "Controlled access alcohol and beverage cabinet" means a 371  
closed container, either refrigerated, in whole or in part, or 372  
nonrefrigerated, access to the interior of which is restricted by 373  
means of a device that requires the use of a key, magnetic card, 374  
or similar device and from which beer, intoxicating liquor, other 375  
beverages, or food may be sold. 376

(19) "Community facility" means either of the following: 377

(a) Any convention, sports, or entertainment facility or 378  
complex, or any combination of these, that is used by or 379  
accessible to the general public and that is owned or operated in 380  
whole or in part by the state, a state agency, or a political 381  
subdivision of the state or that is leased from, or located on 382  
property owned by or leased from, the state, a state agency, a 383  
political subdivision of the state, or a convention facilities 384  
authority created pursuant to section 351.02 of the Revised Code; 385

(b) An area designated as a community entertainment district 386  
pursuant to section 4301.80 of the Revised Code. 387

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

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

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

**Sec. 4301.03.** 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 420  
of permits for the manufacture, distribution, transportation, and 421  
sale of beer and intoxicating liquor, and the sale of alcohol; and 422  
rules governing the procedure of the division of liquor control in 423  
the suspension, revocation, and cancellation of ~~such~~ those 424  
permits; 425

(B) Rules and orders providing in detail for the conduct of 426  
any retail business authorized under permits issued pursuant to 427  
~~such chapters~~ this chapter and Chapter 4303. of the Revised Code, 428  
with a view to ensuring compliance with ~~such~~ those chapters and 429  
laws relative ~~thereto~~ to them, and the maintenance of public 430  
decency, sobriety, and good order in any place licensed under ~~such~~ 431  
the permits. No rule or order shall prohibit the sale of lottery 432  
tickets issued pursuant to Chapter 3770. of the Revised Code by 433  
any retail business authorized under permits issued pursuant to 434  
~~such~~ that chapter. 435

No rule or order shall prohibit pari-mutuel wagering on 436  
simulcast horse races at a satellite facility that has been issued 437  
a D liquor permit under Chapter 4303. of the Revised Code. No rule 438  
or order shall prohibit a charitable organization that holds a D-4 439  
permit from selling or serving beer or intoxicating liquor under 440  
its permit in a portion of its premises merely because that 441  
portion of its premises is used at other times for the conduct of 442  
a charitable bingo game. However, such an organization shall not 443  
sell or serve beer or intoxicating liquor or permit beer or 444  
intoxicating liquor to be consumed or seen in the same location in 445  
its premises where a charitable bingo game is being conducted 446  
while the game is being conducted. As used in this division, 447  
"charitable organization" has the same meaning as in division (H) 448  
of section 2915.01 of the Revised Code, and "charitable bingo 449  
game" has the same meaning as in division (R) of that section 450

~~2915.01 of the Revised Code.~~ No rule or order pertaining to 451  
visibility into the premises of a permit holder after the legal 452  
hours of sale shall be adopted or maintained by the commission. 453

(C) Standards, not in conflict with those prescribed by any 454  
law of this state or the United States, to secure the use of 455  
proper ingredients and methods in the manufacture of beer, ~~malt~~ 456  
~~liquor~~, mixed beverages, and wine to be sold within this state; 457

(D) Rules determining the nature, form, and capacity of all 458  
packages and bottles to be used for containing beer or 459  
intoxicating liquor except for spirituous liquor to be kept or 460  
sold, governing the form of all seals and labels to be used 461  
~~thereon on those packages and bottles~~, and requiring the label on 462  
every package, bottle, and container to state the ingredients in 463  
the contents and, ~~except on malt beverages~~ beer, the terms of 464  
weight, volume, or proof spirits, and whether the same is beer, 465  
wine, alcohol, or any intoxicating liquor except for spirituous 466  
liquor; 467

(E) Uniform rules governing all advertising with reference to 468  
the sale of beer and intoxicating liquor throughout the state and 469  
advertising upon and in the premises licensed for the sale of beer 470  
or intoxicating liquor; 471

(F) Rules restricting and placing conditions upon the 472  
transfer of permits; 473

(G) Rules and orders limiting the number of permits of any 474  
class within the state or within any political subdivision of the 475  
state; and, ~~for such that purpose~~, adopting reasonable 476  
classifications of persons or establishments to which any 477  
authorized class of permits may be issued within any ~~such~~ 478  
political subdivision; 479

(H) Rules and orders with reference to sales of beer and 480  
intoxicating liquor on Sundays and holidays and with reference to 481



the hours of the day during which and the persons to whom 482  
intoxicating liquor of any class may be sold, and rules with 483  
reference to the manner of sale; 484

(I) Rules requiring permit holders buying beer ~~and malt~~ 485  
~~beverages~~ to pay and permit holders selling beer ~~and malt~~ 486  
~~beverages~~ to collect minimum cash deposits for kegs, cases, 487  
bottles, or other returnable containers of ~~such the~~ beer ~~and malt~~ 488  
~~beverages~~; requiring the repayment, or credit ~~therefor~~, of ~~such~~ 489  
~~the~~ minimum cash deposit charges upon the return of ~~such the~~ empty 490  
containers, ~~i~~ and requiring the posting of such form of indemnity 491  
or such other conditions with respect to the charging, collection, 492  
and repayment of minimum cash deposit charges for returnable 493  
containers of beer ~~or malt beverages~~ as are necessary to ensure 494  
the return of ~~such the~~ empty containers or the repayment upon ~~such~~ 495  
~~that~~ return of the minimum cash deposits paid ~~therefor~~. ~~i~~ 496

(J) Rules establishing the method by which alcohol products 497  
may be imported for sale by wholesale distributors and the method 498  
by which manufacturers and suppliers may sell alcohol products to 499  
wholesale distributors. 500

Every rule, standard, requirement, or order of the 501  
commission, and every repeal, amendment, or rescission ~~thereof~~ of 502  
them shall be posted for public inspection in the principal office 503  
of the commission and the principal office of the division of 504  
liquor control, and a certified copy ~~thereof~~ of them shall be 505  
filed in the office of the secretary of state. An order applying 506  
only to persons named ~~therein~~ in it shall be served on the persons 507  
affected by personal delivery of a certified copy, or by mailing 508  
~~such a~~ certified copy to each person affected ~~thereby~~, by it or, 509  
in the case of a corporation, to any officer or agent ~~thereof~~ of 510  
the corporation upon whom a service of summons may be served in a 511  
civil action. The posting and filing required by this section 512  
constitutes sufficient notice to all persons affected by such rule 513

or order which is not required to be served. General rules of the 514  
commission promulgated pursuant to this section shall be published 515  
in ~~such a~~ the manner ~~as~~ the commission determines. 516

**Sec. 4301.041.** The liquor control commission may determine 517  
and fix by ~~regulation~~ rule the minimum percentage mark-up for 518  
sales at retail of beer, ~~lager beer, ale, stout, porter, or any~~ 519  
~~other brewed or malt liquor or malt beverages,~~ whether in case lot 520  
or less. 521

To determine the retail price of ~~such products~~ beer, the 522  
minimum percentage mark-up may be applied to the wholesale price 523  
of the manufacturer or wholesale distributor charged to the retail 524  
permit holder. Such prices shall apply to sales made at retail by 525  
a permit holder for off-premise consumption only. 526

**Sec. 4301.042.** The liquor control commission may adopt, 527  
repeal, and amend rules providing for and controlling pricing 528  
practices and the manner and frequency with which any person sets 529  
or changes prices at which beer ~~and other malt beverages are~~ is 530  
sold to or by the holders of B-1 permits, but the commission shall 531  
not set prices or markups between manufacturers or other suppliers 532  
and the holders of B-1 permits. 533

**Sec. 4301.24.** No manufacturer shall aid or assist the holder 534  
of any permit for sale at wholesale, and no manufacturer or 535  
wholesale distributor shall aid or assist the holder of any permit 536  
for sale at retail, by gift or loan of any money or property of 537  
any description or other valuable thing, or by giving premiums or 538  
rebates. No holder of any such permit shall accept the same, 539  
provided that the manufacturer or wholesale distributor may 540  
furnish to a retail permittee the inside signs or advertising and 541  
the tap signs or devices authorized by divisions (F) and (G) of 542  
section 4301.22 of the Revised Code. 543

No manufacturer shall have any financial interest, directly 544  
or indirectly, by stock ownership, or through interlocking 545  
directors in a corporation, or otherwise, in the establishment, 546  
maintenance, or promotion in the business of any wholesale 547  
distributor. No retail permit holder shall have any interest, 548  
directly or indirectly, in the operation of, or any ownership in, 549  
the business of any wholesale distributor or manufacturer. 550

No manufacturer ~~or wholesale distributor~~ shall, except as 551  
authorized by section 4303.021 of the Revised Code, have any 552  
financial interest, directly or indirectly, by stock ownership, or 553  
through interlocking directors in a corporation, or otherwise, in 554  
the establishment, maintenance, or promotion of the business of 555  
any retail dealer; ~~nor shall any. No wholesale distributor or~~ 556  
employee of a wholesale distributor shall have any financial 557  
interest, directly or indirectly, by stock ownership, interlocking 558  
directors in a corporation, or otherwise, in the establishment, 559  
maintenance, or promotion of the business of any retail dealer. No 560  
manufacturer or wholesale distributor or any stockholder of a 561  
manufacturer or wholesale distributor shall acquire, by ownership 562  
in fee, leasehold, mortgage, or otherwise, directly or indirectly, 563  
any interest in the premises on which the business of any other 564  
person engaged in the business of trafficking in beer or 565  
intoxicating liquor is conducted. All contracts, covenants, 566  
conditions, and limitations whereby any person engaged or 567  
proposing to engage in the sale of beer or intoxicating liquors 568  
promises to confine the person's sales of a particular kind or 569  
quality of beer or intoxicating liquor to one or more products, or 570  
the products of a specified manufacturer or wholesale distributor, 571  
or to give preference to those products, shall to the extent of 572  
that promise be void. The making of a promise in any such form 573  
shall be cause for the revocation or suspension of any permit 574  
issued to any party. This section does not prevent the holder of 575

an A permit from securing and holding a wholesale distributor's 576  
permit or permits and operating as a wholesale distributor. 577

No manufacturer shall sell or offer to sell to any wholesale 578  
distributor or retail permit holder, ~~and~~ no wholesale distributor 579  
shall sell or offer to sell to any retail permit holder, and no 580  
wholesale distributor or retail permit holder shall purchase or 581  
receive from any manufacturer or wholesale distributor, any ~~malt~~ 582  
~~or beer,~~ brewed beverages, or wine manufactured in the United 583  
States except for cash. No right of action shall exist to collect 584  
any claims for credit extended contrary to this section. This 585  
section does not prohibit a licensee from crediting to a purchaser 586  
the actual prices charged for packages or containers returned by 587  
the original purchaser as a credit on any sale or from refunding 588  
to any purchaser the amount paid by that purchaser for containers 589  
or as a deposit on containers when title is retained by the 590  
vendor, if those containers or packages have been returned to the 591  
manufacturer or distributor. This section does not prohibit a 592  
manufacturer from extending usual and customary credit for ~~malt or~~ 593  
~~beer,~~ brewed beverages, or wine manufactured in the United States 594  
and sold to customers who live or maintain places of business 595  
outside this state when the beverages so sold are actually 596  
transported and delivered to points outside this state. No 597  
wholesale or retail permit shall be issued to an applicant unless 598  
the applicant has paid in full all accounts for beer ~~and malt~~ 599  
~~beverages~~ or wine, manufactured in the United States, outstanding 600  
as of September 6, 1939. No beer ~~or malt beverages~~ or wine 601  
manufactured in the United States shall be imported into the state 602  
unless the beer ~~or malt beverages~~ or wine has been paid for in 603  
cash, and no consent to import any such beer ~~or malt beverages~~ or 604  
wine manufactured in the United States shall be issued by the 605  
division of liquor control until the A-2, B-1, or B-5 permit 606  
holder establishes to the satisfaction of the division that the 607  
beer ~~or malt beverages~~ or wine has been paid for in cash. 608

This section does not prevent a manufacturer from securing 609  
and holding any financial interest, directly or indirectly, by 610  
stock ownership or through interlocking directors in a 611  
corporation, or otherwise, in the establishment, maintenance, or 612  
promotion of the business or premises of any C or D permit holder, 613  
provided that the following conditions are met: 614

(A) Either the manufacturer or one of its parent companies is 615  
listed on a national securities exchange. 616

(B) All purchases of alcoholic beverages by the C or D permit 617  
holder are made from wholesale distributors in this state or 618  
agency stores licensed by the division of liquor control. 619

(C) If the C or D permit holder sells brands of alcoholic 620  
beverages that are produced or distributed by the manufacturer 621  
that holds the financial interest, the C or D permit holder also 622  
sells other competing brands of alcoholic beverages produced by 623  
other manufacturers, no preference is given to the products of the 624  
manufacturer, and there is no exclusion, in whole or in part, of 625  
products sold or offered for sale by other manufacturers, 626  
suppliers, or importers of alcoholic beverages that constitutes a 627  
substantial impairment of commerce. 628

(D) The primary purpose of the C or D permit premises is a 629  
purpose other than to sell alcoholic beverages, and the sale of 630  
other goods and services exceeds fifty per cent of the total gross 631  
receipts of the C or D permit holder at its premises. 632

This section does not prevent a manufacturer from giving 633  
financial assistance to the holder of a B permit for the purpose 634  
of the holder purchasing an ownership interest in the business, 635  
existing inventory and equipment, or property of another B permit 636  
holder, including, but not limited to, participation in a limited 637  
liability partnership, limited liability company, or any other 638  
legal entity authorized to do business in this state. This section 639

does not permit a manufacturer to give financial assistance to the  
holder of a B permit to purchase inventory or equipment used in  
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), or (3) of this section. 670  
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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: 673  
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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; 678  
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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; 681  
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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: 686  
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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; 691  
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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; 696  
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(c) A description of the general nature of the business of the applicant, liquor permit holder, or liquor agency store. 699  
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(4) If the petition seeks approval of Sunday sales under question (B)(2) as set forth in section 4301.355 of the Revised Code, a statement indicating whether the hours of sale sought are 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 732  
questions set forth in section 4301.355 of the Revised Code. 733

(E) A petition filed with the board of elections under this 734  
section shall be open to public inspection under rules adopted by 735  
the board. 736

(F) An elector who is eligible to vote on the question or 737  
questions set forth in section 4301.355 of the Revised Code may 738  
file, not later than four p.m. of the sixty-fourth day before the 739  
day of the election at which the question or questions will be 740  
submitted to the electors, a protest against a local option 741  
petition circulated and filed pursuant to this section. The 742  
protest shall be in writing and shall be filed with the election 743  
officials with whom the petition was filed. Upon the filing of the 744  
protest, the election officials with whom it is filed shall 745  
promptly establish a time and place for hearing the protest and 746  
shall mail notice of the time and place for the hearing to the 747  
applicant for, or the holder of, the liquor permit who is 748  
specified in the petition and to the elector who filed the 749  
protest. At the time and place established in the notice, the 750  
election officials shall hear the protest and determine the 751  
validity of the petition. 752

**Sec. 4301.355.** (A) If a petition is filed under section 753  
4301.333 of the Revised Code for the submission of the question or 754  
questions set forth in this section, it shall be held in the 755  
precinct as ordered by the board of elections under that section. 756  
The expense of holding the election shall be charged to the 757  
municipal corporation or township of which the precinct is a part. 758

(B) At the election, one or more of the following questions, 759  
as designated in a valid petition, shall be submitted to the 760  
electors of the precinct: 761

(1) "Shall the sale of ..... (insert beer, wine and mixed 762

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

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

(C) If the sale of beer, wine and mixed beverages, or 795  
intoxicating liquor has been approved at a particular location 796  
within the precinct at a previous election held under this 797  
section, the ballot also shall include the following statement: 798

"At a previous election held under section 4301.355 of the 799  
Revised Code, the electors approved the sale of ..... (insert 800  
beer, wine and mixed beverages, or intoxicating liquor, as 801  
appropriate) at .....(insert business name and address of the 802  
particular location or locations within the precinct where ~~such~~ 803  
that sale has been approved at a previous election under section 804  
4301.355 of the Revised Code)." 805

(D) The board of elections shall furnish printed ballots at 806  
the election as provided under section 3505.06 of the Revised 807  
Code, except that a separate ballot shall be used for the election 808  
under this section. The question and, if applicable, the statement 809  
set forth in this section shall be printed on each ballot, and the 810  
board shall insert in the question and statement appropriate words 811  
to complete each. Votes shall be cast as provided under section 812  
3505.06 of the Revised Code. 813

**Sec. 4301.365.** (A) If a majority of the electors in a 814  
precinct vote "yes" on questions (B)(1) and (2) as set forth in 815  
section 4301.355 of the Revised Code, the sale of beer, wine and 816  
mixed beverages, or intoxicating liquor, whichever was the subject 817  
of the election, shall be allowed at the particular location and 818  
for the use, and during the hours on Sunday, specified in the 819  
~~question~~ questions under each permit applied for by the petitioner 820  
or at the address listed for the liquor agency store subject only 821  
to Chapters 4301. and 4303. of the Revised Code. Failure to 822  
continue to use the particular location for any proposed or stated 823  
use set forth in the petition ~~shall constitute good cause~~ is 824  
grounds for the denial of a renewal of the liquor permit under 825

division (A) of section 4303.271 of the Revised Code or ~~cause~~ is 826  
grounds for the nonrenewal or cancellation of the liquor agency 827  
store contract by the division of liquor control, except in the 828  
case where the liquor permit holder or liquor agency store decides 829  
to cease the sale of beer, wine and mixed beverages, or 830  
intoxicating liquor, whichever was the subject of the election, on 831  
Sundays. 832

(B) If a majority of the electors in a precinct vote "yes" on 833  
question (B)(1) and "no" on question (B)(2) as set forth in 834  
section 4301.355 of the Revised Code, the sale of beer, wine and 835  
mixed beverages, or intoxicating liquor, whichever was the subject 836  
of the election, shall be allowed at the particular location for 837  
the use specified in question (B)(1) of section 4301.355 of the 838  
Revised Code and under each permit applied for by the petitioner, 839  
except for a D-6 permit, subject only to Chapters 4301. and 4303. 840  
of the Revised Code. 841

(C) If a majority of the electors in a precinct vote "no" on 842  
question (B)(1) as set forth in section 4301.355 of the Revised 843  
Code, no sales of beer, wine and mixed beverages, or intoxicating 844  
liquor, whichever was the subject of the election, shall be 845  
allowed at the particular location for the use specified in the 846  
petition during the period the election is in effect as defined in 847  
section 4301.37 of the Revised Code. 848

(D) If a majority of the electors in a precinct vote only on 849  
question (B)(2) as set forth in section 4301.355 of the Revised 850  
Code and that vote results in a majority "yes" vote, sales of 851  
beer, wine and mixed beverages, or intoxicating liquor, whichever 852  
was the subject of the election, shall be allowed at the 853  
particular location for the use and during the hours specified in 854  
the petition on Sunday during the period the election is in effect 855  
as defined in section 4301.37 of the Revised Code. 856

(E) If a majority of the electors in a precinct vote only on 857

question (B)(2) as set forth in section 4301.355 of the Revised  
Code and that vote results in a majority "no" vote, no sales of  
beer, wine and mixed beverages, or intoxicating liquor, whichever  
was the subject of the election, shall be allowed at the  
particular location for the use 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.

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(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.

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(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.

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**Sec. 4301.402.** Sections 4301.32 to 4301.391, 4301.41, and  
4305.14 of the Revised Code and the provisions for local option  
elections and the election on the question of the repeal of  
Section 9 of Article XV, Ohio Constitution, in section 4303.29 of  
the Revised Code, do not affect or prohibit the sale of beer or  
intoxicating liquor at a golf course or at a hotel, motel, or  
lodge required to be licensed under section 3731.03 of the Revised

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Code that contains at least fifty rooms for registered transient 889  
guests ~~and if the golf course, hotel, motel, or lodge~~ is owned by 890  
the state or a ~~political subdivision or conservancy district, park~~ 891  
~~district created under Chapter 1545. of the Revised Code, or other~~ 892  
~~political subdivision~~ of the state, ~~provided that~~ and the permit 893  
holder for the golf course, hotel, motel, or lodge operates 894  
~~pursuant to~~ under the authority of ~~the~~ a liquor permit issued 895  
~~pursuant to~~ under Chapter 4303. of the Revised Code. 896

**Sec. 4301.42.** For the purpose of providing revenue for the 897  
support of the state, a tax is hereby levied on the sale of beer, 898  
~~ale, porter, stout, and other malt liquor beverages~~ in sealed 899  
bottles and cans having twelve ounces or less of liquid content, 900  
at the rate of fourteen one-hundredths of one cent on each ounce 901  
of liquid content or fractional part ~~thereof~~ of each ounce of 902  
liquid content, and on such containers in excess of twelve ounces, 903  
at the rate of eighty-four one-hundredths of one cent on each six 904  
ounces of liquid content or fractional part ~~thereof~~ of each six 905  
ounces of liquid content. Sections 4307.01 to 4307.12 of the 906  
Revised Code apply in the administration of ~~said~~ that tax. 907  
Manufacturers, bottlers, and canners of and wholesale dealers in 908  
~~beer, ale, porter, stout, and other malt liquor beverages~~ have the 909  
duty to pay the tax imposed by this section and are entitled to 910  
the privileges in the manner provided in section 4303.33 of the 911  
Revised Code. 912

**Sec. 4301.47.** Every class A-1, A-2, and A-4 permit holder and 913  
each class B permit holder shall maintain and keep for a period of 914  
three years a record of the beer, wine, ~~malt beverages~~, and mixed 915  
beverages purchased, distributed, or sold within this state by the 916  
permit holder, together with invoices, records, receipts, bills of 917  
lading, and other pertinent papers required by the tax 918  
commissioner and, upon demand by the tax commissioner, shall 919

produce these records for a three-year period prior to the demand 920  
unless upon satisfactory proof it is shown that the ~~non-production~~ 921  
nonproduction is due to causes beyond ~~his~~ the permit holder's 922  
control. 923

**Sec. 4301.54.** If the laws of another state, territory, or 924  
nation, or the rules and regulations of an administrative body 925  
~~therein in another state, territory, or nation,~~ provide for the 926  
levy and collection of taxes, fees, and charges upon the products 927  
of Ohio manufacturers of wine or manufacturers or brewers of beer 928  
~~and other malt liquors~~ when ~~such~~ those products are sold in, 929  
delivered, or shipped into ~~such~~ the other state, territory, or 930  
nation, in excess of the taxes, fees, and charges levied and 931  
collected on the products of ~~manufactures~~ manufacturers or brewers 932  
of ~~said~~ those states, territories, or nations, whether ~~such~~ those 933  
taxes, fees, and charges are in the nature of an excise, sales, or 934  
import tax, or by whatever name designated, the tax commissioner 935  
shall levy and collect additional taxes, fees, and charges on the 936  
products of manufacturers of wine or manufacturers and brewers of 937  
beer ~~and other malt liquor~~ of ~~said~~ that other state, territory, or 938  
nation when sold in, delivered, or shipped into this state. 939

~~Such~~ The additional taxes, fees, and charges shall be in 940  
excess of those provided for in other sections of this chapter or 941  
Chapters ~~4301.,~~ 4303. and 4307. and section 4305.13 of the Revised 942  
Code, in the same proportion or in the same amount as taxes, fees, 943  
and charges levied and collected in ~~said~~ the other state, 944  
territory, or nation upon the products of Ohio manufacturers of 945  
wine or manufacturers or brewers of beer ~~and other malt liquor~~ are 946  
in excess of those levied and collected on the products of 947  
manufacturers and brewers of ~~said~~ the other state, territory, or 948  
nation. 949

If the laws of another state, territory, or nation, or the 950

rules and regulations of ~~the~~ an administrative body ~~therein in~~  
another state, territory, or nation, provide for the levy and  
collection of taxes, fees, or charges against Ohio ~~manufactures~~  
manufacturers of wine or ~~manufactures~~ manufacturers or brewers of  
beer ~~and other malt liquor~~ for the privilege of doing business  
~~therein in that state, territory, or nation~~, like amounts shall be  
levied and collected on manufacturers or brewers of ~~said that~~  
state, territory, or nation for the privilege of doing business in  
this state.

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**Sec. 4301.55.** If the laws of another state, territory, or  
nation, or the rules and regulations of any administrative body  
~~therein in another state, territory, or nation~~, authorize or  
impose any tax, fee, or charge upon the right to transport or  
import into ~~such that~~ state, territory, or nation any beer, ~~malt~~  
~~liquor~~, or wine manufactured in this state; or authorize or impose  
any different warehousing requirements or higher warehousing or  
inspection fees upon any beer, ~~malt liquor~~, or wine manufactured  
in this state and imported into or sold in ~~such that~~ state,  
territory, or nation than are imposed upon beer, ~~malt liquor~~, and  
wine manufactured in ~~such that~~ state, territory, or nation; or  
impose any higher fee for the privilege of selling or handling  
beer, ~~malt liquor~~, or wine manufactured in this state than is  
imposed for the privilege of handling or selling the same kind of  
beverages manufactured within ~~such that~~ state, territory, or  
nation or any other ~~state, territory, or nation~~, the tax  
commissioner shall levy and collect similar taxes, fees, and  
charges from licensees or persons selling in ~~Ohio this state~~ beer,  
~~malt liquor~~, and wine manufactured in ~~such that~~ other state,  
territory, or nation. ~~Such~~ The taxes, fees, and charges shall be  
in addition to the taxes, fees, and charges assessed and collected  
by the commissioner under section 4301.54 of the Revised Code.

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Sec. 4301.62. (A) As used in this section:	982
(1) "Chauffeured limousine" means a vehicle registered under section 4503.24 of the Revised Code.	983 984
(2) "Street," "highway," and "motor vehicle" have the same meanings as in section 4511.01 of the Revised Code.	985 986
(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:	987 988 989
(1) In a state liquor store;	990
(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;	991 992 993
(3) In any other public place;	994
(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;	995 996 997 998
(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.	999 1000 1001 1002
(C)(1) A person may have in the person's possession an opened container of any of the following:	1003 1004
(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;	1005 1006 1007 1008 1009
(b) Beer, wine, or mixed beverages served for consumption on	1010

the premises by the holder of an F-3 permit or wine served for 1011  
consumption on the premises by the holder of an F-4 permit; 1012

(c) Beer or intoxicating liquor consumed on the premises of a 1013  
convention facility as provided in section 4303.201 of the Revised 1014  
Code; 1015

(d) Beer or intoxicating liquor to be consumed during 1016  
tastings and samplings approved by rule of the liquor control 1017  
commission. 1018

(2) A person may have in the person's possession on an F 1019  
liquor permit premises an opened container of beer or intoxicating 1020  
liquor that was not purchased from the holder of the F permit if 1021  
the premises for which the F permit is issued is a music festival 1022  
and the holder of the F permit grants permission for that 1023  
possession on the premises during the period for which the F 1024  
permit is issued. As used in this division, "music festival" means 1025  
a series of outdoor live musical performances, extending for a 1026  
period of at least three consecutive days and located on an area 1027  
of land of at least forty acres. 1028

(D) This section does not apply to a person who pays all or a 1029  
portion of the fee imposed for the use of a chauffeured limousine 1030  
pursuant to a prearranged contract, or the guest of the person, 1031  
when all of the following apply: 1032

(1) The person or guest is a passenger in the limousine. 1033

(2) The person or guest is located in the limousine, but is 1034  
not occupying a seat in the front compartment of the limousine 1035  
where the operator of the limousine is located. 1036

(3) The limousine is located on any street, highway, or other 1037  
public or private property open to the public for purposes of 1038  
vehicular travel or parking. 1039

**Sec. 4303.01.** As used in sections 4303.01 to 4303.37 of the 1040

Revised Code, "intoxicating liquor," "liquor," "sale," "sell," 1041  
"vehicle," "alcohol," "beer," ~~"malt liquor," "malt beverage,"~~ 1042  
"wine," "mixed beverages," "spirituous liquor," "sealed 1043  
container," "person," "manufacture," "manufacturer," "wholesale 1044  
distributor," "distributor," "hotel," "restaurant," "club," "night 1045  
club," "at retail," "pharmacy," and "enclosed shopping center" 1046  
have the same meanings as in section 4301.01 of the Revised Code. 1047

**Sec. 4303.02.** Permit A-1 may be issued to a manufacturer to 1048  
manufacture ~~beer, ale, stout, and other malt liquor containing not~~ 1049  
~~more than six per cent of alcohol by weight~~ and sell such beer 1050  
products in bottles or containers for home use and to retail and 1051  
wholesale permit holders under ~~such rules as are~~ promulgated by 1052  
the division of liquor control. The fee for this permit is three 1053  
thousand one hundred twenty-five dollars for each plant during the 1054  
year covered by the permit. 1055

**Sec. 4303.06.** Permit B-1 may be issued to a wholesale 1056  
distributor of beer to purchase from the holders of A-1 permits 1057  
and to import and distribute or sell ~~beer, ale, lager, stout, and~~ 1058  
~~other malt liquors containing not more than six per cent of~~ 1059  
~~alcohol by weight~~ for home use and to retail permit holders under 1060  
~~such rules as are~~ adopted by the division of liquor control. The 1061  
fee for this permit is two thousand five hundred dollars for each 1062  
distributing plant or warehouse during the year covered by the 1063  
permit. 1064

**Sec. 4303.07.** Permit B-2 may be issued to a wholesale 1065  
distributor of wine to purchase from holders of A-2 and B-5 1066  
permits and distribute or sell such product, in the original 1067  
container in which it was placed by the B-5 permit holder or 1068  
manufacturer at the place where manufactured, to A-1-A, C-2, D-2, 1069  
D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, 1070

D-5h, D-5i, D-5j, D-5k, and E permit holders, and for home use. 1071  
The fee for this permit is two hundred fifty dollars for each 1072  
distributing plant or warehouse. The initial fee shall be 1073  
increased ten cents per wine barrel of fifty gallons for all wine 1074  
distributed and sold in this state in excess of twelve hundred 1075  
fifty such barrels during the year covered by the permit. 1076

**Sec. 4303.10.** Permit B-5 may be issued to a wholesale 1077  
distributor of wine to purchase wine from the holders of A-2 1078  
permits, to purchase and import wine in bond or otherwise, in bulk 1079  
or in containers of any size, and to bottle wine for distribution 1080  
and sale to holders of A-1-A, B-2, B-3, B-5, C-2, D-2, D-3, D-4, 1081  
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, 1082  
D-5j, D-5k, and E permits and for home use in sealed containers. 1083  
No wine shall be bottled by a B-5 permit holder in containers 1084  
supplied by any person who intends the wine for home use. The fee 1085  
for this permit is one thousand two hundred fifty dollars. 1086

**Sec. 4303.181.** (A) Permit D-5a may be issued either to the 1087  
owner or operator of a hotel or motel that is required to be 1088  
licensed under section 3731.03 of the Revised Code, that contains 1089  
at least fifty rooms for registered transient guests, and that 1090  
qualifies under the other requirements of this section, or to the 1091  
owner or operator of a restaurant specified under this section, to 1092  
sell beer and any intoxicating liquor at retail, only by the 1093  
individual drink in glass and from the container, for consumption 1094  
on the premises where sold, and to registered guests in their 1095  
rooms, which may be sold by means of a controlled access alcohol 1096  
and beverage cabinet in accordance with division (B) of section 1097  
4301.21 of the Revised Code; and to sell the same products in the 1098  
same manner and amounts not for consumption on the premises as may 1099  
be sold by holders of D-1 and D-2 permits. The premises of the 1100  
hotel or motel shall include a retail food establishment or a food 1101

service operation licensed pursuant to Chapter 3717. of the 1102  
Revised Code that operates as a restaurant for purposes of this 1103  
chapter and that is affiliated with the hotel or motel and within 1104  
or contiguous to the hotel or motel, and that serves food within 1105  
the hotel or motel, but the principal business of the owner or 1106  
operator of the hotel or motel shall be the accommodation of 1107  
transient guests. In addition to the privileges authorized in this 1108  
division, the holder of a D-5a permit may exercise the same 1109  
privileges as the holder of a D-5 permit. 1110

The owner or operator of a hotel, motel, or restaurant who 1111  
qualified for and held a D-5a permit on August 4, 1976, may, if 1112  
the owner or operator held another permit before holding a D-5a 1113  
permit, either retain a D-5a permit or apply for the permit 1114  
formerly held, and the division of liquor control shall issue the 1115  
permit for which the owner or operator applies and formerly held, 1116  
notwithstanding any quota. 1117

A D-5a permit shall not be transferred to another location. 1118  
No quota restriction shall be placed on the number of such permits 1119  
that may be issued. 1120

The fee for this permit is one thousand eight hundred 1121  
seventy-five dollars. 1122

(B) Permit D-5b may be issued to the owner, operator, tenant, 1123  
lessee, or occupant of an enclosed shopping center to sell beer 1124  
and intoxicating liquor at retail, only by the individual drink in 1125  
glass and from the container, for consumption on the premises 1126  
where sold; and to sell the same products in the same manner and 1127  
amount not for consumption on the premises as may be sold by 1128  
holders of D-1 and D-2 permits. In addition to the privileges 1129  
authorized in this division, the holder of a D-5b permit may 1130  
exercise the same privileges as a holder of a D-5 permit. 1131

A D-5b permit shall not be transferred to another location. 1132  
1133

One D-5b permit may be issued at an enclosed shopping center 1134  
containing at least two hundred twenty-five thousand, but less 1135  
than four hundred thousand, square feet of floor area. 1136

Two D-5b permits may be issued at an enclosed shopping center 1137  
containing at least four hundred thousand square feet of floor 1138  
area. No more than one D-5b permit may be issued at an enclosed 1139  
shopping center for each additional two hundred thousand square 1140  
feet of floor area or fraction of that floor area, up to a maximum 1141  
of five D-5b permits for each enclosed shopping center. The number 1142  
of D-5b permits that may be issued at an enclosed shopping center 1143  
shall be determined by subtracting the number of D-3 and D-5 1144  
permits issued in the enclosed shopping center from the number of 1145  
D-5b permits that otherwise may be issued at the enclosed shopping 1146  
center under the formulas provided in this division. Except as 1147  
provided in this section, no quota shall be placed on the number 1148  
of D-5b permits that may be issued. Notwithstanding any quota 1149  
provided in this section, the holder of any D-5b permit first 1150  
issued in accordance with this section is entitled to its renewal 1151  
in accordance with section 4303.271 of the Revised Code. 1152

1153  
The holder of a D-5b permit issued before April 4, 1984, 1154  
whose tenancy is terminated for a cause other than nonpayment of 1155  
rent, may return the D-5b permit to the division of liquor 1156  
control, and the division shall cancel that permit. Upon 1157  
cancellation of that permit and upon the permit holder's payment 1158  
of taxes, contributions, premiums, assessments, and other debts 1159  
owing or accrued upon the date of cancellation to this state and 1160  
its political subdivisions and a filing with the division of a 1161  
certification of that payment, the division shall issue to that 1162  
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 1163  
that person requests. The division shall issue the D-5 permit, or 1164  
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 1165

D-3, or D-5 permits currently issued in the municipal corporation 1166  
or in the unincorporated area of the township where that person's 1167  
proposed premises is located equals or exceeds the maximum number 1168  
of such permits that can be issued in that municipal corporation 1169  
or in the unincorporated area of that township under the 1170  
population quota restrictions contained in section 4303.29 of the 1171  
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 1172  
be transferred to another location. If a D-5b permit is canceled 1173  
under the provisions of this paragraph, the number of D-5b permits 1174  
that may be issued at the enclosed shopping center for which the 1175  
D-5b permit was issued, under the formula provided in this 1176  
division, shall be reduced by one if the enclosed shopping center 1177  
was entitled to more than one D-5b permit under the formula. 1178

The fee for this permit is one thousand eight hundred 1179  
seventy-five dollars. 1180  
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(C) Permit D-5c may be issued to the owner or operator of a 1182  
retail food establishment or a food service operation licensed 1183  
pursuant to Chapter 3717. of the Revised Code that operates as a 1184  
restaurant for purposes of this chapter and that qualifies under 1185  
the other requirements of this section to sell beer and any 1186  
intoxicating liquor at retail, only by the individual drink in 1187  
glass and from the container, for consumption on the premises 1188  
where sold, and to sell the same products in the same manner and 1189  
amounts not for consumption on the premises as may be sold by 1190  
holders of D-1 and D-2 permits. In addition to the privileges 1191  
authorized in this division, the holder of a D-5c permit may 1192  
exercise the same privileges as the holder of a D-5 permit. 1193

To qualify for a D-5c permit, the owner or operator of a 1194  
retail food establishment or a food service operation licensed 1195  
pursuant to Chapter 3717. of the Revised Code that operates as a 1196  
restaurant for purposes of this chapter, shall have operated the 1197

restaurant at the proposed premises for not less than twenty-four 1198  
consecutive months immediately preceding the filing of the 1199  
application for the permit, have applied for a D-5 permit no later 1200  
than December 31, 1988, and appear on the division's quota waiting 1201  
list for not less than six months immediately preceding the filing 1202  
of the application for the permit. In addition to these 1203  
requirements, the proposed D-5c permit premises shall be located 1204  
within a municipal corporation and further within an election 1205  
precinct that, at the time of the application, has no more than 1206  
twenty-five per cent of its total land area zoned for residential 1207  
use. 1208

A D-5c permit shall not be transferred to another location. 1209  
No quota restriction shall be placed on the number of such permits 1210  
that may be issued. 1211

Any person who has held a D-5c permit for at least two years 1212  
may apply for a D-5 permit, and the division of liquor control 1213  
shall issue the D-5 permit notwithstanding the quota restrictions 1214  
contained in section 4303.29 of the Revised Code or in any rule of 1215  
the liquor control commission. 1216

The fee for this permit is one thousand two hundred fifty 1217  
dollars. 1218

(D) Permit D-5d may be issued to the owner or operator of a 1219  
retail food establishment or a food service operation licensed 1220  
pursuant to Chapter 3717. of the Revised Code that operates as a 1221  
restaurant for purposes of this chapter and that is located at an 1222  
airport operated by a board of county commissioners pursuant to 1223  
section 307.20 of the Revised Code or at an airport operated by a 1224  
regional airport authority pursuant to Chapter 308. of the Revised 1225  
Code. Not more than one D-5d permit shall be issued in each 1226  
county. The holder of a D-5d permit may sell beer and any 1227  
intoxicating liquor at retail, only by the individual drink in 1228  
glass and from the container, for consumption on the premises 1229



where sold, and may sell the same products in the same manner and  
amounts not for consumption on the premises where sold as may be  
sold by the holders of D-1 and D-2 permits. In addition to the  
privileges authorized in this division, the holder of a D-5d  
permit may exercise the same privileges as the holder of a D-5  
permit.

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

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

(E) Permit D-5e may be issued to any nonprofit organization  
that is exempt from federal income taxation under the "Internal  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as  
amended, or that is a charitable organization under any chapter of  
the Revised Code, and that owns or operates a riverboat 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 the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following:

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

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

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

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

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

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

A D-5f permit shall not be transferred to another location. 1290  
No more than fifteen D-5f permits shall be issued by the division 1291  
of liquor control, and no more than two such permits shall be 1292  
issued in any county. However, the division shall not issue a D-5f 1293  
permit if the permit premises or proposed permit premises are 1294  
located within an area in which the sale of spirituous liquor by 1295  
the glass is prohibited. 1296

A fee for this permit is one thousand eight hundred 1297  
seventy-five dollars. 1298

As used in this division, "navigable river" means a river 1299  
that is also a "navigable water" as defined in the "Federal Power 1300  
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 1301

(G) Permit D-5g may be issued to a nonprofit corporation that 1302  
is either the owner or the operator of a national professional 1303  
sports museum. The holder of a D-5g permit may sell beer and any 1304  
intoxicating liquor at retail, only by the individual drink in 1305  
glass and from the container, for consumption on the premises 1306  
where sold. The holder of a D-5g permit shall sell no beer or 1307  
intoxicating liquor for consumption on the premises where sold 1308  
after one a.m. A D-5g permit shall not be transferred to another 1309  
location. No quota restrictions shall be placed on the number of 1310  
D-5g permits that may be issued. The fee for this permit is one 1311  
thousand five hundred dollars. 1312

(H) Permit D-5h may be issued to any nonprofit organization 1313  
that is exempt from federal income taxation under the "Internal 1314  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 1315  
amended, that owns or operates a fine arts museum and has no less 1316  
than five thousand bona fide members possessing full membership 1317  
privileges. The holder of a D-5h permit may sell beer and any 1318  
intoxicating liquor at retail, only by the individual drink in 1319  
glass and from the container, for consumption on the premises 1320  
where sold. The holder of a D-5h permit shall sell no beer or 1321

intoxicating liquor for consumption on the premises where sold 1322  
after one a.m. A D-5h permit shall not be transferred to another 1323  
location. No quota restrictions shall be placed on the number of 1324  
D-5h permits that may be issued. The fee for this permit is one 1325  
thousand five hundred dollars. 1326

(I) Permit D-5i may be issued to the owner or operator of a 1327  
retail food establishment or a food service operation licensed 1328  
under Chapter 3717. of the Revised Code that operates as a 1329  
restaurant for purposes of this chapter and that meets all of the 1330  
following requirements: 1331

(1) It is located in a municipal corporation or a township 1332  
with a population of fifty thousand or less. 1333

(2) It has inside seating capacity for at least one hundred 1334  
forty persons. 1335

(3) It has at least four thousand square feet of floor area. 1336  
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(4) It offers full-course meals, appetizers, and sandwiches. 1338

(5) Its receipts from beer and liquor sales do not exceed 1339  
twenty-five per cent of its total gross receipts. 1340

(6) The value of its real and personal property exceeds seven 1341  
hundred twenty-five thousand dollars. 1342

The holder of a D-5i permit shall cause an independent audit 1343  
to be performed at the end of one full year of operation following 1344  
issuance of the permit in order to verify the requirements of 1345  
division (I)(5) of this section. The results of the independent 1346  
audit shall be transmitted to the division. Upon determining that 1347  
the receipts of the holder from beer and liquor sales exceeded 1348  
twenty-five per cent of its total gross receipts, the division 1349  
shall suspend the permit of the permit holder under section 1350  
4301.25 of the Revised Code and may allow the permit holder to 1351

elect a forfeiture under section 4301.252 of the Revised Code. 1352

The holder of a D-5i permit may sell beer and any 1353  
intoxicating liquor at retail, only by the individual drink in 1354  
glass and from the container, for consumption on the premises 1355  
where sold, and may sell the same products in the same manner and 1356  
amounts not for consumption on the premises where sold as may be 1357  
sold by the holders of D-1 and D-2 permits. The holder of a D-5i 1358  
permit shall sell no beer or intoxicating liquor for consumption 1359  
on the premises where sold after two-thirty a.m. In addition to 1360  
the privileges authorized in this division, the holder of a D-5i 1361  
permit may exercise the same privileges as the holder of a D-5 1362  
permit. 1363

A D-5i permit shall not be transferred to another location. 1364  
The division of liquor control shall not renew a D-5i permit 1365  
unless the food service operation for which it is issued continues 1366  
to meet the requirements described in divisions (I)(1) to (6) of 1367  
this section. No quota restrictions shall be placed on the number 1368  
of D-5i permits that may be issued. The fee for this permit is one 1369  
thousand eight hundred seventy-five dollars. 1370

(J)(1) Permit D-5j may be issued to the owner or the operator 1371  
of a retail food establishment or a food service operation 1372  
licensed under Chapter 3717. of the Revised Code to sell beer and 1373  
intoxicating liquor at retail, only by the individual drink in 1374  
glass and from the container, for consumption on the premises 1375  
where sold and to sell beer and intoxicating liquor in the same 1376  
manner and amounts not for consumption on the premises where sold 1377  
as may be sold by the holders of D-1 and D-2 permits. The holder 1378  
of a D-5j permit may exercise the same privileges, and shall 1379  
observe the same hours of operation, as the holder of a D-5 1380  
permit. 1381

(2) The D-5j permit shall be issued only within a community 1382  
entertainment district that is designated under section 4301.80 of 1383

the Revised Code and that is located in a municipal corporation  
with a population of at least one hundred thousand.

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(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.

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(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.

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(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.

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(2) The holder of a D-5k permit 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.

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(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.

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

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(5) No quota restrictions shall be placed on the number of

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D-5k permits that may be issued. 1414

(6) The fee for the D-5k permit is one thousand five hundred dollars. 1415  
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**Sec. 4303.182.** (A) Except as otherwise provided in divisions 1417  
(B) to ~~(F)~~ (G) of this section, permit D-6 shall be issued to the 1418  
holder of an A-1-A, A-2, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, 1419  
D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 1420  
permit to allow sale under that permit between the hours of ten 1421  
a.m. and midnight, or between the hours of one p.m. and midnight, 1422  
on Sunday, as applicable, if that sale has been authorized under 1423  
section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised 1424  
Code and under the restrictions of that authorization. 1425

(B) Permit D-6 shall be issued to the holder of any permit, 1426  
including a D-4a and D-5d permit, authorizing the sale of 1427  
intoxicating liquor issued for a premises located at any publicly 1428  
owned airport, as defined in section 4563.01 of the Revised Code, 1429  
at which commercial airline companies operate regularly scheduled 1430  
flights on which space is available to the public, to allow sale 1431  
under such permit between the hours of ten a.m. and midnight on 1432  
Sunday, whether or not that sale has been authorized under section 1433  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 1434

(C) Permit D-6 shall be issued to the holder of a D-5a 1435  
permit, and to the holder of a D-3 or D-3a permit who is the owner 1436  
or operator of a hotel or motel that is required to be licensed 1437  
under section 3731.03 of the Revised Code, that contains at least 1438  
fifty rooms for registered transient guests, and that has on its 1439  
premises a retail food establishment or a food service operation 1440  
licensed pursuant to Chapter 3717. of the Revised Code that 1441  
operates as a restaurant for purposes of this chapter and is 1442  
affiliated with the hotel or motel and within or contiguous to the 1443  
hotel or motel and serving food within the hotel or motel, to 1444

allow sale under such permit between the hours of ten a.m. and 1445  
midnight on Sunday, whether or not that sale has been authorized 1446  
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 1447  
Revised Code. 1448

(D) The holder of a D-6 permit that is issued to a sports 1449  
facility may make sales under the permit between the hours of 1450  
eleven a.m. and midnight on any Sunday on which a professional 1451  
baseball, basketball, football, hockey, or soccer game is being 1452  
played at the sports facility. As used in this division, "sports 1453  
facility" means a stadium or arena that has a seating capacity of 1454  
at least four thousand and that is owned or leased by a 1455  
professional baseball, basketball, football, hockey, or soccer 1456  
franchise or any combination of those franchises. 1457

(E) Permit D-6 shall be issued to the holder of any permit 1458  
that authorizes the sale of beer or intoxicating liquor and that 1459  
is issued to a premises located in or at the Ohio historical 1460  
society area or the state fairgrounds, as defined in division (B) 1461  
of section 4301.40 of the Revised Code, to allow sale under that 1462  
permit between the hours of ten a.m. and midnight on Sunday, 1463  
whether or not that sale has been authorized under section 1464  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 1465

(F) Permit D-6 shall be issued to the holder of any permit 1466  
that authorizes the sale of intoxicating liquor and that is issued 1467  
to an outdoor performing arts center to allow sale under that 1468  
permit between the hours of one p.m. and midnight on Sunday, 1469  
whether or not that sale has been authorized under section 1470  
4301.361 of the Revised Code. A D-6 permit issued under this 1471  
division is subject to the results of an election, held after the 1472  
D-6 permit is issued, on question (B)(4) as set forth in section 1473  
4301.351 of the Revised Code. Following the end of the period 1474  
during which an election may be held on question (B)(4) as set 1475  
forth in that section, sales of intoxicating liquor may continue 1476



at an outdoor performing arts center under a D-6 permit issued 1477  
under this division, unless an election on that question is held 1478  
during the permitted period and a majority of the voters voting in 1479  
the precinct on that question vote "no." 1480

As used in this division, "outdoor performing arts center" 1481  
means an outdoor performing arts center that is located on not 1482  
less than eight hundred acres of land and that is open for 1483  
performances from the first day of April to the last day of 1484  
October of each year. 1485

(G) Permit D-6 shall be issued to the holder of any permit 1486  
that authorizes the sale of beer or intoxicating liquor and that 1487  
is issued to a golf course owned by the state, a conservancy 1488  
district, a park district created under Chapter 1545. of the 1489  
Revised Code, or another political subdivision to allow sale under 1490  
that permit between the hours of ten a.m. and midnight on Sunday, 1491  
whether or not that sale has been authorized under section 1492  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 1493

(H) If the restriction to licensed premises where the sale of 1494  
food and other goods and services exceeds fifty per cent of the 1495  
total gross receipts of the permit holder at the premises is 1496  
applicable, the division of liquor control may accept an affidavit 1497  
from the permit holder to show the proportion of the permit 1498  
holder's gross receipts derived from the sale of food and other 1499  
goods and services. If the liquor control commission determines 1500  
that affidavit to have been false, it shall revoke the permits of 1501  
the permit holder at the premises concerned. 1502

~~(H)~~(I) The fee for the D-6 permit is two hundred fifty 1503  
dollars when it is issued to the holder of an A-1-A, A-2, D-2, 1504  
D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, 1505  
D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 1506  
permit is two hundred dollars when it is issued to the holder of a 1507  
C-2 permit. 1508

Sec. 4303.204. (A) The division of liquor control may issue 1509  
an F-4 permit to an association or corporation organized 1510  
not-for-profit in this state to conduct an event that includes the 1511  
introduction, showcasing, or promotion of Ohio wines, if the event 1512  
has all of the following characteristics: 1513

(1) It is coordinated by that association or corporation, and 1514  
the association or corporation is responsible for the activities 1515  
at it. 1516

(2) It has as one of its purposes the intent to introduce, 1517  
showcase, or promote Ohio wines to persons who attend it. 1518

(3) It includes the sale of food for consumption on the 1519  
premises where sold. 1520

(4) It features at least three A-2 permit holders who sell 1521  
Ohio wine at it. 1522

(B) The holder of an F-4 permit may furnish, without charge, 1523  
wine that it has obtained from the A-2 permit holders that are 1524  
participating in the event for which the F-4 permit is issued, in 1525  
two-ounce samples for consumption on the premises where furnished 1526  
and may sell such wine by the glass for consumption on the 1527  
premises where sold. The holder of an A-2 permit that is 1528  
participating in the event for which the F-4 permit is issued may 1529  
sell wine that it has manufactured, in sealed containers for 1530  
consumption off the premises where sold. Wine may be furnished or 1531  
sold on the premises of the event for which the F-4 permit is 1532  
issued only where and when the sale of wine is otherwise permitted 1533  
by law. 1534

(C) The premises of the event for which the F-4 permit is 1535  
issued shall be clearly defined and sufficiently restricted to 1536  
allow proper enforcement of the permit by state and local law 1537  
enforcement officers. If an F-4 permit is issued for all or a 1538

portion of the same premises for which another class of permit is 1539  
issued, that permit holder's privileges will be suspended in that 1540  
portion of the premises in which the F-4 permit is in effect. 1541

(D) No F-4 permit shall be effective for more than 1542  
seventy-two consecutive hours. No sales or furnishing of wine 1543  
shall take place under an F-4 permit after one a.m. 1544

(E) The division shall not issue more than six F-4 permits to 1545  
the same not-for-profit association or corporation in any one 1546  
calendar year. 1547

(F) An applicant for an F-4 permit shall apply for the permit 1548  
not later than thirty days prior to the first day of the event for 1549  
which the permit is sought. The application for the permit shall 1550  
list all of the A-2 permit holders that will participate in the 1551  
event for which the F-4 permit is sought. The fee for the F-4 1552  
permit is thirty dollars per day. 1553

The division shall prepare and make available an F-4 permit 1554  
application form and may require applicants for and holders of the 1555  
F-4 permit to provide information that is in addition to that 1556  
required by this section and that is necessary for the 1557  
administration of this section. 1558

(G)(1) The holder of an F-4 permit is responsible for, and is 1559  
subject to penalties for, any violations of this chapter or 1560  
Chapter 4301. of the Revised Code or the rules adopted under this 1561  
and that chapter. 1562

(2) An F-4 permit holder shall not allow an A-2 permit holder 1563  
to participate in the event for which the F-4 permit is issued if 1564  
the A-2 or A-1-A permit of that A-2 permit holder is under 1565  
suspension. 1566

(3) The division may refuse to issue an F-4 permit to an 1567  
applicant who has violated any provision of this chapter or 1568  
Chapter 4301. of the Revised Code during the applicant's previous 1569

operation under an F-4 permit, for a period of up to two years 1570  
after the date of the violation. 1571

(H)(1) Notwithstanding division (E) of section 4301.22 of the 1572  
Revised Code, an A-2 permit holder that participates in an event 1573  
for which an F-4 permit is issued may donate wine that it has 1574  
manufactured to the holder of that F-4 permit. The holder of an 1575  
F-4 permit may return unused and sealed containers of wine to the 1576  
A-2 permit holder that donated the wine at the conclusion of the 1577  
event for which the F-4 permit was issued. 1578

(2) The participation by an A-2 permit holder or its 1579  
employees in an event for which an F-4 permit is issued does not 1580  
violate section 4301.24 of the Revised Code. 1581

**Sec. 4303.22.** Permit H may be issued for a fee of one hundred 1583  
fifty dollars to a carrier by motor vehicle who also holds a 1584  
license issued by the public utilities commission to transport 1585  
beer, intoxicating liquor, and alcohol, or any of them, in this 1586  
state for delivery or use in this state. This section does not 1587  
prevent the division of liquor control from contracting with 1588  
common or contract carriers for the delivery or transportation of 1589  
liquor for the division, and any contract or common carrier so 1590  
contracting with the division is eligible for an H permit. 1591  
Manufacturers or wholesale distributors of beer or intoxicating 1592  
liquor other than spirituous liquor who transport or deliver their 1593  
own products to or from their premises licensed under ~~Chapters~~ 1594  
this chapter and Chapter 4301. and 4303. of the Revised Code by 1595  
their own trucks as an incident to the purchase or sale of such 1596  
beverages need not obtain an H permit. Carriers by rail shall 1597  
receive ~~such an~~ H permit upon application ~~therefor~~ for it. 1598

This section does not prevent the division from issuing, upon 1599  
the payment of the permit fee, an H permit to any person, 1600  
partnership, firm, or corporation, licensed by any other state to 1601

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

**Sec. 4303.29.** (A) No permit, other than an H permit, shall be 1627  
issued to a firm or partnership unless all the members of ~~said the~~ 1628  
firm or partnership are citizens of the United States and a 1629  
majority have resided in this state for one year prior to 1630  
application for ~~such the~~ permit. No permit, other than an H 1631  
permit, shall be issued to an individual who is not a citizen of 1632  
the United States who has resided in this state for at least one 1633

year prior to application for ~~such~~ the permit. No permit, other 1634  
than an E or H permit, shall be issued to any corporation 1635  
organized under the laws of any country, territory, or state other 1636  
than ~~Ohio~~ this state until it has furnished the division of liquor 1637  
control with evidence that it has complied with the laws of this 1638  
state relating to the transaction of business in this state. 1639

The division may refuse to issue any permit to or refuse to 1640  
renew any permit of any person convicted of any felony that is 1641  
reasonably related to the person's fitness to operate a liquor 1642  
permit business in this state. No holder of a permit shall sell, 1643  
assign, transfer, or pledge ~~such~~ the permit, without the written 1644  
consent of the division. 1645

(B)(1) No more than one of each type of C or D ~~permits~~ permit 1646  
shall be issued to any one person, firm, or corporation in any 1647  
county having a population of less than twenty-five thousand, and 1648  
no more than one of each type of C or D ~~permits~~ permit shall be 1649  
issued to any one person, firm, or corporation for any additional 1650  
twenty-five thousand or major fraction thereof in any county 1651  
having a greater population than twenty-five thousand, provided 1652  
that, in the case of D-3, D-3a, D-4, and D-5 permits, no more than 1653  
one permit shall be issued to any one person, firm, or corporation 1654  
in any county having a population of less than fifty thousand, and 1655  
no more than one such permit shall be issued to any one person, 1656  
firm, or corporation for any additional fifty thousand or major 1657  
fraction thereof in any county having a greater population than 1658  
fifty thousand. 1659

(2) No D-3 permit shall be issued to any club unless ~~such~~ the 1660  
club has been continuously engaged in the activity specified in 1661  
section 4303.15 of the Revised Code, as a qualification for ~~such~~ 1662  
that class of permit, for two years at the time ~~such~~ the permit is 1663  
issued. 1664

(3)(a) Subject to division (B)(3)(b) of this section, upon 1665

application by properly qualified persons, one C-1 and C-2 permit shall be issued for each one thousand population or part ~~thereof~~ of that population, and one D-1 and D-2 permit shall be issued for each two thousand population or part ~~thereof~~ of that population, in each municipal corporation and in the unincorporated area of each township.

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

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(b) ~~Nothing in division (i) Division~~ Division (B)(3)(a) of this section ~~shall be construed to~~ does not prohibit the transfer of location or the transfer of ownership and location of a C-1, C-2, D-1, D-2, D-3, or D-5 permit from a municipal corporation or the unincorporated area of a township in which the number of permits of that class exceeds the number of such permits authorized to be issued under division (B)(3)(a) of this section to an economic development project located in another municipal corporation or the unincorporated area of another township in which no additional permits of that class may be issued to the applicant under division (B)(3)(a) of this section, but the transfer of location or transfer of ownership and location of the permit may occur only if the applicant notifies 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 in writing to the division of liquor control, at the time the application for the transfer of location or transfer of ownership and location of the permit is filed, that the transfer will be to an economic development project. This acknowledgment by the

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municipal corporation or township does not prohibit it from 1698  
requesting a hearing under section 4303.26 of the Revised Code. 1699  
The applicant is eligible to apply for and receive the transfer of 1700  
location of the permit under division (B)(3)(b) of this section if 1701  
all permits of that class that may be issued under division 1702  
(B)(3)(a) of this section in the applicable municipal corporation 1703  
or unincorporated area of the township have already been issued or 1704  
if the number of applications filed for permits of that class in 1705  
that municipal corporation or the unincorporated area of that 1706  
township exceed the number of permits of that class that may be 1707  
issued there under division (B)(3)(a) of this section. 1708

A permit transferred under division (B)(3)(b) of this section 1709  
may be subsequently transferred to a different owner at the same 1710  
location, or to the same owner or a different owner at a different 1711  
location in the same municipal corporation or in the 1712  
unincorporated area of the same township, as long as the same or 1713  
new location meets the economic development project criteria set 1714  
forth in this section. 1715

(ii) Factors that shall be used to determine the designation 1716  
of an economic development project include, but are not limited 1717  
to, architectural certification of the plans and the cost of the 1718  
project, the number of jobs that will be created by the project, 1719  
projected earnings of the project, projected tax revenues for the 1720  
political subdivisions in which the project will be located, and 1721  
the amount of financial investment in the project. The 1722  
superintendent of liquor control shall determine whether the 1723  
existing or proposed business that is seeking a permit described 1724  
in division (B)(3)(b) of this section qualifies as an economic 1725  
development project and, if the superintendent determines that it 1726  
so qualifies, shall designate the business as an economic 1727  
development project. 1728

(4) Nothing in this section shall be construed to restrict 1729



the issuance of a permit to a municipal corporation for use at a  
municipally owned airport at which commercial airline companies  
operate regularly scheduled flights on which space is available to  
the public. A municipal corporation applying for a permit for such  
a municipally owned airport is exempt, in regard to that  
application, from the population restrictions contained in this  
section and from population quota restrictions contained in any  
rule of the liquor control commission. A municipal corporation  
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a  
municipally owned airport is subject to section 4303.31 of the  
Revised Code.

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

(6) Nothing in this section shall be construed to restrict  
the issuance of a permit for a premises located at a golf course  
owned by a municipal corporation, township, or county, owned by a  
park district created under Chapter 1545. of the Revised Code, or  
owned by the state. The location of such a permit issued on or  
after September 26, 1984, for a premises located at such a golf  
course shall not be transferred. Any application for such a permit  
is exempt from the population quota restrictions contained in this

section and from the population quota restrictions contained in 1762  
any rule of the liquor control commission. A municipal 1763  
corporation, township, county, park district, or state agency 1764  
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a golf 1765  
course is subject to section 4303.31 of the Revised Code. 1766

(7) As used in division (B)(7) of this section, "fair" has 1767  
the same meaning as in section 991.01 of the Revised Code, "state 1768  
fairgrounds" means the property that is held by the state for the 1769  
purpose of conducting fairs, expositions, and exhibits and that is 1770  
maintained and managed by the Ohio expositions commission under 1771  
section 991.03 of the Revised Code, and "capitol square" has the 1772  
same meaning as in section 105.41 of the Revised Code. 1773

Nothing in this section shall be construed to restrict the 1774  
issuance of one or more D permits to one or more applicants for 1775  
all or a part of either the state fairgrounds or capitol square. 1776  
An application for a D permit for the state fairgrounds or capitol 1777  
square is exempt from the population quota restrictions contained 1778  
in this section and from the population quota restrictions 1779  
contained in any rule of the liquor control commission. The 1780  
location of a D permit issued for the state fairgrounds or capitol 1781  
square shall not be transferred. An applicant for a D-1, D-2, D-3, 1782  
or D-5 permit for the state fairgrounds is not subject to section 1783  
4303.31 of the Revised Code. 1784

Pursuant to section 1711.09 of the Revised Code, the holder 1785  
of a D permit issued for the state fairgrounds shall not deal in 1786  
spirituous liquor at the state fairgrounds during, or for one week 1787  
before or for three days after, any fair held at the state 1788  
fairgrounds. 1789

(8) Nothing in this section shall be construed to prohibit 1790  
the issuance of a D permit for a premises located at a zoological 1791  
park at which sales have been approved in an election held under 1792  
former section 4301.356 of the Revised Code. An application for a 1793

D permit for such a premises is exempt from the population 1794  
restrictions contained in this section, from the population quota 1795  
restrictions contained in any rule of the liquor control 1796  
commission, and from section 4303.31 of the Revised Code. The 1797  
location of a D permit issued for a premises at such a zoological 1798  
park shall not be transferred, and no quota or other restrictions 1799  
shall be placed on the number of D permits that may be issued for 1800  
a premises at such a zoological park. 1801

(C)(1) No D-3, D-4, D-5, or D-5a permit shall be issued in 1802  
any election precinct in any municipal corporation or in any 1803  
election precinct in the unincorporated area of any township, in 1804  
which at the November, 1933, election a majority of the electors 1805  
voting thereon in the municipal corporation or in the 1806  
unincorporated area of the township voted against the repeal of 1807  
Section 9 of Article XV, Ohio Constitution, unless the sale of 1808  
spirituous liquor by the glass is authorized by a majority vote of 1809  
the electors voting on the question in the precinct at an election 1810  
held pursuant to this section or by a majority vote of the 1811  
electors of the precinct voting on question (C) at a special local 1812  
option election held in the precinct pursuant to section 4301.35 1813  
of the Revised Code. Upon the request of an elector, the board of 1814  
elections of the county that encompasses the precinct shall 1815  
furnish the elector with a copy of the instructions prepared by 1816  
the secretary of state under division (P) of section 3501.05 of 1817  
the Revised Code and, within fifteen days after the request, a 1818  
certificate of the number of signatures required for a valid 1819  
petition under this section. 1820

Upon the petition of thirty-five per cent of the total number 1821  
of voters voting in any such precinct for the office of governor 1822  
at the preceding general election, filed with the board of 1823  
elections of the county in which such precinct is located not 1824  
later than seventy-five days before a general election, ~~such~~ the 1825

board shall prepare ballots and hold an election at such general 1826  
election upon the question of allowing spirituous liquor to be 1827  
sold by the glass in such precinct. ~~Such~~ The ballots shall be 1828  
approved in form by the secretary of state. The results of ~~such~~ 1829  
the election shall be certified by the board to the secretary of 1830  
state, who shall certify the ~~same~~ results to the division. 1831

(2) No holder of a class D-3 permit issued for a boat or 1832  
vessel shall sell spirituous liquor in any precinct, in which the 1833  
election provided for in this section may be held, unless the sale 1834  
of ~~such~~ spirituous liquor by the drink has been authorized by vote 1835  
of the electors as provided in this section or in section 4301.35 1836  
of the Revised Code. 1837

(D) Any holder of a C or D permit whose permit premises were 1838  
purchased in 1986 or 1987 by the state of Ohio or any state agency 1839  
for highway purposes shall be issued the same permit at another 1840  
location notwithstanding any quota restrictions contained in this 1841  
chapter or in any rule of the liquor control commission. 1842

**Sec. 4303.30.** The rights granted by any D-2, D-3, D-3a, D-4, 1843  
D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, 1844  
or D-6 permit shall be exercised at not more than two fixed 1845  
counters, commonly known as bars, in rooms or places on the permit 1846  
premises, where ~~malt beverages~~ beer, mixed beverages, wine, or 1847  
spirituous liquor is sold to the public for consumption on the 1848  
premises. For each additional fixed counter on the permit premises 1849  
where those beverages are sold for consumption on the premises, 1850  
the permit holder shall obtain a duplicate D-2, D-3, D-3a, D-4, 1851  
D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, 1852  
or D-6 permit. 1853

The holder of any D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, 1854  
D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-6 permit shall be 1855  
granted, upon application to the division of liquor control, a 1856

## As Re-Reported by the House State Government Committee

duplicate D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e, D-5f, 1857  
D-5g, D-5h, D-5i, D-5j, D-5k, or D-6 permit for each additional 1858  
fixed counter on the permit premises at which beer, ~~malt~~ 1859  
~~beverages~~, mixed beverages, wine, or spirituous liquor is sold for 1860  
consumption on the premises, provided the application is made in 1861  
the same manner as an application for an original permit. The 1862  
application shall be identified with DUPLICATE printed on the 1863  
permit application form furnished by the department, in boldface 1864  
type. The application shall identify by name, or otherwise amply 1865  
describe, the room or place on the premises where the duplicate 1866  
permit is to be operative. Each duplicate permit shall be issued 1867  
only to the same individual, firm, or corporation as that of the 1868  
original permit and shall be an exact duplicate in size and word 1869  
content as the original permit, except that it shall show on it 1870  
the name or other ample identification of the room, or place, for 1871  
which it is issued and shall have DUPLICATE printed on it in 1872  
boldface type. A duplicate permit shall bear the same number as 1873  
the original permit. The fee for a duplicate permit is: D-1, one 1874  
hundred dollars; D-2, one hundred dollars; D-3, four hundred 1875  
dollars; D-3a, four hundred dollars; D-4, two hundred dollars; 1876  
D-5, one thousand dollars; D-5a, one thousand dollars; D-5b, one 1877  
thousand dollars; D-5c, four hundred dollars; D-5e, six hundred 1878  
fifty dollars; D-5f, one thousand dollars; D-6, one hundred 1879  
dollars when issued to the holder of a D-4a permit; and in all 1880  
other cases one hundred dollars or an amount which is twenty per 1881  
cent of the fees payable for the A-1-A, D-2, D-3, D-3a, D-4, D-5, 1882  
D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, and D-6 1883  
permits issued to the same premises, whichever is higher. 1884  
Application for a duplicate permit may be filed any time during 1885  
the life of an original permit. The fee for each duplicate D-2, 1886  
D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, 1887  
D-5i, D-5j, D-5k, or D-6 permit shall accompany the application 1888  
for each such duplicate permit. 1889

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

**Sec. 4303.35.** No holders of A-1-A, C-1, C-2, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, F, or F-3 permits shall purchase any beer ~~or malt beverage~~ subject to the tax imposed by sections 4301.42 and 4305.01 of the Revised Code or any wine or mixed beverage subject to the tax imposed by section 4301.43 of the Revised Code

for resale, except from holders of A or B permits. 1921

No holders of A-1-A, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, 1922

D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, ~~or~~ D-5j, or D-5k permits 1923

shall purchase spirituous liquor for resale except from the 1924

division of liquor control, unless with the special consent of the 1925

division under particular regulations and markup provisions 1926

prescribed by the superintendent of liquor control. 1927

**Sec. 4305.01.** For the purpose of reimbursing the state for 1928

the expenses of administering Chapters 4301. and 4303. of the 1929

Revised Code and to provide revenues for the support of the state, 1930

a tax is hereby levied on the sale or distribution in ~~Ohio~~ this 1931

state of beer, whether in barrels or other containers, excepting 1932

in sealed bottles or cans, at the rate of five dollars and 1933

fifty-eight cents per barrel of thirty-one gallons. 1934

The tax commissioner shall exercise, with respect to the 1935

administration of the tax imposed by this section, all the powers 1936

and duties vested in or imposed by sections 4307.04 to 4307.07 of 1937

the Revised Code, so far as consistent with this section. 1938

Manufacturers and consignees of beer in barrels or other 1939

containers, excepting in sealed bottles or cans, and railroad 1940

companies, express companies, and other public carriers 1941

transporting shipments of such beer are subject, with respect to 1942

such tax, to the same duties and entitled to the same privileges 1943

as are required or permitted by ~~such~~ those sections. 1944

The revenue derived from the tax on the sale and distribution 1945

of beer pursuant to this section and section 4301.42 of the 1946

Revised Code shall be for the use of the general revenue fund. 1947

The tax refund fund created by section 5703.052 of the 1948

Revised Code may be drawn upon by the tax commissioner for any 1949

refunds authorized to be made by ~~him~~ the commissioner in sections 1950

4303.33, 4307.05, and 4307.07 of the Revised Code for ~~malt~~ 1951

beverages beer. 1952

**Sec. 4305.03.** No person shall make any false entry upon an 1953  
invoice, or container of beer, ~~ale, porter, stout, or other malt~~ 1954  
~~beverage,~~ when the entry is required to be made under section 1955  
4305.01 of the Revised Code, or present any such false entry for 1956  
the inspection of the tax commissioner. 1957

**Sec. 4305.04.** No person shall prevent or hinder the tax 1958  
commissioner from making a full inspection of any place where 1959  
~~beer, ale, porter, stout, or other malt beverages~~ subject to the 1960  
tax imposed by section 4305.01 of the Revised Code ~~are~~ is sold or 1961  
stored, or prevent or hinder the full inspection of invoices, 1962  
books, records, or papers required to be kept under ~~such~~ that 1963  
section. 1964

**Sec. 4399.09.** (A) No person shall keep a place where beer or 1965  
intoxicating liquors are sold, furnished, or given away in 1966  
violation of law. The court, on conviction for a subsequent 1967  
~~offense~~ violation of this section, shall order the place where 1968  
~~such~~ the beer or intoxicating liquor is sold, furnished, or given 1969  
away to be abated as a nuisance, or shall order the person so 1970  
convicted ~~for such offense~~ to give bond payable to the state in 1971  
the sum of one thousand dollars, with sureties to the acceptance 1972  
of the court, that ~~such~~ the person will not sell, furnish, or give 1973  
away beer or intoxicating liquor in violation of law, and will pay 1974  
all fines, costs, and damages assessed against ~~him~~ the person for 1975  
~~such~~ that subsequent violation of this section. The giving away of 1976  
beer or intoxicating liquors, or any other device to evade this 1977  
section division, constitutes unlawful selling. 1978

As used in this ~~section~~ division, "beer" has the same meaning 1979  
~~set forth~~ as in section 4301.01 of the Revised Code. 1980

(B) Division (A) of this section does not apply to any 1981



premises for which a permit has been issued under Chapter 4303. of 1982  
the Revised Code while that permit is in effect. 1983

**Sec. 4399.12.** No provision contained in Title XLIII of the 1984  
Revised Code that prohibits the sale of intoxicating liquors in 1985  
any of the circumstances described in section 4399.11 of the 1986  
Revised Code extends to or prevents the holder of an A, B, C-2, 1987  
D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, 1988  
D-5h, D-5i, D-5j, D-5k, G, or I permit issued by the division of 1989  
liquor control from distributing or selling intoxicating liquor at 1990  
the place of business described in the permit of the holder. 1991

**Sec. 4399.15.** No person, for the purpose of sale, shall 1992  
adulterate spirituous liquor, alcoholic liquor, or ~~malt liquor~~ 1993  
beer used or intended for drink or medicinal or mechanical 1994  
purposes, with cocculus indicus, vitriol, grains of paradise, 1995  
opium, alum, capsicum, copperas, laurel water, logwood, 1996  
Brazilwood, cochineal, sugar of lead, aloes, glucose, tannic acid, 1997  
or any other substance ~~which~~ that is poisonous or injurious to 1998  
health, or with a substance not a necessary ingredient in the 1999  
manufacture ~~thereof~~ of the spirituous liquor, alcoholic liquor, or 2000  
beer, or sell, offer, or keep for sale ~~liquors~~ spirituous liquor, 2001  
alcoholic liquor, or beer that is so adulterated. 2002

In addition to the penalties provided in division (E) of 2003  
section 4399.99 of the Revised Code, a person convicted of 2004  
violating this section shall pay all necessary costs and expenses 2005  
incurred in inspecting and analyzing ~~liquors~~ spirituous liquor, 2006  
alcoholic liquor, or beer that is so adulterated, sold, kept, or 2007  
offered for sale. 2008

**Sec. 5733.065.** (A) As used in this section, "litter stream 2009  
products" means: 2010

(1) Intoxicating liquor, beer, <del>malt beverages</del> , wine, mixed beverages, or spirituous liquor as defined in section 4301.01 of the Revised Code;	2011 2012 2013
(2) Soft drinks as defined in section 913.22 of the Revised Code;	2014 2015
(3) Glass, metal, plastic, or fiber containers with a capacity of less than two gallons sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;	2016 2017 2018 2019
(4) Container crowns and closures sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;	2020 2021 2022
(5) Packaging materials transferred or intended for transfer of use or possession in conjunction with retail sales of products enumerated in divisions (A)(1) and (2) of this section;	2023 2024 2025
(6) Packaging materials in the finished form in which they are to be used, including sacks, bags, cups, lids, straws, plates, wrappings, boxes, or containers of any type used in the packaging or serving of food or beverages, when the food or beverages are prepared for human consumption by a restaurant or take-out food outlet at the premises where sold at retail and are delivered to a purchaser for consumption off the premises where the food or beverages are sold;	2026 2027 2028 2029 2030 2031 2032 2033
(7) Cigarettes, cigars, tobacco, matches, candy, and gum.	2034
(B) For the purpose of providing additional funding for the division of recycling and litter prevention under Chapter 1502. of the Revised Code, there is hereby levied an additional tax on corporations for the privilege of manufacturing or selling litter stream products in this state. The tax imposed by this section is in addition to the tax charged under section 5733.06 of the Revised Code, computed at the rate prescribed by section 5733.066	2035 2036 2037 2038 2039 2040 2041

of the Revised Code. This section does not apply for tax year 1981 2042  
to a corporation whose taxable year for tax year 1981 ended on or 2043  
before June 30, 1980. 2044

(C) The tax shall be imposed upon each corporation subject to 2045  
the tax imposed by section 5733.06 of the Revised Code that 2046  
manufactures or sells litter stream products in this state. The 2047  
tax for each year shall be in an amount equal to the greater of 2048  
either: 2049

(1) Twenty-two hundredths of one per cent upon the value of 2050  
that portion of the taxpayer's issued and outstanding shares of 2051  
stock as determined under division (B) of section 5733.05 of the 2052  
Revised Code that is subject to the rate contained in division (B) 2053  
of section 5733.06 of the Revised Code; 2054

(2) Fourteen one-hundredths of a mill times the value of the 2055  
taxpayer's issued and outstanding shares of stock as determined 2056  
under division (C) of section 5733.05 of the Revised Code. 2057

The additional tax charged any taxpayer or group of combined 2058  
taxpayers pursuant to this section for any tax year shall not 2059  
exceed five thousand dollars. 2060

(D)(1) In the case of a corporation engaged in the business 2061  
of manufacturing litter stream products, no tax shall be due under 2062  
this section unless the sale of litter stream products in this 2063  
state during the taxable year exceeds five per cent of the total 2064  
sales in this state of the corporation during that period or 2065  
unless the total sales in this state of litter stream products by 2066  
the corporation during the taxable year exceed ten million 2067  
dollars. 2068

(2) In the case of a corporation engaged in the business of 2069  
selling litter stream products in the form in which the item is or 2070  
is to be received, no tax shall be due under this section unless 2071  
the corporation's sales of litter stream products in this state 2072

during the taxable year constitute more than five per cent of its 2073  
total sales in this state during that period. 2074

(3) In the case of a corporation transferring possession of 2075  
litter stream products included in division (A)(6) of this 2076  
section, in which food or beverages prepared for human consumption 2077  
are placed, when the food or beverages are prepared for retail 2078  
sale at the premises where sold and are delivered to a purchaser 2079  
for consumption off the premises where the food or beverages are 2080  
sold, no tax shall be due under this section unless such sales for 2081  
off-premises consumption during the taxable year exceed five per 2082  
cent of the corporation's total annual sales during the taxable 2083  
year. 2084

(E)(1) The tax imposed by this section is due in the 2085  
proportions and on the dates on which the tax imposed by section 2086  
5733.06 of the Revised Code may be paid without penalty. 2087

(2) Payment of the tax and any reports or returns required to 2088  
enable the tax commissioner to determine the correct amount of the 2089  
tax shall be submitted with and are due at the same time as 2090  
payments and reports required to be submitted under this chapter. 2091

(3) If the tax is not paid in full on or before the date 2092  
required by division (E)(1) of this section, the unpaid portion of 2093  
the tax due and unpaid shall be subject to all provisions of this 2094  
chapter for the collection of unpaid, delinquent taxes imposed by 2095  
section 5733.06 of the Revised Code, except that all such taxes, 2096  
interest, and penalties, when collected, shall be treated as 2097  
proceeds arising from the tax imposed by this section and shall be 2098  
deposited in the general revenue fund. 2099

The tax levied on corporations under this section does not 2100  
prohibit or otherwise limit the authority of municipal 2101  
corporations to impose an income tax on the income of such 2102  
corporations. 2103

Sec. 5739.02. For the purpose of providing revenue with which 2104  
to meet the needs of the state, for the use of the general revenue 2105  
fund of the state, for the purpose of securing a thorough and 2106  
efficient system of common schools throughout the state, for the 2107  
purpose of affording revenues, in addition to those from general 2108  
property taxes, permitted under constitutional limitations, and 2109  
from other sources, for the support of local governmental 2110  
functions, and for the purpose of reimbursing the state for the 2111  
expense of administering this chapter, an excise tax is hereby 2112  
levied on each retail sale made in this state. 2113

(A) The tax shall be collected pursuant to the schedules in 2114  
section 5739.025 of the Revised Code. 2115

The tax applies and is collectible when the sale is made, 2116  
regardless of the time when the price is paid or delivered. 2117

In the case of a sale, the price of which consists in whole 2118  
or in part of rentals for the use of the thing transferred, the 2119  
tax, as regards ~~such~~ those rentals, shall be measured by the 2120  
installments ~~thereof~~ of those rentals. 2121

In the case of a sale of a service defined under division 2122  
(MM) or (NN) of section 5739.01 of the Revised Code, the price of 2123  
which consists in whole or in part of a membership for the receipt 2124  
of the benefit of the service, the tax applicable to the sale 2125  
shall be measured by the installments thereof. 2126

(B) The tax does not apply to the following: 2127

(1) Sales to the state or any of its political subdivisions, 2128  
or to any other state or its political subdivisions if the laws of 2129  
that state exempt from taxation sales made to this state and its 2130  
political subdivisions; 2131

(2) Sales of food for human consumption off the premises 2132  
where sold; 2133

(3) Sales of food sold to students only in a cafeteria,	2134
dormitory, fraternity, or sorority maintained in a private,	2135
public, or parochial school, college, or university;	2136
(4) Sales of newspapers, and of magazine subscriptions	2137
shipped by second class mail, and sales or transfers of magazines	2138
distributed as controlled circulation publications;	2139
(5) The furnishing, preparing, or serving of meals without	2140
charge by an employer to an employee provided the employer records	2141
the meals as part compensation for services performed or work	2142
done;	2143
(6) Sales of motor fuel upon receipt, use, distribution, or	2144
sale of which in this state a tax is imposed by the law of this	2145
state, but this exemption shall not apply to the sale of motor	2146
fuel on which a refund of the tax is allowable under section	2147
5735.14 of the Revised Code; and the tax commissioner may deduct	2148
the amount of tax levied by this section applicable to the price	2149
of motor fuel when granting a refund of motor fuel tax pursuant to	2150
section 5735.14 of the Revised Code and shall cause the amount	2151
deducted to be paid into the general revenue fund of this state;	2152
(7) Sales of natural gas by a natural gas company, of water	2153
by a water-works company, or of steam by a heating company, if in	2154
each case the thing sold is delivered to consumers through pipes	2155
or conduits, and all sales of communications services by a	2156
telephone or telegraph company, all terms as defined in section	2157
5727.01 of the Revised Code;	2158
(8) Casual sales by a person, or auctioneer employed directly	2159
by the person to conduct such sales, except as to such sales of	2160
motor vehicles, watercraft or outboard motors required to be	2161
titled under section 1548.06 of the Revised Code, watercraft	2162
documented with the United States coast guard, snowmobiles, and	2163
all-purpose vehicles as defined in section 4519.01 of the Revised	2164

Code;	2165
(9) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization, except that sales made by separate student clubs and other groups of students of a primary or secondary school, and sales made by a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school, shall not be considered to be sales of such school, and sales by each such club, group, association, or organization shall be counted separately for purposes of the six-day limitation. This division does not apply to sales by a noncommercial educational radio or television broadcasting station.	2166 2167 2168 2169 2170 2171 2172 2173 2174 2175 2176 2177 2178 2179 2180 2181 2182 2183 2184 2185 2186 2187 2188 2189 2190
(10) Sales not within the taxing power of this state under the Constitution of the United States;	2191 2192
(11) The transportation of persons or property, unless the transportation is by a private investigation and security service;	2193 2194
(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section	2195 2196

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

"Charitable purposes" means the relief of poverty; the 2207  
improvement of health through the alleviation of illness, disease, 2208  
or injury; the operation of an organization exclusively for the 2209  
provision of professional, laundry, printing, and purchasing 2210  
services to hospitals or charitable institutions; the operation of 2211  
a home for the aged, as defined in section 5701.13 of the Revised 2212  
Code; the operation of a radio or television broadcasting station 2213  
that is licensed by the federal communications commission as a 2214  
noncommercial educational radio or television station; the 2215  
operation of a nonprofit animal adoption service or a county 2216  
humane society; the promotion of education by an institution of 2217  
learning that maintains a faculty of qualified instructors, 2218  
teaches regular continuous courses of study, and confers a 2219  
recognized diploma upon completion of a specific curriculum; the 2220  
operation of a parent-teacher association, booster group, or 2221  
similar organization primarily engaged in the promotion and 2222  
support of the curricular or extracurricular activities of a 2223  
primary or secondary school; the operation of a community or area 2224  
center in which presentations in music, dramatics, the arts, and 2225  
related fields are made in order to foster public interest and 2226  
education therein; the production of performances in music, 2227  
dramatics, and the arts; or the promotion of education by an 2228



organization engaged in carrying on research in, or the 2229  
dissemination of, scientific and technological knowledge and 2230  
information primarily for the public. 2231

Nothing in this division shall be deemed to exempt sales to 2232  
any organization for use in the operation or carrying on of a 2233  
trade or business, or sales to a home for the aged for use in the 2234  
operation of independent living facilities as defined in division 2235  
(A) of section 5709.12 of the Revised Code. 2236

(13) Building and construction materials and services sold to 2237  
construction contractors for incorporation into a structure or 2238  
improvement to real property under a construction contract with 2239  
this state or a political subdivision ~~thereof~~ of this state, or 2240  
with the United States government or any of its agencies; building 2241  
and construction materials and services sold to construction 2242  
contractors for incorporation into a structure or improvement to 2243  
real property that are accepted for ownership by this state or any 2244  
of its political subdivisions, or by the United States government 2245  
or any of its agencies at the time of completion of ~~such the~~ 2246  
structures or improvements; building and construction materials 2247  
sold to construction contractors for incorporation into a 2248  
horticulture structure or livestock structure for a person engaged 2249  
in the business of horticulture or producing livestock; building 2250  
materials and services sold to a construction contractor for 2251  
incorporation into a house of public worship or religious 2252  
education, or a building used exclusively for charitable purposes 2253  
under a construction contract with an organization whose purpose 2254  
is as described in division (B)(12) of this section; building 2255  
materials and services sold to a construction contractor for 2256  
incorporation into a building under a construction contract with 2257  
an organization exempt from taxation under section 501(c)(3) of 2258  
the Internal Revenue Code of 1986 when the building is to be used 2259  
exclusively for the organization's exempt purposes; building and 2260

construction materials sold for incorporation into the original 2261  
construction of a sports facility under section 307.696 of the 2262  
Revised Code; and building and construction materials and services 2263  
sold to a construction contractor for incorporation into real 2264  
property outside this state if such materials and services, when 2265  
sold to a construction contractor in the state in which the real 2266  
property is located for incorporation into real property in that 2267  
state, would be exempt from a tax on sales levied by that state; 2268

(14) Sales of ships or vessels or rail rolling stock used or 2269  
to be used principally in interstate or foreign commerce, and 2270  
repairs, alterations, fuel, and lubricants for such ships or 2271  
vessels or rail rolling stock; 2272

(15) Sales to persons engaged in any of the activities 2273  
mentioned in division (E)(2) or (9) of section 5739.01 of the 2274  
Revised Code, to persons engaged in making retail sales, or to 2275  
persons who purchase for sale from a manufacturer tangible 2276  
personal property that was produced by the manufacturer in 2277  
accordance with specific designs provided by the purchaser, of 2278  
packages, including material, labels, and parts for packages, and 2279  
of machinery, equipment, and material for use primarily in 2280  
packaging tangible personal property produced for sale, including 2281  
any machinery, equipment, and supplies used to make labels or 2282  
packages, to prepare packages or products for labeling, or to 2283  
label packages or products, by or on the order of the person doing 2284  
the packaging, or sold at retail. "Packages" includes bags, 2285  
baskets, cartons, crates, boxes, cans, bottles, bindings, 2286  
wrappings, and other similar devices and containers, and 2287  
"packaging" means placing therein. 2288

(16) Sales of food to persons using food stamp benefits to 2289  
purchase the food. As used in division (B)(16) of this section, 2290  
"food" has the same meaning as in the "Food Stamp Act of 1977," 91 2291  
Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations 2292

adopted pursuant to that act. 2293

(17) Sales to persons engaged in farming, agriculture, 2294  
horticulture, or floriculture, of tangible personal property for 2295  
use or consumption directly in the production by farming, 2296  
agriculture, horticulture, or floriculture of other tangible 2297  
personal property for use or consumption directly in the 2298  
production of tangible personal property for sale by farming, 2299  
agriculture, horticulture, or floriculture; or material and parts 2300  
for incorporation into any such tangible personal property for use 2301  
or consumption in production; and of tangible personal property 2302  
for such use or consumption in the conditioning or holding of 2303  
products produced by and for such use, consumption, or sale by 2304  
persons engaged in farming, agriculture, horticulture, or 2305  
floriculture, except where such property is incorporated into real 2306  
property; 2307

(18) Sales of drugs dispensed by a licensed pharmacist upon 2308  
the order of a licensed health professional authorized to 2309  
prescribe drugs to a human being, as the term "licensed health 2310  
professional authorized to prescribe drugs" is defined in section 2311  
4729.01 of the Revised Code; insulin as recognized in the official 2312  
United States pharmacopoeia; urine and blood testing materials 2313  
when used by diabetics or persons with hypoglycemia to test for 2314  
glucose or acetone; hypodermic syringes and needles when used by 2315  
diabetics for insulin injections; epoetin alfa when purchased for 2316  
use in the treatment of persons with end-stage renal disease; 2317  
hospital beds when purchased for use by persons with medical 2318  
problems for medical purposes; and oxygen and oxygen-dispensing 2319  
equipment when purchased for use by persons with medical problems 2320  
for medical purposes; 2321

(19)(a) Sales of artificial limbs or portion thereof, breast 2322  
prostheses, and other prosthetic devices for humans; braces or 2323  
other devices for supporting weakened or nonfunctioning parts of 2324

the human body; crutches or other devices to aid human 2325  
perambulation; and items of tangible personal property used to 2326  
supplement impaired functions of the human body such as 2327  
respiration, hearing, or elimination; 2328

(b) Sales of wheelchairs; items incorporated into or used in 2329  
conjunction with a motor vehicle for the purpose of transporting 2330  
wheelchairs, other than transportation conducted in connection 2331  
with the sale or delivery of wheelchairs; and items incorporated 2332  
into or used in conjunction with a motor vehicle that are 2333  
specifically designed to assist a person with a disability to 2334  
access or operate the motor vehicle. As used in this division, 2335  
"person with a disability" means any person who has lost the use 2336  
of one or both legs or one or both arms, who is blind, deaf, or 2337  
disabled to the extent that the person is unable to move about 2338  
without the aid of crutches or a wheelchair, or whose mobility is 2339  
restricted by a permanent cardiovascular, pulmonary, or other 2340  
disabling condition. 2341

(c) No exemption under this division shall be allowed for 2342  
nonprescription drugs, medicines, or remedies; items or devices 2343  
used to supplement vision; items or devices whose function is 2344  
solely or primarily cosmetic; or physical fitness equipment. This 2345  
division does not apply to sales to a physician or medical 2346  
facility for use in the treatment of a patient. 2347

(20) Sales of emergency and fire protection vehicles and 2348  
equipment to nonprofit organizations for use solely in providing 2349  
fire protection and emergency services, including trauma care and 2350  
emergency medical services, for political subdivisions of the 2351  
state; 2352

(21) Sales of tangible personal property manufactured in this 2353  
state, if sold by the manufacturer in this state to a retailer for 2354  
use in the retail business of the retailer outside of this state 2355  
and if possession is taken from the manufacturer by the purchaser 2356

within this state for the sole purpose of immediately removing the 2357  
same from this state in a vehicle owned by the purchaser; 2358  
2359

(22) Sales of services provided by the state or any of its 2360  
political subdivisions, agencies, instrumentalities, institutions, 2361  
or authorities, or by governmental entities of the state or any of 2362  
its political subdivisions, agencies, instrumentalities, 2363  
institutions, or authorities; 2364

(23) Sales of motor vehicles to nonresidents of this state 2365  
upon the presentation of an affidavit executed in this state by 2366  
the nonresident purchaser affirming that the purchaser is a 2367  
nonresident of this state, that possession of the motor vehicle is 2368  
taken in this state for the sole purpose of immediately removing 2369  
it from this state, that the motor vehicle will be permanently 2370  
titled and registered in another state, and that the motor vehicle 2371  
will not be used in this state; 2372

(24) Sales to persons engaged in the preparation of eggs for 2373  
sale of tangible personal property used or consumed directly in 2374  
such preparation, including such tangible personal property used 2375  
for cleaning, sanitizing, preserving, grading, sorting, and 2376  
classifying by size; packages, including material and parts for 2377  
packages, and machinery, equipment, and material for use in 2378  
packaging eggs for sale; and handling and transportation equipment 2379  
and parts therefor, except motor vehicles licensed to operate on 2380  
public highways, used in intraplant or interplant transfers or 2381  
shipment of eggs in the process of preparation for sale, when the 2382  
plant or plants within or between which such transfers or 2383  
shipments occur are operated by the same person. "Packages" 2384  
includes containers, cases, baskets, flats, fillers, filler flats, 2385  
cartons, closure materials, labels, and labeling materials, and 2386  
"packaging" means placing therein. 2387

(25)(a) Sales of water to a consumer for residential use, 2388

except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;	2389 2390
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	2391 2392 2393 2394
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	2395 2396
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	2397 2398 2399 2400
(a) To prepare food for human consumption for sale;	2401
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	2402 2403 2404 2405
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	2406 2407
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	2408 2409
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	2410 2411 2412 2413
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	2414 2415 2416
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the	2417 2418

Revised Code;	2419
(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;	2420 2421 2422 2423
(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;	2424 2425 2426 2427 2428
(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.	2429 2430 2431 2432 2433 2434 2435 2436 2437 2438 2439 2440 2441
(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 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"	2442 2443 2444 2445 2446 2447 2448 2449 2450

means numismatic coins or other forms of money and legal tender 2451  
manufactured of gold, silver, platinum, palladium, or other metal 2452  
under the laws of the United States or any foreign nation with a 2453  
fair market value greater than any statutory or nominal value of 2454  
such coins. 2455

(36)(a) Sales where the purpose of the consumer is to use or 2456  
consume the things transferred in making retail sales and 2457  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 2458  
certificates, or other advertising material that prices and 2459  
describes tangible personal property offered for retail sale. 2460

(b) Sales to direct marketing vendors of preliminary 2461  
materials such as photographs, artwork, and typesetting that will 2462  
be used in printing advertising material; of printed matter that 2463  
offers free merchandise or chances to win sweepstake prizes and 2464  
that is mailed to potential customers with advertising material 2465  
described in division (B)(36)(a) of this section; and of equipment 2466  
such as telephones, computers, facsimile machines, and similar 2467  
tangible personal property primarily used to accept orders for 2468  
direct marketing retail sales. 2469

(c) Sales of automatic food vending machines that preserve 2470  
food with a shelf life of forty-five days or less by refrigeration 2471  
and dispense it to the consumer. 2472

For purposes of division (B)(36) of this section, "direct 2473  
marketing" means the method of selling where consumers order 2474  
tangible personal property by United States mail, delivery 2475  
service, or telecommunication and the vendor delivers or ships the 2476  
tangible personal property sold to the consumer from a warehouse, 2477  
catalogue distribution center, or similar fulfillment facility by 2478  
means of the United States mail, delivery service, or common 2479  
carrier. 2480

(37) Sales to a person engaged in the business of 2481



horticulture or producing livestock of materials to be	2482
incorporated into a horticulture structure or livestock structure;	2483
(38) The sale of a motor vehicle that is used exclusively for	2484
a vanpool ridesharing arrangement to persons participating in the	2485
vanpool ridesharing arrangement when the vendor is selling the	2486
vehicle pursuant to a contract between the vendor and the	2487
department of transportation;	2488
(39) Sales of personal computers, computer monitors, computer	2489
keyboards, modems, and other peripheral computer equipment to an	2490
individual who is licensed or certified to teach in an elementary	2491
or a secondary school in this state for use by that individual in	2492
preparation for teaching elementary or secondary school students;	2493
	2494
(40) Sales to a professional racing team of any of the	2495
following:	2496
(a) Motor racing vehicles;	2497
(b) Repair services for motor racing vehicles;	2498
(c) Items of property that are attached to or incorporated in	2499
motor racing vehicles, including engines, chassis, and all other	2500
components of the vehicles, and all spare, replacement, and	2501
rebuilt parts or components of the vehicles; except not including	2502
tires, consumable fluids, paint, and accessories consisting of	2503
instrumentation sensors and related items added to the vehicle to	2504
collect and transmit data by means of telemetry and other forms of	2505
communication.	2506
(41) Sales of used manufactured homes and used mobile homes,	2507
as defined in section 5739.0210 of the Revised Code, made on or	2508
after January 1, 2000;	2509
(42) Sales of tangible personal property and services to a	2510
provider of electricity used or consumed directly and primarily in	2511

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

For the purpose of the proper administration of this chapter, 2527  
and to prevent the evasion of the tax, it is presumed that all 2528  
sales made in this state are subject to the tax until the contrary 2529  
is established. 2530

As used in this section, except in division (B)(16) of this 2531  
section, "food" includes cereals and cereal products, milk and 2532  
milk products including ice cream, meat and meat products, fish 2533  
and fish products, eggs and egg products, vegetables and vegetable 2534  
products, fruits, fruit products, and pure fruit juices, 2535  
condiments, sugar and sugar products, coffee and coffee 2536  
substitutes, tea, and cocoa and cocoa products. It does not 2537  
include: spirituous ~~or malt~~ liquors or beer; soft drinks; sodas 2538  
and beverages that are ordinarily dispensed at or in connection 2539  
with bars and soda fountains ~~or in connection therewith~~, other 2540  
than coffee, tea, and cocoa; root beer and root beer extracts; 2541  
malt and malt extracts; mineral oils, cod liver oils, and halibut 2542  
liver oil; medicines, including tonics, vitamin preparations, and 2543

other products sold primarily for their medicinal properties; and 2544  
water, including mineral, bottled, and carbonated waters, and ice. 2545

(C) The levy of an excise tax on transactions by which 2546  
lodging by a hotel is or is to be furnished to transient guests 2547  
pursuant to this section and division (B) of section 5739.01 of 2548  
the Revised Code does not prevent any of the following: 2549

(1) A municipal corporation or township from levying an 2550  
excise tax for any lawful purpose not to exceed three per cent on 2551  
transactions by which lodging by a hotel is or is to be furnished 2552  
to transient guests in addition to the tax levied by this section. 2553  
If a municipal corporation or township repeals a tax imposed under 2554  
division (C)(1) of this section and a county in which the 2555  
municipal corporation or township has territory has a tax imposed 2556  
under division (C) of section 5739.024 of the Revised Code in 2557  
effect, the municipal corporation or township may not reimpose its 2558  
tax as long as that county tax remains in effect. A municipal 2559  
corporation or township in which a tax is levied under division 2560  
(B)(2) of section 351.021 of the Revised Code may not increase the 2561  
rate of its tax levied under division (C)(1) of this section to 2562  
any rate that would cause the total taxes levied under both of 2563  
those divisions to exceed three per cent on any lodging 2564  
transaction within the municipal corporation or township. 2565

(2) A municipal corporation or a township from levying an 2566  
additional excise tax not to exceed three per cent on such 2567  
transactions pursuant to division (B) of section 5739.024 of the 2568  
Revised Code. Such tax is in addition to any tax imposed under 2569  
division (C)(1) of this section. 2570

(3) A county from levying an excise tax pursuant to division 2571  
(A) of section 5739.024 of the Revised Code. 2572

(4) A county from levying an excise tax not to exceed three 2573  
per cent of such transactions pursuant to division (C) of section 2574  
5739.024 of the Revised Code. Such a tax is in addition to any tax 2575

imposed under division (C)(3) of this section.	2576
(5) A convention facilities authority, as defined in division (A) of section 351.01 of the Revised Code, from levying the excise taxes provided for in division (B) of section 351.021 of the Revised Code.	2577 2578 2579 2580
(6) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (D) of section 5739.024 of the Revised Code. Such tax is in addition to any tax imposed under division (C)(3) or (4) of this section.	2581 2582 2583 2584 2585
(7) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (E) of section 5739.024 of the Revised Code. Such a tax is in addition to any tax imposed under division (C)(3), (4), or (6) of this section.	2586 2587 2588 2589 2590
(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.	2591 2592 2593 2594
<b>Section 2.</b> That existing sections 1333.82, 1502.07, 3719.44, 4301.01, 4301.03, 4301.041, 4301.042, 4301.24, 4301.241, 4301.333, 4301.355, 4301.365, 4301.402, 4301.42, 4301.47, 4301.54, 4301.55, 4301.62, 4303.01, 4303.02, 4303.06, 4303.07, 4303.10, 4303.181, 4303.182, 4303.22, 4303.29, 4303.30, 4303.332, 4303.35, 4305.01, 4305.03, 4305.04, 4399.09, 4399.12, 4399.15, 5733.065, and 5739.02 of the Revised Code are hereby repealed.	2595 2596 2597 2598 2599 2600 2601
<b>Section 3.</b> Section 5739.02 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 94 and Sub. H.B. 117 of the 124th General Assembly. The	2603 2604 2605

**As Re-Reported by the House State Government Committee**

General Assembly, applying the principle stated in division (B) of 2606  
section 1.52 of the Revised Code that amendments are to be 2607  
harmonized if reasonably capable of simultaneous operation, finds 2608  
that the composite is the resulting version of the section in 2609  
effect prior to the effective date of the section as presented in 2610  
this act. 2611