

**As Reported by the Senate Agriculture Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Sub. 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**

—

**A B I L L**

To amend sections 4301.24 and 4303.181 and to enact 1  
section 4301.242 of the Revised Code to allow 2  
manufacturers and wholesale distributors of 3  
alcohol to provide to other manufacturers or 4  
wholesale distributors travel, lodging, food, and 5  
beverages and to liquor permit holders food, 6  
beverages, and recreational activities, to qualify 7  
the owner or operator of a community arts center 8  
or a community theater meeting specified 9  
qualifications for issuance of a D-5h liquor 10  
permit, to exclude wine sales from the total gross 11  
receipts requirement governing the issuance of a 12  
D-5i liquor permit, to modify the population 13  
requirements for the issuance of a D-5i liquor 14  
permit, and to create an additional qualification 15  
under which a D-5j liquor permit may be issued 16  
within a community entertainment district. 17

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

**Section 1.** That sections 4301.24 and 4303.181 be amended and 18

section 4301.242 of the Revised Code be enacted read as follows: 19

**Sec. 4301.24.** ~~No~~ Except as provided in section 4301.242 of 20  
the Revised Code, no manufacturer shall aid or assist the holder 21  
of any permit for sale at wholesale, and no manufacturer or 22  
wholesale distributor shall aid or assist the holder of any permit 23  
for sale at retail, by gift or loan of any money or property of 24  
any description or other valuable thing, or by giving premiums or 25  
rebates. ~~No~~ Except as provided in section 4301.242 of the Revised 26  
Code, no holder of any such permit shall accept the same, provided 27  
that the manufacturer or wholesale distributor may furnish to a 28  
retail permittee the inside signs or advertising and the tap signs 29  
or devices authorized by divisions (E) and (F) of section 4301.22 30  
of the Revised Code. 31

No manufacturer shall have any financial interest, directly 32  
or indirectly, by stock ownership, or through interlocking 33  
directors in a corporation, or otherwise, in the establishment, 34  
maintenance, or promotion in the business of any wholesale 35  
distributor. No retail permit holder shall have any interest, 36  
directly or indirectly, in the operation of, or any ownership in, 37  
the business of any wholesale distributor or manufacturer. 38

No manufacturer shall, except as authorized by section 39  
4303.021 of the Revised Code, have any financial interest, 40  
directly or indirectly, by stock ownership, or through 41  
interlocking directors in a corporation, or otherwise, in the 42  
establishment, maintenance, or promotion of the business of any 43  
retail dealer. No wholesale distributor or employee of a wholesale 44  
distributor shall have any financial interest, directly or 45  
indirectly, by stock ownership, interlocking directors in a 46  
corporation, or otherwise, in the establishment, maintenance, or 47  
promotion of the business of any retail dealer. No manufacturer or 48  
wholesale distributor or any stockholder of a manufacturer or 49

wholesale distributor shall acquire, by ownership in fee, 50  
leasehold, mortgage, or otherwise, directly or indirectly, any 51  
interest in the premises on which the business of any other person 52  
engaged in the business of trafficking in beer or intoxicating 53  
liquor is conducted. All contracts, covenants, conditions, and 54  
limitations whereby any person engaged or proposing to engage in 55  
the sale of beer or intoxicating liquors promises to confine the 56  
person's sales of a particular kind or quality of beer or 57  
intoxicating liquor to one or more products, or the products of a 58  
specified manufacturer or wholesale distributor, or to give 59  
preference to those products, shall to the extent of that promise 60  
be void. The making of a promise in any such form shall be cause 61  
for the revocation or suspension of any permit issued to any 62  
party. This section does not prevent the holder of an A permit 63  
from securing and holding a wholesale distributor's permit or 64  
permits and operating as a wholesale distributor. 65

No manufacturer shall sell or offer to sell to any wholesale 66  
distributor or retail permit holder, no wholesale distributor 67  
shall sell or offer to sell to any retail permit holder, and no 68  
wholesale distributor or retail permit holder shall purchase or 69  
receive from any manufacturer or wholesale distributor, any beer, 70  
brewed beverages, or wine manufactured in the United States except 71  
for cash. No right of action shall exist to collect any claims for 72  
credit extended contrary to this section. This section does not 73  
prohibit a licensee from crediting to a purchaser the actual 74  
prices charged for packages or containers returned by the original 75  
purchaser as a credit on any sale or from refunding to any 76  
purchaser the amount paid by that purchaser for containers or as a 77  
deposit on containers when title is retained by the vendor, if 78  
those containers or packages have been returned to the 79  
manufacturer or distributor. This section does not prohibit a 80  
manufacturer from extending usual and customary credit for beer, 81

brewed beverages, or wine manufactured in the United States and  
sold to customers who live or maintain places of business outside  
this state when the beverages so sold are actually transported and  
delivered to points outside this state. No wholesale or retail  
permit shall be issued to an applicant unless the applicant has  
paid in full all accounts for beer or wine, manufactured in the  
United States, outstanding as of September 6, 1939. No beer or  
wine manufactured in the United States shall be imported into the  
state unless the beer or wine has been paid for in cash, and no  
supplier registration for any such beer or wine manufactured in  
the United States shall be issued by the division of liquor  
control until the A-2, B-1, or B-5 permit holder establishes to  
the satisfaction of the division that the beer or wine has been  
paid for in cash.

This section does not prevent a manufacturer from securing  
and holding any financial interest, directly or indirectly, by  
stock ownership or through interlocking directors in a  
corporation, or otherwise, in the establishment, maintenance, or  
promotion of the business or premises of any C or D permit holder,  
provided that the following conditions are met:

(A) Either the manufacturer or one of its parent companies is  
listed on a national securities exchange.

(B) All purchases of alcoholic beverages by the C or D permit  
holder are made from wholesale distributors in this state or  
agency stores licensed by the division of liquor control.

(C) If the C or D permit holder sells brands of alcoholic  
beverages that are produced or distributed by the manufacturer  
that holds the financial interest, the C or D permit holder also  
sells other competing brands of alcoholic beverages produced by  
other manufacturers, no preference is given to the products of the  
manufacturer, and there is no exclusion, in whole or in part, of

products sold or offered for sale by other manufacturers, 113  
suppliers, or importers of alcoholic beverages that constitutes a 114  
substantial impairment of commerce. 115

(D) The primary purpose of the C or D permit premises is a 116  
purpose other than to sell alcoholic beverages, and the sale of 117  
other goods and services exceeds fifty per cent of the total gross 118  
receipts of the C or D permit holder at its premises. 119

This section does not prevent a manufacturer from giving 120  
financial assistance to the holder of a B permit for the purpose 121  
of the holder purchasing an ownership interest in the business, 122  
existing inventory and equipment, or property of another B permit 123  
holder, including, but not limited to, participation in a limited 124  
liability partnership, limited liability company, or any other 125  
legal entity authorized to do business in this state. This section 126  
does not permit a manufacturer to give financial assistance to the 127  
holder of a B permit to purchase inventory or equipment used in 128  
the daily operation of a B permit holder. 129

Sec. 4301.242. (A) Notwithstanding the restrictions placed on 130  
manufacturers, wholesale distributors, and holders of permits for 131  
sale at retail or wholesale in section 4301.24 of the Revised 132  
Code, a manufacturer or wholesale distributor may engage in the 133  
following conduct, provided that the conduct does not lead to 134  
control of a permit holder by another person: 135

(1) A manufacturer or wholesale distributor may accept from 136  
or provide to a manufacturer or wholesale distributor travel, 137  
lodging, food, and beverages. 138

(2) A manufacturer or wholesale distributor may provide to a 139  
retail permit holder or the permit holder's employees or agents 140  
food, beverages, and recreational activities under either of the 141  
following circumstances: 142

(a) Food and beverages are provided by the manufacturer or 143  
wholesale distributor or the manufacturer's or wholesale 144  
distributor's employees or agents during a business meeting with a 145  
retail permit holder or the permit holder's employees or agents. 146

(b) Recreational activities are enjoyed in the presence of 147  
the retail permit holder or the permit holder's employees or 148  
agents and the manufacturer or wholesale distributor or the 149  
manufacturer's or wholesale distributor's employees or agents who 150  
are paying for the recreational activities. 151

(B) As used in this section, "recreational activities" 152  
includes sporting events, concerts, theatrical performances, and 153  
other forms of entertainment. 154

**Sec. 4303.181.** (A) Permit D-5a may be issued either to the 155  
owner or operator of a hotel or motel that is required to be 156  
licensed under section 3731.03 of the Revised Code, that contains 157  
at least fifty rooms for registered transient guests or is owned 158  
by a state institution of higher education as defined in section 159  
3345.011 of the Revised Code or a private college or university, 160  
and that qualifies under the other requirements of this section, 161  
or to the owner or operator of a restaurant specified under this 162  
section, to sell beer and any intoxicating liquor at retail, only 163  
by the individual drink in glass and from the container, for 164  
consumption on the premises where sold, and to registered guests 165  
in their rooms, which may be sold by means of a controlled access 166  
alcohol and beverage cabinet in accordance with division (B) of 167  
section 4301.21 of the Revised Code; and to sell the same products 168  
in the same manner and amounts not for consumption on the premises 169  
as may be sold by holders of D-1 and D-2 permits. The premises of 170  
the hotel or motel shall include a retail food establishment or a 171  
food service operation licensed pursuant to Chapter 3717. of the 172  
Revised Code that operates as a restaurant for purposes of this 173

chapter and that is affiliated with the hotel or motel and within 174  
or contiguous to the hotel or motel, and that serves food within 175  
the hotel or motel, but the principal business of the owner or 176  
operator of the hotel or motel shall be the accommodation of 177  
transient guests. In addition to the privileges authorized in this 178  
division, the holder of a D-5a permit may exercise the same 179  
privileges as the holder of a D-5 permit. 180

The owner or operator of a hotel, motel, or restaurant who 181  
qualified for and held a D-5a permit on August 4, 1976, may, if 182  
the owner or operator held another permit before holding a D-5a 183  
permit, either retain a D-5a permit or apply for the permit 184  
formerly held, and the division of liquor control shall issue the 185  
permit for which the owner or operator applies and formerly held, 186  
notwithstanding any quota. 187

A D-5a permit shall not be transferred to another location. 188  
No quota restriction shall be placed on the number of D-5a permits 189  
that may be issued. 190

The fee for this permit is two thousand three hundred 191  
forty-four dollars. 192

(B) Permit D-5b may be issued to the owner, operator, tenant, 193  
lessee, or occupant of an enclosed shopping center to sell beer 194  
and intoxicating liquor at retail, only by the individual drink in 195  
glass and from the container, for consumption on the premises 196  
where sold; and to sell the same products in the same manner and 197  
amount not for consumption on the premises as may be sold by 198  
holders of D-1 and D-2 permits. In addition to the privileges 199  
authorized in this division, the holder of a D-5b permit may 200  
exercise the same privileges as a holder of a D-5 permit. 201

A D-5b permit shall not be transferred to another location. 202

One D-5b permit may be issued at an enclosed shopping center 203  
containing at least two hundred twenty-five thousand, but less 204

than four hundred thousand, square feet of floor area. 205

Two D-5b permits may be issued at an enclosed shopping center 206  
containing at least four hundred thousand square feet of floor 207  
area. No more than one D-5b permit may be issued at an enclosed 208  
shopping center for each additional two hundred thousand square 209  
feet of floor area or fraction of that floor area, up to a maximum 210  
of five D-5b permits for each enclosed shopping center. The number 211  
of D-5b permits that may be issued at an enclosed shopping center 212  
shall be determined by subtracting the number of D-3 and D-5 213  
permits issued in the enclosed shopping center from the number of 214  
D-5b permits that otherwise may be issued at the enclosed shopping 215  
center under the formulas provided in this division. Except as 216  
provided in this section, no quota shall be placed on the number 217  
of D-5b permits that may be issued. Notwithstanding any quota 218  
provided in this section, the holder of any D-5b permit first 219  
issued in accordance with this section is entitled to its renewal 220  
in accordance with section 4303.271 of the Revised Code. 221

The holder of a D-5b permit issued before April 4, 1984, 222  
whose tenancy is terminated for a cause other than nonpayment of 223  
rent, may return the D-5b permit to the division of liquor 224  
control, and the division shall cancel that permit. Upon 225  
cancellation of that permit and upon the permit holder's payment 226  
of taxes, contributions, premiums, assessments, and other debts 227  
owing or accrued upon the date of cancellation to this state and 228  
its political subdivisions and a filing with the division of a 229  
certification of that payment, the division shall issue to that 230  
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 231  
that person requests. The division shall issue the D-5 permit, or 232  
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 233  
D-3, or D-5 permits currently issued in the municipal corporation 234  
or in the unincorporated area of the township where that person's 235  
proposed premises is located equals or exceeds the maximum number 236



of such permits that can be issued in that municipal corporation 237  
or in the unincorporated area of that township under the 238  
population quota restrictions contained in section 4303.29 of the 239  
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 240  
be transferred to another location. If a D-5b permit is canceled 241  
under the provisions of this paragraph, the number of D-5b permits 242  
that may be issued at the enclosed shopping center for which the 243  
D-5b permit was issued, under the formula provided in this 244  
division, shall be reduced by one if the enclosed shopping center 245  
was entitled to more than one D-5b permit under the formula. 246

The fee for this permit is two thousand three hundred 247  
forty-four dollars. 248

(C) Permit D-5c may be issued to the owner or operator of a 249  
retail food establishment or a food service operation licensed 250  
pursuant to Chapter 3717. of the Revised Code that operates as a 251  
restaurant for purposes of this chapter and that qualifies under 252  
the other requirements of this section to sell beer and any 253  
intoxicating liquor at retail, only by the individual drink in 254  
glass and from the container, for consumption on the premises 255  
where sold, and to sell the same products in the same manner and 256  
amounts not for consumption on the premises as may be sold by 257  
holders of D-1 and D-2 permits. In addition to the privileges 258  
authorized in this division, the holder of a D-5c permit may 259  
exercise the same privileges as the holder of a D-5 permit. 260

To qualify for a D-5c permit, the owner or operator of a 261  
retail food establishment or a food service operation licensed 262  
pursuant to Chapter 3717. of the Revised Code that operates as a 263  
restaurant for purposes of this chapter, shall have operated the 264  
restaurant at the proposed premises for not less than twenty-four 265  
consecutive months immediately preceding the filing of the 266  
application for the permit, have applied for a D-5 permit no later 267  
than December 31, 1988, and appear on the division's quota waiting 268

list for not less than six months immediately preceding the filing 269  
of the application for the permit. In addition to these 270  
requirements, the proposed D-5c permit premises shall be located 271  
within a municipal corporation and further within an election 272  
precinct that, at the time of the application, has no more than 273  
twenty-five per cent of its total land area zoned for residential 274  
use. 275

A D-5c permit shall not be transferred to another location. 276  
No quota restriction shall be placed on the number of such permits 277  
that may be issued. 278

Any person who has held a D-5c permit for at least two years 279  
may apply for a D-5 permit, and the division of liquor control 280  
shall issue the D-5 permit notwithstanding the quota restrictions 281  
contained in section 4303.29 of the Revised Code or in any rule of 282  
the liquor control commission. 283

The fee for this permit is one thousand five hundred 284  
sixty-three dollars. 285

(D) Permit D-5d may be issued to the owner or operator of a 286  
retail food establishment or a food service operation licensed 287  
pursuant to Chapter 3717. of the Revised Code that operates as a 288  
restaurant for purposes of this chapter and that is located at an 289  
airport operated by a board of county commissioners pursuant to 290  
section 307.20 of the Revised Code, at an airport operated by a 291  
port authority pursuant to Chapter 4582. of the Revised Code, or 292  
at an airport operated by a regional airport authority pursuant to 293  
Chapter 308. of the Revised Code. The holder of a D-5d permit may 294  
sell beer and any intoxicating liquor at retail, only by the 295  
individual drink in glass and from the container, for consumption 296  
on the premises where sold, and may sell the same products in the 297  
same manner and amounts not for consumption on the premises where 298  
sold as may be sold by the holders of D-1 and D-2 permits. In 299

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 330  
premises are located within an area in which the sale of 331  
spirituous liquor by the glass is prohibited. 332

The fee for this permit is one thousand two hundred nineteen 333  
dollars. 334

(F) Permit D-5f may be issued to the owner or operator of a 335  
retail food establishment or a food service operation licensed 336  
under Chapter 3717. of the Revised Code that operates as a 337  
restaurant for purposes of this chapter and that meets all of the 338  
following: 339

(1) It contains not less than twenty-five hundred square feet 340  
of floor area. 341

(2) It is located on or in, or immediately adjacent to, the 342  
shoreline of, a navigable river. 343

(3) It provides docking space for twenty-five boats. 344

(4) It provides entertainment and recreation, provided that 345  
not less than fifty per cent of the business on the permit 346  
premises shall be preparing and serving meals for a consideration. 347

In addition, each application for a D-5f permit shall be 348  
accompanied by a certification from the local legislative 349  
authority that the issuance of the D-5f permit is not inconsistent 350  
with that political subdivision's comprehensive development plan 351  
or other economic development goal as officially established by 352  
the local legislative authority. 353

The holder of a D-5f permit may sell beer and intoxicating 354  
liquor at retail, only by the individual drink in glass and from 355  
the container, for consumption on the premises where sold. 356

A D-5f permit shall not be transferred to another location. 357

The division of liquor control shall not issue a D-5f permit 358  
if the permit premises or proposed permit premises are located 359

within an area in which the sale of spirituous liquor by the glass 360  
is prohibited. 361

A fee for this permit is two thousand three hundred 362  
forty-four dollars. 363

As used in this division, "navigable river" means a river 364  
that is also a "navigable water" as defined in the "Federal Power 365  
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 366

(G) Permit D-5g may be issued to a nonprofit corporation that 367  
is either the owner or the operator of a national professional 368  
sports museum. The holder of a D-5g permit may sell beer and any 369  
intoxicating liquor at retail, only by the individual drink in 370  
glass and from the container, for consumption on the premises 371  
where sold. The holder of a D-5g permit shall sell no beer or 372  
intoxicating liquor for consumption on the premises where sold 373  
after one a.m. A D-5g permit shall not be transferred to another 374  
location. No quota restrictions shall be placed on the number of 375  
D-5g permits that may be issued. The fee for this permit is one 376  
thousand eight hundred seventy-five dollars. 377

(H)(1) Permit D-5h may be issued to any nonprofit 378  
organization that is exempt from federal income taxation under the 379  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 380  
501(c)(3), as amended, that owns or operates a any of the 381  
following: 382

(a) A fine arts museum and, provided that the nonprofit 383  
organization has no less than five thousand bona fide members 384  
possessing full membership privileges. ~~The;~~ 385

(b) A community arts center. As used in division (H)(1)(b) of 386  
this section, "community arts center" means a facility that 387  
provides arts programming to the community in more than one arts 388  
discipline, including, but not limited to, exhibits of works of 389  
art and performances by both professional and amateur artists. 390

(c) A community theater, provided that the nonprofit organization is a member of the Ohio arts council and the American community theatre association and has been in existence for not less than ten years. As used in division (H)(1)(c) of this section, "community theater" means a facility that contains at least one hundred fifty seats and has a primary function of presenting live theatrical performances and providing recreational opportunities to the community.

(2) The holder of a D-5h 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-5h permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued. ~~The~~

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

(I) Permit D-5i 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 requirements:

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

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

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

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

(5) Its receipts from beer and liquor sales, excluding wine

sales, do not exceed twenty-five per cent of its total gross receipts. 421  
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(6) It has at least one of the following characteristics: 423

(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars. 424  
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(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. 426  
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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, excluding wine 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. 430  
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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. 441  
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A D-5i permit shall not be transferred to another location. 452  
The division of liquor control shall not renew a D-5i permit 453  
unless the retail food establishment or food service operation for 454  
which it is issued continues to meet the requirements described in 455  
divisions (I)(1) to (6) of this section. No quota restrictions 456  
shall be placed on the number of D-5i permits that may be issued. 457  
The fee for the D-5i permit is two thousand three hundred 458  
forty-four dollars. 459

(J)(1) Permit D-5j may be issued to the owner or the operator 460  
of a retail food establishment or a food service operation 461  
licensed under Chapter 3717. of the Revised Code to sell beer and 462  
intoxicating liquor at retail, only by the individual drink in 463  
glass and from the container, for consumption on the premises 464  
where sold and to sell beer and intoxicating liquor in the same 465  
manner and amounts not for consumption on the premises where sold 466  
as may be sold by the holders of D-1 and D-2 permits. The holder 467  
of a D-5j permit may exercise the same privileges, and shall 468  
observe the same hours of operation, as the holder of a D-5 469  
permit. 470

(2) The D-5j permit shall be issued only within a community 471  
entertainment district that is designated under section 4301.80 of 472  
the Revised Code and that meets one of the following 473  
qualifications: 474

(a) It is located in a municipal corporation with a 475  
population of at least one hundred thousand. 476

(b) It is located in a municipal corporation with a 477  
population of at least twenty thousand, and either of the 478  
following applies: 479

(i) It contains an amusement park the rides of which have 480  
been issued a permit by the department of agriculture under 481  
Chapter 1711. of the Revised Code. 482



(ii) Not less than fifty million dollars will be invested in 483  
development and construction in the community entertainment 484  
district's area located in the municipal corporation. 485

(c) It is located in a township with a population of at least 486  
forty thousand. 487

(d) It is located in a municipal corporation with a 488  
population of at least ten thousand, and not less than seventy 489  
million dollars will be invested in development and construction 490  
in the community entertainment district's area located in the 491  
municipal corporation. 492

(3) The location of a D-5j permit may be transferred only 493  
within the geographic boundaries of the community entertainment 494  
district in which it was issued and shall not be transferred 495  
outside the geographic boundaries of that district. 496

(4) Not more than one D-5j permit shall be issued within each 497  
community entertainment district for each five acres of land 498  
located within the district. Not more than fifteen D-5j permits 499  
may be issued within a single community entertainment district. 500  
Except as otherwise provided in division (J)(4) of this section, 501  
no quota restrictions shall be placed upon the number of D-5j 502  
permits that may be issued. 503

(5) The fee for a D-5j permit is two thousand three hundred 504  
forty-four dollars. 505

(K)(1) Permit D-5k may be issued to any nonprofit 506  
organization that is exempt from federal income taxation under the 507  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 508  
501(c)(3), as amended, that is the owner or operator of a 509  
botanical garden recognized by the American association of 510  
botanical gardens and arboreta, and that has not less than 511  
twenty-five hundred bona fide members. 512

(2) The holder of a D-5k permit may sell beer and any 513  
intoxicating liquor at retail, only by the individual drink in 514  
glass and from the container, on the premises where sold. 515

(3) The holder of a D-5k permit shall sell no beer or 516  
intoxicating liquor for consumption on the premises where sold 517  
after one a.m. 518

(4) A D-5k permit shall not be transferred to another 519  
location. 520

(5) No quota restrictions shall be placed on the number of 521  
D-5k permits that may be issued. 522

(6) The fee for the D-5k permit is one thousand eight hundred 523  
seventy-five dollars. 524

**Section 2.** That existing sections 4301.24 and 4303.181 of the 525  
Revised Code are hereby repealed. 526