

**As Passed by the House**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Am. H. B. No. 209**

**Representatives Combs, Carano, Chandler, C. Evans, Harwood, Martin,  
Perry, Trakas, Daniels, Fende, Yuko, Wolpert, Allen, Barrett, Blessing,  
Bocchieri, Brown, Distel, Domenick, D. Evans, Flowers, Hughes, Kearns, Key,  
Otterman, Reidelbach, Schneider, Seaver, Seitz, Webster, Yates**

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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 and to 3  
create an additional qualification under which a 4  
D-5j liquor permit may be issued within a 5  
community entertainment district. 6

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

**Section 1.** That section 4303.181 of the Revised Code be 7  
amended to read as follows: 8

**Sec. 4303.181.** (A) Permit D-5a may be issued either to the 9  
owner or operator of a hotel or motel that is required to be 10  
licensed under section 3731.03 of the Revised Code, that contains 11  
at least fifty rooms for registered transient guests or is owned 12  
by a state institution of higher education as defined in section 13  
3345.011 of the Revised Code or a private college or university, 14  
and that qualifies under the other requirements of this section, 15  
or to the owner or operator of a restaurant specified under this 16  
section, to sell beer and any intoxicating liquor at retail, only 17

by the individual drink in glass and from the container, for 18  
consumption on the premises where sold, and to registered guests 19  
in their rooms, which may be sold by means of a controlled access 20  
alcohol and beverage cabinet in accordance with division (B) of 21  
section 4301.21 of the Revised Code; and to sell the same products 22  
in the same manner and amounts not for consumption on the premises 23  
as may be sold by holders of D-1 and D-2 permits. The premises of 24  
the hotel or motel shall include a retail food establishment or a 25  
food service operation licensed pursuant to Chapter 3717. of the 26  
Revised Code that operates as a restaurant for purposes of this 27  
chapter and that is affiliated with the hotel or motel and within 28  
or contiguous to the hotel or motel, and that serves food within 29  
the hotel or motel, but the principal business of the owner or 30  
operator of the hotel or motel shall be the accommodation of 31  
transient guests. In addition to the privileges authorized in this 32  
division, the holder of a D-5a permit may exercise the same 33  
privileges as the holder of a D-5 permit. 34

The owner or operator of a hotel, motel, or restaurant who 35  
qualified for and held a D-5a permit on August 4, 1976, may, if 36  
the owner or operator held another permit before holding a D-5a 37  
permit, either retain a D-5a permit or apply for the permit 38  
formerly held, and the division of liquor control shall issue the 39  
permit for which the owner or operator applies and formerly held, 40  
notwithstanding any quota. 41

A D-5a permit shall not be transferred to another location. 42  
No quota restriction shall be placed on the number of D-5a permits 43  
that may be issued. 44

The fee for this permit is two thousand three hundred 45  
forty-four dollars. 46

(B) Permit D-5b may be issued to the owner, operator, tenant, 47  
lessee, or occupant of an enclosed shopping center to sell beer 48  
and intoxicating liquor at retail, only by the individual drink in 49

glass and from the container, for consumption on the premises 50  
where sold; and to sell the same products in the same manner and 51  
amount not for consumption on the premises as may be sold by 52  
holders of D-1 and D-2 permits. In addition to the privileges 53  
authorized in this division, the holder of a D-5b permit may 54  
exercise the same privileges as a holder of a D-5 permit. 55

A D-5b permit shall not be transferred to another location. 56

One D-5b permit may be issued at an enclosed shopping center 57  
containing at least two hundred twenty-five thousand, but less 58  
than four hundred thousand, square feet of floor area. 59

Two D-5b permits may be issued at an enclosed shopping center 60  
containing at least four hundred thousand square feet of floor 61  
area. No more than one D-5b permit may be issued at an enclosed 62  
shopping center for each additional two hundred thousand square 63  
feet of floor area or fraction of that floor area, up to a maximum 64  
of five D-5b permits for each enclosed shopping center. The number 65  
of D-5b permits that may be issued at an enclosed shopping center 66  
shall be determined by subtracting the number of D-3 and D-5 67  
permits issued in the enclosed shopping center from the number of 68  
D-5b permits that otherwise may be issued at the enclosed shopping 69  
center under the formulas provided in this division. Except as 70  
provided in this section, no quota shall be placed on the number 71  
of D-5b permits that may be issued. Notwithstanding any quota 72  
provided in this section, the holder of any D-5b permit first 73  
issued in accordance with this section is entitled to its renewal 74  
in accordance with section 4303.271 of the Revised Code. 75

The holder of a D-5b permit issued before April 4, 1984, 76  
whose tenancy is terminated for a cause other than nonpayment of 77  
rent, may return the D-5b permit to the division of liquor 78  
control, and the division shall cancel that permit. Upon 79  
cancellation of that permit and upon the permit holder's payment 80

of taxes, contributions, premiums, assessments, and other debts 81  
owing or accrued upon the date of cancellation to this state and 82  
its political subdivisions and a filing with the division of a 83  
certification of that payment, the division shall issue to that 84  
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 85  
that person requests. The division shall issue the D-5 permit, or 86  
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 87  
D-3, or D-5 permits currently issued in the municipal corporation 88  
or in the unincorporated area of the township where that person's 89  
proposed premises is located equals or exceeds the maximum number 90  
of such permits that can be issued in that municipal corporation 91  
or in the unincorporated area of that township under the 92  
population quota restrictions contained in section 4303.29 of the 93  
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 94  
be transferred to another location. If a D-5b permit is canceled 95  
under the provisions of this paragraph, the number of D-5b permits 96  
that may be issued at the enclosed shopping center for which the 97  
D-5b permit was issued, under the formula provided in this 98  
division, shall be reduced by one if the enclosed shopping center 99  
was entitled to more than one D-5b permit under the formula. 100

The fee for this permit is two thousand three hundred 101  
forty-four dollars. 102

(C) Permit D-5c may be issued to the owner or operator of a 103  
retail food establishment or a food service operation licensed 104  
pursuant to Chapter 3717. of the Revised Code that operates as a 105  
restaurant for purposes of this chapter and that qualifies under 106  
the other requirements of this section to sell beer and any 107  
intoxicating liquor at retail, only by the individual drink in 108  
glass and from the container, for consumption on the premises 109  
where sold, and to sell the same products in the same manner and 110  
amounts not for consumption on the premises as may be sold by 111  
holders of D-1 and D-2 permits. In addition to the privileges 112

authorized in this division, the holder of a D-5c permit may 113  
exercise the same privileges as the holder of a D-5 permit. 114

To qualify for a D-5c permit, the owner or operator of a 115  
retail food establishment or a food service operation licensed 116  
pursuant to Chapter 3717. of the Revised Code that operates as a 117  
restaurant for purposes of this chapter, shall have operated the 118  
restaurant at the proposed premises for not less than twenty-four 119  
consecutive months immediately preceding the filing of the 120  
application for the permit, have applied for a D-5 permit no later 121  
than December 31, 1988, and appear on the division's quota waiting 122  
list for not less than six months immediately preceding the filing 123  
of the application for the permit. In addition to these 124  
requirements, the proposed D-5c permit premises shall be located 125  
within a municipal corporation and further within an election 126  
precinct that, at the time of the application, has no more than 127  
twenty-five per cent of its total land area zoned for residential 128  
use. 129

A D-5c permit shall not be transferred to another location. 130  
No quota restriction shall be placed on the number of such permits 131  
that may be issued. 132

Any person who has held a D-5c permit for at least two years 133  
may apply for a D-5 permit, and the division of liquor control 134  
shall issue the D-5 permit notwithstanding the quota restrictions 135  
contained in section 4303.29 of the Revised Code or in any rule of 136  
the liquor control commission. 137

The fee for this permit is one thousand five hundred 138  
sixty-three dollars. 139

(D) Permit D-5d may be issued to the owner or operator of a 140  
retail food establishment or a food service operation licensed 141  
pursuant to Chapter 3717. of the Revised Code that operates as a 142  
restaurant for purposes of this chapter and that is located at an 143

airport operated by a board of county commissioners pursuant to 144  
section 307.20 of the Revised Code, at an airport operated by a 145  
port authority pursuant to Chapter 4582. of the Revised Code, or 146  
at an airport operated by a regional airport authority pursuant to 147  
Chapter 308. of the Revised Code. The holder of a D-5d permit may 148  
sell beer and any intoxicating liquor at retail, only by the 149  
individual drink in glass and from the container, for consumption 150  
on the premises where sold, and may sell the same products in the 151  
same manner and amounts not for consumption on the premises where 152  
sold as may be sold by the holders of D-1 and D-2 permits. In 153  
addition to the privileges authorized in this division, the holder 154  
of a D-5d permit may exercise the same privileges as the holder of 155  
a D-5 permit. 156

A D-5d permit shall not be transferred to another location. 157  
No quota restrictions shall be placed on the number of such 158  
permits that may be issued. 159

The fee for this permit is two thousand three hundred 160  
forty-four dollars. 161

(E) Permit D-5e may be issued to any nonprofit organization 162  
that is exempt from federal income taxation under the "Internal 163  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 164  
amended, or that is a charitable organization under any chapter of 165  
the Revised Code, and that owns or operates a riverboat that meets 166  
all of the following: 167

(1) Is permanently docked at one location; 168

(2) Is designated as an historical riverboat by the Ohio 169  
historical society; 170

(3) Contains not less than fifteen hundred square feet of 171  
floor area; 172

(4) Has a seating capacity of fifty or more persons. 173

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 section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e 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.

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

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

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

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

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

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

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative

authority that the issuance of the D-5f permit is not inconsistent 204  
with that political subdivision's comprehensive development plan 205  
or other economic development goal as officially established by 206  
the local legislative authority. 207

The holder of a D-5f permit may sell beer and intoxicating 208  
liquor at retail, only by the individual drink in glass and from 209  
the container, for consumption on the premises where sold. 210

A D-5f permit shall not be transferred to another location. 211

The division of liquor control shall not issue a D-5f permit 212  
if the permit premises or proposed permit premises are located 213  
within an area in which the sale of spirituous liquor by the glass 214  
is prohibited. 215

A fee for this permit is two thousand three hundred 216  
forty-four dollars. 217

As used in this division, "navigable river" means a river 218  
that is also a "navigable water" as defined in the "Federal Power 219  
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 220

(G) Permit D-5g may be issued to a nonprofit corporation that 221  
is either the owner or the operator of a national professional 222  
sports museum. The holder of a D-5g permit may sell beer and any 223  
intoxicating liquor at retail, only by the individual drink in 224  
glass and from the container, for consumption on the premises 225  
where sold. The holder of a D-5g permit shall sell no beer or 226  
intoxicating liquor for consumption on the premises where sold 227  
after one a.m. A D-5g permit shall not be transferred to another 228  
location. No quota restrictions shall be placed on the number of 229  
D-5g permits that may be issued. The fee for this permit is one 230  
thousand eight hundred seventy-five dollars. 231

(H)(1) Permit D-5h may be issued to any nonprofit 232  
organization that is exempt from federal income taxation under the 233



"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 234  
501(c)(3), as amended, that owns or operates a fine arts museum 235  
and has no less than five thousand bona fide members possessing 236  
full membership privileges. ~~The~~ 237

(2) Permit D-5h also may be issued to any nonprofit 238  
organization that is exempt from federal income taxation under the 239  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 240  
501(c)(3), as amended, that owns or operates a community arts 241  
center. As used in this division, "community arts center" means a 242  
facility that provides arts programming to the community in more 243  
than one arts discipline, including, but not limited to, exhibits 244  
of works of art and performances by both professional and amateur 245  
artists. 246

(3) The holder of a D-5h permit may sell beer and any 247  
intoxicating liquor at retail, only by the individual drink in 248  
glass and from the container, for consumption on the premises 249  
where sold. The holder of a D-5h permit shall sell no beer or 250  
intoxicating liquor for consumption on the premises where sold 251  
after one a.m. A D-5h permit shall not be transferred to another 252  
location. No quota restrictions shall be placed on the number of 253  
D-5h permits that may be issued. ~~The~~ 254

(4) The fee for ~~this~~ a D-5h permit is one thousand eight 255  
hundred seventy-five dollars. 256

(I) Permit D-5i may be issued to the owner or operator of a 257  
retail food establishment or a food service operation licensed 258  
under Chapter 3717. of the Revised Code that operates as a 259  
restaurant for purposes of this chapter and that meets all of the 260  
following requirements: 261

(1) It is located in a municipal corporation or a township 262  
with a population of seventy-five thousand or less. 263

(2) It has inside seating capacity for at least one hundred 264

forty persons.	265
(3) It has at least four thousand square feet of floor area.	266
(4) It offers full-course meals, appetizers, and sandwiches.	267
(5) Its receipts from beer and liquor sales do not exceed twenty-five per cent of its total gross receipts.	268 269
(6) It has at least one of the following characteristics:	270
(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.	271 272
(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.	273 274 275 276
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.	277 278 279 280 281 282 283 284 285 286
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	287 288 289 290 291 292 293 294

the privileges authorized in this division, the holder of a D-5i 295  
permit may exercise the same privileges as the holder of a D-5 296  
permit. 297

A D-5i permit shall not be transferred to another location. 298  
The division of liquor control shall not renew a D-5i permit 299  
unless the retail food establishment or food service operation for 300  
which it is issued continues to meet the requirements described in 301  
divisions (I)(1) to (6) of this section. No quota restrictions 302  
shall be placed on the number of D-5i permits that may be issued. 303  
The fee for the D-5i permit is two thousand three hundred 304  
forty-four dollars. 305

(J)(1) Permit D-5j may be issued to the owner or the operator 306  
of a retail food establishment or a food service operation 307  
licensed under Chapter 3717. of the Revised Code to sell beer and 308  
intoxicating liquor at retail, only by the individual drink in 309  
glass and from the container, for consumption on the premises 310  
where sold and to sell beer and intoxicating liquor in the same 311  
manner and amounts not for consumption on the premises where sold 312  
as may be sold by the holders of D-1 and D-2 permits. The holder 313  
of a D-5j permit may exercise the same privileges, and shall 314  
observe the same hours of operation, as the holder of a D-5 315  
permit. 316

(2) The D-5j permit shall be issued only within a community 317  
entertainment district that is designated under section 4301.80 of 318  
the Revised Code and that meets one of the following 319  
qualifications: 320

(a) It is located in a municipal corporation with a 321  
population of at least one hundred thousand. 322

(b) It is located in a municipal corporation with a 323  
population of at least twenty thousand, and either of the 324  
following applies: 325

(i) It contains an amusement park the rides of which have 326  
been issued a permit by the department of agriculture under 327  
Chapter 1711. of the Revised Code. 328

(ii) Not less than fifty million dollars will be invested in 329  
development and construction in the community entertainment 330  
district's area located in the municipal corporation. 331

(c) It is located in a township with a population of at least 332  
forty thousand. 333

(d) It is located in a municipal corporation with a 334  
population of at least ten thousand, and not less than seventy 335  
million dollars will be invested in development and construction 336  
in the community entertainment district's area located in the 337  
municipal corporation. 338

(3) The location of a D-5j permit may be transferred only 339  
within the geographic boundaries of the community entertainment 340  
district in which it was issued and shall not be transferred 341  
outside the geographic boundaries of that district. 342

(4) Not more than one D-5j permit shall be issued within each 343  
community entertainment district for each five acres of land 344  
located within the district. Not more than fifteen D-5j permits 345  
may be issued within a single community entertainment district. 346  
Except as otherwise provided in division (J)(4) of this section, 347  
no quota restrictions shall be placed upon the number of D-5j 348  
permits that may be issued. 349

(5) The fee for a D-5j permit is two thousand three hundred 350  
forty-four dollars. 351

(K)(1) Permit D-5k may be issued to any nonprofit 352  
organization that is exempt from federal income taxation under the 353  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 354  
501(c)(3), as amended, that is the owner or operator of a 355

botanical garden recognized by the American association of 356  
botanical gardens and arboreta, and that has not less than 357  
twenty-five hundred bona fide members. 358

(2) The holder of a D-5k permit may sell beer and any 359  
intoxicating liquor at retail, only by the individual drink in 360  
glass and from the container, on the premises where sold. 361

(3) The holder of a D-5k permit shall sell no beer or 362  
intoxicating liquor for consumption on the premises where sold 363  
after one a.m. 364

(4) A D-5k permit shall not be transferred to another 365  
location. 366

(5) No quota restrictions shall be placed on the number of 367  
D-5k permits that may be issued. 368

(6) The fee for the D-5k permit is one thousand eight hundred 369  
seventy-five dollars. 370

**Section 2.** That existing section 4303.181 of the Revised Code 371  
is hereby repealed. 372