

# As Reported by the Senate Agriculture Committee

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REPRESENTATIVES Trakas, DePiero, Evans, Husted, Schmidt, Setzer,  
Sullivan, Seitz, Young, Blasdel, Calvert, Clancy, Carano, Sferra, Niehaus,  
Coates, Faber, Schneider

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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, 4301.402, 4301.42, 3  
4301.47, 4301.54, 4301.55, 4301.62, 4303.01, 4  
4303.02, 4303.06, 4303.07, 4303.10, 4303.181, 5  
4303.182, 4303.184, 4303.22, 4303.29, 4303.30, 6  
4303.332, 4303.35, 4305.01, 4305.03, 4305.04, 7  
4399.09, 4399.12, 4399.15, 5703.21, 5733.065, and 8  
5739.02 and to enact sections 4301.433 and 4303.204 9  
of the Revised Code to revise the definition of 10  
beer; to exempt the sale of beer and intoxicating 11  
liquor at publicly owned golf courses from the 12  
effects of local option elections and to allow 13  
Sunday liquor sales at these golf courses whether 14  
or not those sales have been approved at local 15  
option elections; to forbid an employee of a 16  
wholesale distributor from having any financial 17  
interest in any retail dealer; to create the D-5k 18  
permit to be issued to certain nonprofit 19  
organizations that own or operate a botanical 20  
garden; to create the F-4 permit to be issued for 21  
certain events coordinated by nonprofit 22  
associations and corporations; to make changes in 23

the Open Container Law and the law governing local 24  
option elections on beer and liquor sales at a 25  
specific premises; to require suppliers of wine 26  
that is bottled outside this state to furnish 27  
invoices to the Tax Commissioner for shipments into 28  
this state and to specify that those invoices are 29  
open to public inspection; and to make other 30  
changes in the Liquor Control Law. 31

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

**Section 1.** That sections 1333.82, 1502.07, 3719.44, 4301.01, 32  
4301.03, 4301.041, 4301.042, 4301.24, 4301.241, 4301.333, 33  
4301.355, 4301.365, 4301.402, 4301.42, 4301.47, 4301.54, 4301.55, 34  
4301.62, 4303.01, 4303.02, 4303.06, 4303.07, 4303.10, 4303.181, 35  
4303.182, 4303.184, 4303.22, 4303.29, 4303.30, 4303.332, 4303.35, 36  
4305.01, 4305.03, 4305.04, 4399.09, 4399.12, 4399.15, 5703.21, 37  
5733.065, and 5739.02 be amended and sections 4301.433 and 38  
4303.204 of the Revised Code be enacted to read as follows: 39

**Sec. 1333.82.** As used in sections 1333.82 to 1333.87 of the 40  
Revised Code: 41

(A) "Alcoholic beverages" means beer, ~~malt beverages~~, and 42  
wine as defined in section 4301.01 of the Revised Code. 43

(B) "Manufacturer" means a person, whether located in this 44  
state or elsewhere, who manufactures or supplies alcoholic 45  
beverages to distributors in this state. 46

(C) "Distributor" means a person who sells or distributes 47  
alcoholic beverages to retail permit holders in the state, but 48  
does not include the state or any of its political subdivisions. 49

(D) "Franchise" means a contract or any other legal device 50

used to establish a contractual relationship between a 51  
manufacturer and a distributor. 52

(E) "Good faith" means the duty of any party to any 53  
franchise, and all officers, employees, or agents of any party to 54  
any franchise, to act in a fair and equitable manner toward each 55  
other so as to guarantee each party freedom from coercion or 56  
intimidation; except that recommendation, endorsement, exposition, 57  
persuasion, urging, or argument shall not be considered to 58  
constitute a lack of good faith or coercion. 59

(F) "Brand," as applied to wine, means a wine different from 60  
any other wine in respect to type, brand, trade name, or container 61  
size. 62

(G) "Sales area or territory" means an exclusive geographic 63  
area or territory that is assigned to a particular A or B permit 64  
holder and that either has one or more political subdivisions as 65  
its boundaries or consists of an area of land with readily 66  
identifiable geographic boundaries. "Sales area or territory" does 67  
not include, however, any particular retail location in an 68  
exclusive geographic area or territory that is assigned to another 69  
A or B permit holder. 70

**Sec. 1502.07.** No person, agency of the state, municipal 72  
corporation, county, or township shall sell or offer for sale any 73  
beer, ~~malt beverage~~, or mixed beverages as defined in section 74  
4301.01 of the Revised Code, or any soft drink as defined in 75  
section 913.22 of the Revised Code, in a metal container that is 76  
so designed that it may be opened by removing from the container a 77  
part ~~thereof~~ of the container without using a separate opener. 78  
However, nothing in this section prohibits the sale or offering 79  
for sale of a container the only detachable part of which is a 80  
piece of tape or other similar adhesive material. 81

Sec. 3719.44. (A) Pursuant to this section, and by rule 82  
adopted in accordance with Chapter 119. of the Revised Code, the 83  
state board of pharmacy may do any of the following with respect 84  
to schedules I, II, III, IV, and V established in section 3719.41 85  
of the Revised Code: 86

(1) Add a previously unscheduled compound, mixture, 87  
preparation, or substance to any schedule; 88

(2) Transfer a compound, mixture, preparation, or substance 89  
from one schedule to another, provided the transfer does not have 90  
the effect under ~~Chapter 3719. of the Revised Code~~ this chapter of 91  
providing less stringent control of the compound, mixture, 92  
preparation, or substance than is provided under the federal drug 93  
abuse control laws; 94

(3) Remove a compound, mixture, preparation, or substance 95  
from the schedules where the board had previously added the 96  
compound, mixture, preparation, or substance to the schedules, 97  
provided that the removal shall not have the effect under ~~Chapter~~ 98  
~~3719. of the Revised Code~~ this chapter of providing less stringent 99  
control of the compound, mixture, preparation, or substance than 100  
is provided under the federal drug abuse control laws. 101

(B) In making a determination to add, remove, or transfer 102  
pursuant to division (A) of this section, the board shall consider 103  
the following: 104

(1) The actual or relative potential for abuse; 105

(2) The scientific evidence of the pharmacological effect of 106  
the substance, if known; 107

(3) The state of current scientific knowledge regarding the 108  
substance; 109

(4) The history and current pattern of abuse; 110

(5) The scope, duration, and significance of abuse;	111
(6) The risk to the public health;	112
(7) The potential of the substance to produce psychic or physiological dependence liability;	113 114
(8) Whether the substance is an immediate precursor.	115
(C) The board may add or transfer a compound, mixture, preparation, or substance to schedule I when it appears that there is a high potential for abuse, that it has no accepted medical use in treatment in this state, or <u>that it</u> lacks accepted safety for use in treatment under medical supervision.	116 117 118 119 120
(D) The board may add or transfer a compound, mixture, preparation, or substance to schedule II when it appears that there is a high potential for abuse, that it has a currently accepted medical use in treatment in this state, or currently accepted medical use in treatment with severe restrictions, and that its abuse may lead to severe physical or severe psychological dependence.	121 122 123 124 125 126 127
(E) The board may add or transfer a compound, mixture, preparation, or substance to schedule III when it appears that there is a potential for abuse less than the substances included in schedules I and II, that it has a currently accepted medical use in treatment in this state, and that its abuse may lead to moderate or low physical or high psychological dependence.	128 129 130 131 132 133
(F) The board may add or transfer a compound, mixture, preparation, or substance to schedule IV when it appears that it has a low potential for abuse relative to substances included in schedule III, <del>and</del> that it has a currently accepted medical use in treatment in this state, and that its abuse may lead to limited physical or psychological dependence relative to the substances included in schedule III.	134 135 136 137 138 139 140

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

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

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

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

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

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

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

section, place ~~such~~ the abused substance on a controlled substance schedule. 172  
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(K)(1) A drug product containing ephedrine that is known as 174  
one of the following and is in the form specified shall not be 175  
considered a schedule V controlled substance: 176

- (a) Amesec capsules; 177
- (b) Bronitin tablets; 178
- (c) Bronkotabs; 179
- (d) Bronkolixir; 180
- (e) Bronkaid tablets; 181
- (f) Efedron nasal jelly; 182
- (g) Guiaphed elixir; 183
- (h) Haysma; 184
- (i) Pazo hemorrhoid ointment and suppositories; 185
- (j) Primatene "M" formula tablets; 186
- (k) Primatene "P" formula tablets; 187
- (l) Tedrigen tablets; 188
- (m) Tedral tablets, suspension and elixir; 189
- (n) T.E.P.; 190
- (o) Vatronol nose drops. 191

(2)(a) A product containing ephedrine shall not be considered 192  
a controlled substance if the product is a food product or dietary 193  
supplement that meets all of the following criteria: 194

(i) It contains, per dosage unit or serving, not more than 195  
the lesser of twenty-five milligrams of ephedrine alkaloids or the 196  
maximum amount of ephedrine alkaloids provided in applicable 197  
regulations adopted by the United States food and drug 198  
administration, and no other controlled substance. 199

(ii) It contains no hydrochloride or sulfate salts of ephedrine alkaloids. 200  
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(iii) It is packaged with a prominent label securely affixed 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. 202  
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(b)(i) Subject to division (K)(2)(b)(ii) of this section, no person shall dispense, sell, or otherwise give a product described in division (K)(2)(a) of this section to any individual under eighteen years of age. 213  
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(ii) Division (K)(2)(b)(i) of this section does not apply to a physician or pharmacist who dispenses, sells, or otherwise gives a product described in division (K)(2)(a) of this section to an individual under eighteen years of age, to a parent or guardian of an individual under eighteen years of age who dispenses, sells, or otherwise gives a product of that nature to the individual under eighteen years of age, or to a person who, as authorized by the individual's parent or legal guardian, dispenses, sells, or otherwise gives a product of that nature to an individual under eighteen years of age. 217  
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(c) No person in the course of selling, offering for sale, or otherwise distributing a product described in division (K)(2)(a) of this section shall advertise or represent in any manner that the product causes euphoria, ecstasy, a "buzz" or "high," or an altered mental state; heightens sexual performance; or, because it 227  
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contains ephedrine alkaloids, increased muscle mass.	232
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(3) A drug product that contains the isomer pseudoephedrine,	234
or any of its salts, optical isomers, or salts of optical isomers,	235
shall not be considered a controlled substance if the drug product	236
is labeled in a manner consistent with federal law or with the	237
product's over-the-counter tentative final monograph or final	238
monograph issued by the United States food and drug	239
administration.	240
(4) At the request of any person, the board may except any	241
product containing ephedrine not described in division (K)(1) or	242
(2) of this section or any class of products containing ephedrine	243
from being included as a schedule V controlled substance if it	244
determines that the product or class of products does not contain	245
any other controlled substance. The board shall make the	246
determination in accordance with this section and by rule adopted	247
in accordance with Chapter 119. of the Revised Code.	248
(L) As used in this section:	249
(1) "Food" has the same meaning as in section 3715.01 of the	250
Revised Code.	251
(2) "Dietary supplement" has the <u>same</u> meaning <u>given as</u> in the	252
"Federal Food, Drug, and Cosmetic Act," 108 Stat. 4327 (1994), 21	253
U.S.C.A. 321 (ff), as amended.	254
(3) "Ephedrine alkaloids" means ephedrine, pseudoephedrine,	255
norephedrine, norpseudoephedrine, methylephedrine, and	256
methylnpseudoephedrine.	257
<b>Sec. 4301.01.</b> (A) As used in the Revised Code:	258
(1) "Intoxicating liquor" and "liquor" include all liquids	259
and compounds, other than beer, containing one-half of one per	260
cent or more of alcohol by volume which are fit to use for	261

beverage purposes, from whatever source and by whatever process 262  
produced, by whatever name called, and whether ~~the same~~ they are 263  
medicated, proprietary, or patented. "Intoxicating liquor" and 264  
"liquor" include wine even if it contains less than four per cent 265  
of alcohol by volume, mixed beverages even if they contain less 266  
than four per cent of alcohol by volume, cider, alcohol, and all 267  
solids and confections which contain any alcohol. 268

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 269  
4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the 270  
Revised Code, "sale" and "sell" include exchange, barter, gift, 271  
offer for sale, sale, distribution and delivery of any kind, and 272  
the transfer of title or possession of beer and intoxicating 273  
liquor either by constructive or actual delivery by any means or 274  
devices whatever, including the sale of beer or intoxicating 275  
liquor by means of a controlled access alcohol and beverage 276  
cabinet pursuant to section 4301.21 of the Revised Code. "Sale" 277  
and "sell" do not include the mere solicitation of orders for beer 278  
or intoxicating liquor from the holders of permits issued by the 279  
division of liquor control authorizing the sale of the beer or 280  
intoxicating liquor, but no solicitor shall solicit any such 281  
orders until the solicitor has been registered with the division 282  
pursuant to section 4303.25 of the Revised Code. 283

(3) "Vehicle" includes all means of transportation by land, 284  
by water, or by air, and everything made use of in any way for 285  
such transportation. 286

(B) As used in ~~sections 4301.01 to 4301.74 of the Revised~~ 287  
~~Code~~ this chapter: 288

(1) "Alcohol" means ethyl alcohol, whether rectified or 289  
diluted with water or not, whatever its origin may be, and 290  
includes synthetic ethyl alcohol. "Alcohol" does not include 291  
denatured alcohol and wood alcohol. 292

(2) "Beer," ~~"malt liquor," or "malt beverages"~~ includes all 293  
beverages brewed or fermented wholly or in part from malt products 294  
and containing one-half of one per cent or more, but not more than 295  
twelve per cent, of alcohol by volume ~~but not more than six per~~ 296  
~~cent of alcohol by weight.~~ 297

(3) "Wine" includes all liquids fit to use for beverage 298  
purposes containing not less than one-half of one per cent of 299  
alcohol by volume and not more than twenty-one per cent of alcohol 300  
by volume, which is made from the fermented juices of grapes, 301  
fruits, or other agricultural products, except that as used in 302  
sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the 303  
Revised Code, and, for purposes of determining the rate of the tax 304  
that applies, division (B) of section 4301.43 of the Revised Code, 305  
"wine" does not include cider. 306

(4) "Mixed beverages," such as bottled and prepared cordials, 307  
cocktails, and highballs, are products obtained by mixing any type 308  
of whiskey, neutral spirits, brandy, gin, or other distilled 309  
spirits with, or over, carbonated or plain water, pure juices from 310  
flowers and plants, and other flavoring materials. The completed 311  
product shall contain not less than one-half of one per cent of 312  
alcohol by volume and not more than twenty-one per cent of alcohol 313  
by volume. 314

(5) "Spirituous liquor" includes all intoxicating liquors 315  
containing more than twenty-one per cent of alcohol by volume. 316

(6) "Sealed container" means any container having a capacity 317  
of not more than one hundred twenty-eight fluid ounces, the 318  
opening of which is closed to prevent the entrance of air. 319

(7) "Person" includes firms and corporations. 320

(8) "Manufacture" includes all processes by which beer or 321  
intoxicating liquor is produced, whether by distillation, 322  
rectifying, fortifying, blending, fermentation, or brewing, or in 323

any other manner. 324

(9) "Manufacturer" means any person engaged in the business 325  
of manufacturing beer or intoxicating liquor. 326

(10) "Wholesale distributor" and "distributor" means a person 327  
engaged in the business of selling to retail dealers for purposes 328  
of resale. 329

(11) "Hotel" has the same meaning as in section 3731.01 of 330  
the Revised Code, subject to the exceptions mentioned in section 331  
3731.03 of the Revised Code. 332

(12) "Restaurant" means a place located in a permanent 333  
building provided with space and accommodations wherein, in 334  
consideration of the payment of money, hot meals are habitually 335  
prepared, sold, and served at noon and evening, as the principal 336  
business of the place. "Restaurant" does not include pharmacies, 337  
confectionery stores, lunch stands, night clubs, and filling 338  
stations. 339

(13) "Club" means a corporation or association of individuals 340  
organized in good faith for social, recreational, benevolent, 341  
charitable, fraternal, political, patriotic, or athletic purposes, 342  
which is the owner, lessor, or occupant of a permanent building or 343  
part of a permanent building operated solely for those purposes, 344  
membership in which entails the prepayment of regular dues, and 345  
includes the place so operated. 346

(14) "Night club" means a place operated for profit, where 347  
food is served for consumption on the premises and one or more 348  
forms of amusement are provided or permitted for a consideration 349  
that may be in the form of a cover charge or may be included in 350  
the price of the food and beverages, or both, purchased by 351  
patrons. 352

(15) "At retail" means for use or consumption by the 353  
purchaser and not for resale. 354

(16) "Pharmacy" means an establishment, as defined in section 355  
4729.01 of the Revised Code, that is under the management or 356  
control of a licensed pharmacist in accordance with section 357  
4729.27 of the Revised Code. 358

(17) "Enclosed shopping center" means a group of retail sales 359  
and service business establishments that face into an enclosed 360  
mall, share common ingress, egress, and parking facilities, and 361  
are situated on a tract of land that contains an area of not less 362  
than five hundred thousand square feet. "Enclosed shopping center" 363  
also includes not more than one business establishment that is 364  
located within a free-standing building on such a tract of land, 365  
so long as the sale of beer and intoxicating liquor on the tract 366  
of land was approved in an election held under former section 367  
4301.353 of the Revised Code. 368

(18) "Controlled access alcohol and beverage cabinet" means a 369  
closed container, either refrigerated, in whole or in part, or 370  
nonrefrigerated, access to the interior of which is restricted by 371  
means of a device that requires the use of a key, magnetic card, 372  
or similar device and from which beer, intoxicating liquor, other 373  
beverages, or food may be sold. 374

(19) "Community facility" means either of the following: 375

(a) Any convention, sports, or entertainment facility or 376  
complex, or any combination of these, that is used by or 377  
accessible to the general public and that is owned or operated in 378  
whole or in part by the state, a state agency, or a political 379  
subdivision of the state or that is leased from, or located on 380  
property owned by or leased from, the state, a state agency, a 381  
political subdivision of the state, or a convention facilities 382  
authority created pursuant to section 351.02 of the Revised Code; 383

(b) An area designated as a community entertainment district 384  
pursuant to section 4301.80 of the Revised Code. 385

(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 418  
of permits for the manufacture, distribution, transportation, and 419  
sale of beer and intoxicating liquor, and the sale of alcohol; and 420  
rules governing the procedure of the division of liquor control in 421  
the suspension, revocation, and cancellation of ~~such~~ those 422  
permits; 423

(B) Rules and orders providing in detail for the conduct of 424  
any retail business authorized under permits issued pursuant to 425  
~~such chapters~~ this chapter and Chapter 4303. of the Revised Code, 426  
with a view to ensuring compliance with ~~such~~ those chapters and 427  
laws relative ~~thereto~~ to them, and the maintenance of public 428  
decency, sobriety, and good order in any place licensed under ~~such~~ 429  
the permits. No rule or order shall prohibit the sale of lottery 430  
tickets issued pursuant to Chapter 3770. of the Revised Code by 431  
any retail business authorized under permits issued pursuant to 432  
~~such~~ that chapter. 433

No rule or order shall prohibit pari-mutuel wagering on 434  
simulcast horse races at a satellite facility that has been issued 435  
a D liquor permit under Chapter 4303. of the Revised Code. No rule 436  
or order shall prohibit a charitable organization that holds a D-4 437  
permit from selling or serving beer or intoxicating liquor under 438  
its permit in a portion of its premises merely because that 439  
portion of its premises is used at other times for the conduct of 440  
a charitable bingo game. However, such an organization shall not 441  
sell or serve beer or intoxicating liquor or permit beer or 442  
intoxicating liquor to be consumed or seen in the same location in 443  
its premises where a charitable bingo game is being conducted 444  
while the game is being conducted. As used in this division, 445  
"charitable organization" has the same meaning as in division (H) 446  
of section 2915.01 of the Revised Code, and "charitable bingo 447  
game" has the same meaning as in division (R) of that section 448

~~2915.01 of the Revised Code.~~ No rule or order pertaining to 449  
visibility into the premises of a permit holder after the legal 450  
hours of sale shall be adopted or maintained by the commission. 451

(C) Standards, not in conflict with those prescribed by any 452  
law of this state or the United States, to secure the use of 453  
proper ingredients and methods in the manufacture of beer, ~~malt~~ 454  
~~liquor~~, mixed beverages, and wine to be sold within this state; 455

(D) Rules determining the nature, form, and capacity of all 456  
packages and bottles to be used for containing beer or 457  
intoxicating liquor except for spirituous liquor to be kept or 458  
sold, governing the form of all seals and labels to be used 459  
~~thereon on those packages and bottles~~, and requiring the label on 460  
every package, bottle, and container to state the ingredients in 461  
the contents and, ~~except on malt beverages~~ beer, the terms of 462  
weight, volume, or proof spirits, and whether the same is beer, 463  
wine, alcohol, or any intoxicating liquor except for spirituous 464  
liquor; 465

(E) Uniform rules governing all advertising with reference to 466  
the sale of beer and intoxicating liquor throughout the state and 467  
advertising upon and in the premises licensed for the sale of beer 468  
or intoxicating liquor; 469

(F) Rules restricting and placing conditions upon the 470  
transfer of permits; 471

(G) Rules and orders limiting the number of permits of any 472  
class within the state or within any political subdivision of the 473  
state; and, ~~for such that purpose~~, adopting reasonable 474  
classifications of persons or establishments to which any 475  
authorized class of permits may be issued within any ~~such~~ 476  
political subdivision; 477

(H) Rules and orders with reference to sales of beer and 478  
intoxicating liquor on Sundays and holidays and with reference to 479



the hours of the day during which and the persons to whom 480  
intoxicating liquor of any class may be sold, and rules with 481  
reference to the manner of sale; 482

(I) Rules requiring permit holders buying beer ~~and malt~~ 483  
~~beverages~~ to pay and permit holders selling beer ~~and malt~~ 484  
~~beverages~~ to collect minimum cash deposits for kegs, cases, 485  
bottles, or other returnable containers of ~~such the~~ beer ~~and malt~~ 486  
~~beverages~~; requiring the repayment, or credit ~~therefor~~, of ~~such~~ 487  
~~the~~ minimum cash deposit charges upon the return of ~~such the~~ empty 488  
containers; ~~i~~ and requiring the posting of such form of indemnity 489  
or such other conditions with respect to the charging, collection, 490  
and repayment of minimum cash deposit charges for returnable 491  
containers of beer ~~or malt beverages~~ as are necessary to ensure 492  
the return of ~~such the~~ empty containers or the repayment upon ~~such~~ 493  
~~that~~ return of the minimum cash deposits paid ~~therefor~~; ~~i~~ 494

(J) Rules establishing the method by which alcohol products 495  
may be imported for sale by wholesale distributors and the method 496  
by which manufacturers and suppliers may sell alcohol products to 497  
wholesale distributors. 498

Every rule, standard, requirement, or order of the 499  
commission; and every repeal, amendment, or rescission ~~thereof~~ of 500  
them shall be posted for public inspection in the principal office 501  
of the commission and the principal office of the division of 502  
liquor control, and a certified copy ~~thereof~~ of them shall be 503  
filed in the office of the secretary of state. An order applying 504  
only to persons named ~~therein~~ in it shall be served on the persons 505  
affected by personal delivery of a certified copy, or by mailing 506  
~~such a~~ certified copy to each person affected ~~thereby~~, by it or, 507  
in the case of a corporation, to any officer or agent ~~thereof~~ of 508  
the corporation upon whom a service of summons may be served in a 509  
civil action. The posting and filing required by this section 510  
constitutes sufficient notice to all persons affected by such rule 511

or order which is not required to be served. General rules of the 512  
commission promulgated pursuant to this section shall be published 513  
in ~~such a~~ the manner ~~as~~ the commission determines. 514

**Sec. 4301.041.** The liquor control commission may determine 515  
and fix by ~~regulation~~ rule the minimum percentage mark-up for 516  
sales at retail of beer, ~~lager beer, ale, stout, porter, or any~~ 517  
~~other brewed or malt liquor or malt beverages,~~ whether in case lot 518  
or less. 519

To determine the retail price of ~~such products~~ beer, the 520  
minimum percentage mark-up may be applied to the wholesale price 521  
of the manufacturer or wholesale distributor charged to the retail 522  
permit holder. Such prices shall apply to sales made at retail by 523  
a permit holder for off-premise consumption only. 524

**Sec. 4301.042.** The liquor control commission may adopt, 525  
repeal, and amend rules providing for and controlling pricing 526  
practices and the manner and frequency with which any person sets 527  
or changes prices at which beer ~~and other malt beverages are~~ is 528  
sold to or by the holders of B-1 permits, but the commission shall 529  
not set prices or markups between manufacturers or other suppliers 530  
and the holders of B-1 permits. 531

**Sec. 4301.24.** No manufacturer shall aid or assist the holder 532  
of any permit for sale at wholesale, and no manufacturer or 533  
wholesale distributor shall aid or assist the holder of any permit 534  
for sale at retail, by gift or loan of any money or property of 535  
any description or other valuable thing, or by giving premiums or 536  
rebates. No holder of any such permit shall accept the same, 537  
provided that the manufacturer or wholesale distributor may 538  
furnish to a retail permittee the inside signs or advertising and 539  
the tap signs or devices authorized by divisions (F) and (G) of 540  
section 4301.22 of the Revised Code. 541

No manufacturer shall have any financial interest, directly 542  
or indirectly, by stock ownership, or through interlocking 543  
directors in a corporation, or otherwise, in the establishment, 544  
maintenance, or promotion in the business of any wholesale 545  
distributor. No retail permit holder shall have any interest, 546  
directly or indirectly, in the operation of, or any ownership in, 547  
the business of any wholesale distributor or manufacturer. 548

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

an A permit from securing and holding a wholesale distributor's 574  
permit or permits and operating as a wholesale distributor. 575

No manufacturer shall sell or offer to sell to any wholesale 576  
distributor or retail permit holder, ~~and~~ no wholesale distributor 577  
shall sell or offer to sell to any retail permit holder, and no 578  
wholesale distributor or retail permit holder shall purchase or 579  
receive from any manufacturer or wholesale distributor, any ~~malt~~ 580  
~~or beer,~~ brewed beverages, or wine manufactured in the United 581  
States except for cash. No right of action shall exist to collect 582  
any claims for credit extended contrary to this section. This 583  
section does not prohibit a licensee from crediting to a purchaser 584  
the actual prices charged for packages or containers returned by 585  
the original purchaser as a credit on any sale or from refunding 586  
to any purchaser the amount paid by that purchaser for containers 587  
or as a deposit on containers when title is retained by the 588  
vendor, if those containers or packages have been returned to the 589  
manufacturer or distributor. This section does not prohibit a 590  
manufacturer from extending usual and customary credit for ~~malt or~~ 591  
~~beer,~~ brewed beverages, or wine manufactured in the United States 592  
and sold to customers who live or maintain places of business 593  
outside this state when the beverages so sold are actually 594  
transported and delivered to points outside this state. No 595  
wholesale or retail permit shall be issued to an applicant unless 596  
the applicant has paid in full all accounts for beer ~~and malt~~ 597  
~~beverages~~ or wine, manufactured in the United States, outstanding 598  
as of September 6, 1939. No beer ~~or malt beverages~~ or wine 599  
manufactured in the United States shall be imported into the state 600  
unless the beer ~~or malt beverages~~ or wine has been paid for in 601  
cash, and no consent to import any such beer ~~or malt beverages~~ or 602  
wine manufactured in the United States shall be issued by the 603  
division of liquor control until the A-2, B-1, or B-5 permit 604  
holder establishes to the satisfaction of the division that the 605  
beer ~~or malt beverages~~ or wine has been paid for in cash. 606

This section does not prevent a manufacturer from securing 607  
and holding any financial interest, directly or indirectly, by 608  
stock ownership or through interlocking directors in a 609  
corporation, or otherwise, in the establishment, maintenance, or 610  
promotion of the business or premises of any C or D permit holder, 611  
provided that the following conditions are met: 612

(A) Either the manufacturer or one of its parent companies is 613  
listed on a national securities exchange. 614

(B) All purchases of alcoholic beverages by the C or D permit 615  
holder are made from wholesale distributors in this state or 616  
agency stores licensed by the division of liquor control. 617

(C) If the C or D permit holder sells brands of alcoholic 618  
beverages that are produced or distributed by the manufacturer 619  
that holds the financial interest, the C or D permit holder also 620  
sells other competing brands of alcoholic beverages produced by 621  
other manufacturers, no preference is given to the products of the 622  
manufacturer, and there is no exclusion, in whole or in part, of 623  
products sold or offered for sale by other manufacturers, 624  
suppliers, or importers of alcoholic beverages that constitutes a 625  
substantial impairment of commerce. 626

(D) The primary purpose of the C or D permit premises is a 627  
purpose other than to sell alcoholic beverages, and the sale of 628  
other goods and services exceeds fifty per cent of the total gross 629  
receipts of the C or D permit holder at its premises. 630

This section does not prevent a manufacturer from giving 631  
financial assistance to the holder of a B permit for the purpose 632  
of the holder purchasing an ownership interest in the business, 633  
existing inventory and equipment, or property of another B permit 634  
holder, including, but not limited to, participation in a limited 635  
liability partnership, limited liability company, or any other 636  
legal entity authorized to do business in this state. This section 637

does not permit a manufacturer to give financial assistance to the 638  
holder of a B permit to purchase inventory or equipment used in 639  
the daily operation of a B permit holder. 640

**Sec. 4301.241.** Notwithstanding section 4303.06 of the Revised 641  
Code, each manufacturer and supplier of beer ~~and malt beverages~~ 642  
shall assign to each of the manufacturer's or supplier's B-1 643  
distributors a sales area or territory within which each ~~such~~ B-1 644  
permit holder shall be the distributor of the brand or brands of 645  
the manufacturer or supplier, provided that, if the manufacturer 646  
or supplier manufactures or supplies more than one brand of beer 647  
~~and malt beverage~~, the manufacturer or supplier may assign sales 648  
areas or territories to additional B-1 distributors for the 649  
distribution and sale of the additional brand or brands, so long 650  
as not more than one distributor distributes the same brand or 651  
brands within the same sales area or territory. No B-1 distributor 652  
shall distribute a specific brand of beer ~~or malt beverage~~ in any 653  
area or territory other than the area or territory assigned to the 654  
distributor. 655

**Sec. 4301.333.** (A) The privilege of local option conferred by 656  
section 4301.323 of the Revised Code may be exercised if, not 657  
later than four p.m. of the seventy-fifth day before the day of a 658  
general or primary election, a petition is presented to the board 659  
of elections of the county in which the precinct is situated by a 660  
petitioner who is one of the following: 661

(1) An applicant for the issuance or transfer of a liquor 662  
permit at, or to, a particular location within the precinct; 663

(2) The holder of a liquor permit at a particular location 664  
within the precinct; 665

(3) A person who operates or seeks to operate a liquor agency 666  
store at a particular location within the precinct; 667

(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. 668  
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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: 671  
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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; 676  
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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; 679  
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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: 684  
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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; 689  
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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; 694  
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(c) A description of the general nature of the business of the applicant, liquor permit holder, or liquor agency store. 697  
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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 730  
questions set forth in section 4301.355 of the Revised Code. 731

(E) A petition filed with the board of elections under this 732  
section shall be open to public inspection under rules adopted by 733  
the board. 734

(F) An elector who is eligible to vote on the question or 735  
questions set forth in section 4301.355 of the Revised Code may 736  
file, not later than four p.m. of the sixty-fourth day before the 737  
day of the election at which the question or questions will be 738  
submitted to the electors, a protest against a local option 739  
petition circulated and filed pursuant to this section. The 740  
protest shall be in writing and shall be filed with the election 741  
officials with whom the petition was filed. Upon the filing of the 742  
protest, the election officials with whom it is filed shall 743  
promptly establish a time and place for hearing the protest and 744  
shall mail notice of the time and place for the hearing to the 745  
applicant for, or the holder of, the liquor permit who is 746  
specified in the petition and to the elector who filed the 747  
protest. At the time and place established in the notice, the 748  
election officials shall hear the protest and determine the 749  
validity of the petition. 750

**Sec. 4301.355.** (A) If a petition is filed under section 751  
4301.333 of the Revised Code for the submission of the question or 752  
questions set forth in this section, it shall be held in the 753  
precinct as ordered by the board of elections under that section. 754  
The expense of holding the election shall be charged to the 755  
municipal corporation or township of which the precinct is a part. 756

(B) At the election, one or more of the following questions, 757  
as designated in a valid petition, shall be submitted to the 758  
electors of the precinct: 759

(1) "Shall the sale of ..... (insert beer, wine and mixed 760

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 793  
intoxicating liquor has been approved at a particular location 794  
within the precinct at a previous election held under this 795  
section, the ballot also shall include the following statement: 796

"At a previous election held under section 4301.355 of the 797  
Revised Code, the electors approved the sale of ..... (insert 798  
beer, wine and mixed beverages, or intoxicating liquor, as 799  
appropriate) at .....(insert business name and address of the 800  
particular location or locations within the precinct where ~~such~~ 801  
that sale has been approved at a previous election under section 802  
4301.355 of the Revised Code)." 803

(D) The board of elections shall furnish printed ballots at 804  
the election as provided under section 3505.06 of the Revised 805  
Code, except that a separate ballot shall be used for the election 806  
under this section. The question and, if applicable, the statement 807  
set forth in this section shall be printed on each ballot, and the 808  
board shall insert in the question and statement appropriate words 809  
to complete each. Votes shall be cast as provided under section 810  
3505.06 of the Revised Code. 811

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

division (A) of section 4303.271 of the Revised Code or ~~cause~~ is 824  
grounds for the nonrenewal or cancellation of the liquor agency 825  
store contract by the division of liquor control, except in the 826  
case where the liquor permit holder or liquor agency store decides 827  
to cease the sale of beer, wine and mixed beverages, or 828  
intoxicating liquor, whichever was the subject of the election, on 829  
Sundays. 830

(B) If a majority of the electors in a precinct vote "yes" on 831  
question (B)(1) and "no" on question (B)(2) as set forth in 832  
section 4301.355 of the Revised Code, the sale of beer, wine and 833  
mixed beverages, or intoxicating liquor, whichever was the subject 834  
of the election, shall be allowed at the particular location for 835  
the use specified in question (B)(1) of section 4301.355 of the 836  
Revised Code and under each permit applied for by the petitioner, 837  
except for a D-6 permit, subject only to Chapters 4301. and 4303. 838  
of the Revised Code. 839

(C) If a majority of the electors in a precinct vote "no" on 840  
question (B)(1) as set forth in section 4301.355 of the Revised 841  
Code, no sales of beer, wine and mixed beverages, or intoxicating 842  
liquor, whichever was the subject of the election, shall be 843  
allowed at the particular location for the use specified in the 844  
petition during the period the election is in effect as defined in 845  
section 4301.37 of the Revised Code. 846

(D) If a majority of the electors in a precinct vote only on 847  
question (B)(2) as set forth in section 4301.355 of the Revised 848  
Code and that vote results in a majority "yes" vote, sales of 849  
beer, wine and mixed beverages, or intoxicating liquor, whichever 850  
was the subject of the election, shall be allowed at the 851  
particular location for the use and during the hours specified in 852  
the petition on Sunday during the period the election is in effect 853  
as defined in section 4301.37 of the Revised Code. 854

(E) If a majority of the electors in a precinct vote only on 855

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

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

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

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

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Code that contains at least fifty rooms for registered transient 887  
guests ~~and if the golf course, hotel, motel, or lodge~~ is owned by 888  
the state or a ~~political subdivision or conservancy district, park~~ 889  
~~district created under Chapter 1545. of the Revised Code, or other~~ 890  
~~political subdivision~~ of the state, ~~provided that~~ and the permit 891  
holder for the golf course, hotel, motel, or lodge operates 892  
~~pursuant to~~ under the authority of ~~the~~ a liquor permit issued 893  
~~pursuant to~~ under Chapter 4303. of the Revised Code. 894

**Sec. 4301.42.** For the purpose of providing revenue for the 895  
support of the state, a tax is hereby levied on the sale of beer, 896  
~~ale, porter, stout, and other malt liquor beverages~~ in sealed 897  
bottles and cans having twelve ounces or less of liquid content, 898  
at the rate of fourteen one-hundredths of one cent on each ounce 899  
of liquid content or fractional part ~~thereof~~ of each ounce of 900  
liquid content, and on such containers in excess of twelve ounces, 901  
at the rate of eighty-four one-hundredths of one cent on each six 902  
ounces of liquid content or fractional part ~~thereof~~ of each six 903  
ounces of liquid content. Sections 4307.01 to 4307.12 of the 904  
Revised Code apply in the administration of ~~said~~ that tax. 905  
Manufacturers, bottlers, and canners of and wholesale dealers in 906  
~~beer, ale, porter, stout, and other malt liquor beverages~~ have the 907  
duty to pay the tax imposed by this section and are entitled to 908  
the privileges in the manner provided in section 4303.33 of the 909  
Revised Code. 910

**Sec. 4301.433.** In order to assist with the collection of the 911  
tax levied under section 4301.43 of the Revised Code, a supplier 912  
of wine that is bottled outside this state and that is shipped 913  
into and intended for sale within this state shall furnish to the 914  
tax commissioner two copies of the invoice for each shipment of 915  
that wine into this state. The supplier may furnish the invoice 916  
information electronically in a format prescribed by the tax 917

commissioner. All such invoices and invoice information shall be 918  
open to public inspection during regular business hours. 919

**Sec. 4301.47.** Every class A-1, A-2, and A-4 permit holder and 920  
each class B permit holder shall maintain and keep for a period of 921  
three years a record of the beer, wine, ~~malt beverages~~, and mixed 922  
beverages purchased, distributed, or sold within this state by the 923  
permit holder, together with invoices, records, receipts, bills of 924  
lading, and other pertinent papers required by the tax 925  
commissioner and, upon demand by the tax commissioner, shall 926  
produce these records for a three-year period prior to the demand 927  
unless upon satisfactory proof it is shown that the ~~non-production~~ 928  
nonproduction is due to causes beyond ~~his~~ the permit holder's 929  
control. 930

**Sec. 4301.54.** If the laws of another state, territory, or 931  
nation, or the rules and regulations of an administrative body 932  
therein in another state, territory, or nation, provide for the 933  
levy and collection of taxes, fees, and charges upon the products 934  
of Ohio manufacturers of wine or manufacturers or brewers of beer 935  
~~and other malt liquors~~ when ~~such~~ those products are sold in, 936  
delivered, or shipped into ~~such~~ the other state, territory, or 937  
nation, in excess of the taxes, fees, and charges levied and 938  
collected on the products of ~~manufactures~~ manufacturers or brewers 939  
of ~~said~~ those states, territories, or nations, whether ~~such~~ those 940  
taxes, fees, and charges are in the nature of an excise, sales, or 941  
import tax, or by whatever name designated, the tax commissioner 942  
shall levy and collect additional taxes, fees, and charges on the 943  
products of manufacturers of wine or manufacturers and brewers of 944  
beer ~~and other malt liquor~~ of ~~said~~ that other state, territory, or 945  
nation when sold in, delivered, or shipped into this state. 946

~~Such~~ The additional taxes, fees, and charges shall be in 947  
excess of those provided for in other sections of this chapter or 948

Chapters ~~4301.~~, 4303. and 4307. and section 4305.13 of the Revised Code, in the same proportion or in the same amount as taxes, fees, and charges levied and collected in ~~said the other~~ state, territory, or nation upon the products of Ohio manufacturers of wine or manufacturers or brewers of beer ~~and other malt liquor~~ are in excess of those levied and collected on the products of manufacturers and brewers of ~~said the other~~ state, territory, or nation.

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

**Sec. 4301.55.** If the laws of another state, territory, or nation, or the rules and regulations of any administrative body therein in another state, territory, or nation, authorize or impose any tax, fee, or charge upon the right to transport or import into ~~such that~~ state, territory, or nation any beer, ~~malt liquor~~, or wine manufactured in this state; or authorize or impose any different warehousing requirements or higher warehousing or inspection fees upon any beer, ~~malt liquor~~, or wine manufactured in this state and imported into or sold in ~~such that~~ state, territory, or nation than are imposed upon beer, ~~malt liquor~~, and wine manufactured in ~~such that~~ state, territory, or nation; or impose any higher fee for the privilege of selling or handling beer, ~~malt liquor~~, or wine manufactured in this state than is imposed for the privilege of handling or selling the same kind of



beverages manufactured within ~~such that~~ state, territory, or 981  
~~nation~~ or any other state, territory, or nation, the tax 982  
commissioner shall levy and collect similar taxes, fees, and 983  
charges from licensees or persons selling in ~~Ohio~~ this state beer, 984  
~~malt liquor~~, and wine manufactured in ~~such that~~ other state, 985  
territory, or nation. ~~Such~~ The taxes, fees, and charges shall be 986  
in addition to the taxes, fees, and charges assessed and collected 987  
by the commissioner under section 4301.54 of the Revised Code. 988

**Sec. 4301.62.** (A) As used in this section: 989

(1) "Chauffeured limousine" means a vehicle registered under 990  
section 4503.24 of the Revised Code. 991

(2) "Street," "highway," and "motor vehicle" have the same 992  
meanings as in section 4511.01 of the Revised Code. 993

(B) No person shall have in the person's possession an opened 994  
container of beer or intoxicating liquor in any of the following 995  
circumstances: 996

(1) In a state liquor store; 997

(2) Except as provided in division (C) of this section, on 998  
the premises of the holder of any permit issued by the division of 999  
liquor control; 1000

(3) In any other public place; 1001

(4) Except as provided in division (D) of this section, while 1002  
operating or being a passenger in or on a motor vehicle on any 1003  
street, highway, or other public or private property open to the 1004  
public for purposes of vehicular travel or parking; 1005

(5) Except as provided in division (D) of this section, while 1006  
being in or on a stationary motor vehicle on any street, highway, 1007  
or other public or private property open to the public for 1008  
purposes of vehicular travel or parking. 1009

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

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

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 permit;

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

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

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

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

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

(2) The person or guest is located in the limousine, but is 1041  
not occupying a seat in the front compartment of the limousine 1042  
where the operator of the limousine is located. 1043

(3) The limousine is located on any street, highway, or other 1044  
public or private property open to the public for purposes of 1045  
vehicular travel or parking. 1046

**Sec. 4303.01.** As used in sections 4303.01 to 4303.37 of the 1047  
Revised Code, "intoxicating liquor," "liquor," "sale," "sell," 1048  
"vehicle," "alcohol," "beer," ~~"malt liquor," "malt beverage,"~~ 1049  
"wine," "mixed beverages," "spirituous liquor," "sealed 1050  
container," "person," "manufacture," "manufacturer," "wholesale 1051  
distributor," "distributor," "hotel," "restaurant," "club," "night 1052  
club," "at retail," "pharmacy," and "enclosed shopping center" 1053  
have the same meanings as in section 4301.01 of the Revised Code. 1054

**Sec. 4303.02.** Permit A-1 may be issued to a manufacturer to 1055  
manufacture ~~beer, ale, stout, and other malt liquor containing not~~ 1056  
~~more than six per cent of alcohol by weight~~ and sell such beer 1057  
products in bottles or containers for home use and to retail and 1058  
wholesale permit holders under ~~such rules as are~~ promulgated by 1059  
the division of liquor control. The fee for this permit is three 1060  
thousand one hundred twenty-five dollars for each plant during the 1061  
year covered by the permit. 1062

**Sec. 4303.06.** Permit B-1 may be issued to a wholesale 1063  
distributor of beer to purchase from the holders of A-1 permits 1064  
and to import and distribute or sell ~~beer, ale, lager, stout, and~~ 1065  
~~other malt liquors containing not more than six per cent of~~ 1066  
~~alcohol by weight~~ for home use and to retail permit holders under 1067  
~~such rules as are~~ adopted by the division of liquor control. The 1068  
fee for this permit is two thousand five hundred dollars for each 1069  
distributing plant or warehouse during the year covered by the 1070

permit. 1071

**Sec. 4303.07.** Permit B-2 may be issued to a wholesale 1072  
distributor of wine to purchase from holders of A-2 and B-5 1073  
permits and distribute or sell such product, in the original 1074  
container in which it was placed by the B-5 permit holder or 1075  
manufacturer at the place where manufactured, to A-1-A, C-2, D-2, 1076  
D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, 1077  
D-5h, D-5i, D-5j, D-5k, and E permit holders, and for home use. 1078  
The fee for this permit is two hundred fifty dollars for each 1079  
distributing plant or warehouse. The initial fee shall be 1080  
increased ten cents per wine barrel of fifty gallons for all wine 1081  
distributed and sold in this state in excess of twelve hundred 1082  
fifty such barrels during the year covered by the permit. 1083

**Sec. 4303.10.** Permit B-5 may be issued to a wholesale 1084  
distributor of wine to purchase wine from the holders of A-2 1085  
permits, to purchase and import wine in bond or otherwise, in bulk 1086  
or in containers of any size, and to bottle wine for distribution 1087  
and sale to holders of A-1-A, B-2, B-3, B-5, C-2, D-2, D-3, D-4, 1088  
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, 1089  
D-5j, D-5k, and E permits and for home use in sealed containers. 1090  
No wine shall be bottled by a B-5 permit holder in containers 1091  
supplied by any person who intends the wine for home use. The fee 1092  
for this permit is one thousand two hundred fifty dollars. 1093

**Sec. 4303.181.** (A) Permit D-5a may be issued either to the 1094  
owner or operator of a hotel or motel that is required to be 1095  
licensed under section 3731.03 of the Revised Code, that contains 1096  
at least fifty rooms for registered transient guests, and that 1097  
qualifies under the other requirements of this section, or to the 1098  
owner or operator of a restaurant specified under this section, to 1099  
sell beer and any intoxicating liquor at retail, only by the 1100

individual drink in glass and from the container, for consumption 1101  
on the premises where sold, and to registered guests in their 1102  
rooms, which may be sold by means of a controlled access alcohol 1103  
and beverage cabinet in accordance with division (B) of section 1104  
4301.21 of the Revised Code; and to sell the same products in the 1105  
same manner and amounts not for consumption on the premises as may 1106  
be sold by holders of D-1 and D-2 permits. The premises of the 1107  
hotel or motel shall include a retail food establishment or a food 1108  
service operation licensed pursuant to Chapter 3717. of the 1109  
Revised Code that operates as a restaurant for purposes of this 1110  
chapter and that is affiliated with the hotel or motel and within 1111  
or contiguous to the hotel or motel, and that serves food within 1112  
the hotel or motel, but the principal business of the owner or 1113  
operator of the hotel or motel shall be the accommodation of 1114  
transient guests. In addition to the privileges authorized in this 1115  
division, the holder of a D-5a permit may exercise the same 1116  
privileges as the holder of a D-5 permit. 1117

The owner or operator of a hotel, motel, or restaurant who 1118  
qualified for and held a D-5a permit on August 4, 1976, may, if 1119  
the owner or operator held another permit before holding a D-5a 1120  
permit, either retain a D-5a permit or apply for the permit 1121  
formerly held, and the division of liquor control shall issue the 1122  
permit for which the owner or operator applies and formerly held, 1123  
notwithstanding any quota. 1124

A D-5a permit shall not be transferred to another location. 1125  
No quota restriction shall be placed on the number of such permits 1126  
that may be issued. 1127

The fee for this permit is one thousand eight hundred 1128  
seventy-five dollars. 1129

(B) Permit D-5b may be issued to the owner, operator, tenant, 1130  
lessee, or occupant of an enclosed shopping center to sell beer 1131  
and intoxicating liquor at retail, only by the individual drink in 1132

glass and from the container, for consumption on the premises 1133  
where sold; and to sell the same products in the same manner and 1134  
amount not for consumption on the premises as may be sold by 1135  
holders of D-1 and D-2 permits. In addition to the privileges 1136  
authorized in this division, the holder of a D-5b permit may 1137  
exercise the same privileges as a holder of a D-5 permit. 1138

A D-5b permit shall not be transferred to another location. 1139  
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One D-5b permit may be issued at an enclosed shopping center 1141  
containing at least two hundred twenty-five thousand, but less 1142  
than four hundred thousand, square feet of floor area. 1143

Two D-5b permits may be issued at an enclosed shopping center 1144  
containing at least four hundred thousand square feet of floor 1145  
area. No more than one D-5b permit may be issued at an enclosed 1146  
shopping center for each additional two hundred thousand square 1147  
feet of floor area or fraction of that floor area, up to a maximum 1148  
of five D-5b permits for each enclosed shopping center. The number 1149  
of D-5b permits that may be issued at an enclosed shopping center 1150  
shall be determined by subtracting the number of D-3 and D-5 1151  
permits issued in the enclosed shopping center from the number of 1152  
D-5b permits that otherwise may be issued at the enclosed shopping 1153  
center under the formulas provided in this division. Except as 1154  
provided in this section, no quota shall be placed on the number 1155  
of D-5b permits that may be issued. Notwithstanding any quota 1156  
provided in this section, the holder of any D-5b permit first 1157  
issued in accordance with this section is entitled to its renewal 1158  
in accordance with section 4303.271 of the Revised Code. 1159

The holder of a D-5b permit issued before April 4, 1984, 1160  
whose tenancy is terminated for a cause other than nonpayment of 1161  
rent, may return the D-5b permit to the division of liquor 1162  
control, and the division shall cancel that permit. Upon 1163  
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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  
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 1197  
holders of D-1 and D-2 permits. In addition to the privileges 1198  
authorized in this division, the holder of a D-5c permit may 1199  
exercise the same privileges as the holder of a D-5 permit. 1200

To qualify for a D-5c permit, the owner or operator of a 1201  
retail food establishment or a food service operation licensed 1202  
pursuant to Chapter 3717. of the Revised Code that operates as a 1203  
restaurant for purposes of this chapter, shall have operated the 1204  
restaurant at the proposed premises for not less than twenty-four 1205  
consecutive months immediately preceding the filing of the 1206  
application for the permit, have applied for a D-5 permit no later 1207  
than December 31, 1988, and appear on the division's quota waiting 1208  
list for not less than six months immediately preceding the filing 1209  
of the application for the permit. In addition to these 1210  
requirements, the proposed D-5c permit premises shall be located 1211  
within a municipal corporation and further within an election 1212  
precinct that, at the time of the application, has no more than 1213  
twenty-five per cent of its total land area zoned for residential 1214  
use. 1215

A D-5c permit shall not be transferred to another location. 1216  
No quota restriction shall be placed on the number of such permits 1217  
that may be issued. 1218

Any person who has held a D-5c permit for at least two years 1219  
may apply for a D-5 permit, and the division of liquor control 1220  
shall issue the D-5 permit notwithstanding the quota restrictions 1221  
contained in section 4303.29 of the Revised Code or in any rule of 1222  
the liquor control commission. 1223

The fee for this permit is one thousand two hundred fifty 1224  
dollars. 1225

(D) Permit D-5d may be issued to the owner or operator of a 1226  
retail food establishment or a food service operation licensed 1227



pursuant to Chapter 3717. of the Revised Code that operates as a  
restaurant for purposes of this chapter and that is located at an  
airport operated by a board of county commissioners pursuant to  
section 307.20 of the Revised Code or at an airport operated by a  
regional airport authority pursuant to Chapter 308. of the Revised  
Code. Not more than one D-5d permit shall be issued in each  
county. The holder of a D-5d permit may sell beer and any  
intoxicating liquor at retail, only by the individual drink in  
glass and from the container, for consumption on the premises  
where sold, and may sell the same products in the same manner and  
amounts not for consumption on the premises where sold as may be  
sold by the holders of D-1 and D-2 permits. In addition to the  
privileges authorized in this division, the holder of a D-5d  
permit may exercise the same privileges as the holder of a D-5  
permit.

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

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

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

- (1) Is permanently docked at one location;
- (2) Is designated as an historical riverboat by the Ohio  
historical society;
- (3) Contains not less than fifteen hundred square feet of

floor area;	1259
(4) Has a seating capacity of fifty or more persons.	1260
The holder of a D-5e permit may sell beer and intoxicating	1261
liquor at retail, only by the individual drink in glass and from	1262
the container, for consumption on the premises where sold.	1263
A D-5e permit shall not be transferred to another location.	1264
No quota restriction shall be placed on the number of such permits	1265
that may be issued. The population quota restrictions contained in	1266
section 4303.29 of the Revised Code or in any rule of the liquor	1267
control commission shall not apply to this division, and the	1268
division shall issue a D-5e permit to any applicant who meets the	1269
requirements of this division. However, the division shall not	1270
issue a D-5e permit if the permit premises or proposed permit	1271
premises are located within an area in which the sale of	1272
spirituous liquor by the glass is prohibited.	1273
The fee for this permit is nine hundred seventy-five dollars.	1274
(F) Permit D-5f may be issued to the owner or operator of a	1275
retail food establishment or a food service operation licensed	1276
under Chapter 3717. of the Revised Code that operates as a	1277
restaurant for purposes of this chapter and that meets all of the	1278
following:	1279
(1) It contains not less than twenty-five hundred square feet	1280
of floor area.	1281
(2) It is located on or in, or immediately adjacent to, the	1282
shoreline of, a navigable river.	1283
(3) It provides docking space for twenty-five boats.	1284
(4) It provides entertainment and recreation, provided that	1285
not less than fifty per cent of the business on the permit	1286
premises shall be preparing and serving meals for a consideration.	1287
In addition, each application for a D-5f permit shall be	1288

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

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

A D-5f permit shall not be transferred to another location. ~~No more than fifteen D-5f permits shall be issued by the division of liquor control, and no more than two such permits shall be issued in any county. However, the~~

The division of liquor control shall not issue a D-5f permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

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

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

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

thousand five hundred dollars. 1320

(H) Permit D-5h may be issued to any nonprofit organization 1321  
that is exempt from federal income taxation under the "Internal 1322  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 1323  
amended, that owns or operates a fine arts museum and has no less 1324  
than five thousand bona fide members possessing full membership 1325  
privileges. The holder of a D-5h permit may sell beer and any 1326  
intoxicating liquor at retail, only by the individual drink in 1327  
glass and from the container, for consumption on the premises 1328  
where sold. The holder of a D-5h permit shall sell no beer or 1329  
intoxicating liquor for consumption on the premises where sold 1330  
after one a.m. A D-5h permit shall not be transferred to another 1331  
location. No quota restrictions shall be placed on the number of 1332  
D-5h permits that may be issued. The fee for this permit is one 1333  
thousand five hundred dollars. 1334

(I) Permit D-5i may be issued to the owner or operator of a 1335  
retail food establishment or a food service operation licensed 1336  
under Chapter 3717. of the Revised Code that operates as a 1337  
restaurant for purposes of this chapter and that meets all of the 1338  
following requirements: 1339

(1) It is located in a municipal corporation or a township 1340  
with a population of fifty thousand or less. 1341

(2) It has inside seating capacity for at least one hundred 1342  
forty persons. 1343

(3) It has at least four thousand square feet of floor area. 1344  
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(4) It offers full-course meals, appetizers, and sandwiches. 1346

(5) Its receipts from beer and liquor sales do not exceed 1347  
twenty-five per cent of its total gross receipts. 1348

(6) The value of its real and personal property exceeds seven 1349

hundred twenty-five thousand dollars.

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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.

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

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

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(J)(1) Permit D-5j may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and

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intoxicating liquor at retail, only by the individual drink in  
glass and from the container, for consumption on the premises  
where sold and to sell beer and intoxicating liquor in the same  
manner and amounts not for consumption on the premises where sold  
as may be sold by the holders of D-1 and D-2 permits. The holder  
of a D-5j permit may exercise the same privileges, and shall  
observe the same hours of operation, as the holder of a D-5  
permit.

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

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

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

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

(K)(1) Permit D-5k may be issued to any nonprofit  
organization that is exempt from federal income taxation under the  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A.  
501(c)(3), as amended, that is the owner or operator of a  
botanical garden recognized by the American association of  
botanical gardens and arboreta, and that has not less than

twenty-five hundred bona fide members. 1413

(2) The holder of a D-5k permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, on the premises where sold. 1414  
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(3) The holder of a D-5k permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. 1417  
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(4) A D-5k permit shall not be transferred to another location. 1420  
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(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued. 1422  
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(6) The fee for the D-5k permit is one thousand five hundred dollars. 1424  
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**Sec. 4303.182.** (A) Except as otherwise provided in divisions 1426  
(B) to ~~(F)~~ (G) of this section, permit D-6 shall be issued to the 1427  
holder of an A-1-A, A-2, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, 1428  
D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 1429  
permit to allow sale under that permit between the hours of ten 1430  
a.m. and midnight, or between the hours of one p.m. and midnight, 1431  
on Sunday, as applicable, if that sale has been authorized under 1432  
section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised 1433  
Code and under the restrictions of that authorization. 1434

(B) Permit D-6 shall be issued to the holder of any permit, 1435  
including a D-4a and D-5d permit, authorizing the sale of 1436  
intoxicating liquor issued for a premises located at any publicly 1437  
owned airport, as defined in section 4563.01 of the Revised Code, 1438  
at which commercial airline companies operate regularly scheduled 1439  
flights on which space is available to the public, to allow sale 1440  
under such permit between the hours of ten a.m. and midnight on 1441  
Sunday, whether or not that sale has been authorized under section 1442

4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 1443

(C) Permit D-6 shall be issued to the holder of a D-5a 1444  
permit, and to the holder of a D-3 or D-3a permit who is the owner 1445  
or operator of a hotel or motel that is required to be licensed 1446  
under section 3731.03 of the Revised Code, that contains at least 1447  
fifty rooms for registered transient guests, and that has on its 1448  
premises a retail food establishment or a food service operation 1449  
licensed pursuant to Chapter 3717. of the Revised Code that 1450  
operates as a restaurant for purposes of this chapter and is 1451  
affiliated with the hotel or motel and within or contiguous to the 1452  
hotel or motel and serving food within the hotel or motel, to 1453  
allow sale under such permit between the hours of ten a.m. and 1454  
midnight on Sunday, whether or not that sale has been authorized 1455  
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 1456  
Revised Code. 1457

(D) The holder of a D-6 permit that is issued to a sports 1458  
facility may make sales under the permit between the hours of 1459  
eleven a.m. and midnight on any Sunday on which a professional 1460  
baseball, basketball, football, hockey, or soccer game is being 1461  
played at the sports facility. As used in this division, "sports 1462  
facility" means a stadium or arena that has a seating capacity of 1463  
at least four thousand and that is owned or leased by a 1464  
professional baseball, basketball, football, hockey, or soccer 1465  
franchise or any combination of those franchises. 1466

(E) Permit D-6 shall be issued to the holder of any permit 1467  
that authorizes the sale of beer or intoxicating liquor and that 1468  
is issued to a premises located in or at the Ohio historical 1469  
society area or the state fairgrounds, as defined in division (B) 1470  
of section 4301.40 of the Revised Code, to allow sale under that 1471  
permit between the hours of ten a.m. and midnight on Sunday, 1472  
whether or not that sale has been authorized under section 1473  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 1474



(F) Permit D-6 shall be issued to the holder of any permit 1475  
that authorizes the sale of intoxicating liquor and that is issued 1476  
to an outdoor performing arts center to allow sale under that 1477  
permit between the hours of one p.m. and midnight on Sunday, 1478  
whether or not that sale has been authorized under section 1479  
4301.361 of the Revised Code. A D-6 permit issued under this 1480  
division is subject to the results of an election, held after the 1481  
D-6 permit is issued, on question (B)(4) as set forth in section 1482  
4301.351 of the Revised Code. Following the end of the period 1483  
during which an election may be held on question (B)(4) as set 1484  
forth in that section, sales of intoxicating liquor may continue 1485  
at an outdoor performing arts center under a D-6 permit issued 1486  
under this division, unless an election on that question is held 1487  
during the permitted period and a majority of the voters voting in 1488  
the precinct on that question vote "no." 1489

As used in this division, "outdoor performing arts center" 1490  
means an outdoor performing arts center that is located on not 1491  
less than eight hundred acres of land and that is open for 1492  
performances from the first day of April to the last day of 1493  
October of each year. 1494

(G) Permit D-6 shall be issued to the holder of any permit 1495  
that authorizes the sale of beer or intoxicating liquor and that 1496  
is issued to a golf course owned by the state, a conservancy 1497  
district, a park district created under Chapter 1545. of the 1498  
Revised Code, or another political subdivision to allow sale under 1499  
that permit between the hours of ten a.m. and midnight on Sunday, 1500  
whether or not that sale has been authorized under section 1501  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 1502

(H) If the restriction to licensed premises where the sale of 1503  
food and other goods and services exceeds fifty per cent of the 1504  
total gross receipts of the permit holder at the premises is 1505  
applicable, the division of liquor control may accept an affidavit 1506

from the permit holder to show the proportion of the permit 1507  
holder's gross receipts derived from the sale of food and other 1508  
goods and services. If the liquor control commission determines 1509  
that affidavit to have been false, it shall revoke the permits of 1510  
the permit holder at the premises concerned. 1511

~~(H)~~(I) The fee for the D-6 permit is two hundred fifty 1512  
dollars when it is issued to the holder of an A-1-A, A-2, D-2, 1513  
D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, 1514  
D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 1515  
permit is two hundred dollars when it is issued to the holder of a 1516  
C-2 permit. 1517

**Sec. 4303.184.** (A) ~~Permit~~ Subject to division (B) of this 1518  
section, a D-8 permit may be issued to the holder of a C-1, C-2, 1519  
or C-2x permit issued to a retail store that has either of the 1520  
following characteristics: 1521

(1) The store has at least five thousand five hundred square 1522  
feet of floor area, and it generates more than sixty per cent of 1523  
its sales in general merchandise items and food for consumption 1524  
off the premises where sold. 1525

(2) Wine constitutes at least sixty per cent of the value of 1526  
the store's inventory. 1527

(B) A D-8 permit may be issued to the holder of a C-1, C-2, 1528  
or C-2x permit only if the premises of the permit holder are 1529  
located in a precinct, or at a particular location in a precinct, 1530  
in which the sale of beer, wine, or mixed beverages is permitted 1531  
for consumption off the premises where sold. Sales under a D-8 1532  
permit are not affected by whether sales for consumption on the 1533  
premises where sold are permitted in the precinct or at the 1534  
particular location where the D-8 premises are located. 1535

(C) The holder of a D-8 permit may sell tasting samples of 1536  
beer, wine, and mixed beverages, but not spirituous liquor, at 1537

retail, for consumption on the premises where sold in an amount 1538  
not to exceed two ounces or another amount designated by rule of 1539  
the liquor control commission. A tasting sample shall not be sold 1540  
for general consumption. No D-8 permit holder shall allow any 1541  
authorized purchaser to consume more than four tasting samples of 1542  
beer, wine, or mixed beverages, or any combination of beer, wine, 1543  
or mixed beverages, per day. 1544

~~(C)~~(D) The privileges authorized under a D-8 permit may only 1545  
be exercised in conjunction with and during the hours of operation 1546  
authorized by a C-1, C-2, C-2x, or D-6 permit. 1547

~~(D)~~(E) A D-8 permit shall not be transferred to another 1548  
location. 1549

~~(E)~~(F) The fee for the D-8 permit is two hundred fifty 1550  
dollars. 1551

~~(F)~~(G) The holder of a D-8 permit shall cause an independent 1552  
audit to be performed at the end of the first full year of 1553  
operation following issuance of the permit, and at the end of each 1554  
second year thereafter, in order to verify that the permit holder 1555  
satisfies the applicable requirement of division (A)(1) or (2) of 1556  
this section. The permit holder shall transmit the results of the 1557  
independent audit to the division of liquor control. If the 1558  
results of the audit indicate noncompliance with division (A) of 1559  
this section, the division shall not renew the D-8 permit of the 1560  
permit holder. 1561

Sec. 4303.204. (A) The division of liquor control may issue 1562  
an F-4 permit to an association or corporation organized 1563  
not-for-profit in this state to conduct an event that includes the 1564  
introduction, showcasing, or promotion of Ohio wines, if the event 1565  
has all of the following characteristics: 1566

(1) It is coordinated by that association or corporation, and 1567  
the association or corporation is responsible for the activities 1568

at it. 1569

(2) It has as one of its purposes the intent to introduce, 1570  
showcase, or promote Ohio wines to persons who attend it. 1571

(3) It includes the sale of food for consumption on the 1572  
premises where sold. 1573

(4) It features at least three A-2 permit holders who sell 1574  
Ohio wine at it. 1575

(B) The holder of an F-4 permit may furnish, without charge, 1576  
wine that it has obtained from the A-2 permit holders that are 1577  
participating in the event for which the F-4 permit is issued, in 1578  
two-ounce samples for consumption on the premises where furnished 1579  
and may sell such wine by the glass for consumption on the 1580  
premises where sold. The holder of an A-2 permit that is 1581  
participating in the event for which the F-4 permit is issued may 1582  
sell wine that it has manufactured, in sealed containers for 1583  
consumption off the premises where sold. Wine may be furnished or 1584  
sold on the premises of the event for which the F-4 permit is 1585  
issued only where and when the sale of wine is otherwise permitted 1586  
by law. 1587

(C) The premises of the event for which the F-4 permit is 1588  
issued shall be clearly defined and sufficiently restricted to 1589  
allow proper enforcement of the permit by state and local law 1590  
enforcement officers. If an F-4 permit is issued for all or a 1591  
portion of the same premises for which another class of permit is 1592  
issued, that permit holder's privileges will be suspended in that 1593  
portion of the premises in which the F-4 permit is in effect. 1594

(D) No F-4 permit shall be effective for more than 1595  
seventy-two consecutive hours. No sales or furnishing of wine 1596  
shall take place under an F-4 permit after one a.m. 1597

(E) The division shall not issue more than six F-4 permits to 1598  
the same not-for-profit association or corporation in any one 1599

calendar year.

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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.

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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.

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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.

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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.

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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.

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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 manufactured to the holder of that F-4 permit. The holder of an F-4 permit may return unused and sealed containers of wine to the A-2 permit holder that donated the wine at the conclusion of the

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event for which the F-4 permit was issued. 1631

(2) The participation by an A-2 permit holder or its 1632  
employees in an event for which an F-4 permit is issued does not 1633  
violate section 4301.24 of the Revised Code. 1634

**Sec. 4303.22.** Permit H may be issued for a fee of one hundred 1636  
fifty dollars to a carrier by motor vehicle who also holds a 1637  
license issued by the public utilities commission to transport 1638  
beer, intoxicating liquor, and alcohol, or any of them, in this 1639  
state for delivery or use in this state. This section does not 1640  
prevent the division of liquor control from contracting with 1641  
common or contract carriers for the delivery or transportation of 1642  
liquor for the division, and any contract or common carrier so 1643  
contracting with the division is eligible for an H permit. 1644  
Manufacturers or wholesale distributors of beer or intoxicating 1645  
liquor other than spirituous liquor who transport or deliver their 1646  
own products to or from their premises licensed under ~~Chapters~~ 1647  
this chapter and Chapter 4301. and 4303. of the Revised Code by 1648  
their own trucks as an incident to the purchase or sale of such 1649  
beverages need not obtain an H permit. Carriers by rail shall 1650  
receive ~~such an~~ H permit upon application ~~therefor~~ for it. 1651

This section does not prevent the division from issuing, upon 1652  
the payment of the permit fee, an H permit to any person, 1653  
partnership, firm, or corporation, licensed by any other state to 1654  
engage in the business of manufacturing and brewing or producing 1655  
beer, ~~malt liquor,~~ wine, and mixed beverages or any person, 1656  
partnership, firm, or corporation, licensed by the United States 1657  
or any other state to engage in the business of importing beer, 1658  
~~malt liquor,~~ wine, and mixed beverages manufactured outside the 1659  
United States. ~~Such~~ The manufacturer, brewer, or importer of 1660  
products manufactured outside the United States, upon the issuance 1661  
of an H permit, may transport, ship, and deliver only its own 1662

products to holders of B-1 or B-5 permits in Ohio in motor trucks 1663  
and equipment owned and operated by such class H permit holder. No 1664  
H permit shall be issued by the division to such applicant until 1665  
the applicant files with the division a liability insurance 1666  
certificate or policy satisfactory to the division, in a sum of 1667  
not less than one thousand nor more than five thousand dollars for 1668  
property damage and for not less than five thousand nor more than 1669  
fifty thousand dollars for loss sustained by reason of injury or 1670  
death and with such other terms as the division considers 1671  
necessary to adequately protect the interest of the public, having 1672  
due regard for the number of persons and amount of property 1673  
affected. ~~Such~~ The certificate or policy shall insure the 1674  
manufacturer, brewer, or importer of products manufactured outside 1675  
the United States against loss sustained by reason of the death of 1676  
or injury to persons, and for loss of or damage to property, from 1677  
the negligence of such class H permit holder in the operation of 1678  
its motor vehicles or equipment in this state. 1679

**Sec. 4303.29.** (A) No permit, other than an H permit, shall be 1680  
issued to a firm or partnership unless all the members of ~~said~~ the 1681  
firm or partnership are citizens of the United States and a 1682  
majority have resided in this state for one year prior to 1683  
application for ~~such~~ the permit. No permit, other than an H 1684  
permit, shall be issued to an individual who is not a citizen of 1685  
the United States who has resided in this state for at least one 1686  
year prior to application for ~~such~~ the permit. No permit, other 1687  
than an E or H permit, shall be issued to any corporation 1688  
organized under the laws of any country, territory, or state other 1689  
than ~~Ohio~~ this state until it has furnished the division of liquor 1690  
control with evidence that it has complied with the laws of this 1691  
state relating to the transaction of business in this state. 1692

The division may refuse to issue any permit to or refuse to 1693  
renew any permit of any person convicted of any felony that is 1694

reasonably related to the person's fitness to operate a liquor  
permit business in this state. No holder of a permit shall sell,  
assign, transfer, or pledge ~~such the~~ permit, without the written  
consent of the division.

(B)(1) No more than one of each type of C or D ~~permits~~ permit  
shall be issued to any one person, firm, or corporation in any  
county having a population of less than twenty-five thousand, and  
no more than one of each type of C or D ~~permits~~ permit shall be  
issued to any one person, firm, or corporation for any additional  
twenty-five thousand or major fraction thereof in any county  
having a greater population than twenty-five thousand, provided  
that, in the case of D-3, D-3a, D-4, and D-5 permits, no more than  
one permit shall be issued to any one person, firm, or corporation  
in any county having a population of less than fifty thousand, and  
no more than one such permit shall be issued to any one person,  
firm, or corporation for any additional fifty thousand or major  
fraction thereof in any county having a greater population than  
fifty thousand.

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

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

Subject to division (B)(3)(b) of this section, not more than  
one D-3, D-4, or D-5 permit shall be issued for each two thousand

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population, or part thereof, of that population in any municipal  
corporation and in the unincorporated area of any township, except  
that, in any city of a population of fifty-five thousand or more,  
one D-3 permit may be issued for each fifteen hundred population,  
or part thereof of that population.

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(b) ~~Nothing in division (i) Division~~ (B)(3)(a) of this  
section ~~shall be construed to~~ does not prohibit the transfer of  
location or the transfer of ownership and location of a C-1, C-2,  
D-1, D-2, D-3, or D-5 permit from a municipal corporation or the  
unincorporated area of a township in which the number of permits  
of that class exceeds the number of such permits authorized to be  
issued under division (B)(3)(a) of this section to an economic  
development project located in another municipal corporation or  
the unincorporated area of another township in which no additional  
permits of that class may be issued to the applicant under  
division (B)(3)(a) of this section, but the transfer of location  
or transfer of ownership and location of the permit may occur only  
if the applicant notifies the municipal corporation or township to  
which the location of the permit will be transferred regarding the  
transfer and that municipal corporation or township acknowledges  
in writing to the division of liquor control, at the time the  
application for the transfer of location or transfer of ownership  
and location of the permit is filed, that the transfer will be to  
an economic development project. This acknowledgment by the  
municipal corporation or township does not prohibit it from  
requesting a hearing under section 4303.26 of the Revised Code.  
The applicant is eligible to apply for and receive the transfer of  
location of the permit under division (B)(3)(b) of this section if  
all permits of that class that may be issued under division  
(B)(3)(a) of this section in the applicable municipal corporation  
or unincorporated area of the township have already been issued or  
if the number of applications filed for permits of that class in

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that municipal corporation or the unincorporated area of that 1759  
township exceed the number of permits of that class that may be 1760  
issued there under division (B)(3)(a) of this section. 1761

A permit transferred under division (B)(3)(b) of this section 1762  
may be subsequently transferred to a different owner at the same 1763  
location, or to the same owner or a different owner at a different 1764  
location in the same municipal corporation or in the 1765  
unincorporated area of the same township, as long as the same or 1766  
new location meets the economic development project criteria set 1767  
forth in this section. 1768

(ii) Factors that shall be used to determine the designation 1769  
of an economic development project include, but are not limited 1770  
to, architectural certification of the plans and the cost of the 1771  
project, the number of jobs that will be created by the project, 1772  
projected earnings of the project, projected tax revenues for the 1773  
political subdivisions in which the project will be located, and 1774  
the amount of financial investment in the project. The 1775  
superintendent of liquor control shall determine whether the 1776  
existing or proposed business that is seeking a permit described 1777  
in division (B)(3)(b) of this section qualifies as an economic 1778  
development project and, if the superintendent determines that it 1779  
so qualifies, shall designate the business as an economic 1780  
development project. 1781

(4) Nothing in this section shall be construed to restrict 1782  
the issuance of a permit to a municipal corporation for use at a 1783  
municipally owned airport at which commercial airline companies 1784  
operate regularly scheduled flights on which space is available to 1785  
the public. A municipal corporation applying for a permit for such 1786  
a municipally owned airport is exempt, in regard to that 1787  
application, from the population restrictions contained in this 1788  
section and from population quota restrictions contained in any 1789  
rule of the liquor control commission. A municipal corporation 1790

applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a 1791  
municipally owned airport is subject to section 4303.31 of the 1792  
Revised Code. 1793

(5) Nothing in this section shall be construed to prohibit 1794  
the issuance of a D permit to the board of trustees of a soldiers' 1795  
memorial for a premises located at a soldiers' memorial 1796  
established pursuant to Chapter 345. of the Revised Code. An 1797  
application for a D permit by ~~such a~~ the board for ~~such a~~ those 1798  
premises is exempt from the population restrictions contained in 1799  
this section and from the population quota restrictions contained 1800  
in any rule of the liquor control commission. The location of a D 1801  
permit issued to the board of ~~trustees of a soldiers' memorial~~ for 1802  
~~a~~ those premises located at a soldiers' memorial shall not be 1803  
transferred. A board of trustees of a soldiers' memorial applying 1804  
for a D-1, D-2, D-3, D-4, or D-5 permit for ~~such a~~ the soldiers' 1805  
memorial is subject to section 4303.31 of the Revised Code. 1806

(6) Nothing in this section shall be construed to restrict 1807  
the issuance of a permit for a premises located at a golf course 1808  
owned by a municipal corporation, township, or county, owned by a 1809  
park district created under Chapter 1545. of the Revised Code, or 1810  
owned by the state. The location of such a permit issued on or 1811  
after September 26, 1984, for a premises located at such a golf 1812  
course shall not be transferred. Any application for such a permit 1813  
is exempt from the population quota restrictions contained in this 1814  
section and from the population quota restrictions contained in 1815  
any rule of the liquor control commission. A municipal 1816  
corporation, township, county, park district, or state agency 1817  
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a golf 1818  
course is subject to section 4303.31 of the Revised Code. 1819

(7) As used in division (B)(7) of this section, "fair" has 1820  
the same meaning as in section 991.01 of the Revised Code, "state 1821  
fairgrounds" means the property that is held by the state for the 1822

purpose of conducting fairs, expositions, and exhibits and that is 1823  
maintained and managed by the Ohio expositions commission under 1824  
section 991.03 of the Revised Code, and "capitol square" has the 1825  
same meaning as in section 105.41 of the Revised Code. 1826

Nothing in this section shall be construed to restrict the 1827  
issuance of one or more D permits to one or more applicants for 1828  
all or a part of either the state fairgrounds or capitol square. 1829  
An application for a D permit for the state fairgrounds or capitol 1830  
square is exempt from the population quota restrictions contained 1831  
in this section and from the population quota restrictions 1832  
contained in any rule of the liquor control commission. The 1833  
location of a D permit issued for the state fairgrounds or capitol 1834  
square shall not be transferred. An applicant for a D-1, D-2, D-3, 1835  
or D-5 permit for the state fairgrounds is not subject to section 1836  
4303.31 of the Revised Code. 1837

Pursuant to section 1711.09 of the Revised Code, the holder 1838  
of a D permit issued for the state fairgrounds shall not deal in 1839  
spirituous liquor at the state fairgrounds during, or for one week 1840  
before or for three days after, any fair held at the state 1841  
fairgrounds. 1842

(8) Nothing in this section shall be construed to prohibit 1843  
the issuance of a D permit for a premises located at a zoological 1844  
park at which sales have been approved in an election held under 1845  
former section 4301.356 of the Revised Code. An application for a 1846  
D permit for such a premises is exempt from the population 1847  
restrictions contained in this section, from the population quota 1848  
restrictions contained in any rule of the liquor control 1849  
commission, and from section 4303.31 of the Revised Code. The 1850  
location of a D permit issued for a premises at such a zoological 1851  
park shall not be transferred, and no quota or other restrictions 1852  
shall be placed on the number of D permits that may be issued for 1853  
a premises at such a zoological park. 1854

(C)(1) No D-3, D-4, D-5, or D-5a permit shall be issued in 1855  
any election precinct in any municipal corporation or in any 1856  
election precinct in the unincorporated area of any township, in 1857  
which at the November, 1933, election a majority of the electors 1858  
voting thereon in the municipal corporation or in the 1859  
unincorporated area of the township voted against the repeal of 1860  
Section 9 of Article XV, Ohio Constitution, unless the sale of 1861  
spirituous liquor by the glass is authorized by a majority vote of 1862  
the electors voting on the question in the precinct at an election 1863  
held pursuant to this section or by a majority vote of the 1864  
electors of the precinct voting on question (C) at a special local 1865  
option election held in the precinct pursuant to section 4301.35 1866  
of the Revised Code. Upon the request of an elector, the board of 1867  
elections of the county that encompasses the precinct shall 1868  
furnish the elector with a copy of the instructions prepared by 1869  
the secretary of state under division (P) of section 3501.05 of 1870  
the Revised Code and, within fifteen days after the request, a 1871  
certificate of the number of signatures required for a valid 1872  
petition under this section. 1873

Upon the petition of thirty-five per cent of the total number 1874  
of voters voting in any such precinct for the office of governor 1875  
at the preceding general election, filed with the board of 1876  
elections of the county in which such precinct is located not 1877  
later than seventy-five days before a general election, ~~such~~ the 1878  
board shall prepare ballots and hold an election at such general 1879  
election upon the question of allowing spirituous liquor to be 1880  
sold by the glass in such precinct. ~~Such~~ The ballots shall be 1881  
approved in form by the secretary of state. The results of ~~such~~ 1882  
the election shall be certified by the board to the secretary of 1883  
state, who shall certify the ~~same~~ results to the division. 1884

(2) No holder of a class D-3 permit issued for a boat or 1885  
vessel shall sell spirituous liquor in any precinct, in which the 1886

election provided for in this section may be held, unless the sale  
of ~~such~~ spirituous liquor by the drink has been authorized by vote  
of the electors as provided in this section or in section 4301.35  
of the Revised Code.

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

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

The holder of any D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b,  
D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-6 permit shall be  
granted, upon application to the division of liquor control, a  
duplicate D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e, D-5f,  
D-5g, D-5h, D-5i, D-5j, D-5k, or D-6 permit for each additional  
fixed counter on the permit premises at which beer, ~~malt~~  
~~beverages~~, mixed beverages, wine, or spirituous liquor is sold for  
consumption on the premises, provided the application is made in  
the same manner as an application for an original permit. The  
application shall be identified with DUPLICATE printed on the  
permit application form furnished by the department, in boldface

type. The application shall identify by name, or otherwise amply describe, the room or place on the premises where the duplicate permit is to be operative. Each duplicate permit shall be issued only to the same individual, firm, or corporation as that of the original permit and shall be an exact duplicate in size and word content as the original permit, except that it shall show on it the name or other ample identification of the room, or place, for which it is issued and shall have DUPLICATE printed on it in boldface type. A duplicate permit shall bear the same number as the original permit. The fee for a duplicate permit is: D-1, one hundred dollars; D-2, one hundred dollars; D-3, four hundred dollars; D-3a, four hundred dollars; D-4, two hundred dollars; D-5, one thousand dollars; D-5a, one thousand dollars; D-5b, one thousand dollars; D-5c, four hundred dollars; D-5e, six hundred fifty dollars; D-5f, one thousand dollars; D-6, one hundred dollars when issued to the holder of a D-4a permit; and in all other cases one hundred dollars or an amount which is twenty per cent of the fees payable for the A-1-A, D-2, D-3, D-3a, D-4, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, and D-6 permits issued to the same premises, whichever is higher. Application for a duplicate permit may be filed any time during the life of an original permit. The fee for each duplicate D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-6 permit shall accompany the application for each such duplicate permit.

**Sec. 4303.332.** An A-1 permit holder in this state whose total production of beer ~~and malt beverages~~, wherever produced, does not exceed thirty-one million gallons in a calendar year, as reported under section 4303.33 of the Revised Code, shall receive a credit against taxes levied in the following calendar year under sections 4301.42 and 4305.01 of the Revised Code on not more than nine million three hundred thousand gallons of beer ~~or malt beverages~~

sold or distributed in this state. The credit may be claimed 1950  
monthly against taxes levied under one or more of ~~such~~ those 1951  
sections as the reports required by section 4303.33 of the Revised 1952  
Code are due. At the time the report for December is due for a 1953  
calendar year during which a permit holder is eligible to receive 1954  
a credit under this section, if the permit holder has claimed less 1955  
than the credit due on nine million three hundred thousand 1956  
gallons, including credit claimed on the December report, the 1957  
permit holder may claim a refund of taxes previously reported and 1958  
paid under section 4303.33 of the Revised Code during the calendar 1959  
year on a number of gallons equal to the difference between nine 1960  
million three hundred thousand gallons and the number of gallons 1961  
for which a credit has been claimed under this section. For the 1962  
purpose of providing this refund, taxes previously paid under 1963  
section 4303.33 of the Revised Code during the calendar year shall 1964  
not be considered final until the December report is filed. The 1965  
tax commissioner shall prescribe forms for and allow the credits 1966  
and refunds authorized by this section. 1967

**Sec. 4303.35.** No holders of A-1-A, C-1, C-2, D-1, D-2, D-3, 1968  
D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, 1969  
D-5h, D-5i, D-5j, D-5k, F, or F-3 permits shall purchase any beer 1970  
~~or malt beverage~~ subject to the tax imposed by sections 4301.42 1971  
and 4305.01 of the Revised Code or any wine or mixed beverage 1972  
subject to the tax imposed by section 4301.43 of the Revised Code 1973  
for resale, except from holders of A or B permits. 1974

No holders of A-1-A, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, 1975  
D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, ~~or~~ D-5j, or D-5k permits 1976  
shall purchase spirituous liquor for resale except from the 1977  
division of liquor control, unless with the special consent of the 1978  
division under particular regulations and markup provisions 1979  
prescribed by the superintendent of liquor control. 1980



Sec. 4305.01. For the purpose of reimbursing the state for 1981  
the expenses of administering Chapters 4301. and 4303. of the 1982  
Revised Code and to provide revenues for the support of the state, 1983  
a tax is hereby levied on the sale or distribution in ~~Ohio~~ this 1984  
state of beer, whether in barrels or other containers, excepting 1985  
in sealed bottles or cans, at the rate of five dollars and 1986  
fifty-eight cents per barrel of thirty-one gallons. 1987

The tax commissioner shall exercise, with respect to the 1988  
administration of the tax imposed by this section, all the powers 1989  
and duties vested in or imposed by sections 4307.04 to 4307.07 of 1990  
the Revised Code, so far as consistent with this section. 1991  
Manufacturers and consignees of beer in barrels or other 1992  
containers, excepting in sealed bottles or cans, and railroad 1993  
companies, express companies, and other public carriers 1994  
transporting shipments of such beer are subject, with respect to 1995  
such tax, to the same duties and entitled to the same privileges 1996  
as are required or permitted by ~~such~~ those sections. 1997

The revenue derived from the tax on the sale and distribution 1998  
of beer pursuant to this section and section 4301.42 of the 1999  
Revised Code shall be for the use of the general revenue fund. 2000

The tax refund fund created by section 5703.052 of the 2001  
Revised Code may be drawn upon by the tax commissioner for any 2002  
refunds authorized to be made by ~~him~~ the commissioner in sections 2003  
4303.33, 4307.05, and 4307.07 of the Revised Code for ~~malt~~ 2004  
~~beverages~~ beer. 2005

Sec. 4305.03. No person shall make any false entry upon an 2006  
invoice, or container of beer, ~~ale, porter, stout, or other malt~~ 2007  
~~beverage,~~ when the entry is required to be made under section 2008  
4305.01 of the Revised Code, or present any such false entry for 2009  
the inspection of the tax commissioner. 2010

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

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

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

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

**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, 2041  
D-5h, D-5i, D-5j, D-5k, G, or I permit issued by the division of 2042  
liquor control from distributing or selling intoxicating liquor at 2043  
the place of business described in the permit of the holder. 2044

**Sec. 4399.15.** No person, for the purpose of sale, shall 2045  
adulterate spirituous liquor, alcoholic liquor, or ~~malt liquor~~ 2046  
beer used or intended for drink or medicinal or mechanical 2047  
purposes, with cocculus indicus, vitriol, grains of paradise, 2048  
opium, alum, capsicum, copperas, laurel water, logwood, 2049  
Brazilwood, cochineal, sugar of lead, aloes, glucose, tannic acid, 2050  
or any other substance ~~which~~ that is poisonous or injurious to 2051  
health, or with a substance not a necessary ingredient in the 2052  
manufacture ~~thereof~~ of the spirituous liquor, alcoholic liquor, or 2053  
beer, or sell, offer, or keep for sale ~~liquors~~ spirituous liquor, 2054  
alcoholic liquor, or beer that is so adulterated. 2055

In addition to the penalties provided in division (E) of 2056  
section 4399.99 of the Revised Code, a person convicted of 2057  
violating this section shall pay all necessary costs and expenses 2058  
incurred in inspecting and analyzing ~~liquors~~ spirituous liquor, 2059  
alcoholic liquor, or beer that is so adulterated, sold, kept, or 2060  
offered for sale. 2061

**Sec. 5703.21.** (A) Except as provided in divisions (B) and (C) 2062  
of this section, no agent of the department of taxation, except in 2063  
the agent's report to the department or when called on to testify 2064  
in any court or proceeding, shall divulge any information acquired 2065  
by the agent as to the transactions, property, or business of any 2066  
person while acting or claiming to act under orders of the 2067  
department. Whoever violates this provision shall thereafter be 2068  
disqualified from acting as an officer or employee or in any other 2069  
capacity under appointment or employment of the department. 2070

2071

(B)(1) For purposes of an audit pursuant to section 117.15 of 2072  
the Revised Code, or an audit of the department pursuant to 2073  
Chapter 117. of the Revised Code, or an audit, pursuant to that 2074  
chapter, the objective of which is to express an opinion on a 2075  
financial report or statement prepared or issued pursuant to 2076  
division (A)(7) or (9) of section 126.21 of the Revised Code, the 2077  
officers and employees of the auditor of state charged with 2078  
conducting the audit shall have access to and the right to examine 2079  
any state tax returns and state tax return information in the 2080  
possession of the department to the extent that the access and 2081  
examination are necessary for purposes of the audit. Any 2082  
information acquired as the result of that access and examination 2083  
shall not be divulged for any purpose other than as required for 2084  
the audit or unless the officers and employees are required to 2085  
testify in a court or proceeding under compulsion of legal 2086  
process. Whoever violates this provision shall thereafter be 2087  
disqualified from acting as an officer or employee or in any other 2088  
capacity under appointment or employment of the auditor of state. 2089

(2) As provided by section 6103(d)(2) of the Internal Revenue 2090  
Code, any federal tax returns or federal tax information that the 2091  
department has acquired from the internal revenue service, through 2092  
federal and state statutory authority, may be disclosed to the 2093  
auditor of state solely for purposes of an audit of the 2094  
department. 2095

(C) Division (A) of this section does not prohibit any of the 2096  
following: 2097

(1) Divulging information contained in applications, 2098  
complaints, and related documents filed with the department under 2099  
section 5715.27 of the Revised Code or in applications filed with 2100  
the department under section 5715.39 of the Revised Code; 2101

(2) Providing information to the office of child support 2102  
within the department of job and family services pursuant to 2103

section 3125.43 of the Revised Code;	2104
(3) Disclosing to the board of motor vehicle collision repair registration any information in the possession of the department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax identification number under section 4775.07 of the Revised Code;	2105 2106 2107 2108 2109
(4) Providing information to the administrator of workers' compensation pursuant to section 4123.591 of the Revised Code;	2110 2111
(5) Providing to the attorney general information the department obtains under division (J) of section 1346.01 of the Revised Code;	2112 2113 2114
(6) Permitting properly authorized officers, employees, or agents of a municipal corporation from inspecting reports or information pursuant to rules adopted under section 5745.16 of the Revised Code- <u>i</u>	2115 2116 2117 2118
(7) Providing information regarding the name, account number, or business address of a holder of a vendor's license issued pursuant to section 5739.17 of the Revised Code, a holder of a direct payment permit issued pursuant to section 5739.031 of the Revised Code, or a seller having a use tax account maintained pursuant to section 5741.17 of the Revised Code, or information regarding the active or inactive status of a vendor's license, direct payment permit, or seller's use tax account;	2119 2120 2121 2122 2123 2124 2125 2126
<u>(8) Releasing invoices or invoice information furnished under section 4301.433 of the Revised Code pursuant to that section.</u>	2127 2128
<b>Sec. 5733.065.</b> (A) As used in this section, "litter stream products" means:	2129 2130
(1) Intoxicating liquor, beer, <del>malt beverages</del> , wine, mixed beverages, or spirituous liquor as defined in section 4301.01 of the Revised Code;	2131 2132 2133

(2) Soft drinks as defined in section 913.22 of the Revised Code;	2134 2135
(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;	2136 2137 2138 2139
(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;	2140 2141 2142
(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;	2143 2144 2145
(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;	2146 2147 2148 2149 2150 2151 2152 2153
(7) Cigarettes, cigars, tobacco, matches, candy, and gum.	2154
(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.	2155 2156 2157 2158 2159 2160 2161 2162 2163 2164

(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 2196  
section, in which food or beverages prepared for human consumption 2197  
are placed, when the food or beverages are prepared for retail 2198  
sale at the premises where sold and are delivered to a purchaser 2199  
for consumption off the premises where the food or beverages are 2200  
sold, no tax shall be due under this section unless such sales for 2201  
off-premises consumption during the taxable year exceed five per 2202  
cent of the corporation's total annual sales during the taxable 2203  
year. 2204

(E)(1) The tax imposed by this section is due in the 2205  
proportions and on the dates on which the tax imposed by section 2206  
5733.06 of the Revised Code may be paid without penalty. 2207

(2) Payment of the tax and any reports or returns required to 2208  
enable the tax commissioner to determine the correct amount of the 2209  
tax shall be submitted with and are due at the same time as 2210  
payments and reports required to be submitted under this chapter. 2211

(3) If the tax is not paid in full on or before the date 2212  
required by division (E)(1) of this section, the unpaid portion of 2213  
the tax due and unpaid shall be subject to all provisions of this 2214  
chapter for the collection of unpaid, delinquent taxes imposed by 2215  
section 5733.06 of the Revised Code, except that all such taxes, 2216  
interest, and penalties, when collected, shall be treated as 2217  
proceeds arising from the tax imposed by this section and shall be 2218  
deposited in the general revenue fund. 2219

The tax levied on corporations under this section does not 2220  
prohibit or otherwise limit the authority of municipal 2221  
corporations to impose an income tax on the income of such 2222  
corporations. 2223

**Sec. 5739.02.** For the purpose of providing revenue with which 2224  
to meet the needs of the state, for the use of the general revenue 2225  
fund of the state, for the purpose of securing a thorough and 2226



efficient system of common schools throughout the state, for the 2227  
purpose of affording revenues, in addition to those from general 2228  
property taxes, permitted under constitutional limitations, and 2229  
from other sources, for the support of local governmental 2230  
functions, and for the purpose of reimbursing the state for the 2231  
expense of administering this chapter, an excise tax is hereby 2232  
levied on each retail sale made in this state. 2233

(A) The tax shall be collected pursuant to the schedules in 2234  
section 5739.025 of the Revised Code. 2235

The tax applies and is collectible when the sale is made, 2236  
regardless of the time when the price is paid or delivered. 2237

In the case of a sale, the price of which consists in whole 2238  
or in part of rentals for the use of the thing transferred, the 2239  
tax, as regards ~~such~~ those rentals, shall be measured by the 2240  
installments ~~thereof~~ of those rentals. 2241

In the case of a sale of a service defined under division 2242  
(MM) or (NN) of section 5739.01 of the Revised Code, the price of 2243  
which consists in whole or in part of a membership for the receipt 2244  
of the benefit of the service, the tax applicable to the sale 2245  
shall be measured by the installments thereof. 2246

(B) The tax does not apply to the following: 2247

(1) Sales to the state or any of its political subdivisions, 2248  
or to any other state or its political subdivisions if the laws of 2249  
that state exempt from taxation sales made to this state and its 2250  
political subdivisions; 2251

(2) Sales of food for human consumption off the premises 2252  
where sold; 2253

(3) Sales of food sold to students only in a cafeteria, 2254  
dormitory, fraternity, or sorority maintained in a private, 2255  
public, or parochial school, college, or university; 2256

(4) Sales of newspapers and of magazine subscriptions and	2257
sales or transfers of magazines distributed as controlled	2258
circulation publications;	2259
(5) The furnishing, preparing, or serving of meals without	2260
charge by an employer to an employee provided the employer records	2261
the meals as part compensation for services performed or work	2262
done;	2263
(6) Sales of motor fuel upon receipt, use, distribution, or	2264
sale of which in this state a tax is imposed by the law of this	2265
state, but this exemption shall not apply to the sale of motor	2266
fuel on which a refund of the tax is allowable under section	2267
5735.14 of the Revised Code; and the tax commissioner may deduct	2268
the amount of tax levied by this section applicable to the price	2269
of motor fuel when granting a refund of motor fuel tax pursuant to	2270
section 5735.14 of the Revised Code and shall cause the amount	2271
deducted to be paid into the general revenue fund of this state;	2272
(7) Sales of natural gas by a natural gas company, of water	2273
by a water-works company, or of steam by a heating company, if in	2274
each case the thing sold is delivered to consumers through pipes	2275
or conduits, and all sales of communications services by a	2276
telephone or telegraph company, all terms as defined in section	2277
5727.01 of the Revised Code;	2278
(8) Casual sales by a person, or auctioneer employed directly	2279
by the person to conduct such sales, except as to such sales of	2280
motor vehicles, watercraft or outboard motors required to be	2281
titled under section 1548.06 of the Revised Code, watercraft	2282
documented with the United States coast guard, snowmobiles, and	2283
all-purpose vehicles as defined in section 4519.01 of the Revised	2284
Code;	2285
(9) Sales of services or tangible personal property, other	2286
than motor vehicles, mobile homes, and manufactured homes, by	2287

churches, organizations exempt from taxation under section 2288  
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 2289  
organizations operated exclusively for charitable purposes as 2290  
defined in division (B)(12) of this section, provided that the 2291  
number of days on which such tangible personal property or 2292  
services, other than items never subject to the tax, are sold does 2293  
not exceed six in any calendar year. If the number of days on 2294  
which such sales are made exceeds six in any calendar year, the 2295  
church or organization shall be considered to be engaged in 2296  
business and all subsequent sales by it shall be subject to the 2297  
tax. In counting the number of days, all sales by groups within a 2298  
church or within an organization shall be considered to be sales 2299  
of that church or organization, except that sales made by separate 2300  
student clubs and other groups of students of a primary or 2301  
secondary school, and sales made by a parent-teacher association, 2302  
booster group, or similar organization that raises money to 2303  
support or fund curricular or extracurricular activities of a 2304  
primary or secondary school, shall not be considered to be sales 2305  
of such school, and sales by each such club, group, association, 2306  
or organization shall be counted separately for purposes of the 2307  
six-day limitation. This division does not apply to sales by a 2308  
noncommercial educational radio or television broadcasting 2309  
station. 2310

(10) Sales not within the taxing power of this state under 2311  
the Constitution of the United States; 2312

(11) The transportation of persons or property, unless the 2313  
transportation is by a private investigation and security service; 2314

(12) Sales of tangible personal property or services to 2315  
churches, to organizations exempt from taxation under section 2316  
501(c)(3) of the Internal Revenue Code of 1986, and to any other 2317  
nonprofit organizations operated exclusively for charitable 2318  
purposes in this state, no part of the net income of which inures 2319

to the benefit of any private shareholder or individual, and no 2320  
substantial part of the activities of which consists of carrying 2321  
on propaganda or otherwise attempting to influence legislation; 2322  
sales to offices administering one or more homes for the aged or 2323  
one or more hospital facilities exempt under section 140.08 of the 2324  
Revised Code; and sales to organizations described in division (D) 2325  
of section 5709.12 of the Revised Code. 2326

"Charitable purposes" means the relief of poverty; the 2327  
improvement of health through the alleviation of illness, disease, 2328  
or injury; the operation of an organization exclusively for the 2329  
provision of professional, laundry, printing, and purchasing 2330  
services to hospitals or charitable institutions; the operation of 2331  
a home for the aged, as defined in section 5701.13 of the Revised 2332  
Code; the operation of a radio or television broadcasting station 2333  
that is licensed by the federal communications commission as a 2334  
noncommercial educational radio or television station; the 2335  
operation of a nonprofit animal adoption service or a county 2336  
humane society; the promotion of education by an institution of 2337  
learning that maintains a faculty of qualified instructors, 2338  
teaches regular continuous courses of study, and confers a 2339  
recognized diploma upon completion of a specific curriculum; the 2340  
operation of a parent-teacher association, booster group, or 2341  
similar organization primarily engaged in the promotion and 2342  
support of the curricular or extracurricular activities of a 2343  
primary or secondary school; the operation of a community or area 2344  
center in which presentations in music, dramatics, the arts, and 2345  
related fields are made in order to foster public interest and 2346  
education therein; the production of performances in music, 2347  
dramatics, and the arts; or the promotion of education by an 2348  
organization engaged in carrying on research in, or the 2349  
dissemination of, scientific and technological knowledge and 2350  
information primarily for the public. 2351

Nothing in this division shall be deemed to exempt sales to 2352  
any organization for use in the operation or carrying on of a 2353  
trade or business, or sales to a home for the aged for use in the 2354  
operation of independent living facilities as defined in division 2355  
(A) of section 5709.12 of the Revised Code. 2356

(13) Building and construction materials and services sold to 2357  
construction contractors for incorporation into a structure or 2358  
improvement to real property under a construction contract with 2359  
this state or a political subdivision ~~thereof~~ of this state, or 2360  
with the United States government or any of its agencies; building 2361  
and construction materials and services sold to construction 2362  
contractors for incorporation into a structure or improvement to 2363  
real property that are accepted for ownership by this state or any 2364  
of its political subdivisions, or by the United States government 2365  
or any of its agencies at the time of completion of ~~such~~ the 2366  
structures or improvements; building and construction materials 2367  
sold to construction contractors for incorporation into a 2368  
horticulture structure or livestock structure for a person engaged 2369  
in the business of horticulture or producing livestock; building 2370  
materials and services sold to a construction contractor for 2371  
incorporation into a house of public worship or religious 2372  
education, or a building used exclusively for charitable purposes 2373  
under a construction contract with an organization whose purpose 2374  
is as described in division (B)(12) of this section; building 2375  
materials and services sold to a construction contractor for 2376  
incorporation into a building under a construction contract with 2377  
an organization exempt from taxation under section 501(c)(3) of 2378  
the Internal Revenue Code of 1986 when the building is to be used 2379  
exclusively for the organization's exempt purposes; building and 2380  
construction materials sold for incorporation into the original 2381  
construction of a sports facility under section 307.696 of the 2382  
Revised Code; and building and construction materials and services 2383

sold to a construction contractor for incorporation into real 2384  
property outside this state if such materials and services, when 2385  
sold to a construction contractor in the state in which the real 2386  
property is located for incorporation into real property in that 2387  
state, would be exempt from a tax on sales levied by that state; 2388

(14) Sales of ships or vessels or rail rolling stock used or 2389  
to be used principally in interstate or foreign commerce, and 2390  
repairs, alterations, fuel, and lubricants for such ships or 2391  
vessels or rail rolling stock; 2392

(15) Sales to persons engaged in any of the activities 2393  
mentioned in division (E)(2) or (9) of section 5739.01 of the 2394  
Revised Code, to persons engaged in making retail sales, or to 2395  
persons who purchase for sale from a manufacturer tangible 2396  
personal property that was produced by the manufacturer in 2397  
accordance with specific designs provided by the purchaser, of 2398  
packages, including material, labels, and parts for packages, and 2399  
of machinery, equipment, and material for use primarily in 2400  
packaging tangible personal property produced for sale, including 2401  
any machinery, equipment, and supplies used to make labels or 2402  
packages, to prepare packages or products for labeling, or to 2403  
label packages or products, by or on the order of the person doing 2404  
the packaging, or sold at retail. "Packages" includes bags, 2405  
baskets, cartons, crates, boxes, cans, bottles, bindings, 2406  
wrappings, and other similar devices and containers, and 2407  
"packaging" means placing therein. 2408

(16) Sales of food to persons using food stamp benefits to 2409  
purchase the food. As used in division (B)(16) of this section, 2410  
"food" has the same meaning as in the "Food Stamp Act of 1977," 91 2411  
Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations 2412  
adopted pursuant to that act. 2413

(17) Sales to persons engaged in farming, agriculture, 2414  
horticulture, or floriculture, of tangible personal property for 2415

use or consumption directly in the production by farming, 2416  
agriculture, horticulture, or floriculture of other tangible 2417  
personal property for use or consumption directly in the 2418  
production of tangible personal property for sale by farming, 2419  
agriculture, horticulture, or floriculture; or material and parts 2420  
for incorporation into any such tangible personal property for use 2421  
or consumption in production; and of tangible personal property 2422  
for such use or consumption in the conditioning or holding of 2423  
products produced by and for such use, consumption, or sale by 2424  
persons engaged in farming, agriculture, horticulture, or 2425  
floriculture, except where such property is incorporated into real 2426  
property; 2427

(18) Sales of drugs dispensed by a licensed pharmacist upon 2428  
the order of a licensed health professional authorized to 2429  
prescribe drugs to a human being, as the term "licensed health 2430  
professional authorized to prescribe drugs" is defined in section 2431  
4729.01 of the Revised Code; insulin as recognized in the official 2432  
United States pharmacopoeia; urine and blood testing materials 2433  
when used by diabetics or persons with hypoglycemia to test for 2434  
glucose or acetone; hypodermic syringes and needles when used by 2435  
diabetics for insulin injections; epoetin alfa when purchased for 2436  
use in the treatment of persons with end-stage renal disease; 2437  
hospital beds when purchased for use by persons with medical 2438  
problems for medical purposes; and oxygen and oxygen-dispensing 2439  
equipment when purchased for use by persons with medical problems 2440  
for medical purposes; 2441

(19)(a) Sales of artificial limbs or portion thereof, breast 2442  
prostheses, and other prosthetic devices for humans; braces or 2443  
other devices for supporting weakened or nonfunctioning parts of 2444  
the human body; crutches or other devices to aid human 2445  
perambulation; and items of tangible personal property used to 2446  
supplement impaired functions of the human body such as 2447

respiration, hearing, or elimination;	2448
(b) Sales of wheelchairs; items incorporated into or used in conjunction with a motor vehicle for the purpose of transporting wheelchairs, other than transportation conducted in connection with the sale or delivery of wheelchairs; and items incorporated into or used in conjunction with a motor vehicle that are specifically designed to assist a person with a disability to access or operate the motor vehicle. As used in this division, "person with a disability" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or disabled to the extent that the person is unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other disabling condition.	2449 2450 2451 2452 2453 2454 2455 2456 2457 2458 2459 2460 2461
(c) No exemption under this division shall be allowed for nonprescription drugs, medicines, or remedies; items or devices used to supplement vision; items or devices whose function is solely or primarily cosmetic; or physical fitness equipment. This division does not apply to sales to a physician or medical facility for use in the treatment of a patient.	2462 2463 2464 2465 2466 2467
(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;	2468 2469 2470 2471 2472
(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;	2473 2474 2475 2476 2477 2478 2479



(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	2512
consumers, if such water is delivered to consumers through pipes	2513
or tubing.	2514
(26) Fees charged for inspection or reinspection of motor	2515
vehicles under section 3704.14 of the Revised Code;	2516
(27) Sales to persons licensed to conduct a food service	2517
operation pursuant to section 3717.43 of the Revised Code, of	2518
tangible personal property primarily used directly for the	2519
following:	2520
(a) To prepare food for human consumption for sale;	2521
(b) To preserve food that has been or will be prepared for	2522
human consumption for sale by the food service operator, not	2523
including tangible personal property used to display food for	2524
selection by the consumer;	2525
(c) To clean tangible personal property used to prepare or	2526
serve food for human consumption for sale.	2527
(28) Sales of animals by nonprofit animal adoption services	2528
or county humane societies;	2529
(29) Sales of services to a corporation described in division	2530
(A) of section 5709.72 of the Revised Code, and sales of tangible	2531
personal property that qualifies for exemption from taxation under	2532
section 5709.72 of the Revised Code;	2533
(30) Sales and installation of agricultural land tile, as	2534
defined in division (B)(5)(a) of section 5739.01 of the Revised	2535
Code;	2536
(31) Sales and erection or installation of portable grain	2537
bins, as defined in division (B)(5)(b) of section 5739.01 of the	2538
Revised Code;	2539
(32) The sale, lease, repair, and maintenance of, parts for,	2540
or items attached to or incorporated in, motor vehicles that are	2541

primarily used for transporting tangible personal property by a 2542  
person engaged in highway transportation for hire; 2543

(33) Sales to the state headquarters of any veterans' 2544  
organization in ~~Ohio~~ this state that is either incorporated and 2545  
issued a charter by the congress of the United States or is 2546  
recognized by the United States veterans administration, for use 2547  
by the headquarters; 2548

(34) Sales to a telecommunications service vendor of tangible 2549  
personal property and services used directly and primarily in 2550  
transmitting, receiving, switching, or recording any interactive, 2551  
two-way electromagnetic communications, including voice, image, 2552  
data, and information, through the use of any medium, including, 2553  
but not limited to, poles, wires, cables, switching equipment, 2554  
computers, and record storage devices and media, and component 2555  
parts for the tangible personal property. The exemption provided 2556  
in division (B)(34) of this section shall be in lieu of all other 2557  
exceptions under division (E)(2) of section 5739.01 of the Revised 2558  
Code to which a telecommunications service vendor may otherwise be 2559  
entitled based upon the use of the thing purchased in providing 2560  
the telecommunications service. 2561

(35) Sales of investment metal bullion and investment coins. 2562  
"Investment metal bullion" means any elementary precious metal 2563  
that has been put through a process of smelting or refining, 2564  
including, but not limited to, gold, silver, platinum, and 2565  
palladium, and which is in such state or condition that its value 2566  
depends upon its content and not upon its form. "Investment metal 2567  
bullion" does not include fabricated precious metal that has been 2568  
processed or manufactured for one or more specific and customary 2569  
industrial, professional, or artistic uses. "Investment coins" 2570  
means numismatic coins or other forms of money and legal tender 2571  
manufactured of gold, silver, platinum, palladium, or other metal 2572  
under the laws of the United States or any foreign nation with a 2573

fair market value greater than any statutory or nominal value of 2574  
such coins. 2575

(36)(a) Sales where the purpose of the consumer is to use or 2576  
consume the things transferred in making retail sales and 2577  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 2578  
certificates, or other advertising material that prices and 2579  
describes tangible personal property offered for retail sale. 2580

(b) Sales to direct marketing vendors of preliminary 2581  
materials such as photographs, artwork, and typesetting that will 2582  
be used in printing advertising material; of printed matter that 2583  
offers free merchandise or chances to win sweepstake prizes and 2584  
that is mailed to potential customers with advertising material 2585  
described in division (B)(36)(a) of this section; and of equipment 2586  
such as telephones, computers, facsimile machines, and similar 2587  
tangible personal property primarily used to accept orders for 2588  
direct marketing retail sales. 2589

(c) Sales of automatic food vending machines that preserve 2590  
food with a shelf life of forty-five days or less by refrigeration 2591  
and dispense it to the consumer. 2592

For purposes of division (B)(36) of this section, "direct 2593  
marketing" means the method of selling where consumers order 2594  
tangible personal property by United States mail, delivery 2595  
service, or telecommunication and the vendor delivers or ships the 2596  
tangible personal property sold to the consumer from a warehouse, 2597  
catalogue distribution center, or similar fulfillment facility by 2598  
means of the United States mail, delivery service, or common 2599  
carrier. 2600

(37) Sales to a person engaged in the business of 2601  
horticulture or producing livestock of materials to be 2602  
incorporated into a horticulture structure or livestock structure; 2603

(38) The sale of a motor vehicle that is used exclusively for 2604

a vanpool ridesharing arrangement to persons participating in the 2605  
vanpool ridesharing arrangement when the vendor is selling the 2606  
vehicle pursuant to a contract between the vendor and the 2607  
department of transportation; 2608

(39) Sales of personal computers, computer monitors, computer 2609  
keyboards, modems, and other peripheral computer equipment to an 2610  
individual who is licensed or certified to teach in an elementary 2611  
or a secondary school in this state for use by that individual in 2612  
preparation for teaching elementary or secondary school students; 2613  
2614

(40) Sales to a professional racing team of any of the 2615  
following: 2616

(a) Motor racing vehicles; 2617

(b) Repair services for motor racing vehicles; 2618

(c) Items of property that are attached to or incorporated in 2619  
motor racing vehicles, including engines, chassis, and all other 2620  
components of the vehicles, and all spare, replacement, and 2621  
rebuilt parts or components of the vehicles; except not including 2622  
tires, consumable fluids, paint, and accessories consisting of 2623  
instrumentation sensors and related items added to the vehicle to 2624  
collect and transmit data by means of telemetry and other forms of 2625  
communication. 2626

(41) Sales of used manufactured homes and used mobile homes, 2627  
as defined in section 5739.0210 of the Revised Code, made on or 2628  
after January 1, 2000; 2629

(42) Sales of tangible personal property and services to a 2630  
provider of electricity used or consumed directly and primarily in 2631  
generating, transmitting, or distributing electricity for use by 2632  
others, including property that is or is to be incorporated into 2633  
and will become a part of the consumer's production, transmission, 2634  
or distribution system and that retains its classification as 2635

tangible personal property after incorporation; fuel or power used 2636  
in the production, transmission, or distribution of electricity; 2637  
and tangible personal property and services used in the repair and 2638  
maintenance of the production, transmission, or distribution 2639  
system, including only those motor vehicles as are specially 2640  
designed and equipped for such use. The exemption provided in this 2641  
division shall be in lieu of all other exceptions in division 2642  
(E)(2) of section 5739.01 of the Revised Code to which a provider 2643  
of electricity may otherwise be entitled based on the use of the 2644  
tangible personal property or service purchased in generating, 2645  
transmitting, or distributing electricity. 2646

For the purpose of the proper administration of this chapter, 2647  
and to prevent the evasion of the tax, it is presumed that all 2648  
sales made in this state are subject to the tax until the contrary 2649  
is established. 2650

As used in this section, except in division (B)(16) of this 2651  
section, "food" includes cereals and cereal products, milk and 2652  
milk products including ice cream, meat and meat products, fish 2653  
and fish products, eggs and egg products, vegetables and vegetable 2654  
products, fruits, fruit products, and pure fruit juices, 2655  
condiments, sugar and sugar products, coffee and coffee 2656  
substitutes, tea, and cocoa and cocoa products. It does not 2657  
include: spirituous or malt liquors, wine, mixed beverages, or 2658  
beer; soft drinks; sodas and beverages that are ordinarily 2659  
dispensed at or in connection with bars and soda fountains ~~or in~~ 2660  
~~connection therewith~~, other than coffee, tea, and cocoa; root beer 2661  
and root beer extracts; malt and malt extracts; mineral oils, cod 2662  
liver oils, and halibut liver oil; medicines, including tonics, 2663  
vitamin preparations, and other products sold primarily for their 2664  
medicinal properties; and water, including mineral, bottled, and 2665  
carbonated waters, and ice. 2666

(C) The levy of this tax on retail sales of recreation and 2667

sports club service shall not prevent a municipal corporation from 2668  
levying any tax on recreation and sports club dues or on any 2669  
income generated by recreation and sports club dues. 2670

**Section 2.** That existing sections 1333.82, 1502.07, 3719.44, 2671  
4301.01, 4301.03, 4301.041, 4301.042, 4301.24, 4301.241, 4301.333, 2672  
4301.355, 4301.365, 4301.402, 4301.42, 4301.47, 4301.54, 4301.55, 2673  
4301.62, 4303.01, 4303.02, 4303.06, 4303.07, 4303.10, 4303.181, 2674  
4303.182, 4303.184, 4303.22, 4303.29, 4303.30, 4303.332, 4303.35, 2675  
4305.01, 4305.03, 4305.04, 4399.09, 4399.12, 4399.15, 5703.21, 2676  
5733.065, and 5739.02 of the Revised Code are hereby repealed. 2677