

**As Introduced**

**126th General Assembly  
Regular Session  
2005-2006**

**H. B. No. 209**

**Representatives Combs, Carano, Chandler, C. Evans, Harwood, Martin,  
Perry, Trakas**

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**A B I L L**

To amend section 4303.181 of the Revised Code to 1  
qualify the owner or operator of a community arts 2  
center for issuance of a D-5h liquor permit. 3

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

**Section 1.** That section 4303.181 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 4303.181.** (A) Permit D-5a may be issued either to the 6  
owner or operator of a hotel or motel that is required to be 7  
licensed under section 3731.03 of the Revised Code, that contains 8  
at least fifty rooms for registered transient guests or is owned 9  
by a state institution of higher education as defined in section 10  
3345.011 of the Revised Code or a private college or university, 11  
and that qualifies under the other requirements of this section, 12  
or to the owner or operator of a restaurant specified under this 13  
section, to sell beer and any intoxicating liquor at retail, only 14  
by the individual drink in glass and from the container, for 15  
consumption on the premises where sold, and to registered guests 16  
in their rooms, which may be sold by means of a controlled access 17  
alcohol and beverage cabinet in accordance with division (B) of 18  
section 4301.21 of the Revised Code; and to sell the same products 19

in the same manner and amounts not for consumption on the premises 20  
as may be sold by holders of D-1 and D-2 permits. The premises of 21  
the hotel or motel shall include a retail food establishment or a 22  
food service operation licensed pursuant to Chapter 3717. of the 23  
Revised Code that operates as a restaurant for purposes of this 24  
chapter and that is affiliated with the hotel or motel and within 25  
or contiguous to the hotel or motel, and that serves food within 26  
the hotel or motel, but the principal business of the owner or 27  
operator of the hotel or motel shall be the accommodation of 28  
transient guests. In addition to the privileges authorized in this 29  
division, the holder of a D-5a permit may exercise the same 30  
privileges as the holder of a D-5 permit. 31

The owner or operator of a hotel, motel, or restaurant who 32  
qualified for and held a D-5a permit on August 4, 1976, may, if 33  
the owner or operator held another permit before holding a D-5a 34  
permit, either retain a D-5a permit or apply for the permit 35  
formerly held, and the division of liquor control shall issue the 36  
permit for which the owner or operator applies and formerly held, 37  
notwithstanding any quota. 38

A D-5a permit shall not be transferred to another location. 39  
No quota restriction shall be placed on the number of D-5a permits 40  
that may be issued. 41

The fee for this permit is two thousand three hundred 42  
forty-four dollars. 43

(B) Permit D-5b may be issued to the owner, operator, tenant, 44  
lessee, or occupant of an enclosed shopping center to sell beer 45  
and intoxicating liquor at retail, only by the individual drink in 46  
glass and from the container, for consumption on the premises 47  
where sold; and to sell the same products in the same manner and 48  
amount not for consumption on the premises as may be sold by 49  
holders of D-1 and D-2 permits. In addition to the privileges 50  
authorized in this division, the holder of a D-5b permit may 51

exercise the same privileges as a holder of a D-5 permit. 52

A D-5b permit shall not be transferred to another location. 53

One D-5b permit may be issued at an enclosed shopping center 54  
containing at least two hundred twenty-five thousand, but less 55  
than four hundred thousand, square feet of floor area. 56

Two D-5b permits may be issued at an enclosed shopping center 57  
containing at least four hundred thousand square feet of floor 58  
area. No more than one D-5b permit may be issued at an enclosed 59  
shopping center for each additional two hundred thousand square 60  
feet of floor area or fraction of that floor area, up to a maximum 61  
of five D-5b permits for each enclosed shopping center. The number 62  
of D-5b permits that may be issued at an enclosed shopping center 63  
shall be determined by subtracting the number of D-3 and D-5 64  
permits issued in the enclosed shopping center from the number of 65  
D-5b permits that otherwise may be issued at the enclosed shopping 66  
center under the formulas provided in this division. Except as 67  
provided in this section, no quota shall be placed on the number 68  
of D-5b permits that may be issued. Notwithstanding any quota 69  
provided in this section, the holder of any D-5b permit first 70  
issued in accordance with this section is entitled to its renewal 71  
in accordance with section 4303.271 of the Revised Code. 72

The holder of a D-5b permit issued before April 4, 1984, 73  
whose tenancy is terminated for a cause other than nonpayment of 74  
rent, may return the D-5b permit to the division of liquor 75  
control, and the division shall cancel that permit. Upon 76  
cancellation of that permit and upon the permit holder's payment 77  
of taxes, contributions, premiums, assessments, and other debts 78  
owing or accrued upon the date of cancellation to this state and 79  
its political subdivisions and a filing with the division of a 80  
certification of that payment, the division shall issue to that 81  
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 82

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.

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The fee for this permit is two thousand three hundred  
forty-four dollars.

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

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To qualify for a D-5c permit, the owner or operator of a  
retail food establishment or a food service operation licensed  
pursuant to Chapter 3717. of the Revised Code that operates as a

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restaurant for purposes of this chapter, shall have operated the 115  
restaurant at the proposed premises for not less than twenty-four 116  
consecutive months immediately preceding the filing of the 117  
application for the permit, have applied for a D-5 permit no later 118  
than December 31, 1988, and appear on the division's quota waiting 119  
list for not less than six months immediately preceding the filing 120  
of the application for the permit. In addition to these 121  
requirements, the proposed D-5c permit premises shall be located 122  
within a municipal corporation and further within an election 123  
precinct that, at the time of the application, has no more than 124  
twenty-five per cent of its total land area zoned for residential 125  
use. 126

A D-5c permit shall not be transferred to another location. 127  
No quota restriction shall be placed on the number of such permits 128  
that may be issued. 129

Any person who has held a D-5c permit for at least two years 130  
may apply for a D-5 permit, and the division of liquor control 131  
shall issue the D-5 permit notwithstanding the quota restrictions 132  
contained in section 4303.29 of the Revised Code or in any rule of 133  
the liquor control commission. 134

The fee for this permit is one thousand five hundred 135  
sixty-three dollars. 136

(D) Permit D-5d may be issued to the owner or operator of a 137  
retail food establishment or a food service operation licensed 138  
pursuant to Chapter 3717. of the Revised Code that operates as a 139  
restaurant for purposes of this chapter and that is located at an 140  
airport operated by a board of county commissioners pursuant to 141  
section 307.20 of the Revised Code, at an airport operated by a 142  
port authority pursuant to Chapter 4582. of the Revised Code, or 143  
at an airport operated by a regional airport authority pursuant to 144  
Chapter 308. of the Revised Code. The holder of a D-5d permit may 145

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. No quota restrictions shall be placed on the number of such permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

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

(1) Is permanently docked at one location;

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

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

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

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

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits

that may be issued. The population quota restrictions contained in 176  
section 4303.29 of the Revised Code or in any rule of the liquor 177  
control commission shall not apply to this division, and the 178  
division shall issue a D-5e permit to any applicant who meets the 179  
requirements of this division. However, the division shall not 180  
issue a D-5e permit if the permit premises or proposed permit 181  
premises are located within an area in which the sale of 182  
spirituous liquor by the glass is prohibited. 183

The fee for this permit is one thousand two hundred nineteen 184  
dollars. 185

(F) Permit D-5f may be issued to the owner or operator of a 186  
retail food establishment or a food service operation licensed 187  
under Chapter 3717. of the Revised Code that operates as a 188  
restaurant for purposes of this chapter and that meets all of the 189  
following: 190

(1) It contains not less than twenty-five hundred square feet 191  
of floor area. 192

(2) It is located on or in, or immediately adjacent to, the 193  
shoreline of, a navigable river. 194

(3) It provides docking space for twenty-five boats. 195

(4) It provides entertainment and recreation, provided that 196  
not less than fifty per cent of the business on the permit 197  
premises shall be preparing and serving meals for a consideration. 198

In addition, each application for a D-5f permit shall be 199  
accompanied by a certification from the local legislative 200  
authority that the issuance of the D-5f permit is not inconsistent 201  
with that political subdivision's comprehensive development plan 202  
or other economic development goal as officially established by 203  
the local legislative authority. 204

The holder of a D-5f permit may sell beer and intoxicating 205

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.

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 two thousand three hundred  
forty-four 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 eight hundred seventy-five dollars.

(H)(1) Permit D-5h 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 owns or operates a fine arts museum  
and has no less than five thousand bona fide members possessing  
full membership privileges. ~~The~~

(2) Permit D-5h also may be issued to any nonprofit



organization that is exempt from federal income taxation under the 236  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 237  
501(c)(3), as amended, that owns or operates a community arts 238  
center. As used in this division, "community arts center" means a 239  
facility that provides arts programming to the community in more 240  
than one arts discipline, including, but not limited to, exhibits 241  
of works of art and performances by both professional and amateur 242  
artists. 243

(3) The holder of a D-5h permit may sell beer and any 244  
intoxicating liquor at retail, only by the individual drink in 245  
glass and from the container, for consumption on the premises 246  
where sold. The holder of a D-5h permit shall sell no beer or 247  
intoxicating liquor for consumption on the premises where sold 248  
after one a.m. A D-5h permit shall not be transferred to another 249  
location. No quota restrictions shall be placed on the number of 250  
D-5h permits that may be issued. ~~The~~ 251

(4) The fee for ~~this~~ a D-5h permit is one thousand eight 252  
hundred seventy-five dollars. 253

(I) Permit D-5i may be issued to the owner or operator of a 254  
retail food establishment or a food service operation licensed 255  
under Chapter 3717. of the Revised Code that operates as a 256  
restaurant for purposes of this chapter and that meets all of the 257  
following requirements: 258

(1) It is located in a municipal corporation or a township 259  
with a population of seventy-five thousand or less. 260

(2) It has inside seating capacity for at least one hundred 261  
forty persons. 262

(3) It has at least four thousand square feet of floor area. 263

(4) It offers full-course meals, appetizers, and sandwiches. 264

(5) Its receipts from beer and liquor sales do not exceed 265

twenty-five per cent of its total gross receipts.	266
(6) It has at least one of the following characteristics:	267
(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.	268
(b) It is located on property that is owned or leased by the state or a state agency, and its owner or operator has authorization from the state or the state agency that owns or leases the property to obtain a D-5i permit.	270
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.	274
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.	278
A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit	295

unless the retail food establishment or food service operation for 297  
which it is issued continues to meet the requirements described in 298  
divisions (I)(1) to (6) of this section. No quota restrictions 299  
shall be placed on the number of D-5i permits that may be issued. 300  
The fee for the D-5i permit is two thousand three hundred 301  
forty-four dollars. 302

(J)(1) Permit D-5j may be issued to the owner or the operator 303  
of a retail food establishment or a food service operation 304  
licensed under Chapter 3717. of the Revised Code to sell beer and 305  
intoxicating liquor at retail, only by the individual drink in 306  
glass and from the container, for consumption on the premises 307  
where sold and to sell beer and intoxicating liquor in the same 308  
manner and amounts not for consumption on the premises where sold 309  
as may be sold by the holders of D-1 and D-2 permits. The holder 310  
of a D-5j permit may exercise the same privileges, and shall 311  
observe the same hours of operation, as the holder of a D-5 312  
permit. 313

(2) The D-5j permit shall be issued only within a community 314  
entertainment district that is designated under section 4301.80 of 315  
the Revised Code and that meets one of the following 316  
qualifications: 317

(a) It is located in a municipal corporation with a 318  
population of at least one hundred thousand. 319

(b) It is located in a municipal corporation with a 320  
population of at least twenty thousand, and either of the 321  
following applies: 322

(i) It contains an amusement park the rides of which have 323  
been issued a permit by the department of agriculture under 324  
Chapter 1711. of the Revised Code. 325

(ii) Not less than fifty million dollars will be invested in 326  
development and construction in the community entertainment 327

district's area located in the municipal corporation. 328

(c) It is located in a township with a population of at least 329  
forty thousand. 330

(3) The location of a D-5j permit may be transferred only 331  
within the geographic boundaries of the community entertainment 332  
district in which it was issued and shall not be transferred 333  
outside the geographic boundaries of that district. 334

(4) Not more than one D-5j permit shall be issued within each 335  
community entertainment district for each five acres of land 336  
located within the district. Not more than fifteen D-5j permits 337  
may be issued within a single community entertainment district. 338  
Except as otherwise provided in division (J)(4) of this section, 339  
no quota restrictions shall be placed upon the number of D-5j 340  
permits that may be issued. 341

(5) The fee for a D-5j permit is two thousand three hundred 342  
forty-four dollars. 343

(K)(1) Permit D-5k may be issued to any nonprofit 344  
organization that is exempt from federal income taxation under the 345  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 346  
501(c)(3), as amended, that is the owner or operator of a 347  
botanical garden recognized by the American association of 348  
botanical gardens and arboreta, and that has not less than 349  
twenty-five hundred bona fide members. 350

(2) The holder of a D-5k permit may sell beer and any 351  
intoxicating liquor at retail, only by the individual drink in 352  
glass and from the container, on the premises where sold. 353

(3) The holder of a D-5k permit shall sell no beer or 354  
intoxicating liquor for consumption on the premises where sold 355  
after one a.m. 356

(4) A D-5k permit shall not be transferred to another 357

location.	358
(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued.	359 360
(6) The fee for the D-5k permit is one thousand eight hundred seventy-five dollars.	361 362
<b>Section 2.</b> That existing section 4303.181 of the Revised Code is hereby repealed.	363 364