

**As Reported by the House State Government Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Sub. S. B. No. 131**

**Senators Mumper, Dann, Zurz, Schuler**

**Representative Stewart, D.**

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**A B I L L**

To amend sections 4301.17, 4301.62, 4301.69, 4301.99, 1  
4303.29, and 4303.292, to enact section 4301.65, 2  
and to repeal section 4303.273 of the Revised Code 3  
to revise the laws governing liquor control. 4

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

**Section 1.** That sections 4301.17, 4301.62, 4301.69, 4301.99, 5  
4303.29, and 4303.292 be amended and section 4301.65 of the 6  
Revised Code be enacted to read as follows: 7

**Sec. 4301.17.** (A)(1) Subject to local option as provided in 8  
sections 4301.32 to 4301.40 of the Revised Code, five state liquor 9  
stores or agencies may be established in each county. One 10  
additional store may be established in any county for each 11  
twenty-five thousand of population of that county or major 12  
fraction thereof in excess of the first forty thousand, according 13  
to the last preceding federal decennial census or according to the 14  
population estimates certified by the department of development 15  
between decennial censuses. A person engaged in a mercantile 16  
business may act as the agent for the division of liquor control 17  
for the sale of spirituous liquor in a municipal corporation, in 18  
the unincorporated area of a township, or in an area designated 19

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 52  
commissioners and the board of township trustees of the county and 53  
the township in which the agency store is to be located if the 54  
agency store is to be located outside the corporate limits of a 55  
municipal corporation, of the proposed contract ~~or~~, assignment, or 56  
relocation, and an opportunity shall be provided officials or 57  
employees of the municipal corporation or county and township for 58  
a complete hearing upon the advisability of entering into the 59  
contract or consenting to the assignment or relocation. When the 60  
division sends notice to the legislative authority of the 61  
political subdivision, the division shall notify, by certified 62  
mail or by personal service, the chief peace officer of the 63  
political subdivision, who may appear and testify, either in 64  
person or through a representative, at any hearing held on the 65  
advisability of entering into the contract or consenting to the 66  
assignment or relocation. 67

If the proposed agency store, the assignment of an agency 68  
contract, or the relocation of an agency store would be located 69  
within five hundred feet of a school, church, library, public 70  
playground, or township park, the division shall not enter into an 71  
agency contract until it has provided notice of the proposed 72  
contract to the authorities in control of the school, church, 73  
library, public playground, or township park and has provided 74  
those authorities with an opportunity for a complete hearing upon 75  
the advisability of entering into the contract. If an agency store 76  
so located is operating under an agency contract, the division may 77  
consent to relocation of the agency store or to the assignment of 78  
that contract to operate an agency store at the same location, ~~but~~ 79  
~~the~~. The division may also consent to the assignment of an 80  
existing agency contract simultaneously with the relocation of the 81  
agency store. In any such assignment or relocation, the assignee 82  
and the location shall be subject to the same requirements that 83  
the existing location met at the time that the contract was first 84

entered into as well as any additional requirements imposed by the 85  
division in rules adopted by the superintendent of liquor control. 86  
The division shall not consent to an assignment or relocation of 87  
an agency store until it has notified the authorities in control 88  
of the school, church, library, public playground, or township 89  
park and has provided those authorities with an opportunity for a 90  
complete hearing upon the advisability of consenting to the 91  
assignment or relocation. 92

Any hearing provided for in this division shall be held in 93  
the central office of the division, except that upon written 94  
request of the legislative authority of the municipal corporation, 95  
the board of county commissioners, the board of township trustees, 96  
or the authorities in control of the school, church, library, 97  
public playground, or township park, the hearing shall be held in 98  
the county seat of the county where the proposed agency store is 99  
to be located. 100

(C) All agency contracts entered into by the division 101  
pursuant to this section shall be in writing and shall contain a 102  
clause providing for the termination of the contract at will by 103  
the division upon its giving ninety days' notice in writing to the 104  
agent of its intention to do so. Any agency contract may include a 105  
clause requiring the agent to report to the appropriate law 106  
enforcement agency the name and address of any individual under 107  
twenty-one years of age who attempts to make an illegal purchase. 108

An agent may engage in the selling of beer, mixed beverages, 109  
and wine pursuant to permits issued to the agent under Chapter 110  
4303. of the Revised Code. 111

The division shall issue a C-1 and C-2 permit to each agent 112  
who prior to November 1, 1994, had not been issued both of these 113  
permits, notwithstanding the population quota restrictions 114  
contained in section 4303.29 of the Revised Code or in any rule of 115  
the liquor control commission and notwithstanding the requirements 116

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 148  
surety to the satisfaction of the division, in the amount the 149  
division fixes, conditioned for the faithful performance of the 150  
agent's duties as prescribed by the division. 151

**Sec. 4301.62.** (A) As used in this section: 152

(1) "Chauffeured limousine" means a vehicle registered under 153  
section 4503.24 of the Revised Code. 154

(2) "Street," "highway," and "motor vehicle" have the same 155  
meanings as in section 4511.01 of the Revised Code. 156

(B) No person shall have in the person's possession an opened 157  
container of beer or intoxicating liquor in any of the following 158  
circumstances: 159

(1) In a state liquor store; 160

(2) Except as provided in division (C) of this section, on 161  
the premises of the holder of any permit issued by the division of 162  
liquor control; 163

(3) In any other public place; 164

(4) Except as provided in division (D) or (E) of this 165  
section, while operating or being a passenger in or on a motor 166  
vehicle on any street, highway, or other public or private 167  
property open to the public for purposes of vehicular travel or 168  
parking; 169

(5) Except as provided in division (D) or (E) of this 170  
section, while being in or on a stationary motor vehicle on any 171  
street, highway, or other public or private property open to the 172  
public for purposes of vehicular travel or parking. 173

(C)(1) A person may have in the person's possession an opened 174  
container of any of the following: 175

(a) Beer or intoxicating liquor that has been lawfully 176

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

<u>the D-2 permit is issued.</u>	208
<u>(b) As used in division (C)(3)(a) of this section:</u>	209
<u>(i) "Orchestral performance" means a concert comprised of a</u>	210
<u>group of not fewer than forty musicians playing various musical</u>	211
<u>instruments.</u>	212
<u>(ii) "Outdoor performing arts center" means an outdoor</u>	213
<u>performing arts center that is located on not less than eight</u>	214
<u>hundred acres of land and that is open for performances from the</u>	215
<u>first day of April to the last day of October of each year.</u>	216
(D) This section does not apply to a person who pays all or a	217
portion of the fee imposed for the use of a chauffeured limousine	218
pursuant to a prearranged contract, or the guest of the person,	219
when all of the following apply:	220
(1) The person or guest is a passenger in the limousine.	221
(2) The person or guest is located in the limousine, but is	222
not occupying a seat in the front compartment of the limousine	223
where the operator of the limousine is located.	224
(3) The limousine is located on any street, highway, or other	225
public or private property open to the public for purposes of	226
vehicular travel or parking.	227
<u>(E) An opened bottle of wine that was purchased from the</u>	228
<u>holder of a permit that authorizes the sale of wine for</u>	229
<u>consumption on the premises where sold is not an opened container</u>	230
<u>for the purposes of this section if both of the following apply:</u>	231
<u>(1) The opened bottle of wine is securely resealed by the</u>	232
<u>permit holder or an employee of the permit holder before the</u>	233
<u>bottle is removed from the premises. The bottle shall be secured</u>	234
<u>in such a manner that it is visibly apparent if the bottle has</u>	235
<u>been subsequently opened or tampered with.</u>	236
<u>(2) The opened bottle of wine that is resealed in accordance</u>	237



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.

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**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.

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

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

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**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.

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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.

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(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

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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 299  
person is intoxicated, or that the underage person possesses any 300  
beer or intoxicating liquor and is not ~~accompanied~~ supervised by a 301  
parent, spouse who is not an underage person, or legal guardian 302  
who is or will be present at all times when the beer or 303  
intoxicating liquor is being consumed by the underage person. 304

(2) No underage person shall knowingly engage or attempt to 305  
engage accommodations at any hotel, inn, cabin, or campground by 306  
presenting identification that falsely indicates that the underage 307  
person is twenty-one years of age or older for the purpose of 308  
violating this section. 309

(E)(1) No underage person shall knowingly order, pay for, 310  
share the cost of, attempt to purchase, possess, or consume any 311  
beer or intoxicating liquor in any public or private place. No 312  
underage person shall knowingly be under the influence of any beer 313  
or intoxicating liquor in any public place. The prohibitions set 314  
forth in division (E)(1) of this section against an underage 315  
person knowingly possessing, consuming, or being under the 316  
influence of any beer or intoxicating liquor shall not apply if 317  
the underage person is ~~accompanied~~ supervised by a parent, spouse 318  
who is not an underage person, or legal guardian, or the beer or 319  
intoxicating liquor is given by a physician in the regular line of 320  
the physician's practice or given for established religious 321  
purposes. 322

(2)(a) If a person is charged with violating division (E)(1) 323  
of this section in a complaint filed under section 2151.27 of the 324  
Revised Code, the court may order the child into a diversion 325  
program specified by the court and hold the complaint in abeyance 326  
pending successful completion of the diversion program. A child is 327  
ineligible to enter into a diversion program under division 328  
(E)(2)(a) of this section if the child previously has been 329  
diverted pursuant to division (E)(2)(a) of this section. If the 330

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 391  
4301.69, or division (C), (D), (E), (F), (G), or (I) of section 392  
4301.691 of the Revised Code is guilty of a misdemeanor of the 393  
first degree. 394

If an offender who violates division (E)(1) of section 395  
4301.69 of the Revised Code was under the age of eighteen years at 396  
the time of the offense and the offense occurred while the 397  
offender was the operator of or a passenger in a motor vehicle, 398  
the court, in addition to any other penalties it imposes upon the 399  
offender, shall suspend the offender's temporary instruction 400  
permit or probationary driver's license for a period of not less 401  
than six months and not more than one year. If the offender is 402  
fifteen years and six months of age or older and has not been 403  
issued a temporary instruction permit or probationary driver's 404  
license, the offender shall not be eligible to be issued such a 405  
license or permit for a period of six months. If the offender has 406  
not attained the age of fifteen years and six months, the offender 407  
shall not be eligible to be issued a temporary instruction permit 408  
until the offender attains the age of sixteen years. 409

(D) Whoever violates division (B) of section 4301.14, or 410  
division (A)(1) or (3) or (B) of section 4301.22 of the Revised 411  
Code is guilty of a misdemeanor of the third degree. 412

(E) Whoever violates section 4301.63 or division (B) of 413  
section 4301.631 of the Revised Code shall be fined not less than 414  
twenty-five nor more than one hundred dollars. The court imposing 415  
a fine for a violation of section 4301.63 or division (B) of 416  
section 4301.631 of the Revised Code may order that the fine be 417  
paid by the performance of public work at a reasonable hourly rate 418  
established by the court. The court shall designate the time 419  
within which the public work shall be completed. 420

(F)(1) Whoever violates section 4301.634 of the Revised Code 421

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 484  
the permit. No permit, other than an H permit, shall be issued to 485  
an individual who is not a citizen of the United States who has 486  
resided in this state for at least one year prior to application 487  
for the permit. No permit, other than an E or H permit, shall be 488  
issued to any corporation organized under the laws of any country, 489  
territory, or state other than this state until it has furnished 490  
the division of liquor control with evidence that it has complied 491  
with the laws of this state relating to the transaction of 492  
business in this state. 493

The division may refuse to issue any permit to or refuse to 494  
renew any permit of any person convicted of any felony that is 495  
reasonably related to the person's fitness to operate a liquor 496  
permit business in this state. No holder of a permit shall sell, 497  
assign, transfer, or pledge the permit without the written consent 498  
of the division. 499

~~(B)(1) No more than one of each type of C or D permit shall 500  
be issued to any one person, firm, or corporation in any county 501  
having a population of less than twenty five thousand, and no more 502  
than one of each type of C or D permit shall be issued to any one 503  
person, firm, or corporation for any additional twenty five 504  
thousand or major fraction thereof in any county having a greater 505  
population than twenty five thousand, provided that, in the case 506  
of D-3, D-3a, D-4, and D-5 permits, no more than one permit shall 507  
be issued to any one person, firm, or corporation in any county 508  
having a population of less than fifty thousand, and no more than 509  
one such permit shall be issued to any one person, firm, or 510  
corporation for any additional fifty thousand or major fraction 511  
thereof in any county having a greater population than fifty 512  
thousand. 513~~

~~(2)~~ No D-3 permit shall be issued to any club unless the club 514  
has been continuously engaged in the activity specified in section 515

4303.15 of the Revised Code, as a qualification for that class of 516  
permit, for two years at the time the permit is issued. 517

~~(3)~~(2)(a) Subject to division (B)~~(3)~~(2)(b) of this section, 518  
upon application by properly qualified persons, one C-1 and C-2 519  
permit shall be issued for each one thousand population or part of 520  
that population, and one D-1 and D-2 permit shall be issued for 521  
each two thousand population or part of that population, in each 522  
municipal corporation and in the unincorporated area of each 523  
township. 524

Subject to division (B)~~(3)~~(2)(b) of this section, not more 525  
than one D-3, D-4, or D-5 permit shall be issued for each two 526  
thousand population or part of that population in any municipal 527  
corporation and in the unincorporated area of any township, except 528  
that, in any city of a population of fifty-five thousand or more, 529  
one D-3 permit may be issued for each fifteen hundred population 530  
or part of that population. 531

(b)(i) Division (B)~~(3)~~(2)(a) of this section does not 532  
prohibit the transfer of location or the transfer of ownership and 533  
location of a C-1, C-2, D-1, D-2, D-3, or D-5 permit from a 534  
municipal corporation or the unincorporated area of a township in 535  
which the number of permits of that class exceeds the number of 536  
such permits authorized to be issued under division (B)~~(3)~~(2)(a) 537  
of this section to an economic development project located in 538  
another municipal corporation or the unincorporated area of 539  
another township in which no additional permits of that class may 540  
be issued to the applicant under division (B)~~(3)~~(2)(a) of this 541  
section, but the transfer of location or transfer of ownership and 542  
location of the permit may occur only if the applicant notifies 543  
the municipal corporation or township to which the location of the 544  
permit will be transferred regarding the transfer and that 545  
municipal corporation or township acknowledges in writing to the 546  
division of liquor control, at the time the application for the 547

transfer of location or transfer of ownership and location of the 548  
permit is filed, that the transfer will be to an economic 549  
development project. This acknowledgment by the municipal 550  
corporation or township does not prohibit it from requesting a 551  
hearing under section 4303.26 of the Revised Code. The applicant 552  
is eligible to apply for and receive the transfer of location of 553  
the permit under division (B)~~(3)~~(2)(b) of this section if all 554  
permits of that class that may be issued under division 555  
(B)~~(3)~~(2)(a) of this section in the applicable municipal 556  
corporation or unincorporated area of the township have already 557  
been issued or if the number of applications filed for permits of 558  
that class in that municipal corporation or the unincorporated 559  
area of that township exceed the number of permits of that class 560  
that may be issued there under division (B)~~(3)~~(2)(a) of this 561  
section. 562

A permit transferred under division (B)~~(3)~~(2)(b) of this 563  
section may be subsequently transferred to a different owner at 564  
the same location, or to the same owner or a different owner at a 565  
different location in the same municipal corporation or in the 566  
unincorporated area of the same township, as long as the same or 567  
new location meets the economic development project criteria set 568  
forth in this section. 569

(ii) Factors that shall be used to determine the designation 570  
of an economic development project include, but are not limited 571  
to, architectural certification of the plans and the cost of the 572  
project, the number of jobs that will be created by the project, 573  
projected earnings of the project, projected tax revenues for the 574  
political subdivisions in which the project will be located, and 575  
the amount of financial investment in the project. The 576  
superintendent of liquor control shall determine whether the 577  
existing or proposed business that is seeking a permit described 578  
in division (B)~~(3)~~(2)(b) of this section qualifies as an economic 579

development project and, if the superintendent determines that it 580  
so qualifies, shall designate the business as an economic 581  
development project. 582

~~(4)~~(3) Nothing in this section shall be construed to restrict 583  
the issuance of a permit to a municipal corporation for use at a 584  
municipally owned airport at which commercial airline companies 585  
operate regularly scheduled flights on which space is available to 586  
the public. A municipal corporation applying for a permit for such 587  
a municipally owned airport is exempt, in regard to that 588  
application, from the population restrictions contained in this 589  
section and from population quota restrictions contained in any 590  
rule of the liquor control commission. A municipal corporation 591  
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a 592  
municipally owned airport is subject to section 4303.31 of the 593  
Revised Code. 594

~~(5)~~(4) Nothing in this section shall be construed to prohibit 595  
the issuance of a D permit to the board of trustees of a soldiers' 596  
memorial for a premises located at a soldiers' memorial 597  
established pursuant to Chapter 345. of the Revised Code. An 598  
application for a D permit by the board for those premises is 599  
exempt from the population restrictions contained in this section 600  
and from the population quota restrictions contained in any rule 601  
of the liquor control commission. The location of a D permit 602  
issued to the board for those premises shall not be transferred. A 603  
board of trustees of a soldiers' memorial applying for a D-1, D-2, 604  
D-3, D-4, or D-5 permit for the soldiers' memorial is subject to 605  
section 4303.31 of the Revised Code. 606

~~(6)~~(5) Nothing in this section shall be construed to restrict 607  
the issuance of a permit for a premises located at a golf course 608  
owned by a municipal corporation, township, or county, owned by a 609  
park district created under Chapter 1545. of the Revised Code, or 610  
owned by the state. The location of such a permit issued on or 611

after September 26, 1984, for a premises located at such a golf 612  
course shall not be transferred. Any application for such a permit 613  
is exempt from the population quota restrictions contained in this 614  
section and from the population quota restrictions contained in 615  
any rule of the liquor control commission. A municipal 616  
corporation, township, county, park district, or state agency 617  
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a golf 618  
course is subject to section 4303.31 of the Revised Code. 619

~~(7)~~(6) As used in division (B)~~(7)~~(6) of this section, "fair" 620  
has the same meaning as in section 991.01 of the Revised Code; 621  
"state fairgrounds" means the property that is held by the state 622  
for the purpose of conducting fairs, expositions, and exhibits and 623  
that is maintained and managed by the Ohio expositions commission 624  
under section 991.03 of the Revised Code; "capitol square" has the 625  
same meaning as in section 105.41 of the Revised Code; and "Ohio 626  
judicial center" means the site of the Ohio supreme court and its 627  
grounds. 628

Nothing in this section shall be construed to restrict the 629  
issuance of one or more D permits to one or more applicants for 630  
all or a part of the state fairgrounds, capitol square, or the 631  
Ohio judicial center. An application for a D permit for the state 632  
fairgrounds, capitol square, or the Ohio judicial center is exempt 633  
from the population quota restrictions contained in this section 634  
and from the population quota restrictions contained in any rule 635  
of the liquor control commission. The location of a D permit 636  
issued for the state fairgrounds, capitol square, or the Ohio 637  
judicial center shall not be transferred. An applicant for a D-1, 638  
D-2, D-3, or D-5 permit for the state fairgrounds is not subject 639  
to section 4303.31 of the Revised Code. 640

Pursuant to section 1711.09 of the Revised Code, the holder 641  
of a D permit issued for the state fairgrounds shall not deal in 642  
spirituous liquor at the state fairgrounds during, or for one week 643

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.

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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.

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(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.

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(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.

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**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:

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(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

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five per cent or more of the applicant's capital stock in the 706  
corporation or any member owning five per cent or more of either 707  
the voting interests or membership interests in the limited 708  
liability company: 709

(a) Has been convicted at any time of a crime that relates to 710  
fitness to operate a liquor establishment; 711

(b) Has operated liquor permit businesses in a manner that 712  
demonstrates a disregard for the laws, regulations, or local 713  
ordinances of this state or any other state; 714

(c) Has misrepresented a material fact in applying to the 715  
division for a permit; or 716

(d) Is in the habit of using alcoholic beverages or dangerous 717  
drugs to excess, or is addicted to the use of narcotics. 718

(2) That the place for which the permit is sought: 719

(a) Does not conform to the building, safety, or health 720  
requirements of the governing body of the county or municipal 721  
corporation in which the place is located. As used in division 722  
(A)(2)(a) of this section, "building, safety, or health 723  
requirements" does not include local zoning ordinances. The 724  
validity of local zoning regulations shall not be affected by this 725  
section. 726

(b) Is so constructed or arranged that law enforcement 727  
officers and duly authorized agents of the division are prevented 728  
from reasonable access to rooms within which beer or intoxicating 729  
liquor is to be sold or consumed; 730

(c) Is so located with respect to the neighborhood that 731  
substantial interference with public decency, sobriety, peace, or 732  
good order would result from the issuance, renewal, transfer of 733  
location, or transfer of ownership of the permit and operation 734  
under it by the applicant; or 735



(d) Has been declared a nuisance pursuant to Chapter 3767. of 736  
the Revised Code since the time of the most recent issuance, 737  
renewal, or transfer of ownership or location of the liquor 738  
permit. 739

(B) The division of liquor control may refuse to issue or 740  
transfer the ownership of, and shall refuse to transfer the 741  
location of, any retail permit issued under this chapter if it 742  
finds either of the following: 743

(1) That the place for which the permit is sought is so 744  
situated with respect to any school, church, library, public 745  
playground, or hospital that the operation of the liquor 746  
establishment will substantially and adversely affect or interfere 747  
with the normal, orderly conduct of the affairs of those 748  
facilities or institutions; 749

(2) That the number of permits already existent in the 750  
neighborhood is such that the issuance or transfer of location of 751  
a permit would be detrimental to and substantially interfere with 752  
the morals, safety, or welfare of the public. In reaching a 753  
conclusion in this respect, the division shall consider, in light 754  
of the purposes of this chapter and Chapters 4301. and 4399. of 755  
the Revised Code, the character and population of the 756  
neighborhood, the number and location of similar permits in the 757  
neighborhood, the number and location of all other permits in the 758  
neighborhood, and the effect the issuance or transfer of location 759  
of a permit would have on the neighborhood. 760

(C) The division of liquor control shall not transfer the 761  
location or transfer the ownership and location of a permit under 762  
division (B)~~(3)~~(2)(b) of section 4303.29 of the Revised Code 763  
unless the permit is transferred to an economic development 764  
project. 765

(D) The division of liquor control shall refuse to issue, 766

renew, transfer the ownership of, or transfer the location of a 767  
retail permit under this chapter if the applicant is or has been 768  
convicted of a violation of division (C)(1) of section 2913.46 of 769  
the Revised Code. 770

(E) The division of liquor control shall refuse to transfer 771  
the ownership of or transfer the location of a retail permit under 772  
this chapter while criminal proceedings are pending against the 773  
holder of the permit for a violation of division (C)(1) of section 774  
2913.46 of the Revised Code. The department of public safety shall 775  
notify the division whenever criminal proceedings have commenced 776  
for a violation of division (C)(1) of section 2913.46 of the 777  
Revised Code. 778

(F) The division of liquor control shall refuse to issue, 779  
renew, or transfer the ownership or location of a retail permit 780  
under this chapter if the applicant has been found to be 781  
maintaining a nuisance under section 3767.05 of the Revised Code 782  
at the premises for which the issuance, renewal, or transfer of 783  
ownership or location of the retail permit is sought. 784

**Section 2.** That existing sections 4301.17, 4301.62, 4301.69, 785  
4301.99, 4303.29, and 4303.292 and section 4303.273 of the Revised 786  
Code are hereby repealed. 787