

As Reported by the House State Government Committee

125th General Assembly

Regular Session

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Sub. S. B. No. 23

Senators Goodman, Mumper, Dann

A BILL

To amend sections 4301.25, 4301.252, 4301.365, 1
4301.62, and 4303.35 and to enact sections 2
4301.253, 4301.635, and 4303.206 of the Revised 3
Code to create the F-6 permit to be issued to a 4
nonprofit organization to sell wine at an event 5
the organization sponsors; to require the Liquor 6
Control Commission, when considering enforcement 7
actions against the holder of a permit authorizing 8
the sale of beer, wine, mixed beverages, or 9
intoxicating liquor, to take into consideration 10
whether the permit holder and the permit holder's 11
employees have successfully completed a training 12
program on specified topics; to provide, if a 13
particular location is allowed to sell beer or 14
intoxicating liquor on Sunday between 1 p.m. and 15
midnight and a question allowing those sales from 16
10 a.m. to midnight is defeated, the location can 17
continue sales between 1 p.m. and midnight; to 18
require that liquor permit holders be notified 19
after they have been the subject of a compliance 20
check conducted by a law enforcement agency to 21
enforce the Underage Drinking Law; to require the 22
Liquor Control Commission in disciplinary actions 23
to consider whether such a compliance check was 24
conducted with trickery, deceit, or deception 25

involved; and to make changes relating to the 26
penalties that may be imposed because of a permit 27
holder's violation of the Liquor Control Law. 28

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

Section 1. That sections 4301.25, 4301.252, 4301.365, 29
4301.62, and 4303.35 be amended and sections 4301.253, 4301.635, 30
and 4303.206 of the Revised Code be enacted to read as follows: 31

Sec. 4301.25. (A) The liquor control commission may suspend 32
or revoke any permit issued ~~pursuant to Chapters 4301. and under~~ 33
this chapter or Chapter 4303. of the Revised Code for the 34
violation of any of the applicable restrictions of ~~such chapters~~ 35
either chapter or of any lawful rule of the commission ~~or,~~ for 36
other sufficient cause, and for the following causes: 37

(1) Conviction of the holder or the holder's agent or 38
employee for violating a section of ~~Chapters 4301. and this~~ 39
chapter or Chapter 4303. of the Revised Code or for a felony; 40

(2) The entry of a judgment pursuant to division (D) or (E) 41
of section 3767.05 of the Revised Code against a permit holder or 42
the holder's agent or employee finding the existence of a nuisance 43
at a liquor permit premises or finding the existence of a nuisance 44
as a result of the operation of a liquor permit premises; 45

(3) Making any false material statement in an application for 46
a permit; 47

(4) Assigning, transferring, or pledging a permit contrary to 48
the rules of the commission; 49

(5) Selling or promising to sell beer or intoxicating liquor 50
to a wholesale or retail dealer who is not the holder of a proper 51
permit at the time of the sale or promise; 52

(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 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. 84

(2)(a) If the permit holder has not violated, at the premises 85
for which the permit holder's permit was issued, any provision of 86
Title XLIII of the Revised Code or rule of the commission during 87
the preceding two years, the amount of the forfeiture for each day 88
for the suspension shall be from one hundred to two hundred 89
dollars. 90

(b) If the permit holder has violated, at the premises for 91
which the permit holder's permit was issued, any provision of 92
Title XLIII of the Revised Code or rule of the commission for 93
which the permit holder has been disciplined by the commission not 94
more than one other time during the preceding two years, the 95
amount of the forfeiture for each day of the suspension shall be 96
from two hundred to four hundred dollars. 97

(c) Except as provided under division (A)(2)(e) of this 98
section, if the permit holder has ~~subsequently~~ violated, at the 99
premises for which the permit holder's permit was issued, any 100
provision of Title XLIII of the Revised Code or rule of the 101
commission for which the permit holder has been disciplined by the 102
commission more than once, but not more than twice, during the 103
preceding two years, the commission shall establish the amount of 104
the forfeiture for each day of the suspension, but the amount 105
shall be not less than three hundred dollars for each day of 106
suspension. 107

(d) If the permit holder has ~~subsequently~~ violated, at the 108
premises for which the permit holder's permit was issued, any 109
provision of Title XLIII of the Revised Code or rule of the 110
commission for which the permit holder has been disciplined by the 111
commission more than twice during the preceding two years, the 112
commission may suspend or revoke the permit issued for the 113
premises at which the violation occurred, ~~but shall not allow the~~ 114

~~permit holder to pay a forfeiture instead of suspending or~~ 115
~~revoking the permit holder's permit operations~~ commission shall 116
establish the amount of the forfeiture for each day of a 117
suspension, but the amount shall not be less than five hundred 118
dollars for each day of suspension. The commission, and not the 119
permit holder, shall determine whether the permit holder shall pay 120
the forfeiture so established for a suspension instead of having 121
the permit holder's permit suspended or revoked. 122

(e) If the permit holder has committed, at the premises for 123
which the permit holder's permit was issued, a gambling offense as 124
defined in section 2915.01, a drug abuse offense as defined in 125
section 2925.01, or an offense described in section 2907.07, 126
2907.21, 2907.22, 2907.23, 2907.24, or 2907.25, division (A) or 127
(B) of section 4301.22, or section 4301.69 of the Revised Code or 128
a municipal ordinance substantially equivalent to any offense 129
defined or described in a section or division listed in division 130
(A)(2)(e) of this section for which the permit holder has been 131
disciplined by the commission more than once, but not more than 132
twice, during the preceding two years, the commission may suspend 133
or revoke the permit issued for the premises at which the 134
violation occurred, ~~but shall not allow the permit holder to pay a~~ 135
~~forfeiture instead of suspending or revoking the permit holder's~~ 136
~~permit operations.~~ A person does not have to plead guilty to or be 137
convicted of an offense defined or described in a section or 138
division listed in division (A)(2)(e) of this section in order for 139
this division to apply. 140

(3) When the commission issues an order allowing a permit 141
holder the option of paying a forfeiture rather than suspending 142
operations under the permit holder's permit issued for the 143
premises at which the violation occurred, the order shall notify 144
the permit holder of the option of paying a forfeiture. The order 145
shall state the number of days for which the permit may be 146

suspended, ~~and~~ that the permit holder has twenty-one days after 147
the date on which the order ~~was~~ is sent to pay the full amount of 148
the forfeiture by bank check, certified check, or money order, and 149
that, if the permit holder does not do so, the permit holder's 150
permit issued for the premises at which the violation occurred 151
shall be suspended for the period stated in the order. If the 152
permit holder fails to pay the full amount of the forfeiture by 153
bank check, certified check, or money order within twenty-one days 154
after the date on which the order ~~was~~ is sent, the commission 155
shall issue an order suspending the permit holder's permit issued 156
for the premises at which the violation occurred for the period 157
stated in the order allowing payment of a forfeiture. The 158
suspension shall be effective on the twenty-eighth day after the 159
date on which the order allowing the payment of a forfeiture ~~was~~ 160
is sent. Even a permit holder who pays a forfeiture may file an 161
appeal under section 119.12 of the Revised Code. A permit holder 162
shall be considered to have paid a forfeiture when the permit 163
holder's bank check, certified check, or money order is received 164
by the commission in Columbus. Upon receipt of a permit holder's 165
bank check, certified check, or money order under this division, 166
the commission shall promptly notify the division of liquor 167
control of its receipt. 168

(B) No permit holder shall be permitted to pay a forfeiture 169
instead of having the permit holder's permit issued for the 170
premises at which the violation occurred suspended if the 171
suspension is ordered for the reasons stated in division (A)(6) of 172
section 4301.25 of the Revised Code. 173

(C) When the evidence and the nature of any violation of 174
Title XLVIII of the Revised Code show that continued operation of 175
the permit premises presents a clear and present danger to public 176
health and safety, or if the commission finds, upon reliable, 177
probative, and substantial evidence, that the statutory elements 178

of a felony committed in connection with the operation of the 179
permit premises are present in the action for which the permit 180
holder is being disciplined, the commission may suspend the permit 181
issued for the premises at which the violation occurred and shall 182
not allow the permit holder to pay a forfeiture instead of 183
suspending the permit holder's permit operations. 184

Sec. 4301.253. In considering whether to suspend or revoke a 185
permit issued under Chapter 4303. of the Revised Code or to issue 186
an order allowing a permit holder to elect to pay a forfeiture 187
under section 4301.252 of the Revised Code, the liquor control 188
commission shall consider whether the permit holder and the permit 189
holder's employees have successfully completed a training program 190
that includes all of the following: 191

(A) Instruction on the statutes and rules that govern the 192
sale of beer, wine, mixed beverages, and intoxicating liquor; 193

(B) Instruction on the prevention of the illegal serving of 194
beer, wine, mixed beverages, and intoxicating liquor to persons 195
under twenty-one years of age; 196

(C) Use of conflict management skills in alcohol-related 197
situations; 198

(D) Instruction on methods to safely evacuate the premises of 199
a permit holder in an emergency. 200

Sec. 4301.365. (A) If a majority of the electors in a 201
precinct vote "yes" on questions (B)(1) and (2) as set forth in 202
section 4301.355 of the Revised Code, the sale of beer, wine and 203
mixed beverages, or intoxicating liquor, whichever was the subject 204
of the election, shall be allowed at the particular location and 205
for the use, and during the hours on Sunday, specified in the 206
questions under each permit applied for by the petitioner or at 207
the address listed for the liquor agency store, subject only to 208

~~Chapters 4301.~~ this chapter and Chapter 4303. of the Revised Code. 209
Failure to continue to use the particular location for any 210
proposed or stated use set forth in the petition is grounds for 211
the denial of a renewal of the liquor permit under division (A) of 212
section 4303.271 of the Revised Code or is grounds for the 213
nonrenewal or cancellation of the liquor agency store contract by 214
the division of liquor control, except in the case where the 215
liquor permit holder or liquor agency store decides to cease the 216
sale of beer, wine and mixed beverages, or intoxicating liquor, 217
whichever was the subject of the election, on Sundays. 218

(B) ~~If~~ Except as otherwise provided in division (H) of this 219
section, if a majority of the electors in a precinct vote "yes" on 220
question (B)(1) and "no" on question (B)(2) as set forth in 221
section 4301.355 of the Revised Code, the sale of beer, wine and 222
mixed beverages, or intoxicating liquor, whichever was the subject 223
of the election, shall be allowed at the particular location for 224
the use specified in question (B)(1) of section 4301.355 of the 225
Revised Code and under each permit applied for by the petitioner, 226
except for a D-6 permit, subject only to ~~Chapters 4301.~~ this 227
chapter and Chapter 4303. of the Revised Code. 228

(C) If a majority of the electors in a precinct vote "no" on 229
question (B)(1) as set forth in section 4301.355 of the Revised 230
Code, no sales of beer, wine and mixed beverages, or intoxicating 231
liquor, whichever was the subject of the election, shall be 232
allowed at the particular location for the use specified in the 233
petition during the period the election is in effect as defined in 234
section 4301.37 of the Revised Code. 235

(D) If a majority of the electors in a precinct vote only on 236
question (B)(2) as set forth in section 4301.355 of the Revised 237
Code and that vote results in a majority "yes" vote, sales of 238
beer, wine and mixed beverages, or intoxicating liquor, whichever 239

was the subject of the election, shall be allowed at the 240
particular location for the use and during the hours specified in 241
the petition on Sunday during the period the election is in effect 242
as defined in section 4301.37 of the Revised Code. 243

(E) ~~If~~ Except as otherwise provided in division (H) of this 244
section, if a majority of the electors in a precinct vote only on 245
question (B)(2) as set forth in section 4301.355 of the Revised 246
Code and that vote results in a majority "no" vote, no sales of 247
beer, wine and mixed beverages, or intoxicating liquor, whichever 248
was the subject of the election, shall be allowed at the 249
particular location for the use and during the hours specified in 250
the petition on Sunday during the period the election is in effect 251
as defined in section 4301.37 of the Revised Code. 252

(F) In case of elections in the same precinct for the 253
question or questions set forth in section 4301.355 of the Revised 254
Code and for a question or questions set forth in section 4301.35, 255
4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised 256
Code, the results of the election held on the question or 257
questions set forth in section 4301.355 of the Revised Code shall 258
apply to the particular location notwithstanding the results of 259
the election held on the question or questions set forth in 260
section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 261
of the Revised Code. 262

(G) Sections 4301.32 to 4301.41 of the Revised Code do not 263
prohibit the transfer of ownership of a permit that was issued to 264
a particular location as the result of an election held on sales 265
of beer, wine and mixed beverages, or intoxicating liquor at that 266
particular location as long as the general nature of the business 267
at that particular location described in the petition for that 268
election remains the same after the transfer. 269

(H) If question (B)(2) as set forth in section 4301.355 of 270
the Revised Code is submitted to the electors of a precinct 271

proposing to authorize the sale of beer, wine and mixed beverages, 272
or intoxicating liquor between the hours of ten a.m. and midnight 273
at a particular location at which the sale of beer, wine and mixed 274
beverages, or intoxicating liquor is already allowed between the 275
hours of one p.m. and midnight and the question submitted is 276
defeated, the sale of beer, wine and mixed beverages, or 277
intoxicating liquor between the hours of one p.m. and midnight 278
shall continue at that particular location. 279

Sec. 4301.62. (A) As used in this section: 280

(1) "Chauffeured limousine" means a vehicle registered under 281
section 4503.24 of the Revised Code. 282

(2) "Street," "highway," and "motor vehicle" have the same 283
meanings as in section 4511.01 of the Revised Code. 284

(B) No person shall have in the person's possession an opened 285
container of beer or intoxicating liquor in any of the following 286
circumstances: 287

(1) In a state liquor store; 288

(2) Except as provided in division (C) of this section, on 289
the premises of the holder of any permit issued by the division of 290
liquor control; 291

(3) In any other public place; 292

(4) Except as provided in division (D) of this section, while 293
operating or being a passenger in or on a motor vehicle on any 294
street, highway, or other public or private property open to the 295
public for purposes of vehicular travel or parking; 296

(5) Except as provided in division (D) of this section, while 297
being in or on a stationary motor vehicle on any street, highway, 298
or other public or private property open to the public for 299
purposes of vehicular travel or parking. 300

(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. 331
- (2) The person or guest is located in the limousine, but is 332
not occupying a seat in the front compartment of the limousine 333
where the operator of the limousine is located. 334
- (3) The limousine is located on any street, highway, or other 335
public or private property open to the public for purposes of 336
vehicular travel or parking. 337

Sec. 4301.635. (A) As used in this section: 338

(1) "Compliance check" means an attempt on behalf of a law 339
enforcement agency or the division of liquor control to purchase 340
any beer, wine, mixed beverages, or intoxicating liquor in the 341
enforcement of any section of this chapter or any rule of the 342
liquor control commission in which the age of the purchaser is an 343
element of the offense. 344

(2) "Confidential informant" means a person who is under 345
twenty-one years of age and who is engaged in conducting 346
compliance checks. 347

(3) "Law enforcement agency" means an organization or unit 348
made up of law enforcement officers authorized to enforce this 349
chapter and also includes the investigative unit of the department 350
of public safety described in section 5502.13 of the Revised Code. 351

(B) Within a reasonable period of time after the conduct of a 352
compliance check, the law enforcement agency that conducted the 353
compliance check, or the division of liquor control if the 354
division conducted the compliance check, shall send written 355
notification of it to the permit holder that was its subject. If 356
the confidential informant who participated in the compliance 357
check was able to purchase beer, wine, mixed beverages, or 358
intoxicating liquor, the citation issued for the violation 359
constitutes that notification. If the confidential informant who 360

participated in the compliance check was unable to purchase beer, 361
wine, mixed beverages, or intoxicating liquor, the notification 362
shall indicate the date and time of the compliance check, the law 363
enforcement agency that conducted the compliance check or, when 364
applicable, that the division of liquor control conducted the 365
compliance check, and the permit holder or a general description 366
of the employee of the permit holder who refused to make the sale. 367

Sec. 4303.206. (A) The division of liquor control may issue 368
an F-6 permit to a nonprofit organization that is exempt from 369
federal income taxation under the "Internal Revenue Code of 1986," 370
100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, to sell wine at 371
an event organized and conducted by, and for the benefit of, the 372
nonprofit organization. 373

(B) An F-6 permit may be issued to a nonprofit organization 374
if the premises of the event for which the F-6 permit is sought is 375
located in a precinct, or at a particular location in a precinct, 376
in which the sale of wine is otherwise permitted by law. The 377
premises of the event for which an F-6 permit is issued shall be 378
clearly defined and sufficiently restricted to allow proper 379
enforcement of the permit by state and local law enforcement 380
officers. If an F-6 permit is issued for all or a portion of the 381
same premises for which another class of permit is issued, that 382
permit holder's privileges shall be suspended in that portion of 383
the premises in which the F-6 permit is in effect. 384

(C) A holder of an F-6 permit may charge an admission price 385
to attend the event for which the permit is issued, which price 386
includes the consumption of wine or sale of wine by the individual 387
drink. 388

(D) A holder of an F-6 permit may sell wine in its original 389
sealed container by auction at the event for which the permit is 390
issued. 391

(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. 392
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(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. 398
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(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. 403
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(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. 407
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(I) The fee for an F-6 permit is fifty dollars. 412

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. 413
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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 420
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shall purchase spirituous liquor for resale except from the 422
division of liquor control, unless with the special consent of the 423
division under particular regulations and markup provisions 424
prescribed by the superintendent of liquor control. 425

Section 2. That existing sections 4301.25, 4301.252, 426
4301.365, 4301.62, and 4303.35 of the Revised Code are hereby 427
repealed. 428