

**As 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**

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**A B I L L**

To amend sections 1333.82, 1502.07, 3719.44, 4301.01, 1  
4301.03, 4301.041, 4301.042, 4301.24, 4301.241, 2  
4301.333, 4301.355, 4301.365, 4301.37, 4301.402, 3  
4301.42, 4301.47, 4301.54, 4301.55, 4301.62, 4  
4303.01, 4303.02, 4303.06, 4303.07, 4303.10, 5  
4303.181, 4303.182, 4303.22, 4303.29, 4303.30, 6  
4303.332, 4303.35, 4305.01, 4305.03, 4305.04, 7  
4399.09, 4399.12, 4399.15, 5733.065, and 5739.02 8  
and to enact section 4303.204 of the Revised Code 9  
to change the definition of beer to explicitly 10  
include ale, porter, stout, sake, and other 11  
fermented beverages brewed or produced from malt or 12  
malt 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, 4301.37, 4301.402, 4301.42, 4301.47, 4301.54, 32  
4301.55, 4301.62, 4303.01, 4303.02, 4303.06, 4303.07, 4303.10, 33  
4303.181, 4303.182, 4303.22, 4303.29, 4303.30, 4303.332, 4303.35, 34  
4305.01, 4305.03, 4305.04, 4399.09, 4399.12, 4399.15, 5733.065, 35  
and 5739.02 be amended and section 4303.204 of the Revised Code be 36  
enacted to 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.

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

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

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

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

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or any of its salts, optical isomers, or salts of optical isomers, 233  
shall not be considered a controlled substance if the drug product 234  
is labeled in a manner consistent with federal law or with the 235  
product's over-the-counter tentative final monograph or final 236  
monograph issued by the United States food and drug 237  
administration. 238

(4) At the request of any person, the board may except any 239  
product containing ephedrine not described in division (K)(1) or 240  
(2) of this section or any class of products containing ephedrine 241  
from being included as a schedule V controlled substance if it 242  
determines that the product or class of products does not contain 243  
any other controlled substance. The board shall make the 244  
determination in accordance with this section and by rule adopted 245  
in accordance with Chapter 119. of the Revised Code. 246

(L) As used in this section: 247

(1) "Food" has the same meaning as in section 3715.01 of the 248  
Revised Code. 249

(2) "Dietary supplement" has the same meaning ~~given as~~ in the 250  
"Federal Food, Drug, and Cosmetic Act," 108 Stat. 4327 (1994), 21 251  
U.S.C.A. 321 (ff), as amended. 252

(3) "Ephedrine alkaloids" means ephedrine, pseudoephedrine, 253  
norephedrine, norpseudoephedrine, methylephedrine, and 254  
methylnpseudoephedrine. 255

**Sec. 4301.01.** (A) As used in the Revised Code: 256

(1) "Intoxicating liquor" and "liquor" include all liquids 257  
and compounds, other than beer, containing one-half of one per 258  
cent or more of alcohol by volume which are fit to use for 259  
beverage purposes, from whatever source and by whatever process 260  
produced, by whatever name called, and whether ~~the same~~ they are 261  
medicated, proprietary, or patented. "Intoxicating liquor" and 262

"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.

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

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

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

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

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

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

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

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(16) "Pharmacy" means an establishment, as defined in section 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;<sup>i</sup> 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~~.<sup>i</sup> 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,<sup>7</sup> 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. 4301.37.** (A) When a local option election, other than an  
election under section 4301.351, 4301.352, 4301.353, 4301.354,  
4301.355, or 4301.356 of the Revised Code, is held in any  
precinct, except as provided in divisions (G) and (H) of section  
4301.39 of the Revised Code, the result of the election shall be  
effective in the precinct until another election is called and  
held pursuant to sections 4301.32 to 4301.36 of the Revised Code,

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but no such election shall be held in the precinct on the same 889  
question more than once in each four years. 890

(B) When a local option election under section 4301.351 of 891  
the Revised Code is held in any precinct, except as provided in 892  
divisions (G) and (H) of section 4301.39 of the Revised Code, the 893  
result of the election shall be effective in the precinct until 894  
another election is called and held pursuant to sections 4301.32 895  
to 4301.361 of the Revised Code, but no such election shall be 896  
held under section 4301.351 of the Revised Code in the precinct on 897  
the same question more than once in each four years. 898

(C) When a local option election is held in a precinct under 899  
section 4301.352 of the Revised Code and a majority of the 900  
electors voting on the question vote "yes," no subsequent local 901  
option election shall be held in the precinct upon the sale of 902  
beer or intoxicating liquor by the class C or D permit holder at 903  
the specified premises for a period of at least four years from 904  
the date of the most recent local option election, except that 905  
this division shall not be construed to prohibit the holding or 906  
affect the results of a local option election under section 907  
4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the 908  
Revised Code. 909

(D) When a local option election is held in a precinct under 910  
section 4301.353 or 4301.354 of the Revised Code, except as 911  
provided in divisions (G) and (H) of section 4301.39 of the 912  
Revised Code, the results of the election shall be effective until 913  
another election is held under that section on the same question, 914  
but no such election shall be held in a precinct under that 915  
section on the same question for a period of at least four years 916  
from the date of the most recent election on that question. This 917  
division shall not be construed to prohibit the future holding of, 918  
or affect the future results of, a local option election held 919  
under section 4301.35, 4301.351, 4301.355, 4303.29, or 4305.14 of 920

the Revised Code. 921

(E)(1) When a local option election is held in a precinct 922  
under section 4301.355 of the Revised Code, the results of that 923  
election shall be effective at the particular location designated 924  
in the petition until another election is held pursuant to that 925  
~~section 4301.355 of the Revised Code~~ or until ~~such time as~~ an 926  
election is held pursuant to section 4301.352 of the Revised Code, 927  
but, except as provided in division (E)(2) of this section, no 928  
election shall be held under section 4301.355 of the Revised Code 929  
regarding the same use at that particular location for a period of 930  
at least four years from the date of the most recent election on 931  
that question. The 932

(2) A local option election may be held in a precinct under 933  
section 4301.355 of the Revised Code for approval of the sale of 934  
beer, wine and mixed beverages, or intoxicating liquor at a 935  
particular location, on a date occurring less than four years from 936  
the date of the most recent election under that section on any 937  
such sale at that particular location, if the petitioner for the 938  
new local option election under section 4301.333 of the Revised 939  
Code is not the same applicant, liquor permit holder, or liquor 940  
agency store that was the petitioner under that section for that 941  
most recent election. 942

(3) The results of a local option election held in a precinct 943  
under section 4301.355 of the Revised Code shall not prohibit the 944  
holding of, and shall be affected by the results of, a local 945  
option election held under section 4301.35, 4301.351, 4301.353, 946  
4301.354, 4303.29, or 4305.14 of the Revised Code. 947

(F) When a local option election is held in a municipal 948  
corporation or unincorporated area of a township under section 949  
4301.356 of the Revised Code, the results of the election shall be 950  
effective at the community facility that was the subject of the 951  
election until another such election is held regarding that 952

community facility, but no such election shall be held for a  
period of at least four years from the date of the election. The  
results of a local option election held in a municipal corporation  
or unincorporated area of a township under section 4301.356 of the  
Revised Code shall not prohibit the holding of, or affect or be  
affected by the results of, a local option election held under  
section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14  
of the Revised Code.

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

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

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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  
Code that contains at least fifty rooms for registered transient  
guests ~~and if the golf course, hotel, motel, or lodge~~ is owned by  
the state or a ~~political subdivision or conservancy district, park~~  
district created under Chapter 1545. of the Revised Code, or other  
political subdivision of the state, ~~provided that~~ and the permit  
holder for the golf course, hotel, motel, or lodge operates

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~~pursuant to~~ under the authority of ~~the~~ a liquor permit issued 984  
~~pursuant to~~ under Chapter 4303. of the Revised Code. 985

**Sec. 4301.42.** For the purpose of providing revenue for the 986  
support of the state, a tax is hereby levied on the sale of beer, 987  
~~ale, porter, stout, and other malt liquor beverages~~ in sealed 988  
bottles and cans having twelve ounces or less of liquid content, 989  
at the rate of fourteen one-hundredths of one cent on each ounce 990  
of liquid content or fractional part ~~thereof~~ of each ounce of 991  
liquid content, and on such containers in excess of twelve ounces, 992  
at the rate of eighty-four one-hundredths of one cent on each six 993  
ounces of liquid content or fractional part ~~thereof~~ of each six 994  
ounces of liquid content. Sections 4307.01 to 4307.12 of the 995  
Revised Code apply in the administration of ~~said~~ that tax. 996  
Manufacturers, bottlers, and canners of and wholesale dealers in 997  
~~beer, ale, porter, stout, and other malt liquor beverages~~ have the 998  
duty to pay the tax imposed by this section and are entitled to 999  
the privileges in the manner provided in section 4303.33 of the 1000  
Revised Code. 1001

**Sec. 4301.47.** Every class A-1, A-2, and A-4 permit holder and 1002  
each class B permit holder shall maintain and keep for a period of 1003  
three years a record of the beer, wine, ~~malt beverages~~, and mixed 1004  
beverages purchased, distributed, or sold within this state by the 1005  
permit holder, together with invoices, records, receipts, bills of 1006  
lading, and other pertinent papers required by the tax 1007  
commissioner and, upon demand by the tax commissioner, shall 1008  
produce these records for a three-year period prior to the demand 1009  
unless upon satisfactory proof it is shown that the ~~non-production~~ 1010  
nonproduction is due to causes beyond ~~his~~ the permit holder's 1011  
control. 1012

**Sec. 4301.54.** If the laws of another state, territory, or 1013

nation, or the rules and regulations of an administrative body 1014  
~~therein in another state, territory, or nation~~, provide for the 1015  
levy and collection of taxes, fees, and charges upon the products 1016  
of Ohio manufacturers of wine or manufacturers or brewers of beer 1017  
~~and other malt liquors~~ when ~~such~~ those products are sold in, 1018  
delivered, or shipped into ~~such~~ the other state, territory, or 1019  
nation, in excess of the taxes, fees, and charges levied and 1020  
collected on the products of ~~manufactures~~ manufacturers or brewers 1021  
of ~~said~~ those states, territories, or nations, whether ~~such~~ those 1022  
taxes, fees, and charges are in the nature of an excise, sales, or 1023  
import tax, or by whatever name designated, the tax commissioner 1024  
shall levy and collect additional taxes, fees, and charges on the 1025  
products of manufacturers of wine or manufacturers and brewers of 1026  
beer ~~and other malt liquor~~ of ~~said~~ that other state, territory, or 1027  
nation when sold in, delivered, or shipped into this state. 1028

~~Such~~ The additional taxes, fees, and charges shall be in 1029  
excess of those provided for in other sections of this chapter or 1030  
Chapters ~~4301.,~~ 4303. and 4307. and section 4305.13 of the Revised 1031  
Code, in the same proportion or in the same amount as taxes, fees, 1032  
and charges levied and collected in ~~said~~ the other state, 1033  
territory, or nation upon the products of Ohio manufacturers of 1034  
wine or manufacturers or brewers of beer ~~and other malt liquor~~ are 1035  
in excess of those levied and collected on the products of 1036  
manufacturers and brewers of ~~said~~ the other state, territory, or 1037  
nation. 1038

If the laws of another state, territory, or nation, or the 1039  
rules and regulations of ~~the~~ an administrative body ~~therein in~~ 1040  
another state, territory, or nation, provide for the levy and 1041  
collection of taxes, fees, or charges against Ohio ~~manufactures~~ 1042  
manufacturers of wine or ~~manufactures~~ manufacturers or brewers of 1043  
beer ~~and other malt liquor~~ for the privilege of doing business 1044  
~~therein in that state, territory, or nation~~, like amounts shall be 1045

levied and collected on manufacturers or brewers of ~~said that~~ 1046  
state, territory, or nation for the privilege of doing business in 1047  
this state. 1048

**Sec. 4301.55.** If the laws of another state, territory, or 1049  
nation, or the rules and regulations of any administrative body 1050  
~~therein in another state, territory, or nation,~~ authorize or 1051  
impose any tax, fee, or charge upon the right to transport or 1052  
import into ~~such that~~ state, territory, or nation any beer, ~~malt~~ 1053  
~~liquor,~~ or wine manufactured in this state; or authorize or impose 1054  
any different warehousing requirements or higher warehousing or 1055  
inspection fees upon any beer, ~~malt liquor,~~ or wine manufactured 1056  
in this state and imported into or sold in ~~such that~~ state, 1057  
~~territory, or nation~~ than are imposed upon beer, ~~malt liquor,~~ and 1058  
wine manufactured in ~~such that~~ state, territory, or nation; or 1059  
impose any higher fee for the privilege of selling or handling 1060  
beer, ~~malt liquor,~~ or wine manufactured in this state than is 1061  
imposed for the privilege of handling or selling the same kind of 1062  
beverages manufactured within ~~such that~~ state, territory, or 1063  
~~nation~~ or any other state, territory, or nation, the tax 1064  
commissioner shall levy and collect similar taxes, fees, and 1065  
charges from licensees or persons selling in ~~Ohio this state~~ beer, 1066  
~~malt liquor,~~ and wine manufactured in ~~such that~~ other state, 1067  
territory, or nation. ~~Such~~ The taxes, fees, and charges shall be 1068  
in addition to the taxes, fees, and charges assessed and collected 1069  
by the commissioner under section 4301.54 of the Revised Code. 1070

**Sec. 4301.62.** (A) As used in this section: 1071

(1) "Chauffeured limousine" means a vehicle registered under 1072  
section 4503.24 of the Revised Code. 1073

(2) "Street," "highway," and "motor vehicle" have the same 1074  
meanings as in section 4511.01 of the Revised Code. 1075

(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:	1076 1077 1078
(1) In a state liquor store;	1079
(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;	1080 1081 1082
(3) In any other public place;	1083
(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;	1084 1085 1086 1087
(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.	1088 1089 1090 1091
(C)(1) A person may have in the person's possession an opened container of any of the following:	1092 1093
(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;	1094 1095 1096 1097 1098
(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit <u>or wine served for consumption on the premises by the holder of an F-4 permit;</u>	1099 1100 1101
(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code;	1102 1103 1104
<u>(d) Beer or intoxicating liquor to be consumed during</u>	1105

tastings and samplings approved by rule of the liquor control 1106  
commission. 1107

(2) A person may have in the person's possession on an F 1108  
liquor permit premises an opened container of beer or intoxicating 1109  
liquor that was not purchased from the holder of the F permit if 1110  
the premises for which the F permit is issued is a music festival 1111  
and the holder of the F permit grants permission for that 1112  
possession on the premises during the period for which the F 1113  
permit is issued. As used in this division, "music festival" means 1114  
a series of outdoor live musical performances, extending for a 1115  
period of at least three consecutive days and located on an area 1116  
of land of at least forty acres. 1117

(D) This section does not apply to a person who pays all or a 1118  
portion of the fee imposed for the use of a chauffeured limousine 1119  
pursuant to a prearranged contract, or the guest of the person, 1120  
when all of the following apply: 1121

(1) The person or guest is a passenger in the limousine. 1122

(2) The person or guest is located in the limousine, but is 1123  
not occupying a seat in the front compartment of the limousine 1124  
where the operator of the limousine is located. 1125

(3) The limousine is located on any street, highway, or other 1126  
public or private property open to the public for purposes of 1127  
vehicular travel or parking. 1128

**Sec. 4303.01.** As used in sections 4303.01 to 4303.37 of the 1129  
Revised Code, "intoxicating liquor," "liquor," "sale," "sell," 1130  
"vehicle," "alcohol," "beer," "~~malt liquor,~~" "~~malt beverage,~~" 1131  
"wine," "mixed beverages," "spirituous liquor," "sealed 1132  
container," "person," "manufacture," "manufacturer," "wholesale 1133  
distributor," "distributor," "hotel," "restaurant," "club," "night 1134  
club," "at retail," "pharmacy," and "enclosed shopping center" 1135

have the same meanings as in section 4301.01 of the Revised Code. 1136

**Sec. 4303.02.** Permit A-1 may be issued to a manufacturer to 1137  
manufacture beer, ~~ale, stout, and other malt liquor containing not~~ 1138  
~~more than six per cent of alcohol by weight~~ and sell such beer 1139  
products in bottles or containers for home use and to retail and 1140  
wholesale permit holders under ~~such~~ rules ~~as are~~ promulgated by 1141  
the division of liquor control. The fee for this permit is three 1142  
thousand one hundred twenty-five dollars for each plant during the 1143  
year covered by the permit. 1144

**Sec. 4303.06.** Permit B-1 may be issued to a wholesale 1145  
distributor of beer to purchase from the holders of A-1 permits 1146  
and to import and distribute or sell beer, ~~ale, lager, stout, and~~ 1147  
~~other malt liquors containing not more than six per cent of~~ 1148  
~~alcohol by weight~~ for home use and to retail permit holders under 1149  
~~such~~ rules ~~as are~~ adopted by the division of liquor control. The 1150  
fee for this permit is two thousand five hundred dollars for each 1151  
distributing plant or warehouse during the year covered by the 1152  
permit. 1153

**Sec. 4303.07.** Permit B-2 may be issued to a wholesale 1154  
distributor of wine to purchase from holders of A-2 and B-5 1155  
permits and distribute or sell such product, in the original 1156  
container in which it was placed by the B-5 permit holder or 1157  
manufacturer at the place where manufactured, to A-1-A, C-2, D-2, 1158  
D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, 1159  
D-5h, D-5i, D-5j, D-5k, and E permit holders, and for home use. 1160  
The fee for this permit is two hundred fifty dollars for each 1161  
distributing plant or warehouse. The initial fee shall be 1162  
increased ten cents per wine barrel of fifty gallons for all wine 1163  
distributed and sold in this state in excess of twelve hundred 1164  
fifty such barrels during the year covered by the permit. 1165

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

**Sec. 4303.181.** (A) Permit D-5a may be issued either to the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and that qualifies under the other requirements of this section, or to the owner or operator of a restaurant specified under this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to registered guests in their rooms, which may be sold by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code; and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. The premises of the hotel or motel shall include a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is affiliated with the hotel or motel and within or contiguous to the hotel or motel, and that serves food within the hotel or motel, but the principal business of the owner or operator of the hotel or motel shall be the accommodation of

transient guests. In addition to the privileges authorized in this 1197  
division, the holder of a D-5a permit may exercise the same 1198  
privileges as the holder of a D-5 permit. 1199

The owner or operator of a hotel, motel, or restaurant who 1200  
qualified for and held a D-5a permit on August 4, 1976, may, if 1201  
the owner or operator held another permit before holding a D-5a 1202  
permit, either retain a D-5a permit or apply for the permit 1203  
formerly held, and the division of liquor control shall issue the 1204  
permit for which the owner or operator applies and formerly held, 1205  
notwithstanding any quota. 1206

A D-5a permit shall not be transferred to another location. 1207  
No quota restriction shall be placed on the number of such permits 1208  
that may be issued. 1209

The fee for this permit is one thousand eight hundred 1210  
seventy-five dollars. 1211

(B) Permit D-5b may be issued to the owner, operator, tenant, 1212  
lessee, or occupant of an enclosed shopping center to sell beer 1213  
and intoxicating liquor at retail, only by the individual drink in 1214  
glass and from the container, for consumption on the premises 1215  
where sold; and to sell the same products in the same manner and 1216  
amount not for consumption on the premises as may be sold by 1217  
holders of D-1 and D-2 permits. In addition to the privileges 1218  
authorized in this division, the holder of a D-5b permit may 1219  
exercise the same privileges as a holder of a D-5 permit. 1220

A D-5b permit shall not be transferred to another location. 1222

One D-5b permit may be issued at an enclosed shopping center 1223  
containing at least two hundred twenty-five thousand, but less 1224  
than four hundred thousand, square feet of floor area. 1225

Two D-5b permits may be issued at an enclosed shopping center 1226  
containing at least four hundred thousand square feet of floor 1227



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

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The holder of a D-5b permit issued before April 4, 1984, whose tenancy is terminated for a cause other than nonpayment of rent, may return the D-5b permit to the division of liquor control, and the division shall cancel that permit. Upon cancellation of that permit and upon the permit holder's payment of taxes, contributions, premiums, assessments, and other debts owing or accrued upon the date of cancellation to this state and its political subdivisions and a filing with the division of a certification of that payment, the division shall issue to that person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as that person requests. The division shall issue the D-5 permit, or the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, D-3, or D-5 permits currently issued in the municipal corporation or in the unincorporated area of the township where that person's proposed premises is located equals or exceeds the maximum number of such permits that can be issued in that municipal corporation or in the unincorporated area of that township under the population quota restrictions contained in section 4303.29 of the

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Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not  
be transferred to another location. If a D-5b permit is canceled  
under the provisions of this paragraph, the number of D-5b permits  
that may be issued at the enclosed shopping center for which the  
D-5b permit was issued, under the formula provided in this  
division, shall be reduced by one if the enclosed shopping center  
was entitled to more than one D-5b permit under the formula.

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

(C) Permit D-5c may be issued to the owner or operator of a  
retail food establishment or a food service operation licensed  
pursuant to Chapter 3717. of the Revised Code that operates as a  
restaurant for purposes of this chapter and that qualifies under  
the other requirements of this section to sell beer and any  
intoxicating liquor at retail, only by the individual drink in  
glass and from the container, for consumption on the premises  
where sold, and to sell the same products in the same manner and  
amounts not for consumption on the premises as may be sold by  
holders of D-1 and D-2 permits. In addition to the privileges  
authorized in this division, the holder of a D-5c permit may  
exercise the same privileges as the holder of a D-5 permit.

To qualify for a D-5c permit, the owner or operator of a  
retail food establishment or a food service operation licensed  
pursuant to Chapter 3717. of the Revised Code that operates as a  
restaurant for purposes of this chapter, shall have operated the  
restaurant at the proposed premises for not less than twenty-four  
consecutive months immediately preceding the filing of the  
application for the permit, have applied for a D-5 permit no later  
than December 31, 1988, and appear on the division's quota waiting  
list for not less than six months immediately preceding the filing  
of the application for the permit. In addition to these

requirements, the proposed D-5c permit premises shall be located 1293  
within a municipal corporation and further within an election 1294  
precinct that, at the time of the application, has no more than 1295  
twenty-five per cent of its total land area zoned for residential 1296  
use. 1297

A D-5c permit shall not be transferred to another location. 1298  
No quota restriction shall be placed on the number of such permits 1299  
that may be issued. 1300

Any person who has held a D-5c permit for at least two years 1301  
may apply for a D-5 permit, and the division of liquor control 1302  
shall issue the D-5 permit notwithstanding the quota restrictions 1303  
contained in section 4303.29 of the Revised Code or in any rule of 1304  
the liquor control commission. 1305

The fee for this permit is one thousand two hundred fifty 1306  
dollars. 1307

(D) Permit D-5d may be issued to the owner or operator of a 1308  
retail food establishment or a food service operation licensed 1309  
pursuant to Chapter 3717. of the Revised Code that operates as a 1310  
restaurant for purposes of this chapter and that is located at an 1311  
airport operated by a board of county commissioners pursuant to 1312  
section 307.20 of the Revised Code or at an airport operated by a 1313  
regional airport authority pursuant to Chapter 308. of the Revised 1314  
Code. Not more than one D-5d permit shall be issued in each 1315  
county. The holder of a D-5d permit may sell beer and any 1316  
intoxicating liquor at retail, only by the individual drink in 1317  
glass and from the container, for consumption on the premises 1318  
where sold, and may sell the same products in the same manner and 1319  
amounts not for consumption on the premises where sold as may be 1320  
sold by the holders of D-1 and D-2 permits. In addition to the 1321  
privileges authorized in this division, the holder of a D-5d 1322  
permit may exercise the same privileges as the holder of a D-5 1323  
permit. 1324

A D-5d permit shall not be transferred to another location. 1325  
Except as otherwise provided in this division, no quota 1326  
restrictions shall be placed on the number of such permits that 1327  
may be issued. 1328

The fee for this permit is one thousand eight hundred 1329  
seventy-five dollars. 1330

(E) Permit D-5e may be issued to any nonprofit organization 1331  
that is exempt from federal income taxation under the "Internal 1332  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 1333  
amended, or that is a charitable organization under any chapter of 1334  
the Revised Code, and that owns or operates a riverboat that meets 1335  
all of the following: 1336

(1) Is permanently docked at one location; 1337

(2) Is designated as an historical riverboat by the Ohio 1338  
historical society; 1339

(3) Contains not less than fifteen hundred square feet of 1340  
floor area; 1341

(4) Has a seating capacity of fifty or more persons. 1342

The holder of a D-5e permit may sell beer and intoxicating 1343  
liquor at retail, only by the individual drink in glass and from 1344  
the container, for consumption on the premises where sold. 1345

A D-5e permit shall not be transferred to another location. 1346  
No quota restriction shall be placed on the number of such permits 1347  
that may be issued. The population quota restrictions contained in 1348  
section 4303.29 of the Revised Code or in any rule of the liquor 1349  
control commission shall not apply to this division, and the 1350  
division shall issue a D-5e permit to any applicant who meets the 1351  
requirements of this division. However, the division shall not 1352  
issue a D-5e permit if the permit premises or proposed permit 1353  
premises are located within an area in which the sale of 1354

spirituous liquor by the glass is prohibited. 1355

The fee for this permit is nine hundred seventy-five dollars. 1356

(F) Permit D-5f may be issued to the owner or operator of a 1357  
retail food establishment or a food service operation licensed 1358  
under Chapter 3717. of the Revised Code that operates as a 1359  
restaurant for purposes of this chapter and that meets all of the 1360  
following: 1361

(1) It contains not less than twenty-five hundred square feet 1362  
of floor area. 1363

(2) It is located on or in, or immediately adjacent to, the 1364  
shoreline of, a navigable river. 1365

(3) It provides docking space for twenty-five boats. 1366

(4) It provides entertainment and recreation, provided that 1367  
not less than fifty per cent of the business on the permit 1368  
premises shall be preparing and serving meals for a consideration. 1369

In addition, each application for a D-5f permit shall be 1370  
accompanied by a certification from the local legislative 1371  
authority that the issuance of the D-5f permit is not inconsistent 1372  
with that political subdivision's comprehensive development plan 1373  
or other economic development goal as officially established by 1374  
the local legislative authority. 1375

The holder of a D-5f permit may sell beer and intoxicating 1376  
liquor at retail, only by the individual drink in glass and from 1377  
the container, for consumption on the premises where sold. 1378

A D-5f permit shall not be transferred to another location. 1379  
No more than fifteen D-5f permits shall be issued by the division 1380  
of liquor control, and no more than two such permits shall be 1381  
issued in any county. However, the division shall not issue a D-5f 1382  
permit if the permit premises or proposed permit premises are 1383  
located within an area in which the sale of spirituous liquor by 1384

the glass is prohibited. 1385

A fee for this permit is one thousand eight hundred 1386  
seventy-five dollars. 1387

As used in this division, "navigable river" means a river 1388  
that is also a "navigable water" as defined in the "Federal Power 1389  
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 1390

(G) Permit D-5g may be issued to a nonprofit corporation that 1391  
is either the owner or the operator of a national professional 1392  
sports museum. The holder of a D-5g permit may sell beer and any 1393  
intoxicating liquor at retail, only by the individual drink in 1394  
glass and from the container, for consumption on the premises 1395  
where sold. The holder of a D-5g permit shall sell no beer or 1396  
intoxicating liquor for consumption on the premises where sold 1397  
after one a.m. A D-5g permit shall not be transferred to another 1398  
location. No quota restrictions shall be placed on the number of 1399  
D-5g permits that may be issued. The fee for this permit is one 1400  
thousand five hundred dollars. 1401

(H) Permit D-5h may be issued to any nonprofit organization 1402  
that is exempt from federal income taxation under the "Internal 1403  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 1404  
amended, that owns or operates a fine arts museum and has no less 1405  
than five thousand bona fide members possessing full membership 1406  
privileges. The holder of a D-5h permit may sell beer and any 1407  
intoxicating liquor at retail, only by the individual drink in 1408  
glass and from the container, for consumption on the premises 1409  
where sold. The holder of a D-5h permit shall sell no beer or 1410  
intoxicating liquor for consumption on the premises where sold 1411  
after one a.m. A D-5h permit shall not be transferred to another 1412  
location. No quota restrictions shall be placed on the number of 1413  
D-5h permits that may be issued. The fee for this permit is one 1414  
thousand five hundred dollars. 1415

(I) Permit D-5i 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 requirements:

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

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

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

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

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

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

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

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

amounts not for consumption on the premises where sold as may be 1446  
sold by the holders of D-1 and D-2 permits. The holder of a D-5i 1447  
permit shall sell no beer or intoxicating liquor for consumption 1448  
on the premises where sold after two-thirty a.m. In addition to 1449  
the privileges authorized in this division, the holder of a D-5i 1450  
permit may exercise the same privileges as the holder of a D-5 1451  
permit. 1452

A D-5i permit shall not be transferred to another location. 1453  
The division of liquor control shall not renew a D-5i permit 1454  
unless the food service operation for which it is issued continues 1455  
to meet the requirements described in divisions (I)(1) to (6) of 1456  
this section. No quota restrictions shall be placed on the number 1457  
of D-5i permits that may be issued. The fee for this permit is one 1458  
thousand eight hundred seventy-five dollars. 1459

(J)(1) Permit D-5j may be issued to the owner or the operator 1460  
of a retail food establishment or a food service operation 1461  
licensed under Chapter 3717. of the Revised Code to sell beer and 1462  
intoxicating liquor at retail, only by the individual drink in 1463  
glass and from the container, for consumption on the premises 1464  
where sold and to sell beer and intoxicating liquor in the same 1465  
manner and amounts not for consumption on the premises where sold 1466  
as may be sold by the holders of D-1 and D-2 permits. The holder 1467  
of a D-5j permit may exercise the same privileges, and shall 1468  
observe the same hours of operation, as the holder of a D-5 1469  
permit. 1470

(2) The D-5j permit shall be issued only within a community 1471  
entertainment district that is designated under section 4301.80 of 1472  
the Revised Code and that is located in a municipal corporation 1473  
with a population of at least one hundred thousand. 1474

(3) The location of a D-5j permit may be transferred only 1475  
within the geographic boundaries of the community entertainment 1476  
district in which it was issued and shall not be transferred 1477



outside the geographic boundaries of that district. 1478

(4) Not more than one D-5j permit shall be issued within each 1479  
community entertainment district for each five acres of land 1480  
located within the district. Not more than fifteen D-5j permits 1481  
may be issued within a single community entertainment district. 1482  
Except as otherwise provided in division (J)(4) of this section, 1483  
no quota restrictions shall be placed upon the number of D-5j 1484  
permits that may be issued. 1485

(5) The fee for a D-5j permit is one thousand eight hundred 1486  
seventy-five dollars. 1487

(K)(1) Permit D-5k may be issued to any nonprofit 1488  
organization that is exempt from federal income taxation under the 1489  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1490  
501(c)(3), as amended, that is the owner or operator of a 1491  
botanical garden, and that has not less than twenty-five hundred 1492  
bona fide members. 1493

(2) The holder of a D-5k permit may sell beer and any 1494  
intoxicating liquor at retail, only by the individual drink in 1495  
glass and from the container, on the premises where sold. 1496

(3) The holder of a D-5k permit shall sell no beer or 1497  
intoxicating liquor for consumption on the premises where sold 1498  
after one a.m. 1499

(4) A D-5k permit shall not be transferred to another 1500  
location. 1501

(5) No quota restrictions shall be placed on the number of 1502  
D-5k permits that may be issued. 1503

(6) The fee for the D-5k permit is one thousand five hundred 1504  
dollars. 1505

**Sec. 4303.182.** (A) Except as otherwise provided in divisions 1506

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

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

(C) Permit D-6 shall be issued to the holder of a D-5a permit, and to the holder of a D-3 or D-3a permit who is the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports

facility may make sales under the permit between the hours of 1539  
eleven a.m. and midnight on any Sunday on which a professional 1540  
baseball, basketball, football, hockey, or soccer game is being 1541  
played at the sports facility. As used in this division, "sports 1542  
facility" means a stadium or arena that has a seating capacity of 1543  
at least four thousand and that is owned or leased by a 1544  
professional baseball, basketball, football, hockey, or soccer 1545  
franchise or any combination of those franchises. 1546

(E) Permit D-6 shall be issued to the holder of any permit 1547  
that authorizes the sale of beer or intoxicating liquor and that 1548  
is issued to a premises located in or at the Ohio historical 1549  
society area or the state fairgrounds, as defined in division (B) 1550  
of section 4301.40 of the Revised Code, to allow sale under that 1551  
permit between the hours of ten a.m. and midnight on Sunday, 1552  
whether or not that sale has been authorized under section 1553  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 1554

(F) Permit D-6 shall be issued to the holder of any permit 1555  
that authorizes the sale of intoxicating liquor and that is issued 1556  
to an outdoor performing arts center to allow sale under that 1557  
permit between the hours of one p.m. and midnight on Sunday, 1558  
whether or not that sale has been authorized under section 1559  
4301.361 of the Revised Code. A D-6 permit issued under this 1560  
division is subject to the results of an election, held after the 1561  
D-6 permit is issued, on question (B)(4) as set forth in section 1562  
4301.351 of the Revised Code. Following the end of the period 1563  
during which an election may be held on question (B)(4) as set 1564  
forth in that section, sales of intoxicating liquor may continue 1565  
at an outdoor performing arts center under a D-6 permit issued 1566  
under this division, unless an election on that question is held 1567  
during the permitted period and a majority of the voters voting in 1568  
the precinct on that question vote "no." 1569

As used in this division, "outdoor performing arts center" 1570

means an outdoor performing arts center that is located on not  
less than eight hundred acres of land and that is open for  
performances from the first day of April to the last day of  
October of each year.

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

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

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

**Sec. 4303.204.** (A) The division of liquor control may issue  
an F-4 permit to an association or corporation organized  
not-for-profit in this state to conduct an event that includes the  
introduction, showcasing, or promotion of Ohio wines, if the event

has all of the following characteristics: 1602

(1) It is coordinated by that association or corporation, and the association or corporation is responsible for the activities at it. 1603  
1604  
1605

(2) It has as one of its purposes the intent to introduce, showcase, or promote Ohio wines to persons who attend it. 1606  
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(3) It includes the sale of food for consumption on the premises where sold. 1608  
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(4) It features at least three A-2 permit holders who sell Ohio wine at it. 1610  
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(B) The holder of an F-4 permit may furnish, without charge, wine that it has obtained from the A-2 permit holders that are participating in the event for which the F-4 permit is issued, in two-ounce samples for consumption on the premises where furnished and may sell such wine by the glass for consumption on the premises where sold. The holder of an A-2 permit that is participating in the event for which the F-4 permit is issued may sell wine that it has manufactured, in sealed containers for consumption off the premises where sold. Wine may be furnished or sold on the premises of the event for which the F-4 permit is issued only where and when the sale of wine is otherwise permitted by law. 1612  
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(C) The premises of the event for which the F-4 permit is issued shall be clearly defined and sufficiently restricted to allow proper enforcement of the permit by state and local law enforcement officers. If an F-4 permit is issued for all or a portion of the same premises for which another class of permit is issued, that permit holder's privileges will be suspended in that portion of the premises in which the F-4 permit is in effect. 1624  
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(D) No F-4 permit shall be effective for more than seventy-two consecutive hours. No sales or furnishing of wine 1631  
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shall take place under an F-4 permit after one a.m. 1633

(E) The division shall not issue more than six F-4 permits to the same not-for-profit association or corporation in any one calendar year. 1634  
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(F) An applicant for an F-4 permit shall apply for the permit not later than thirty days prior to the first day of the event for which the permit is sought. The application for the permit shall list all of the A-2 permit holders that will participate in the event for which the F-4 permit is sought. The fee for the F-4 permit is thirty dollars per day. 1637  
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The division shall prepare and make available an F-4 permit application form and may require applicants for and holders of the F-4 permit to provide information that is in addition to that required by this section and that is necessary for the administration of this section. 1643  
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(G)(1) The holder of an F-4 permit is responsible for, and is subject to penalties for, any violations of this chapter or Chapter 4301. of the Revised Code or the rules adopted under this and that chapter. 1648  
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(2) An F-4 permit holder shall not allow an A-2 permit holder to participate in the event for which the F-4 permit is issued if the A-2 or A-1-A permit of that A-2 permit holder is under suspension. 1652  
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(3) The division may refuse to issue an F-4 permit to an applicant who has violated any provision of this chapter or Chapter 4301. of the Revised Code during the applicant's previous operation under an F-4 permit, for a period of up to two years after the date of the violation. 1656  
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(H)(1) Notwithstanding division (E) of section 4301.22 of the Revised Code, an A-2 permit holder that participates in an event for which an F-4 permit is issued may donate wine that it has 1661  
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1663

manufactured to the holder of that F-4 permit. The holder of an 1664  
F-4 permit may return unused and sealed containers of wine to the 1665  
A-2 permit holder that donated the wine at the conclusion of the 1666  
event for which the F-4 permit was issued. 1667

(2) The participation by an A-2 permit holder or its 1668  
employees in an event for which an F-4 permit is issued does not 1669  
violate section 4301.24 of the Revised Code. 1670

**Sec. 4303.22.** Permit H may be issued for a fee of one hundred 1672  
fifty dollars to a carrier by motor vehicle who also holds a 1673  
license issued by the public utilities commission to transport 1674  
beer, intoxicating liquor, and alcohol, or any of them, in this 1675  
state for delivery or use in this state. This section does not 1676  
prevent the division of liquor control from contracting with 1677  
common or contract carriers for the delivery or transportation of 1678  
liquor for the division, and any contract or common carrier so 1679  
contracting with the division is eligible for an H permit. 1680  
Manufacturers or wholesale distributors of beer or intoxicating 1681  
liquor other than spirituous liquor who transport or deliver their 1682  
own products to or from their premises licensed under ~~Chapters~~ 1683  
this chapter and Chapter 4301. and 4303. of the Revised Code by 1684  
their own trucks as an incident to the purchase or sale of such 1685  
beverages need not obtain an H permit. Carriers by rail shall 1686  
receive ~~such an~~ H permit upon application ~~therefor~~ for it. 1687

This section does not prevent the division from issuing, upon 1688  
the payment of the permit fee, an H permit to any person, 1689  
partnership, firm, or corporation, licensed by any other state to 1690  
engage in the business of manufacturing and brewing or producing 1691  
beer, ~~malt liquor,~~ wine, and mixed beverages or any person, 1692  
partnership, firm, or corporation, licensed by the United States 1693  
or any other state to engage in the business of importing beer, 1694  
~~malt liquor,~~ wine, and mixed beverages manufactured outside the 1695

United States. ~~Such~~ The manufacturer, brewer, or importer of 1696  
products manufactured outside the United States, upon the issuance 1697  
of an H permit, may transport, ship, and deliver only its own 1698  
products to holders of B-1 or B-5 permits in Ohio in motor trucks 1699  
and equipment owned and operated by such class H permit holder. No 1700  
H permit shall be issued by the division to such applicant until 1701  
the applicant files with the division a liability insurance 1702  
certificate or policy satisfactory to the division, in a sum of 1703  
not less than one thousand nor more than five thousand dollars for 1704  
property damage and for not less than five thousand nor more than 1705  
fifty thousand dollars for loss sustained by reason of injury or 1706  
death and with such other terms as the division considers 1707  
necessary to adequately protect the interest of the public, having 1708  
due regard for the number of persons and amount of property 1709  
affected. ~~Such~~ The certificate or policy shall insure the 1710  
manufacturer, brewer, or importer of products manufactured outside 1711  
the United States against loss sustained by reason of the death of 1712  
or injury to persons, and for loss of or damage to property, from 1713  
the negligence of such class H permit holder in the operation of 1714  
its motor vehicles or equipment in this state. 1715

**Sec. 4303.29.** (A) No permit, other than an H permit, shall be 1716  
issued to a firm or partnership unless all the members of ~~said~~ the 1717  
firm or partnership are citizens of the United States and a 1718  
majority have resided in this state for one year prior to 1719  
application for ~~such~~ the permit. No permit, other than an H 1720  
permit, shall be issued to an individual who is not a citizen of 1721  
the United States who has resided in this state for at least one 1722  
year prior to application for ~~such~~ the permit. No permit, other 1723  
than an E or H permit, shall be issued to any corporation 1724  
organized under the laws of any country, territory, or state other 1725  
than ~~Ohio~~ this state until it has furnished the division of liquor 1726  
control with evidence that it has complied with the laws of this 1727



state relating to the transaction of business in this state. 1728

The division may refuse to issue any permit to or refuse to 1729  
renew any permit of any person convicted of any felony that is 1730  
reasonably related to the person's fitness to operate a liquor 1731  
permit business in this state. No holder of a permit shall sell, 1732  
assign, transfer, or pledge ~~such the~~ permit, without the written 1733  
consent of the division. 1734

(B)(1) No more than one of each type of C or D ~~permits~~ permit 1735  
shall be issued to any one person, firm, or corporation in any 1736  
county having a population of less than twenty-five thousand, and 1737  
no more than one of each type of C or D ~~permits~~ permit shall be 1738  
issued to any one person, firm, or corporation for any additional 1739  
twenty-five thousand or major fraction thereof in any county 1740  
having a greater population than twenty-five thousand, provided 1741  
that, in the case of D-3, D-3a, D-4, and D-5 permits, no more than 1742  
one permit shall be issued to any one person, firm, or corporation 1743  
in any county having a population of less than fifty thousand, and 1744  
no more than one such permit shall be issued to any one person, 1745  
firm, or corporation for any additional fifty thousand or major 1746  
fraction thereof in any county having a greater population than 1747  
fifty thousand. 1748

(2) No D-3 permit shall be issued to any club unless ~~such the~~ 1749  
club has been continuously engaged in the activity specified in 1750  
section 4303.15 of the Revised Code, as a qualification for ~~such~~ 1751  
that class of permit, for two years at the time ~~such the~~ permit is 1752  
issued. 1753

(3)(a) Subject to division (B)(3)(b) of this section, upon 1754  
application by properly qualified persons, one C-1 and C-2 permit 1755  
shall be issued for each one thousand population or part ~~thereof~~ 1756  
of that population, and one D-1 and D-2 permit shall be issued for 1757  
each two thousand population or part ~~thereof~~ of that population, 1758  
in each municipal corporation and in the unincorporated area of 1759

each township. 1760

Subject to division (B)(3)(b) of this section, not more than 1761  
one D-3, D-4, or D-5 permit shall be issued for each two thousand 1762  
population, ~~or part thereof,~~ of that population in any municipal 1763  
corporation and in the unincorporated area of any township, except 1764  
that, in any city of a population of fifty-five thousand or more, 1765  
one D-3 permit may be issued for each fifteen hundred population, 1766  
or part ~~thereof~~ of that population. 1767

(b) ~~Nothing in division (i) Division~~ (B)(3)(a) of this 1768  
section ~~shall be construed to~~ does not prohibit the transfer of 1769  
location or the transfer of ownership and location of a C-1, C-2, 1770  
D-1, D-2, D-3, or D-5 permit from a municipal corporation or the 1771  
unincorporated area of a township in which the number of permits 1772  
of that class exceeds the number of such permits authorized to be 1773  
issued under division (B)(3)(a) of this section to an economic 1774  
development project located in another municipal corporation or 1775  
the unincorporated area of another township in which no additional 1776  
permits of that class may be issued to the applicant under 1777  
division (B)(3)(a) of this section, but the transfer of location 1778  
or transfer of ownership and location of the permit may occur only 1779  
if the applicant notifies the municipal corporation or township to 1780  
which the location of the permit will be transferred regarding the 1781  
transfer and that municipal corporation or township acknowledges 1782  
in writing to the division of liquor control, at the time the 1783  
application for the transfer of location or transfer of ownership 1784  
and location of the permit is filed, that the transfer will be to 1785  
an economic development project. This acknowledgment by the 1786  
municipal corporation or township does not prohibit it from 1787  
requesting a hearing under section 4303.26 of the Revised Code. 1788  
The applicant is eligible to apply for and receive the transfer of 1789  
location of the permit under division (B)(3)(b) of this section if 1790  
all permits of that class that may be issued under division 1791

(B)(3)(a) of this section in the applicable municipal corporation 1792  
or unincorporated area of the township have already been issued or 1793  
if the number of applications filed for permits of that class in 1794  
that municipal corporation or the unincorporated area of that 1795  
township exceed the number of permits of that class that may be 1796  
issued there under division (B)(3)(a) of this section. 1797

A permit transferred under division (B)(3)(b) of this section 1798  
may be subsequently transferred to a different owner at the same 1799  
location, or to the same owner or a different owner at a different 1800  
location in the same municipal corporation or in the 1801  
unincorporated area of the same township, as long as the same or 1802  
new location meets the economic development project criteria set 1803  
forth in this section. 1804

(ii) Factors that shall be used to determine the designation 1805  
of an economic development project include, but are not limited 1806  
to, architectural certification of the plans and the cost of the 1807  
project, the number of jobs that will be created by the project, 1808  
projected earnings of the project, projected tax revenues for the 1809  
political subdivisions in which the project will be located, and 1810  
the amount of financial investment in the project. The 1811  
superintendent of liquor control shall determine whether the 1812  
existing or proposed business that is seeking a permit described 1813  
in division (B)(3)(b) of this section qualifies as an economic 1814  
development project and, if the superintendent determines that it 1815  
so qualifies, shall designate the business as an economic 1816  
development project. 1817

(4) Nothing in this section shall be construed to restrict 1818  
the issuance of a permit to a municipal corporation for use at a 1819  
municipally owned airport at which commercial airline companies 1820  
operate regularly scheduled flights on which space is available to 1821  
the public. A municipal corporation applying for a permit for such 1822  
a municipally owned airport is exempt, in regard to that 1823

application, from the population restrictions contained in this 1824  
section and from population quota restrictions contained in any 1825  
rule of the liquor control commission. A municipal corporation 1826  
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a 1827  
municipally owned airport is subject to section 4303.31 of the 1828  
Revised Code. 1829

(5) Nothing in this section shall be construed to prohibit 1830  
the issuance of a D permit to the board of trustees of a soldiers' 1831  
memorial for a premises located at a soldiers' memorial 1832  
established pursuant to Chapter 345. of the Revised Code. An 1833  
application for a D permit by ~~such a~~ the board for ~~such a~~ those 1834  
premises is exempt from the population restrictions contained in 1835  
this section and from the population quota restrictions contained 1836  
in any rule of the liquor control commission. The location of a D 1837  
permit issued to the board of ~~trustees of a soldiers' memorial~~ for 1838  
~~a~~ those premises located at a soldiers' memorial shall not be 1839  
transferred. A board of trustees of a soldiers' memorial applying 1840  
for a D-1, D-2, D-3, D-4, or D-5 permit for ~~such a~~ the soldiers' 1841  
memorial is subject to section 4303.31 of the Revised Code. 1842

(6) Nothing in this section shall be construed to restrict 1843  
the issuance of a permit for a premises located at a golf course 1844  
owned by a municipal corporation, township, or county, owned by a 1845  
park district created under Chapter 1545. of the Revised Code, or 1846  
owned by the state. The location of such a permit issued on or 1847  
after September 26, 1984, for a premises located at such a golf 1848  
course shall not be transferred. Any application for such a permit 1849  
is exempt from the population quota restrictions contained in this 1850  
section and from the population quota restrictions contained in 1851  
any rule of the liquor control commission. A municipal 1852  
corporation, township, county, park district, or state agency 1853  
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a golf 1854  
course is subject to section 4303.31 of the Revised Code. 1855

(7) As used in division (B)(7) of this section, "fair" has 1856  
the same meaning as in section 991.01 of the Revised Code, "state 1857  
fairgrounds" means the property that is held by the state for the 1858  
purpose of conducting fairs, expositions, and exhibits and that is 1859  
maintained and managed by the Ohio expositions commission under 1860  
section 991.03 of the Revised Code, and "capitol square" has the 1861  
same meaning as in section 105.41 of the Revised Code. 1862

Nothing in this section shall be construed to restrict the 1863  
issuance of one or more D permits to one or more applicants for 1864  
all or a part of either the state fairgrounds or capitol square. 1865  
An application for a D permit for the state fairgrounds or capitol 1866  
square is exempt from the population quota restrictions contained 1867  
in this section and from the population quota restrictions 1868  
contained in any rule of the liquor control commission. The 1869  
location of a D permit issued for the state fairgrounds or capitol 1870  
square shall not be transferred. An applicant for a D-1, D-2, D-3, 1871  
or D-5 permit for the state fairgrounds is not subject to section 1872  
4303.31 of the Revised Code. 1873

Pursuant to section 1711.09 of the Revised Code, the holder 1874  
of a D permit issued for the state fairgrounds shall not deal in 1875  
spirituous liquor at the state fairgrounds during, or for one week 1876  
before or for three days after, any fair held at the state 1877  
fairgrounds. 1878

(8) Nothing in this section shall be construed to prohibit 1879  
the issuance of a D permit for a premises located at a zoological 1880  
park at which sales have been approved in an election held under 1881  
former section 4301.356 of the Revised Code. An application for a 1882  
D permit for such a premises is exempt from the population 1883  
restrictions contained in this section, from the population quota 1884  
restrictions contained in any rule of the liquor control 1885  
commission, and from section 4303.31 of the Revised Code. The 1886  
location of a D permit issued for a premises at such a zoological 1887

park shall not be transferred, and no quota or other restrictions 1888  
shall be placed on the number of D permits that may be issued for 1889  
a premises at such a zoological park. 1890

(C)(1) No D-3, D-4, D-5, or D-5a permit shall be issued in 1891  
any election precinct in any municipal corporation or in any 1892  
election precinct in the unincorporated area of any township, in 1893  
which at the November, 1933, election a majority of the electors 1894  
voting thereon in the municipal corporation or in the 1895  
unincorporated area of the township voted against the repeal of 1896  
Section 9 of Article XV, Ohio Constitution, unless the sale of 1897  
spirituous liquor by the glass is authorized by a majority vote of 1898  
the electors voting on the question in the precinct at an election 1899  
held pursuant to this section or by a majority vote of the 1900  
electors of the precinct voting on question (C) at a special local 1901  
option election held in the precinct pursuant to section 4301.35 1902  
of the Revised Code. Upon the request of an elector, the board of 1903  
elections of the county that encompasses the precinct shall 1904  
furnish the elector with a copy of the instructions prepared by 1905  
the secretary of state under division (P) of section 3501.05 of 1906  
the Revised Code and, within fifteen days after the request, a 1907  
certificate of the number of signatures required for a valid 1908  
petition under this section. 1909

Upon the petition of thirty-five per cent of the total number 1910  
of voters voting in any such precinct for the office of governor 1911  
at the preceding general election, filed with the board of 1912  
elections of the county in which such precinct is located not 1913  
later than seventy-five days before a general election, ~~such~~ the 1914  
board shall prepare ballots and hold an election at such general 1915  
election upon the question of allowing spirituous liquor to be 1916  
sold by the glass in such precinct. ~~Such~~ The ballots shall be 1917  
approved in form by the secretary of state. The results of ~~such~~ 1918  
the election shall be certified by the board to the secretary of 1919

state, who shall certify the ~~same~~ results to the division. 1920

(2) No holder of a class D-3 permit issued for a boat or 1921  
vessel shall sell spirituous liquor in any precinct, in which the 1922  
election provided for in this section may be held, unless the sale 1923  
of ~~such~~ spirituous liquor by the drink has been authorized by vote 1924  
of the electors as provided in this section or in section 4301.35 1925  
of the Revised Code. 1926

(D) Any holder of a C or D permit whose permit premises were 1927  
purchased in 1986 or 1987 by the state of Ohio or any state agency 1928  
for highway purposes shall be issued the same permit at another 1929  
location notwithstanding any quota restrictions contained in this 1930  
chapter or in any rule of the liquor control commission. 1931

**Sec. 4303.30.** The rights granted by any D-2, D-3, D-3a, D-4, 1932  
D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, 1933  
or D-6 permit shall be exercised at not more than two fixed 1934  
counters, commonly known as bars, in rooms or places on the permit 1935  
premises, where ~~malt beverages~~ beer, mixed beverages, wine, or 1936  
spirituous liquor is sold to the public for consumption on the 1937  
premises. For each additional fixed counter on the permit premises 1938  
where those beverages are sold for consumption on the premises, 1939  
the permit holder shall obtain a duplicate D-2, D-3, D-3a, D-4, 1940  
D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, 1941  
or D-6 permit. 1942

The holder of any D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, 1943  
D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-6 permit shall be 1944  
granted, upon application to the division of liquor control, a 1945  
duplicate D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e, D-5f, 1946  
D-5g, D-5h, D-5i, D-5j, D-5k, or D-6 permit for each additional 1947  
fixed counter on the permit premises at which beer, ~~malt~~ 1948  
~~beverages~~, mixed beverages, wine, or spirituous liquor is sold for 1949  
consumption on the premises, provided the application is made in 1950

the same manner as an application for an original permit. The 1951  
application shall be identified with DUPLICATE printed on the 1952  
permit application form furnished by the department, in boldface 1953  
type. The application shall identify by name, or otherwise amply 1954  
describe, the room or place on the premises where the duplicate 1955  
permit is to be operative. Each duplicate permit shall be issued 1956  
only to the same individual, firm, or corporation as that of the 1957  
original permit and shall be an exact duplicate in size and word 1958  
content as the original permit, except that it shall show on it 1959  
the name or other ample identification of the room, or place, for 1960  
which it is issued and shall have DUPLICATE printed on it in 1961  
boldface type. A duplicate permit shall bear the same number as 1962  
the original permit. The fee for a duplicate permit is: D-1, one 1963  
hundred dollars; D-2, one hundred dollars; D-3, four hundred 1964  
dollars; D-3a, four hundred dollars; D-4, two hundred dollars; 1965  
D-5, one thousand dollars; D-5a, one thousand dollars; D-5b, one 1966  
thousand dollars; D-5c, four hundred dollars; D-5e, six hundred 1967  
fifty dollars; D-5f, one thousand dollars; D-6, one hundred 1968  
dollars when issued to the holder of a D-4a permit; and in all 1969  
other cases one hundred dollars or an amount which is twenty per 1970  
cent of the fees payable for the A-1-A, D-2, D-3, D-3a, D-4, D-5, 1971  
D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, and D-6 1972  
permits issued to the same premises, whichever is higher. 1973  
Application for a duplicate permit may be filed any time during 1974  
the life of an original permit. The fee for each duplicate D-2, 1975  
D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, 1976  
D-5i, D-5j, D-5k, or D-6 permit shall accompany the application 1977  
for each such duplicate permit. 1978

**Sec. 4303.332.** An A-1 permit holder in this state whose total 1979  
production of beer ~~and malt beverages~~, wherever produced, does not 1980  
exceed thirty-one million gallons in a calendar year, as reported 1981  
under section 4303.33 of the Revised Code, shall receive a credit 1982



against taxes levied in the following calendar year under sections 1983  
4301.42 and 4305.01 of the Revised Code on not more than nine 1984  
million three hundred thousand gallons of beer ~~or malt beverages~~ 1985  
sold or distributed in this state. The credit may be claimed 1986  
monthly against taxes levied under one or more of ~~such~~ those 1987  
sections as the reports required by section 4303.33 of the Revised 1988  
Code are due. At the time the report for December is due for a 1989  
calendar year during which a permit holder is eligible to receive 1990  
a credit under this section, if the permit holder has claimed less 1991  
than the credit due on nine million three hundred thousand 1992  
gallons, including credit claimed on the December report, the 1993  
permit holder may claim a refund of taxes previously reported and 1994  
paid under section 4303.33 of the Revised Code during the calendar 1995  
year on a number of gallons equal to the difference between nine 1996  
million three hundred thousand gallons and the number of gallons 1997  
for which a credit has been claimed under this section. For the 1998  
purpose of providing this refund, taxes previously paid under 1999  
section 4303.33 of the Revised Code during the calendar year shall 2000  
not be considered final until the December report is filed. The 2001  
tax commissioner shall prescribe forms for and allow the credits 2002  
and refunds authorized by this section. 2003

**Sec. 4303.35.** No holders of A-1-A, C-1, C-2, D-1, D-2, D-3, 2004  
D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, 2005  
D-5h, D-5i, D-5j, D-5k, F, or F-3 permits shall purchase any beer 2006  
~~or malt beverage~~ subject to the tax imposed by sections 4301.42 2007  
and 4305.01 of the Revised Code or any wine or mixed beverage 2008  
subject to the tax imposed by section 4301.43 of the Revised Code 2009  
for resale, except from holders of A or B permits. 2010

No holders of A-1-A, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, 2011  
D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, ~~or~~ D-5j, or D-5k permits 2012  
shall purchase spirituous liquor for resale except from the 2013

division of liquor control, unless with the special consent of the 2014  
division under particular regulations and markup provisions 2015  
prescribed by the superintendent of liquor control. 2016

**Sec. 4305.01.** For the purpose of reimbursing the state for 2017  
the expenses of administering Chapters 4301. and 4303. of the 2018  
Revised Code and to provide revenues for the support of the state, 2019  
a tax is hereby levied on the sale or distribution in ~~Ohio~~ this 2020  
state of beer, whether in barrels or other containers, excepting 2021  
in sealed bottles or cans, at the rate of five dollars and 2022  
fifty-eight cents per barrel of thirty-one gallons. 2023

The tax commissioner shall exercise, with respect to the 2024  
administration of the tax imposed by this section, all the powers 2025  
and duties vested in or imposed by sections 4307.04 to 4307.07 of 2026  
the Revised Code, so far as consistent with this section. 2027  
Manufacturers and consignees of beer in barrels or other 2028  
containers, excepting in sealed bottles or cans, and railroad 2029  
companies, express companies, and other public carriers 2030  
transporting shipments of such beer are subject, with respect to 2031  
such tax, to the same duties and entitled to the same privileges 2032  
as are required or permitted by ~~such~~ those sections. 2033

The revenue derived from the tax on the sale and distribution 2034  
of beer pursuant to this section and section 4301.42 of the 2035  
Revised Code shall be for the use of the general revenue fund. 2036

The tax refund fund created by section 5703.052 of the 2037  
Revised Code may be drawn upon by the tax commissioner for any 2038  
refunds authorized to be made by ~~him~~ the commissioner in sections 2039  
4303.33, 4307.05, and 4307.07 of the Revised Code for ~~malt~~ 2040  
~~beverages~~ beer. 2041

**Sec. 4305.03.** No person shall make any false entry upon an 2042  
invoice, or container of beer, ~~ale, porter, stout, or other malt~~ 2043

~~beverage, when the entry is~~ required to be made under section 2044  
4305.01 of the Revised Code, or present any such false entry for 2045  
the inspection of the tax commissioner. 2046

**Sec. 4305.04.** No person shall prevent or hinder the tax 2047  
commissioner from making a full inspection of any place where 2048  
~~beer, ale, porter, stout, or other malt beverages~~ subject to the 2049  
tax imposed by section 4305.01 of the Revised Code ~~are~~ is sold or 2050  
stored, or prevent or hinder the full inspection of invoices, 2051  
books, records, or papers required to be kept under ~~such that~~ 2052  
section. 2053

**Sec. 4399.09.** (A) No person shall keep a place where beer or 2054  
intoxicating liquors are sold, furnished, or given away in 2055  
violation of law. The court, on conviction for a subsequent 2056  
offense violation of this section, shall order the place where 2057  
~~such the~~ the beer or intoxicating liquor is sold, furnished, or given 2058  
away to be abated as a nuisance, or shall order the person so 2059  
convicted ~~for such offense~~ to give bond payable to the state in 2060  
the sum of one thousand dollars, with sureties to the acceptance 2061  
of the court, that ~~such the~~ the person will not sell, furnish, or give 2062  
away beer or intoxicating liquor in violation of law, and will pay 2063  
all fines, costs, and damages assessed against ~~him~~ the person for 2064  
~~such that subsequent~~ violation of this section. The giving away of 2065  
beer or intoxicating liquors, or any other device to evade this 2066  
~~section division~~, constitutes unlawful selling. 2067

As used in this ~~section division~~, "beer" has the same meaning 2068  
~~set forth as~~ in section 4301.01 of the Revised Code. 2069

(B) Division (A) of this section does not apply to any 2070  
premises for which a permit has been issued under Chapter 4303. of 2071  
the Revised Code while that permit is in effect. 2072

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

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

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

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

(1) Intoxicating liquor, beer, ~~malt beverages~~, wine, mixed beverages, or spirituous liquor as defined in section 4301.01 of the Revised Code;

(2) Soft drinks as defined in section 913.22 of the Revised Code;	2103 2104
(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;	2105 2106 2107 2108
(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;	2109 2110 2111
(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;	2112 2113 2114
(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;	2115 2116 2117 2118 2119 2120 2121 2122
(7) Cigarettes, cigars, tobacco, matches, candy, and gum.	2123
(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 of the Revised Code. This section does not apply for tax year 1981 to a corporation whose taxable year for tax year 1981 ended on or before June 30, 1980.	2124 2125 2126 2127 2128 2129 2130 2131 2132 2133

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

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

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

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

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

(2) In the case of a corporation engaged in the business of selling litter stream products in the form in which the item is or is to be received, no tax shall be due under this section unless the corporation's sales of litter stream products in this state during the taxable year constitute more than five per cent of its total sales in this state during that period.

(3) In the case of a corporation transferring possession of

litter stream products included in division (A)(6) of this 2165  
section, in which food or beverages prepared for human consumption 2166  
are placed, when the food or beverages are prepared for retail 2167  
sale at the premises where sold and are delivered to a purchaser 2168  
for consumption off the premises where the food or beverages are 2169  
sold, no tax shall be due under this section unless such sales for 2170  
off-premises consumption during the taxable year exceed five per 2171  
cent of the corporation's total annual sales during the taxable 2172  
year. 2173

(E)(1) The tax imposed by this section is due in the 2174  
proportions and on the dates on which the tax imposed by section 2175  
5733.06 of the Revised Code may be paid without penalty. 2176

(2) Payment of the tax and any reports or returns required to 2177  
enable the tax commissioner to determine the correct amount of the 2178  
tax shall be submitted with and are due at the same time as 2179  
payments and reports required to be submitted under this chapter. 2180

(3) If the tax is not paid in full on or before the date 2181  
required by division (E)(1) of this section, the unpaid portion of 2182  
the tax due and unpaid shall be subject to all provisions of this 2183  
chapter for the collection of unpaid, delinquent taxes imposed by 2184  
section 5733.06 of the Revised Code, except that all such taxes, 2185  
interest, and penalties, when collected, shall be treated as 2186  
proceeds arising from the tax imposed by this section and shall be 2187  
deposited in the general revenue fund. 2188

The tax levied on corporations under this section does not 2189  
prohibit or otherwise limit the authority of municipal 2190  
corporations to impose an income tax on the income of such 2191  
corporations. 2192

**Sec. 5739.02.** For the purpose of providing revenue with which 2193  
to meet the needs of the state, for the use of the general revenue 2194  
fund of the state, for the purpose of securing a thorough and 2195

efficient system of common schools throughout the state, for the 2196  
purpose of affording revenues, in addition to those from general 2197  
property taxes, permitted under constitutional limitations, and 2198  
from other sources, for the support of local governmental 2199  
functions, and for the purpose of reimbursing the state for the 2200  
expense of administering this chapter, an excise tax is hereby 2201  
levied on each retail sale made in this state. 2202

(A) The tax shall be collected pursuant to the schedules in 2203  
section 5739.025 of the Revised Code. 2204

The tax applies and is collectible when the sale is made, 2205  
regardless of the time when the price is paid or delivered. 2206

In the case of a sale, the price of which consists in whole 2207  
or in part of rentals for the use of the thing transferred, the 2208  
tax, as regards ~~such~~ those rentals, shall be measured by the 2209  
installments ~~thereof~~ of those rentals. 2210

In the case of a sale of a service defined under division 2211  
(MM) or (NN) of section 5739.01 of the Revised Code, the price of 2212  
which consists in whole or in part of a membership for the receipt 2213  
of the benefit of the service, the tax applicable to the sale 2214  
shall be measured by the installments thereof. 2215

(B) The tax does not apply to the following: 2216

(1) Sales to the state or any of its political subdivisions, 2217  
or to any other state or its political subdivisions if the laws of 2218  
that state exempt from taxation sales made to this state and its 2219  
political subdivisions; 2220

(2) Sales of food for human consumption off the premises 2221  
where sold; 2222

(3) Sales of food sold to students only in a cafeteria, 2223  
dormitory, fraternity, or sorority maintained in a private, 2224  
public, or parochial school, college, or university; 2225



(4) Sales of newspapers, and of magazine subscriptions	2226
shipped by second class mail, and sales or transfers of magazines	2227
distributed as controlled circulation publications;	2228
(5) The furnishing, preparing, or serving of meals without	2229
charge by an employer to an employee provided the employer records	2230
the meals as part compensation for services performed or work	2231
done;	2232
(6) Sales of motor fuel upon receipt, use, distribution, or	2233
sale of which in this state a tax is imposed by the law of this	2234
state, but this exemption shall not apply to the sale of motor	2235
fuel on which a refund of the tax is allowable under section	2236
5735.14 of the Revised Code; and the tax commissioner may deduct	2237
the amount of tax levied by this section applicable to the price	2238
of motor fuel when granting a refund of motor fuel tax pursuant to	2239
section 5735.14 of the Revised Code and shall cause the amount	2240
deducted to be paid into the general revenue fund of this state;	2241
(7) Sales of natural gas by a natural gas company, of water	2242
by a water-works company, or of steam by a heating company, if in	2243
each case the thing sold is delivered to consumers through pipes	2244
or conduits, and all sales of communications services by a	2245
telephone or telegraph company, all terms as defined in section	2246
5727.01 of the Revised Code;	2247
(8) Casual sales by a person, or auctioneer employed directly	2248
by the person to conduct such sales, except as to such sales of	2249
motor vehicles, watercraft or outboard motors required to be	2250
titled under section 1548.06 of the Revised Code, watercraft	2251
documented with the United States coast guard, snowmobiles, and	2252
all-purpose vehicles as defined in section 4519.01 of the Revised	2253
Code;	2254
(9) Sales of services or tangible personal property, other	2255
than motor vehicles, mobile homes, and manufactured homes, by	2256

churches, organizations exempt from taxation under section 2257  
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 2258  
organizations operated exclusively for charitable purposes as 2259  
defined in division (B)(12) of this section, provided that the 2260  
number of days on which such tangible personal property or 2261  
services, other than items never subject to the tax, are sold does 2262  
not exceed six in any calendar year. If the number of days on 2263  
which such sales are made exceeds six in any calendar year, the 2264  
church or organization shall be considered to be engaged in 2265  
business and all subsequent sales by it shall be subject to the 2266  
tax. In counting the number of days, all sales by groups within a 2267  
church or within an organization shall be considered to be sales 2268  
of that church or organization, except that sales made by separate 2269  
student clubs and other groups of students of a primary or 2270  
secondary school, and sales made by a parent-teacher association, 2271  
booster group, or similar organization that raises money to 2272  
support or fund curricular or extracurricular activities of a 2273  
primary or secondary school, shall not be considered to be sales 2274  
of such school, and sales by each such club, group, association, 2275  
or organization shall be counted separately for purposes of the 2276  
six-day limitation. This division does not apply to sales by a 2277  
noncommercial educational radio or television broadcasting 2278  
station. 2279

(10) Sales not within the taxing power of this state under 2280  
the Constitution of the United States; 2281

(11) The transportation of persons or property, unless the 2282  
transportation is by a private investigation and security service; 2283

(12) Sales of tangible personal property or services to 2284  
churches, to organizations exempt from taxation under section 2285  
501(c)(3) of the Internal Revenue Code of 1986, and to any other 2286  
nonprofit organizations operated exclusively for charitable 2287  
purposes in this state, no part of the net income of which inures 2288

to the benefit of any private shareholder or individual, and no 2289  
substantial part of the activities of which consists of carrying 2290  
on propaganda or otherwise attempting to influence legislation; 2291  
sales to offices administering one or more homes for the aged or 2292  
one or more hospital facilities exempt under section 140.08 of the 2293  
Revised Code; and sales to organizations described in division (D) 2294  
of section 5709.12 of the Revised Code. 2295

"Charitable purposes" means the relief of poverty; the 2296  
improvement of health through the alleviation of illness, disease, 2297  
or injury; the operation of an organization exclusively for the 2298  
provision of professional, laundry, printing, and purchasing 2299  
services to hospitals or charitable institutions; the operation of 2300  
a home for the aged, as defined in section 5701.13 of the Revised 2301  
Code; the operation of a radio or television broadcasting station 2302  
that is licensed by the federal communications commission as a 2303  
noncommercial educational radio or television station; the 2304  
operation of a nonprofit animal adoption service or a county 2305  
humane society; the promotion of education by an institution of 2306  
learning that maintains a faculty of qualified instructors, 2307  
teaches regular continuous courses of study, and confers a 2308  
recognized diploma upon completion of a specific curriculum; the 2309  
operation of a parent-teacher association, booster group, or 2310  
similar organization primarily engaged in the promotion and 2311  
support of the curricular or extracurricular activities of a 2312  
primary or secondary school; the operation of a community or area 2313  
center in which presentations in music, dramatics, the arts, and 2314  
related fields are made in order to foster public interest and 2315  
education therein; the production of performances in music, 2316  
dramatics, and the arts; or the promotion of education by an 2317  
organization engaged in carrying on research in, or the 2318  
dissemination of, scientific and technological knowledge and 2319  
information primarily for the public. 2320

Nothing in this division shall be deemed to exempt sales to 2321  
any organization for use in the operation or carrying on of a 2322  
trade or business, or sales to a home for the aged for use in the 2323  
operation of independent living facilities as defined in division 2324  
(A) of section 5709.12 of the Revised Code. 2325

(13) Building and construction materials and services sold to 2326  
construction contractors for incorporation into a structure or 2327  
improvement to real property under a construction contract with 2328  
this state or a political subdivision ~~thereof~~ of this state, or 2329  
with the United States government or any of its agencies; building 2330  
and construction materials and services sold to construction 2331  
contractors for incorporation into a structure or improvement to 2332  
real property that are accepted for ownership by this state or any 2333  
of its political subdivisions, or by the United States government 2334  
or any of its agencies at the time of completion of ~~such~~ the 2335  
structures or improvements; building and construction materials 2336  
sold to construction contractors for incorporation into a 2337  
horticulture structure or livestock structure for a person engaged 2338  
in the business of horticulture or producing livestock; building 2339  
materials and services sold to a construction contractor for 2340  
incorporation into a house of public worship or religious 2341  
education, or a building used exclusively for charitable purposes 2342  
under a construction contract with an organization whose purpose 2343  
is as described in division (B)(12) of this section; building 2344  
materials and services sold to a construction contractor for 2345  
incorporation into a building under a construction contract with 2346  
an organization exempt from taxation under section 501(c)(3) of 2347  
the Internal Revenue Code of 1986 when the building is to be used 2348  
exclusively for the organization's exempt purposes; building and 2349  
construction materials sold for incorporation into the original 2350  
construction of a sports facility under section 307.696 of the 2351  
Revised Code; and building and construction materials and services 2352

sold to a construction contractor for incorporation into real 2353  
property outside this state if such materials and services, when 2354  
sold to a construction contractor in the state in which the real 2355  
property is located for incorporation into real property in that 2356  
state, would be exempt from a tax on sales levied by that state; 2357

(14) Sales of ships or vessels or rail rolling stock used or 2358  
to be used principally in interstate or foreign commerce, and 2359  
repairs, alterations, fuel, and lubricants for such ships or 2360  
vessels or rail rolling stock; 2361

(15) Sales to persons engaged in any of the activities 2362  
mentioned in division (E)(2) or (9) of section 5739.01 of the 2363  
Revised Code, to persons engaged in making retail sales, or to 2364  
persons who purchase for sale from a manufacturer tangible 2365  
personal property that was produced by the manufacturer in 2366  
accordance with specific designs provided by the purchaser, of 2367  
packages, including material, labels, and parts for packages, and 2368  
of machinery, equipment, and material for use primarily in 2369  
packaging tangible personal property produced for sale, including 2370  
any machinery, equipment, and supplies used to make labels or 2371  
packages, to prepare packages or products for labeling, or to 2372  
label packages or products, by or on the order of the person doing 2373  
the packaging, or sold at retail. "Packages" includes bags, 2374  
baskets, cartons, crates, boxes, cans, bottles, bindings, 2375  
wrappings, and other similar devices and containers, and 2376  
"packaging" means placing therein. 2377

(16) Sales of food to persons using food stamp benefits to 2378  
purchase the food. As used in division (B)(16) of this section, 2379  
"food" has the same meaning as in the "Food Stamp Act of 1977," 91 2380  
Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations 2381  
adopted pursuant to that act. 2382

(17) Sales to persons engaged in farming, agriculture, 2383  
horticulture, or floriculture, of tangible personal property for 2384

use or consumption directly in the production by farming, 2385  
agriculture, horticulture, or floriculture of other tangible 2386  
personal property for use or consumption directly in the 2387  
production of tangible personal property for sale by farming, 2388  
agriculture, horticulture, or floriculture; or material and parts 2389  
for incorporation into any such tangible personal property for use 2390  
or consumption in production; and of tangible personal property 2391  
for such use or consumption in the conditioning or holding of 2392  
products produced by and for such use, consumption, or sale by 2393  
persons engaged in farming, agriculture, horticulture, or 2394  
floriculture, except where such property is incorporated into real 2395  
property; 2396

(18) Sales of drugs dispensed by a licensed pharmacist upon 2397  
the order of a licensed health professional authorized to 2398  
prescribe drugs to a human being, as the term "licensed health 2399  
professional authorized to prescribe drugs" is defined in section 2400  
4729.01 of the Revised Code; insulin as recognized in the official 2401  
United States pharmacopoeia; urine and blood testing materials 2402  
when used by diabetics or persons with hypoglycemia to test for 2403  
glucose or acetone; hypodermic syringes and needles when used by 2404  
diabetics for insulin injections; epoetin alfa when purchased for 2405  
use in the treatment of persons with end-stage renal disease; 2406  
hospital beds when purchased for use by persons with medical 2407  
problems for medical purposes; and oxygen and oxygen-dispensing 2408  
equipment when purchased for use by persons with medical problems 2409  
for medical purposes; 2410

(19)(a) Sales of artificial limbs or portion thereof, breast 2411  
prostheses, and other prosthetic devices for humans; braces or 2412  
other devices for supporting weakened or nonfunctioning parts of 2413  
the human body; crutches or other devices to aid human 2414  
perambulation; and items of tangible personal property used to 2415  
supplement impaired functions of the human body such as 2416

respiration, hearing, or elimination; 2417

(b) Sales of wheelchairs; items incorporated into or used in 2418  
conjunction with a motor vehicle for the purpose of transporting 2419  
wheelchairs, other than transportation conducted in connection 2420  
with the sale or delivery of wheelchairs; and items incorporated 2421  
into or used in conjunction with a motor vehicle that are 2422  
specifically designed to assist a person with a disability to 2423  
access or operate the motor vehicle. As used in this division, 2424  
"person with a disability" means any person who has lost the use 2425  
of one or both legs or one or both arms, who is blind, deaf, or 2426  
disabled to the extent that the person is unable to move about 2427  
without the aid of crutches or a wheelchair, or whose mobility is 2428  
restricted by a permanent cardiovascular, pulmonary, or other 2429  
disabling condition. 2430

(c) No exemption under this division shall be allowed for 2431  
nonprescription drugs, medicines, or remedies; items or devices 2432  
used to supplement vision; items or devices whose function is 2433  
solely or primarily cosmetic; or physical fitness equipment. This 2434  
division does not apply to sales to a physician or medical 2435  
facility for use in the treatment of a patient. 2436

(20) Sales of emergency and fire protection vehicles and 2437  
equipment to nonprofit organizations for use solely in providing 2438  
fire protection and emergency services, including trauma care and 2439  
emergency medical services, for political subdivisions of the 2440  
state; 2441

(21) Sales of tangible personal property manufactured in this 2442  
state, if sold by the manufacturer in this state to a retailer for 2443  
use in the retail business of the retailer outside of this state 2444  
and if possession is taken from the manufacturer by the purchaser 2445  
within this state for the sole purpose of immediately removing the 2446  
same from this state in a vehicle owned by the purchaser; 2447

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

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

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

(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;

(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.	2481 2482 2483
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	2484 2485
(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:	2486 2487 2488 2489
(a) To prepare food for human consumption for sale;	2490
(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;	2491 2492 2493 2494
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	2495 2496
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	2497 2498
(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;	2499 2500 2501 2502
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	2503 2504 2505
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	2506 2507 2508
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are	2509 2510

primarily used for transporting tangible personal property by a 2511  
person engaged in highway transportation for hire; 2512

(33) Sales to the state headquarters of any veterans' 2513  
organization in Ohio that is either incorporated and issued a 2514  
charter by the congress of the United States or is recognized by 2515  
the United States veterans administration, for use by the 2516  
headquarters; 2517

(34) Sales to a telecommunications service vendor of tangible 2518  
personal property and services used directly and primarily in 2519  
transmitting, receiving, switching, or recording any interactive, 2520  
two-way electromagnetic communications, including voice, image, 2521  
data, and information, through the use of any medium, including, 2522  
but not limited to, poles, wires, cables, switching equipment, 2523  
computers, and record storage devices and media, and component 2524  
parts for the tangible personal property. The exemption provided 2525  
in division (B)(34) of this section shall be in lieu of all other 2526  
exceptions under division (E)(2) of section 5739.01 of the Revised 2527  
Code to which a telecommunications service vendor may otherwise be 2528  
entitled based upon the use of the thing purchased in providing 2529  
the telecommunications service. 2530

(35) Sales of investment metal bullion and investment coins. 2531  
"Investment metal bullion" means any elementary precious metal 2532  
that has been put through a process of smelting or refining, 2533  
including, but not limited to, gold, silver, platinum, and 2534  
palladium, and which is in such state or condition that its value 2535  
depends upon its content and not upon its form. "Investment metal 2536  
bullion" does not include fabricated precious metal that has been 2537  
processed or manufactured for one or more specific and customary 2538  
industrial, professional, or artistic uses. "Investment coins" 2539  
means numismatic coins or other forms of money and legal tender 2540  
manufactured of gold, silver, platinum, palladium, or other metal 2541  
under the laws of the United States or any foreign nation with a 2542

fair market value greater than any statutory or nominal value of 2543  
such coins. 2544

(36)(a) Sales where the purpose of the consumer is to use or 2545  
consume the things transferred in making retail sales and 2546  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 2547  
certificates, or other advertising material that prices and 2548  
describes tangible personal property offered for retail sale. 2549

(b) Sales to direct marketing vendors of preliminary 2550  
materials such as photographs, artwork, and typesetting that will 2551  
be used in printing advertising material; of printed matter that 2552  
offers free merchandise or chances to win sweepstake prizes and 2553  
that is mailed to potential customers with advertising material 2554  
described in division (B)(36)(a) of this section; and of equipment 2555  
such as telephones, computers, facsimile machines, and similar 2556  
tangible personal property primarily used to accept orders for 2557  
direct marketing retail sales. 2558

(c) Sales of automatic food vending machines that preserve 2559  
food with a shelf life of forty-five days or less by refrigeration 2560  
and dispense it to the consumer. 2561

For purposes of division (B)(36) of this section, "direct 2562  
marketing" means the method of selling where consumers order 2563  
tangible personal property by United States mail, delivery 2564  
service, or telecommunication and the vendor delivers or ships the 2565  
tangible personal property sold to the consumer from a warehouse, 2566  
catalogue distribution center, or similar fulfillment facility by 2567  
means of the United States mail, delivery service, or common 2568  
carrier. 2569

(37) Sales to a person engaged in the business of 2570  
horticulture or producing livestock of materials to be 2571  
incorporated into a horticulture structure or livestock structure; 2572

(38) The sale of a motor vehicle that is used exclusively for 2573

a vanpool ridesharing arrangement to persons participating in the 2574  
vanpool ridesharing arrangement when the vendor is selling the 2575  
vehicle pursuant to a contract between the vendor and the 2576  
department of transportation; 2577

(39) Sales of personal computers, computer monitors, computer 2578  
keyboards, modems, and other peripheral computer equipment to an 2579  
individual who is licensed or certified to teach in an elementary 2580  
or a secondary school in this state for use by that individual in 2581  
preparation for teaching elementary or secondary school students; 2582  
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(40) Sales to a professional racing team of any of the 2584  
following: 2585

(a) Motor racing vehicles; 2586

(b) Repair services for motor racing vehicles; 2587

(c) Items of property that are attached to or incorporated in 2588  
motor racing vehicles, including engines, chassis, and all other 2589  
components of the vehicles, and all spare, replacement, and 2590  
rebuilt parts or components of the vehicles; except not including 2591  
tires, consumable fluids, paint, and accessories consisting of 2592  
instrumentation sensors and related items added to the vehicle to 2593  
collect and transmit data by means of telemetry and other forms of 2594  
communication. 2595

(41) Sales of used manufactured homes and used mobile homes, 2596  
as defined in section 5739.0210 of the Revised Code, made on or 2597  
after January 1, 2000; 2598

(42) Sales of tangible personal property and services to a 2599  
provider of electricity used or consumed directly and primarily in 2600  
generating, transmitting, or distributing electricity for use by 2601  
others, including property that is or is to be incorporated into 2602  
and will become a part of the consumer's production, transmission, 2603  
or distribution system and that retains its classification as 2604

tangible personal property after incorporation; fuel or power used 2605  
in the production, transmission, or distribution of electricity; 2606  
and tangible personal property and services used in the repair and 2607  
maintenance of the production, transmission, or distribution 2608  
system, including only those motor vehicles as are specially 2609  
designed and equipped for such use. The exemption provided in this 2610  
division shall be in lieu of all other exceptions in division 2611  
(E)(2) of section 5739.01 of the Revised Code to which a provider 2612  
of electricity may otherwise be entitled based on the use of the 2613  
tangible personal property or service purchased in generating, 2614  
transmitting, or distributing electricity. 2615

For the purpose of the proper administration of this chapter, 2616  
and to prevent the evasion of the tax, it is presumed that all 2617  
sales made in this state are subject to the tax until the contrary 2618  
is established. 2619

As used in this section, except in division (B)(16) of this 2620  
section, "food" includes cereals and cereal products, milk and 2621  
milk products including ice cream, meat and meat products, fish 2622  
and fish products, eggs and egg products, vegetables and vegetable 2623  
products, fruits, fruit products, and pure fruit juices, 2624  
condiments, sugar and sugar products, coffee and coffee 2625  
substitutes, tea, and cocoa and cocoa products. It does not 2626  
include: spirituous ~~or malt~~ liquors or beer; soft drinks; sodas 2627  
and beverages that are ordinarily dispensed at or in connection 2628  
with bars and soda fountains ~~or in connection therewith~~, other 2629  
than coffee, tea, and cocoa; root beer and root beer extracts; 2630  
malt and malt extracts; mineral oils, cod liver oils, and halibut 2631  
liver oil; medicines, including tonics, vitamin preparations, and 2632  
other products sold primarily for their medicinal properties; and 2633  
water, including mineral, bottled, and carbonated waters, and ice. 2634

(C) The levy of an excise tax on transactions by which 2635  
lodging by a hotel is or is to be furnished to transient guests 2636

pursuant to this section and division (B) of section 5739.01 of 2637  
the Revised Code does not prevent any of the following: 2638

(1) A municipal corporation or township from levying an 2639  
excise tax for any lawful purpose not to exceed three per cent on 2640  
transactions by which lodging by a hotel is or is to be furnished 2641  
to transient guests in addition to the tax levied by this section. 2642  
If a municipal corporation or township repeals a tax imposed under 2643  
division (C)(1) of this section and a county in which the 2644  
municipal corporation or township has territory has a tax imposed 2645  
under division (C) of section 5739.024 of the Revised Code in 2646  
effect, the municipal corporation or township may not reimpose its 2647  
tax as long as that county tax remains in effect. A municipal 2648  
corporation or township in which a tax is levied under division 2649  
(B)(2) of section 351.021 of the Revised Code may not increase the 2650  
rate of its tax levied under division (C)(1) of this section to 2651  
any rate that would cause the total taxes levied under both of 2652  
those divisions to exceed three per cent on any lodging 2653  
transaction within the municipal corporation or township. 2654

(2) A municipal corporation or a township from levying an 2655  
additional excise tax not to exceed three per cent on such 2656  
transactions pursuant to division (B) of section 5739.024 of the 2657  
Revised Code. Such tax is in addition to any tax imposed under 2658  
division (C)(1) of this section. 2659

(3) A county from levying an excise tax pursuant to division 2660  
(A) of section 5739.024 of the Revised Code. 2661

(4) A county from levying an excise tax not to exceed three 2662  
per cent of such transactions pursuant to division (C) of section 2663  
5739.024 of the Revised Code. Such a tax is in addition to any tax 2664  
imposed under division (C)(3) of this section. 2665

(5) A convention facilities authority, as defined in division 2666  
(A) of section 351.01 of the Revised Code, from levying the excise 2667

taxes provided for in division (B) of section 351.021 of the Revised Code. 2668  
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(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. 2670  
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(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. 2675  
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(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. 2680  
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**Section 2.** 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, 4301.37, 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. 2684  
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**Section 3.** 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 General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds 2692  
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that the composite is the resulting version of the section in	2698
effect prior to the effective date of the section as presented in	2699
this act.	2700