

**As Reported by the House Local and Municipal Government and
Urban Revitalization Committee**

**126th General Assembly
Regular Session
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H. B. No. 209

**Representatives Combs, Carano, Chandler, C. Evans, Harwood, Martin,
Perry, Trakas, Daniels, Fende, Yuko, Wolpert**

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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

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

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

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

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

The holder of a D-5b permit issued before April 4, 1984,
whose tenancy is terminated for a cause other than nonpayment of
rent, may return the D-5b permit to the division of liquor
control, and the division shall cancel that permit. Upon
cancellation of that permit and upon the permit holder's payment
of taxes, contributions, premiums, assessments, and other debts
owing or accrued upon the date of cancellation to this state and
its political subdivisions and a filing with the division of a
certification of that payment, the division shall issue to that

person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as
that person requests. The division shall issue the D-5 permit, or
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2,
D-3, or D-5 permits currently issued in the municipal corporation
or in the unincorporated area of the township where that person's
proposed premises is located equals or exceeds the maximum number
of such permits that can be issued in that municipal corporation
or in the unincorporated area of that township under the
population quota restrictions contained in section 4303.29 of the
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not
be transferred to another location. If a D-5b permit is canceled
under the provisions of this paragraph, the number of D-5b permits
that may be issued at the enclosed shopping center for which the
D-5b permit was issued, under the formula provided in this
division, shall be reduced by one if the enclosed shopping center
was entitled to more than one D-5b permit under the formula.

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

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

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

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

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

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

(D) Permit D-5d 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 is located at an
airport operated by a board of county commissioners pursuant to
section 307.20 of the Revised Code, at an airport operated by a
port authority pursuant to Chapter 4582. of the Revised Code, or
at an airport operated by a regional airport authority pursuant to

Chapter 308. of the Revised Code. The holder of a D-5d permit may
sell beer and any intoxicating liquor at retail, only by the
individual drink in glass and from the container, for consumption
on the premises where sold, and may sell the same products in the
same manner and amounts not for consumption on the premises where
sold as may be sold by the holders of D-1 and D-2 permits. In
addition to the privileges authorized in this division, the holder
of a D-5d permit may exercise the same privileges as the holder of
a D-5 permit.

A D-5d permit shall not be transferred to another location.
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
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
with that political subdivision's comprehensive development plan
or other economic development goal as officially established by
the local legislative authority.

The holder of a D-5f permit may sell beer and intoxicating 205
liquor at retail, only by the individual drink in glass and from 206
the container, for consumption on the premises where sold. 207

A D-5f permit shall not be transferred to another location. 208

The division of liquor control shall not issue a D-5f permit 209
if the permit premises or proposed permit premises are located 210
within an area in which the sale of spirituous liquor by the glass 211
is prohibited. 212

A fee for this permit is two thousand three hundred 213
forty-four dollars. 214

As used in this division, "navigable river" means a river 215
that is also a "navigable water" as defined in the "Federal Power 216
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 217

(G) Permit D-5g may be issued to a nonprofit corporation that 218
is either the owner or the operator of a national professional 219
sports museum. The holder of a D-5g permit may sell beer and any 220
intoxicating liquor at retail, only by the individual drink in 221
glass and from the container, for consumption on the premises 222
where sold. The holder of a D-5g permit shall sell no beer or 223
intoxicating liquor for consumption on the premises where sold 224
after one a.m. A D-5g permit shall not be transferred to another 225
location. No quota restrictions shall be placed on the number of 226
D-5g permits that may be issued. The fee for this permit is one 227
thousand eight hundred seventy-five dollars. 228

(H)(1) Permit D-5h may be issued to any nonprofit 229
organization that is exempt from federal income taxation under the 230
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 231
501(c)(3), as amended, that owns or operates a fine arts museum 232
and has no less than five thousand bona fide members possessing 233
full membership privileges. The 234

(2) Permit D-5h also may be issued to any nonprofit 235
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 268
hundred twenty-five thousand dollars. 269

(b) It is located on property that is owned or leased by the 270
state or a state agency, and its owner or operator has 271
authorization from the state or the state agency that owns or 272
leases the property to obtain a D-5i permit. 273

The holder of a D-5i permit shall cause an independent audit 274
to be performed at the end of one full year of operation following 275
issuance of the permit in order to verify the requirements of 276
division (I)(5) of this section. The results of the independent 277
audit shall be transmitted to the division. Upon determining that 278
the receipts of the holder from beer and liquor sales exceeded 279
twenty-five per cent of its total gross receipts, the division 280
shall suspend the permit of the permit holder under section 281
4301.25 of the Revised Code and may allow the permit holder to 282
elect a forfeiture under section 4301.252 of the Revised Code. 283

The holder of a D-5i permit may sell beer and any 284
intoxicating liquor at retail, only by the individual drink in 285
glass and from the container, for consumption on the premises 286
where sold, and may sell the same products in the same manner and 287
amounts not for consumption on the premises where sold as may be 288
sold by the holders of D-1 and D-2 permits. The holder of a D-5i 289
permit shall sell no beer or intoxicating liquor for consumption 290
on the premises where sold after two-thirty a.m. In addition to 291
the privileges authorized in this division, the holder of a D-5i 292
permit may exercise the same privileges as the holder of a D-5 293
permit. 294

A D-5i permit shall not be transferred to another location. 295

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

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

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

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

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

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

(ii) Not less than fifty million dollars will be invested in

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 359
D-5k permits that may be issued. 360

(6) The fee for the D-5k permit is one thousand eight hundred 361
seventy-five dollars. 362

Section 2. That existing section 4303.181 of the Revised Code 363
is hereby repealed. 364