

# AN ACT

To amend sections 4301.17, 4301.62, 4301.69, 4301.99, 4303.29, and 4303.292, to enact section 4301.65, and to repeal section 4303.273 of the Revised Code to revise the laws governing liquor control.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 4301.17, 4301.62, 4301.69, 4301.99, 4303.29, and 4303.292 be amended and section 4301.65 of the Revised Code be enacted to read as follows:

Sec. 4301.17. (A)(1) Subject to local option as provided in sections 4301.32 to 4301.40 of the Revised Code, five state liquor stores or agencies may be established in each county. One additional store may be established in any county for each twenty-five thousand of population of that county or major fraction thereof in excess of the first forty thousand, according to the last preceding federal decennial census or according to the population estimates certified by the department of development between decennial censuses. A person engaged in a mercantile business may act as the agent for the division of liquor control for the sale of spirituous liquor in a municipal corporation, in the unincorporated area of a township, or in an area designated and approved as a resort area under section 4303.262 of the Revised Code. The division shall fix the compensation for such an agent in the manner it considers best, but the compensation shall not exceed seven per cent of the gross sales made by the agent in any one year.

(2) The division shall adopt rules in accordance with Chapter 119. of the Revised Code governing the allocation and equitable distribution of agency store contracts. The division shall comply with the rules when awarding a contract under division (A)(1) of this section.

(3) Except as otherwise provided in this section, no mercantile business that sells beer or intoxicating liquor for consumption on the premises under a permit issued by the division shall operate an agency store at the premises. An agency to which a D-1 permit has been issued may offer for sale tasting samples of beer, an agency to which a D-2 permit has been issued may offer for sale tasting samples of wine and mixed beverages, and an agency to

which a D-5 permit has been issued may offer for sale tasting samples of beer, wine, and mixed beverages, but not spirituous liquor. A tasting sample shall not be sold for the purpose of general consumption. As used in this section, "tasting sample" means a small amount of beer, wine, or mixed beverages that is provided in not more than four servings of not more than two ounces each to an authorized purchaser and that allows the purchaser to determine, by tasting only, the quality and character of the beverage.

(B) When an agency contract is proposed ~~or~~, when an existing agency contract is assigned, when an existing agency proposes to relocate, or when an existing agency is relocated and assigned, before entering into any contract ~~or~~, consenting to any assignment, or consenting to any relocation, the division shall notify the legislative authority of the municipal corporation in which the agency store is to be located, or the board of county commissioners and the board of township trustees of the county and the township in which the agency store is to be located if the agency store is to be located outside the corporate limits of a municipal corporation, of the proposed contract ~~or~~, assignment, or relocation, and an opportunity shall be provided officials or employees of the municipal corporation or county and township for a complete hearing upon the advisability of entering into the contract or consenting to the assignment or relocation. When the division sends notice to the legislative authority of the political subdivision, the division shall notify, by certified mail or by personal service, the chief peace officer of the political subdivision, who may appear and testify, either in person or through a representative, at any hearing held on the advisability of entering into the contract or consenting to the assignment or relocation.

If the proposed agency store, the assignment of an agency contract, or the relocation of an agency store would be located within five hundred feet of a school, church, library, public playground, or township park, the division shall not enter into an agency contract until it has provided notice of the proposed contract to the authorities in control of the school, church, library, public playground, or township park and has provided those authorities with an opportunity for a complete hearing upon the advisability of entering into the contract. If an agency store so located is operating under an agency contract, the division may consent to relocation of the agency store or to the assignment of that contract to operate an agency store at the same location, ~~but the~~. The division may also consent to the assignment of an existing agency contract simultaneously with the relocation of the agency store. In any such assignment or relocation, the assignee and the location shall be subject to the same requirements that the existing location met at the time that the contract was first entered into as well as any additional

requirements imposed by the division in rules adopted by the superintendent of liquor control. The division shall not consent to an assignment or relocation of an agency store until it has notified the authorities in control of the school, church, library, public playground, or township park and has provided those authorities with an opportunity for a complete hearing upon the advisability of consenting to the assignment or relocation.

Any hearing provided for in this division shall be held in the central office of the division, except that upon written request of the legislative authority of the municipal corporation, the board of county commissioners, the board of township trustees, or the authorities in control of the school, church, library, public playground, or township park, the hearing shall be held in the county seat of the county where the proposed agency store is to be located.

(C) All agency contracts entered into by the division pursuant to this section shall be in writing and shall contain a clause providing for the termination of the contract at will by the division upon its giving ninety days' notice in writing to the agent of its intention to do so. Any agency contract may include a clause requiring the agent to report to the appropriate law enforcement agency the name and address of any individual under twenty-one years of age who attempts to make an illegal purchase.

An agent may engage in the selling of beer, mixed beverages, and wine pursuant to permits issued to the agent under Chapter 4303. of the Revised Code.

The division shall issue a C-1 and C-2 permit to each agent who prior to November 1, 1994, had not been issued both of these permits, notwithstanding the population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission and notwithstanding the requirements of section 4303.31 of the Revised Code. The location of a C-1 or C-2 permit issued to such an agent shall not be transferred. The division shall revoke any C-1 or C-2 permit issued to an agent under this paragraph if the agent no longer operates an agency store.

The division may enter into agreements with the department of development to implement a minority loan program to provide low-interest loans to minority business enterprises, as defined in section 122.71 of the Revised Code, that are awarded liquor agency contracts or assignments.

(D) If the division closes a state liquor store and replaces that store with an agency store, any employees of the division employed at that state liquor store who lose their jobs at that store as a result shall be given preference by the agent who operates the agency store in filling any vacancies that occur among the agent's employees, if that preference does not conflict with the

agent's obligations pursuant to a collective bargaining agreement.

If the division closes a state liquor store and replaces the store with an agency store, any employees of the division employed at the state liquor store who lose their jobs at that store as a result may displace other employees as provided in sections 124.321 to 124.328 of the Revised Code. If an employee cannot displace other employees and is laid off, the employee shall be reinstated in another job as provided in sections 124.321 to 124.328 of the Revised Code, except that the employee's rights of reinstatement in a job at a state liquor store shall continue for a period of two years after the date of the employee's layoff and shall apply to jobs at state liquor stores located in the employee's layoff jurisdiction and any layoff jurisdiction adjacent to the employee's layoff jurisdiction.

(E) The division shall require every agent to give bond with surety to the satisfaction of the division, in the amount the division fixes, conditioned for the faithful performance of the agent's duties as prescribed by the division.

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

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

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

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

(1) In a state liquor store;

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

(3) In any other public place;

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

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

(C)(1) A person may have in the person's possession an opened container of any of the following:

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e,

D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-7, D-8, E, F, F-2, or F-5 permit;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;

(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code;

(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

(3)(a) A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

(b) As used in division (C)(3)(a) of this section:

(i) "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.

(ii) "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of April to the last day of October of each year.

(D) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply:

(1) The person or guest is a passenger in the limousine.

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.

(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(E) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with division (E)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

Sec. 4301.65. (A) As used in this section, "alcohol vaporizing device" means a machine or other device that mixes beer or intoxicating liquor with pure oxygen or any other gas to produce a vaporized product for the purpose of consumption by inhalation.

(B) No person shall sell or offer for sale an alcohol vaporizing device.

(C) No person shall purchase or use an alcohol vaporizing device.

Sec. 4301.69. (A) Except as otherwise provided in this chapter, no person shall sell beer or intoxicating liquor to an underage person, shall buy beer or intoxicating liquor for an underage person, or shall furnish it to an underage person, unless given by a physician in the regular line of the physician's practice or given for established religious purposes or unless the underage person is ~~accompanied~~ supervised by a parent, spouse who is not an underage person, or legal guardian.

In proceedings before the liquor control commission, no permit holder, or ~~the~~ no employee or agent of a permit holder, charged with a violation of this division shall be charged, for the same offense, with a violation of division (A)(1) of section 4301.22 of the Revised Code.

(B) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian and the parent, spouse who is not an underage person, or legal guardian is present at the time of the person's possession or consumption of

the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(C) No person shall engage or use accommodations at a hotel, inn, cabin, campground, or restaurant when the person knows or has reason to know either of the following:

(1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and ~~who~~ is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;

(2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs and has the drug of abuse in the original container in which it was dispensed to the person.

(D)(1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin, or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not ~~accompanied~~ supervised by a parent, spouse who is not an underage person, or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.

(2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin, or campground by presenting identification that falsely indicates that the underage person is twenty-one years of age or older for the purpose of violating this section.

(E)(1) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in division (E)(1) of this section against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is

~~accompanied~~ supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(2)(a) If a person is charged with violating division (E)(1) of this section in a complaint filed under section 2151.27 of the Revised Code, the court may order the child into a diversion program specified by the court and hold the complaint in abeyance pending successful completion of the diversion program. A child is ineligible to enter into a diversion program under division (E)(2)(a) of this section if the child previously has been diverted pursuant to division (E)(2)(a) of this section. If the child completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the child's record in the case sealed under division (D)(3) of section 2151.358 of the Revised Code. If the child fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(b) If a person is charged in a criminal complaint with violating division (E)(1) of this section, section 2935.36 of the Revised Code shall apply to the offense, except that a person is ineligible for diversion under that section if the person previously has been diverted pursuant to division (E)(2)(a) or (b) of this section. If the person completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the record in the case sealed under section 2953.52 of the Revised Code. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(F) No parent, spouse who is not an underage person, or legal guardian of a minor shall knowingly permit the minor to violate this section or section 4301.63, 4301.633, or 4301.634 of the Revised Code.

(G) The operator of any hotel, inn, cabin, or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin, or campground.

(H) As used in this section:

(1) "Drug of abuse" has the same meaning as in section 3719.011 of the Revised Code.

(2) "Hotel" has the same meaning as in section 3731.01 of the Revised Code.

(3) "Licensed health professional authorized to prescribe drugs" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(4) "Minor" means a person under the age of eighteen years.

(5) "Underage person" means a person under the age of twenty-one years.

Sec. 4301.99. (A) Whoever violates section 4301.47, 4301.48, 4301.49, 4301.62, or 4301.70 or division (C) of section 4301.65 or division (B) of section 4301.691 of the Revised Code is guilty of a minor misdemeanor.

(B) Whoever violates section 4301.15, division (A)(2) or (C) of section 4301.22, division (C), (D), (E), (F), (G), (H), or (I) of section 4301.631, or section 4301.64 or 4301.67 of the Revised Code is guilty of a misdemeanor of the fourth degree.

If an offender who violates section 4301.64 of the Revised Code was under the age of eighteen years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license, or driver's license for a period of not less than six months and not more than one year. If the offender is fifteen years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of fifteen years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen years.

(C) Whoever violates division (D) of section 4301.21, section 4301.251, 4301.58, 4301.59, 4301.60, 4301.633, 4301.66, 4301.68, or 4301.74, division (B), (C), (D), (E)(1), or (F) of section 4301.69, or division (C), (D), (E), (F), (G), or (I) of section 4301.691 of the Revised Code is guilty of a misdemeanor of the first degree.

If an offender who violates division (E)(1) of section 4301.69 of the Revised Code was under the age of eighteen years at the time of the offense and the offense occurred while the offender was the operator of or a passenger in a motor vehicle, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit or probationary driver's license for a period of not less than six months and not more than one year. If the offender is fifteen years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of fifteen years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen years.

(D) Whoever violates division (B) of section 4301.14, or division (A)(1)

or (3) or (B) of section 4301.22 of the Revised Code is guilty of a misdemeanor of the third degree.

(E) Whoever violates section 4301.63 or division (B) of section 4301.631 of the Revised Code shall be fined not less than twenty-five nor more than one hundred dollars. The court imposing a fine for a violation of section 4301.63 or division (B) of section 4301.631 of the Revised Code may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.

(F)(1) Whoever violates section 4301.634 of the Revised Code is guilty of a misdemeanor of the first degree. If, in committing a first violation of that section, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than two hundred fifty and not more than one thousand dollars, and may be sentenced to a term of imprisonment of not more than six months.

(2) On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred nor more than one thousand dollars, and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

(3) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred nor more than one thousand dollars, and may be sentenced to a term of imprisonment of not more than six months. The court also shall impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(6) of section 4510.02 of the Revised Code, and the

court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years. The court also may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

(G) Whoever violates section 4301.636 of the Revised Code is guilty of a felony of the fifth degree.

(H) Whoever violates division (A)(1) of section 4301.22 of the Revised Code is guilty of a misdemeanor, shall be fined not less than five hundred and not more than one thousand dollars, and, in addition to the fine, may be imprisoned for a definite term of not more than sixty days.

(I) Whoever violates division (A) of section 4301.69 or division (H) of section 4301.691 of the Revised Code is guilty of a misdemeanor, shall be fined not less than five hundred and not more than one thousand dollars, and, in addition to the fine, may be imprisoned for a definite term of not more than six months.

(J) Whoever violates division (B) of section 4301.65 of the Revised Code is guilty of a misdemeanor of the third degree. For a second or subsequent violation occurring within a period of five consecutive years after the first violation, a person is guilty of a misdemeanor of the first degree.

Sec. 4303.29. (A) No permit, other than an H permit, shall be issued to a firm or partnership unless all the members of the firm or partnership are citizens of the United States and a majority have resided in this state for one year prior to application for the permit. No permit, other than an H permit, shall be issued to an individual who is not a citizen of the United States who has resided in this state for at least one year prior to application for the permit. No permit, other than an E or H permit, shall be issued to any corporation organized under the laws of any country, territory, or state other than this state until it has furnished the division of liquor control with evidence that it has complied with the laws of this state relating to the transaction of business in this state.

The division may refuse to issue any permit to or refuse to renew any permit of any person convicted of any felony that is reasonably related to the person's fitness to operate a liquor permit business in this state. No holder of a permit shall sell, assign, transfer, or pledge the permit without the written consent of the division.

~~(B)(1) No more than one of each type of C or D permit shall be issued to any one person, firm, or corporation in any county having a population of less than twenty five thousand, and no more than one of each type of C or D~~

~~permit shall be issued to any one person, firm, or corporation for any additional twenty five thousand or major fraction thereof in any county having a greater population than twenty five thousand, provided that, in the case of D-3, D-3a, D-4, and D-5 permits, no more than one permit shall be issued to any one person, firm, or corporation in any county having a population of less than fifty thousand, and no more than one such permit shall be issued to any one person, firm, or corporation for any additional fifty thousand or major fraction thereof in any county having a greater population than fifty thousand.~~

(2) No D-3 permit shall be issued to any club unless the club has been continuously engaged in the activity specified in section 4303.15 of the Revised Code, as a qualification for that class of permit, for two years at the time the permit is issued.

(3)(2)(a) Subject to division (B)(3)(2)(b) of this section, upon application by properly qualified persons, one C-1 and C-2 permit shall be issued for each one thousand population or part of that population, and one D-1 and D-2 permit shall be issued for each two thousand population or part of that population, in each municipal corporation and in the unincorporated area of each township.

Subject to division (B)(3)(2)(b) of this section, not more than one D-3, D-4, or D-5 permit shall be issued for each two thousand population or part of that population in any municipal corporation and in the unincorporated area of any township, except that, in any city of a population of fifty-five thousand or more, one D-3 permit may be issued for each fifteen hundred population or part of that population.

(b)(i) Division (B)(3)(2)(a) of this section does not prohibit the transfer of location or the transfer of ownership and location of a C-1, C-2, D-1, D-2, D-3, or D-5 permit from a municipal corporation or the unincorporated area of a township in which the number of permits of that class exceeds the number of such permits authorized to be issued under division (B)(3)(2)(a) of this section to an economic development project located in another municipal corporation or the unincorporated area of another township in which no additional permits of that class may be issued to the applicant under division (B)(3)(2)(a) of this section, but the transfer of location or transfer of ownership and location of the permit may occur only if the applicant notifies the municipal corporation or township to which the location of the permit will be transferred regarding the transfer and that municipal corporation or township acknowledges in writing to the division of liquor control, at the time the application for the transfer of location or transfer of ownership and location of the permit is filed, that the transfer will

be to an economic development project. This acknowledgment by the municipal corporation or township does not prohibit it from requesting a hearing under section 4303.26 of the Revised Code. The applicant is eligible to apply for and receive the transfer of location of the permit under division (B)~~(3)~~(2)(b) of this section if all permits of that class that may be issued under division (B)~~(3)~~(2)(a) of this section in the applicable municipal corporation or unincorporated area of the township have already been issued or if the number of applications filed for permits of that class in that municipal corporation or the unincorporated area of that township exceed the number of permits of that class that may be issued there under division (B)~~(3)~~(2)(a) of this section.

A permit transferred under division (B)~~(3)~~(2)(b) of this section may be subsequently transferred to a different owner at the same location, or to the same owner or a different owner at a different location in the same municipal corporation or in the unincorporated area of the same township, as long as the same or new location meets the economic development project criteria set forth in this section.

(ii) Factors that shall be used to determine the designation of an economic development project include, but are not limited to, architectural certification of the plans and the cost of the project, the number of jobs that will be created by the project, projected earnings of the project, projected tax revenues for the political subdivisions in which the project will be located, and the amount of financial investment in the project. The superintendent of liquor control shall determine whether the existing or proposed business that is seeking a permit described in division (B)~~(3)~~(2)(b) of this section qualifies as an economic development project and, if the superintendent determines that it so qualifies, shall designate the business as an economic development project.

~~(4)~~(3) Nothing in this section shall be construed to restrict the issuance of a permit to a municipal corporation for use at a municipally owned airport at which commercial airline companies operate regularly scheduled flights on which space is available to the public. A municipal corporation applying for a permit for such a municipally owned airport is exempt, in regard to that application, from the population restrictions contained in this section and from population quota restrictions contained in any rule of the liquor control commission. A municipal corporation applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a municipally owned airport is subject to section 4303.31 of the Revised Code.

~~(5)~~(4) Nothing in this section shall be construed to prohibit the issuance of a D permit to the board of trustees of a soldiers' memorial for a premises

located at a soldiers' memorial established pursuant to Chapter 345. of the Revised Code. An application for a D permit by the board for those premises is exempt from the population restrictions contained in this section and from the population quota restrictions contained in any rule of the liquor control commission. The location of a D permit issued to the board for those premises shall not be transferred. A board of trustees of a soldiers' memorial applying for a D-1, D-2, D-3, D-4, or D-5 permit for the soldiers' memorial is subject to section 4303.31 of the Revised Code.

~~(6)~~(5) Nothing in this section shall be construed to restrict the issuance of a permit for a premises located at a golf course owned by a municipal corporation, township, or county, owned by a park district created under Chapter 1545. of the Revised Code, or owned by the state. The location of such a permit issued on or after September 26, 1984, for a premises located at such a golf course shall not be transferred. Any application for such a permit is exempt from the population quota restrictions contained in this section and from the population quota restrictions contained in any rule of the liquor control commission. A municipal corporation, township, county, park district, or state agency applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a golf course is subject to section 4303.31 of the Revised Code.

~~(7)~~(6) As used in division (B)~~(7)~~(6) of this section, "fair" has the same meaning as in section 991.01 of the Revised Code; "state fairgrounds" means the property that is held by the state for the purpose of conducting fairs, expositions, and exhibits and that is maintained and managed by the Ohio expositions commission under section 991.03 of the Revised Code; "capitol square" has the same meaning as in section 105.41 of the Revised Code; and "Ohio judicial center" means the site of the Ohio supreme court and its grounds.

Nothing in this section shall be construed to restrict the issuance of one or more D permits to one or more applicants for all or a part of the state fairgrounds, capitol square, or the Ohio judicial center. An application for a D permit for the state fairgrounds, capitol square, or the Ohio judicial center is exempt from the population quota restrictions contained in this section and from the population quota restrictions contained in any rule of the liquor control commission. The location of a D permit issued for the state fairgrounds, capitol square, or the Ohio judicial center shall not be transferred. An applicant for a D-1, D-2, D-3, or D-5 permit for the state fairgrounds is not subject to section 4303.31 of the Revised Code.

Pursuant to section 1711.09 of the Revised Code, the holder of a D permit issued for the state fairgrounds shall not deal in spirituous liquor at

the state fairgrounds during, or for one week before or for three days after, any fair held at the state fairgrounds.

~~(8)~~(7) Nothing in this section shall be construed to prohibit the issuance of a D permit for a premises located at a zoological park at which sales have been approved in an election held under former section 4301.356 of the Revised Code. An application for a D permit for such a premises is exempt from the population restrictions contained in this section, from the population quota restrictions contained in any rule of the liquor control commission, and from section 4303.31 of the Revised Code. The location of a D permit issued for a premises at such a zoological park shall not be transferred, and no quota or other restrictions shall be placed on the number of D permits that may be issued for a premises at such a zoological park.

(C)(1) No D-3, D-4, D-5, or D-5a permit shall be issued in any election precinct in any municipal corporation or in any election precinct in the unincorporated area of any township, in which at the November, 1933, election a majority of the electors voting thereon in the municipal corporation or in the unincorporated area of the township voted against the repeal of Section 9 of Article XV, Ohio Constitution, unless the sale of spirituous liquor by the glass is authorized by a majority vote of the electors voting on the question in the precinct at an election held pursuant to this section or by a majority vote of the electors of the precinct voting on question (C) at a special local option election held in the precinct pursuant to section 4301.35 of the Revised Code. Upon the request of an elector, the board of elections of the county that encompasses the precinct shall furnish the elector with a copy of the instructions prepared by the secretary of state under division (P) of section 3501.05 of the Revised Code and, within fifteen days after the request, a certificate of the number of signatures required for a valid petition under this section.

Upon the petition of thirty-five per cent of the total number of voters voting in any such precinct for the office of governor at the preceding general election, filed with the board of elections of the county in which such precinct is located not later than seventy-five days before a general election, the board shall prepare ballots and hold an election at such general election upon the question of allowing spirituous liquor to be sold by the glass in such precinct. The ballots shall be approved in form by the secretary of state. The results of the election shall be certified by the board to the secretary of state, who shall certify the results to the division.

(2) No holder of a class D-3 permit issued for a boat or vessel shall sell spirituous liquor in any precinct, in which the election provided for in this section may be held, unless the sale of spirituous liquor by the drink has

been authorized by vote of the electors as provided in this section or in section 4301.35 of the Revised Code.

(D) Any holder of a C or D permit whose permit premises were purchased in 1986 or 1987 by the state or any state agency for highway purposes shall be issued the same permit at another location notwithstanding any quota restrictions contained in this chapter or in any rule of the liquor control commission.

Sec. 4303.292. (A) The division of liquor control may refuse to issue, transfer the ownership of, or renew, and shall refuse to transfer the location of, any retail permit issued under this chapter if it finds either of the following:

(1) That the applicant, or any partner, member, officer, director, or manager of the applicant, or, if the applicant is a corporation or limited liability company, any shareholder owning five per cent or more of the applicant's capital stock in the corporation or any member owning five per cent or more of either the voting interests or membership interests in the limited liability company:

(a) Has been convicted at any time of a crime that relates to fitness to operate a liquor establishment;

(b) Has operated liquor permit businesses in a manner that demonstrates a disregard for the laws, regulations, or local ordinances of this state or any other state;

(c) Has misrepresented a material fact in applying to the division for a permit; or

(d) Is in the habit of using alcoholic beverages or dangerous drugs to excess, or is addicted to the use of narcotics.

(2) That the place for which the permit is sought:

(a) Does not conform to the building, safety, or health requirements of the governing body of the county or municipal corporation in which the place is located. As used in division (A)(2)(a) of this section, "building, safety, or health requirements" does not include local zoning ordinances. The validity of local zoning regulations shall not be affected by this section.

(b) Is so constructed or arranged that law enforcement officers and duly authorized agents of the division are prevented from reasonable access to rooms within which beer or intoxicating liquor is to be sold or consumed;

(c) Is so located with respect to the neighborhood that substantial interference with public decency, sobriety, peace, or good order would result from the issuance, renewal, transfer of location, or transfer of ownership of the permit and operation under it by the applicant; or

(d) Has been declared a nuisance pursuant to Chapter 3767. of the

Revised Code since the time of the most recent issuance, renewal, or transfer of ownership or location of the liquor permit.

(B) The division of liquor control may refuse to issue or transfer the ownership of, and shall refuse to transfer the location of, any retail permit issued under this chapter if it finds either of the following:

(1) That the place for which the permit is sought is so situated with respect to any school, church, library, public playground, or hospital that the operation of the liquor establishment will substantially and adversely affect or interfere with the normal, orderly conduct of the affairs of those facilities or institutions;

(2) That the number of permits already existent in the neighborhood is such that the issuance or transfer of location of a permit would be detrimental to and substantially interfere with the morals, safety, or welfare of the public. In reaching a conclusion in this respect, the division shall consider, in light of the purposes of this chapter and Chapters 4301. and 4399. of the Revised Code, the character and population of the neighborhood, the number and location of similar permits in the neighborhood, the number and location of all other permits in the neighborhood, and the effect the issuance or transfer of location of a permit would have on the neighborhood.

(C) The division of liquor control shall not transfer the location or transfer the ownership and location of a permit under division (B)~~(3)~~(2)(b) of section 4303.29 of the Revised Code unless the permit is transferred to an economic development project.

(D) The division of liquor control shall refuse to issue, renew, transfer the ownership of, or transfer the location of a retail permit under this chapter if the applicant is or has been convicted of a violation of division (C)(1) of section 2913.46 of the Revised Code.

(E) The division of liquor control shall refuse to transfer the ownership of or transfer the location of a retail permit under this chapter while criminal proceedings are pending against the holder of the permit for a violation of division (C)(1) of section 2913.46 of the Revised Code. The department of public safety shall notify the division whenever criminal proceedings have commenced for a violation of division (C)(1) of section 2913.46 of the Revised Code.

(F) The division of liquor control shall refuse to issue, renew, or transfer the ownership or location of a retail permit under this chapter if the applicant has been found to be maintaining a nuisance under section 3767.05 of the Revised Code at the premises for which the issuance, renewal, or transfer of ownership or location of the retail permit is sought.

Sub. S. B. No. 131

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SECTION 2. That existing sections 4301.17, 4301.62, 4301.69, 4301.99, 4303.29, and 4303.292 and section 4303.273 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_