

AN ACT

To amend sections 4301.25, 4301.252, 4301.365, 4301.62, and 4303.35 and to enact sections 4301.253, 4301.635, and 4303.206 of the Revised Code to create the F-6 permit to be issued to a nonprofit organization to sell wine at an event the organization sponsors; to require the Liquor Control Commission, when considering enforcement actions against the holder of a permit authorizing the sale of beer, wine, mixed beverages, or intoxicating liquor, to take into consideration whether the permit holder and the permit holder's employees have successfully completed a training program on specified topics; to provide, if a particular location is allowed to sell beer or intoxicating liquor on Sunday between 1 p.m. and midnight and a question allowing those sales from 10 a.m. to midnight is defeated, the location can continue sales between 1 p.m. and midnight; to require that liquor permit holders be notified after they have been the subject of a compliance check conducted by a law enforcement agency to enforce the Underage Drinking Law; to require the Liquor Control Commission in disciplinary actions to consider whether such a compliance check was conducted with trickery, deceit, or deception involved; and to make changes relating to the penalties that may be imposed because of a permit holder's violation of the Liquor Control Law.

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

SECTION 1. That sections 4301.25, 4301.252, 4301.365, 4301.62, and 4303.35 be amended and sections 4301.253, 4301.635, and 4303.206 of the Revised Code be enacted to read as follows:

Sec. 4301.25. (A) The liquor control commission may suspend or revoke any permit issued ~~pursuant to Chapters 4301. and~~ under this chapter or Chapter 4303. of the Revised Code for the violation of any of the applicable restrictions of ~~such chapters either chapter~~ or of any lawful rule of the commission ~~or~~, for other sufficient cause, and for the following causes:

(1) Conviction of the holder or the holder's agent or employee for violating a section of ~~Chapters 4301. and~~ this chapter or Chapter 4303. of the Revised Code or for a felony;

(2) The entry of a judgment pursuant to division (D) or (E) of section 3767.05 of the Revised Code against a permit holder or the holder's agent or employee finding the existence of a nuisance at a liquor permit premises or finding the existence of a nuisance as a result of the operation of a liquor permit premises;

(3) Making any false material statement in an application for a permit;

(4) Assigning, transferring, or pledging a permit contrary to the rules of the commission;

(5) Selling or promising to sell beer or intoxicating liquor to a wholesale or retail dealer who is not the holder of a proper permit at the time of the sale or promise;

(6) Failure of the holder of a permit to pay an excise tax together with any penalties imposed by the law relating ~~thereto to that failure~~ and for violation of any rule of the department of taxation in pursuance ~~thereof~~ of the tax and penalties.

(B) The liquor control commission shall revoke a permit issued pursuant to ~~a provision of Chapter 4301. this chapter or Chapter~~ this chapter or Chapter 4303. of the Revised Code upon the conviction of the holder of the permit of a violation of division (C)(1) of section 2913.46 of the Revised Code.

(C)(1) When the commission considers the length of a suspension of a permit, it may consider the volume of the business of the permit holder, so that the length of the suspension is in proportion to the seriousness of the offense and the permit holder's business in order that the suspension serve as a penalty and a deterrent. Evidence as to the volume of business of the permit holder may be offered by the permit holder or subpoenaed by the commission.

(2) When the commission considers the length of a proposed suspension

of a permit and the proposed suspension results from an offense that was committed during a compliance check as defined in section 4301.635 of the Revised Code, the commission may consider whether trickery, deceit, or deception was used in the conduct of the compliance check.

Sec. 4301.252. (A)(1) Except as provided in divisions ~~(A)(2)(d)~~, (B), and (C) of this section, when the liquor control commission determines that the permit of any permit holder is to be suspended under Title XLIII of the Revised Code or any rule of the commission, the commission may issue an order allowing a permit holder to elect to pay a forfeiture for each day of the suspension in accordance with division (A)(2) of this section, rather than to suspend operations under the permit holder's permit issued for the premises at which the violation occurred.

(2)(a) If the permit holder has not violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission during the preceding two years, the amount of the forfeiture for each day for the suspension shall be from one hundred to two hundred dollars.

(b) If the permit holder has violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission for which the permit holder has been disciplined by the commission not more than one other time during the preceding two years, the amount of the forfeiture for each day of the suspension shall be from two hundred to four hundred dollars.

(c) Except as provided under division (A)(2)(e) of this section, if the permit holder has ~~subsequently~~ violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission for which the permit holder has been disciplined by the commission more than once, but not more than twice, during the preceding two years, the commission shall establish the amount of the forfeiture for each day of the suspension, but the amount shall be not less than three hundred dollars for each day of suspension.

(d) If the permit holder has ~~subsequently~~ violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission for which the permit holder has been disciplined by the commission more than twice during the preceding two years, the commission may suspend or revoke the permit issued for the premises at which the violation occurred, ~~but shall not allow the permit holder to pay a forfeiture instead of suspending or revoking the permit holder's permit operations~~ commission shall establish the amount of the forfeiture for each day of a suspension, but the amount shall not be less than

five hundred dollars for each day of suspension. The commission, and not the permit holder, shall determine whether the permit holder shall pay the forfeiture so established for a suspension instead of having the permit holder's permit suspended or revoked.

(e) If the permit holder has committed, at the premises for which the permit holder's permit was issued, a gambling offense as defined in section 2915.01, a drug abuse offense as defined in section 2925.01, or an offense described in section 2907.07, 2907.21, 2907.22, 2907.23, 2907.24, or 2907.25, division (A) or (B) of section 4301.22, or section 4301.69 of the Revised Code or a municipal ordinance substantially equivalent to any offense defined or described in a section or division listed in division (A)(2)(e) of this section for which the permit holder has been disciplined by the commission more than once, but not more than twice, during the preceding two years, the commission may suspend or revoke the permit issued for the premises at which the violation occurred, ~~but shall not allow the permit holder to pay a forfeiture instead of suspending or revoking the permit holder's permit operations.~~ A person does not have to plead guilty to or be convicted of an offense defined or described in a section or division listed in division (A)(2)(e) of this section in order for this division to apply.

(3) When the commission issues an order allowing a permit holder the option of paying a forfeiture rather than suspending operations under the permit holder's permit issued for the premises at which the violation occurred, the order shall notify the permit holder of the option of paying a forfeiture. The order shall state the number of days for which the permit may be suspended, ~~and~~ that the permit holder has twenty-one days after the date on which the order ~~was~~ is sent to pay the full amount of the forfeiture by bank check, certified check, or money order, and that, if the permit holder does not do so, the permit holder's permit issued for the premises at which the violation occurred shall be suspended for the period stated in the order. If the permit holder fails to pay the full amount of the forfeiture by bank check, certified check, or money order within twenty-one days after the date on which the order ~~was~~ is sent, the commission shall issue an order suspending the permit holder's permit issued for the premises at which the violation occurred for the period stated in the order allowing payment of a forfeiture. The suspension shall be effective on the twenty-eighth day after the date on which the order allowing the payment of a forfeiture ~~was~~ is sent. Even a permit holder who pays a forfeiture may file an appeal under section 119.12 of the Revised Code. A permit holder shall be considered to have paid a forfeiture when the permit holder's bank check, certified check, or money order is received by the commission in Columbus. Upon receipt of a

permit holder's bank check, certified check, or money order under this division, the commission shall promptly notify the division of liquor control of its receipt.

(B) No permit holder shall be permitted to pay a forfeiture instead of having the permit holder's permit issued for the premises at which the violation occurred suspended if the suspension is ordered for the reasons stated in division (A)(6) of section 4301.25 of the Revised Code.

(C) When the evidence and the nature of any violation of Title XLIII of the Revised Code show that continued operation of the permit premises presents a clear and present danger to public health and safety, or if the commission finds, upon reliable, probative, and substantial evidence, that the statutory elements of a felony committed in connection with the operation of the permit premises are present in the action for which the permit holder is being disciplined, the commission may suspend the permit issued for the premises at which the violation occurred and shall not allow the permit holder to pay a forfeiture instead of suspending the permit holder's permit operations.

Sec. 4301.253. In considering whether to suspend or revoke a permit issued under Chapter 4303. of the Revised Code or to issue an order allowing a permit holder to elect to pay a forfeiture under section 4301.252 of the Revised Code, the liquor control commission shall consider whether the permit holder and the permit holder's employees have successfully completed a training program that includes all of the following:

(A) Instruction on the statutes and rules that govern the sale of beer, wine, mixed beverages, and intoxicating liquor;

(B) Instruction on the prevention of the illegal serving of beer, wine, mixed beverages, and intoxicating liquor to persons under twenty-one years of age;

(C) Use of conflict management skills in alcohol-related situations;

(D) Instruction on methods to safely evacuate the premises of a permit holder in an emergency.

Sec. 4301.365. (A) If a majority of the electors in a precinct vote "yes" on questions (B)(1) and (2) as set forth in section 4301.355 of the Revised Code, the sale of beer, wine and mixed beverages, or intoxicating liquor, whichever was the subject of the election, shall be allowed at the particular location and for the use, and during the hours on Sunday, specified in the questions under each permit applied for by the petitioner or at the address listed for the liquor agency store, subject only to ~~Chapters 4301. this chapter~~ and Chapter 4303. of the Revised Code. Failure to continue to use the particular location for any proposed or stated use set forth in the petition is

grounds for the denial of a renewal of the liquor permit under division (A) of section 4303.271 of the Revised Code or is grounds for the nonrenewal or cancellation of the liquor agency store contract by the division of liquor control, except in the case where the liquor permit holder or liquor agency store decides to cease the sale of beer, wine and mixed beverages, or intoxicating liquor, whichever was the subject of the election, on Sundays.

(B) ~~If~~ Except as otherwise provided in division (H) of this section, if a majority of the electors in a precinct vote "yes" on question (B)(1) and "no" on question (B)(2) as set forth in section 4301.355 of the Revised Code, the sale of beer, wine and mixed beverages, or intoxicating liquor, whichever was the subject of the election, shall be allowed at the particular location for the use specified in question (B)(1) of section 4301.355 of the Revised Code and under each permit applied for by the petitioner, except for a D-6 permit, subject only to ~~Chapters 4301.~~ this chapter and Chapter 4303. of the Revised Code.

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

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

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

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

the question or questions set forth in section 4301.355 of the Revised Code shall apply to the particular location notwithstanding the results of the election held on the question or questions set forth in section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised Code.

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

(H) If question (B)(2) as set forth in section 4301.355 of the Revised Code is submitted to the electors of a precinct proposing to authorize the sale of beer, wine and mixed beverages, or intoxicating liquor between the hours of ten a.m. and midnight at a particular location at which the sale of beer, wine and mixed beverages, or intoxicating liquor is already allowed between the hours of one p.m. and midnight and the question submitted is defeated, the sale of beer, wine and mixed beverages, or intoxicating liquor between the hours of one p.m. and midnight shall continue at that particular location.

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

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

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

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

(1) In a state liquor store;

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

(3) In any other public place;

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

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

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

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-7, D-8, E, F, ~~or F-2,~~ or F-5 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 or F-6 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 not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.

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

Sec. 4301.635. (A) As used in this section:

(1) "Compliance check" means an attempt on behalf of a law enforcement agency or the division of liquor control to purchase any beer, wine, mixed beverages, or intoxicating liquor in the enforcement of any section of this chapter or any rule of the liquor control commission in which the age of the purchaser is an element of the offense.

(2) "Confidential informant" means a person who is under twenty-one years of age and who is engaged in conducting compliance checks.

(3) "Law enforcement agency" means an organization or unit made up

of law enforcement officers authorized to enforce this chapter and also includes the investigative unit of the department of public safety described in section 5502.13 of the Revised Code.

(B) Within a reasonable period of time after the conduct of a compliance check, the law enforcement agency that conducted the compliance check, or the division of liquor control if the division conducted the compliance check, shall send written notification of it to the permit holder that was its subject. If the confidential informant who participated in the compliance check was able to purchase beer, wine, mixed beverages, or intoxicating liquor, the citation issued for the violation constitutes that notification. If the confidential informant who participated in the compliance check was unable to purchase beer, wine, mixed beverages, or intoxicating liquor, the notification shall indicate the date and time of the compliance check, the law enforcement agency that conducted the compliance check or, when applicable, that the division of liquor control conducted the compliance check, and the permit holder or a general description of the employee of the permit holder who refused to make the sale.

Sec. 4303.206. (A) The division of liquor control may issue an F-6 permit to a 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, to sell wine at an event organized and conducted by, and for the benefit of, the nonprofit organization.

(B) An F-6 permit may be issued to a nonprofit organization if the premises of the event for which the F-6 permit is sought is located in a precinct, or at a particular location in a precinct, in which the sale of wine is otherwise permitted by law. The premises of the event for which an F-6 permit is issued shall be clearly defined and sufficiently restricted to allow proper enforcement of the permit by state and local law enforcement officers. If an F-6 permit is issued for all or a portion of the same premises for which another class of permit is issued, that permit holder's privileges shall be suspended in that portion of the premises in which the F-6 permit is in effect.

(C) A holder of an F-6 permit may charge an admission price to attend the event for which the permit is issued, which price includes the consumption of wine or sale of wine by the individual drink.

(D) A holder of an F-6 permit may sell wine in its original sealed container by auction at the event for which the permit is issued.

(E) Nothing in this chapter or Chapter 4301. of the Revised Code or any rule adopted by the liquor control commission prevents the holder of an F-6

permit from obtaining wine by donation from a manufacturer, supplier, or wholesale distributor of wine or from any person who is not the holder of a permit issued by the division of liquor control.

(F) Notwithstanding any contrary provision of section 4301.24 of the Revised Code or of any rule adopted by the liquor control commission, employees of a manufacturer, supplier, or wholesale distributor may assist the holder of an F-6 permit in serving wine at the event for which the permit is issued.

(G) The division shall prepare and make available an F-6 permit application form and may require applicants for the permit to provide information necessary for the administration of this section.

(H) No F-6 permit shall be effective for more than seventy-two consecutive hours, and sales of wine under the permit shall be confined to the same hours permitted to the holder of a D-2 permit. The division shall not issue more than six F-6 permits per calendar year to the same nonprofit organization.

(I) The fee for an F-6 permit is fifty dollars.

Sec. 4303.35. No holders of A-1-A, C-1, C-2, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, F, ~~or~~ F-3, F-5, or F-6 permits shall purchase any beer subject to the tax imposed by sections 4301.42 and 4305.01 of the Revised Code or any wine or mixed beverage subject to the tax imposed by section 4301.43 of the Revised Code for resale, except from holders of A or B permits.

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

SECTION 2. That existing sections 4301.25, 4301.252, 4301.365, 4301.62, and 4303.35 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 23

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____