

As Introduced

**128th General Assembly
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H. B. No. 273

Representative Williams, S.

Cosponsors: Representatives Ujvagi, Weddington

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A B I L L

To amend sections 4303.29 and 4303.292 of the Revised 1
Code to prohibit the transfer of ownership or the 2
transfer of location of a C-1, C-2, or C-2x liquor 3
permit in, or to a premises located in, a 4
municipal corporation or the unincorporated area 5
of a township in which the number of that class of 6
permits actually issued exceeds the number of that 7
class of permits allowed to be issued under 8
population quota restrictions. 9

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

Section 1. That sections 4303.29 and 4303.292 of the Revised 10
Code be amended to read as follows: 11

Sec. 4303.29. (A) No permit, other than an H permit, shall be 12
issued to a firm or partnership unless all the members of the firm 13
or partnership are citizens of the United States. No permit, other 14
than an H permit, shall be issued to an individual who is not a 15
citizen of the United States. No permit, other than an E or H 16
permit, shall be issued to any corporation organized under the 17
laws of any country, territory, or state other than this state 18
until it has furnished the division of liquor control with 19

evidence that it has complied with the laws of this state relating 20
to the transaction of business in this state. 21

The division may refuse to issue any permit to or refuse to 22
renew any permit of any person convicted of any felony that is 23
reasonably related to the person's fitness to operate a liquor 24
permit business in this state. No holder of a permit shall sell, 25
assign, transfer, or pledge the permit without the written consent 26
of the division. 27

(B)(1) No D-3 permit shall be issued to any club unless the 28
club has been continuously engaged in the activity specified in 29
section 4303.15 of the Revised Code, as a qualification for that 30
class of permit, for two years at the time the permit is issued. 31

(2)(a) Subject to division (B)(2)(b) of this section, upon 32
application by properly qualified persons, one C-1 and C-2 permit 33
shall be issued for each one thousand population or part of that 34
population, and one D-1 and D-2 permit shall be issued for each 35
two thousand population or part of that population, in each 36
municipal corporation and in the unincorporated area of each 37
township. 38

Subject to division (B)(2)(b) of this section, not more than 39
one D-3, D-4, or D-5 permit shall be issued for each two thousand 40
population or part of that population in any municipal corporation 41
and in the unincorporated area of any township, except that, in 42
any city of a population of fifty-five thousand or more, one D-3 43
permit may be issued for each fifteen hundred population or part 44
of that population. 45

(b)(i) Division (B)(2)(a) of this section does not prohibit 46
the transfer of location or the transfer of ownership and location 47
of a ~~C-1, C-2,~~ D-1, D-2, D-3, or D-5 permit from a municipal 48
corporation or the unincorporated area of a township in which the 49
number of permits of that class exceeds the number of such permits 50

authorized to be issued under division (B)(2)(a) of this section 51
to an economic development project located in another municipal 52
corporation or the unincorporated area of another township in 53
which no additional permits of that class may be issued to the 54
applicant under division (B)(2)(a) of this section, ~~but the.~~ The 55
transfer of location or transfer of ownership and location of the 56
permit may occur only if the applicant notifies the municipal 57
corporation or township to which the location of the permit will 58
be transferred regarding the transfer and that municipal 59
corporation or township acknowledges in writing to the division of 60
liquor control, at the time the application for the transfer of 61
location or transfer of ownership and location of the permit is 62
filed, that the transfer will be to an economic development 63
project. This acknowledgment by the municipal corporation or 64
township does not prohibit it from requesting a hearing under 65
section 4303.26 of the Revised Code. The applicant is eligible to 66
apply for and receive the transfer of location of the permit under 67
division (B)(2)(b) of this section if all permits of that class 68
that may be issued under division (B)(2)(a) of this section in the 69
applicable municipal corporation or unincorporated area of the 70
township have already been issued or if the number of applications 71
filed for permits of that class in that municipal corporation or 72
the unincorporated area of that township exceed the number of 73
permits of that class that may be issued there under division 74
(B)(2)(a) of this section. 75

A permit transferred under division (B)(2)(b) of this section 76
may be subsequently transferred to a different owner at the same 77
location, or to the same owner or a different owner at a different 78
location in the same municipal corporation or in the 79
unincorporated area of the same township, as long as the same or 80
new location meets the economic development project criteria set 81
forth in this section. 82

(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)(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.

(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.

(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 115
issued to the board for those premises shall not be transferred. A 116
board of trustees of a soldiers' memorial applying for a D-1, D-2, 117
D-3, D-4, or D-5 permit for the soldiers' memorial is subject to 118
section 4303.31 of the Revised Code. 119

(5) Nothing in this section shall be construed to restrict 120
the issuance of a permit for a premises located at a golf course 121
owned by a municipal corporation, township, or county, owned by a 122
park district created under Chapter 1545. of the Revised Code, or 123
owned by the state. The location of such a permit issued on or 124
after September 26, 1984, for a premises located at such a golf 125
course shall not be transferred. Any application for such a permit 126
is exempt from the population quota restrictions contained in this 127
section and from the population quota restrictions contained in 128
any rule of the liquor control commission. A municipal 129
corporation, township, county, park district, or state agency 130
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a golf 131
course is subject to section 4303.31 of the Revised Code. 132

(6) As used in division (B)(6) of this section, "fair" has 133
the same meaning as in section 991.01 of the Revised Code; "state 134
fairgrounds" means the property that is held by the state for the 135
purpose of conducting fairs, expositions, and exhibits and that is 136
maintained and managed by the Ohio expositions commission under 137
section 991.03 of the Revised Code; "capitol square" has the same 138
meaning as in section 105.41 of the Revised Code; and "Ohio 139
judicial center" means the site of the Ohio supreme court and its 140
grounds. 141

Nothing in this section shall be construed to restrict the 142
issuance of one or more D permits to one or more applicants for 143
all or a part of the state fairgrounds, capitol square, or the 144
Ohio judicial center. An application for a D permit for the state 145
fairgrounds, capitol square, or the Ohio judicial center is exempt 146

from the population quota restrictions contained in this section 147
and from the population quota restrictions contained in any rule 148
of the liquor control commission. The location of a D permit 149
issued for the state fairgrounds, capitol square, or the Ohio 150
judicial center shall not be transferred. An applicant for a D-1, 151
D-2, D-3, or D-5 permit for the state fairgrounds is not subject 152
to section 4303.31 of the Revised Code. 153

Pursuant to section 1711.09 of the Revised Code, the holder 154
of a D permit issued for the state fairgrounds shall not deal in 155
spirituous liquor at the state fairgrounds during, or for one week 156
before or for three days after, any fair held at the state 157
fairgrounds. 158

(7) Nothing in this section shall be construed to prohibit 159
the issuance of a D permit for a premises located at a zoological 160
park at which sales have been approved in an election held under 161
former section 4301.356 of the Revised Code. An application for a 162
D permit for such a premises is exempt from the population 163
restrictions contained in this section, from the population quota 164
restrictions contained in any rule of the liquor control 165
commission, and from section 4303.31 of the Revised Code. The 166
location of a D permit issued for a premises at such a zoological 167
park shall not be transferred, and no quota or other restrictions 168
shall be placed on the number of D permits that may be issued for 169
a premises at such a zoological park. 170

(C)(1) No D-3, D-4, D-5, or D-5a permit shall be issued in 171
any election precinct in any municipal corporation or in any 172
election precinct in the unincorporated area of any township, in 173
which at the November, 1933, election a majority of the electors 174
voting thereon in the municipal corporation or in the 175
unincorporated area of the township voted against the repeal of 176
Section 9 of Article XV, Ohio Constitution, unless the sale of 177
spirituous liquor by the glass is authorized by a majority vote of 178

the electors voting on the question in the precinct at an election 179
held pursuant to this section or by a majority vote of the 180
electors of the precinct voting on question (C) at a special local 181
option election held in the precinct pursuant to section 4301.35 182
of the Revised Code. Upon the request of an elector, the board of 183
elections of the county that encompasses the precinct shall 184
furnish the elector with a copy of the instructions prepared by 185
the secretary of state under division (P) of section 3501.05 of 186
the Revised Code and, within fifteen days after the request, a 187
certificate of the number of signatures required for a valid 188
petition under this section. 189

Upon the petition of thirty-five per cent of the total number 190
of voters voting in any such precinct for the office of governor 191
at the preceding general election, filed with the board of 192
elections of the county in which such precinct is located not 193
later than seventy-five days before a general election, the board 194
shall prepare ballots and hold an election at such general 195
election upon the question of allowing spirituous liquor to be 196
sold by the glass in such precinct. The ballots shall be approved 197
in form by the secretary of state. The results of the election 198
shall be certified by the board to the secretary of state, who 199
shall certify the results to the division. 200

(2) No holder of a class D-3 permit issued for a boat or 201
vessel shall sell spirituous liquor in any precinct, in which the 202
election provided for in this section may be held, unless the sale 203
of spirituous liquor by the drink has been authorized by vote of 204
the electors as provided in this section or in section 4301.35 of 205
the Revised Code. 206

(D) Any holder of a C or D permit whose permit premises were 207
purchased in 1986 or 1987 by the state or any state agency for 208
highway purposes shall be issued the same permit at another 209
location notwithstanding any quota restrictions contained in this 210

chapter or in any rule of the liquor control commission. 211

Sec. 4303.292. (A) The division of liquor control may refuse 212
to issue, transfer the ownership of, or renew, and shall refuse to 213
transfer the location of, any retail permit issued under this 214
chapter if it finds either of the following: 215

(1) That the applicant, or any partner, member, officer, 216
director, or manager of the applicant, or, if the applicant is a 217
corporation or limited liability company, any shareholder owning 218
five per cent or more of the applicant's capital stock in the 219
corporation or any member owning five per cent or more of either 220
the voting interests or membership interests in the limited 221
liability company: 222

(a) Has been convicted at any time of a crime that relates to 223
fitness to operate a liquor establishment; 224

(b) Has operated liquor permit businesses in a manner that 225
demonstrates a disregard for the laws, regulations, or local 226
ordinances of this state or any other state; 227

(c) Has misrepresented a material fact in applying to the 228
division for a permit; or 229

(d) Is in the habit of using alcoholic beverages or dangerous 230
drugs to excess, or is addicted to the use of narcotics. 231

(2) That the place for which the permit is sought: 232

(a) Does not conform to the building, safety, or health 233
requirements of the governing body of the county or municipal 234
corporation in which the place is located. As used in division 235
(A)(2)(a) of this section, "building, safety, or health 236
requirements" does not include local zoning ordinances. The 237
validity of local zoning regulations shall not be affected by this 238
section. 239

(b) Is so constructed or arranged that law enforcement 240

officers and duly authorized agents of the division are prevented 241
from reasonable access to rooms within which beer or intoxicating 242
liquor is to be sold or consumed; 243

(c) Is so located with respect to the neighborhood that 244
substantial interference with public decency, sobriety, peace, or 245
good order would result from the issuance, renewal, transfer of 246
location, or transfer of ownership of the permit and operation 247
under it by the applicant; or 248

(d) Has been declared a nuisance pursuant to Chapter 3767. of 249
the Revised Code since the time of the most recent issuance, 250
renewal, or transfer of ownership or location of the liquor 251
permit. 252

(B) The division of liquor control may refuse to issue or 253
transfer the ownership of, and shall refuse to transfer the 254
location of, any retail permit issued under this chapter if it 255
finds either of the following: 256

(1) That the place for which the permit is sought is so 257
situated with respect to any school, church, library, public 258
playground, or hospital that the operation of the liquor 259
establishment will substantially and adversely affect or interfere 260
with the normal, orderly conduct of the affairs of those 261
facilities or institutions; 262

(2) That the number of permits already existent in the 263
neighborhood is such that the issuance or transfer of location of 264
a permit would be detrimental to and substantially interfere with 265
the morals, safety, or welfare of the public. In reaching a 266
conclusion in this respect, the division shall consider, in light 267
of the purposes of this chapter and Chapters 4301. and 4399. of 268
the Revised Code, the character and population of the 269
neighborhood, the number and location of similar permits in the 270
neighborhood, the number and location of all other permits in the 271

neighborhood, and the effect the issuance or transfer of location 272
of a permit would have on the neighborhood. 273

(C) The division of liquor control shall not transfer the 274
location or transfer the ownership and location of a permit under 275
division (B)(2)(b) of section 4303.29 of the Revised Code unless 276
the permit is transferred to an economic development project. 277

(D) The division of liquor control shall refuse to issue, 278
renew, transfer the ownership of, or transfer the location of a 279
retail permit under this chapter if the applicant is or has been 280
convicted of a violation of division (C)(1) of section 2913.46 of 281
the Revised Code. 282

(E) The division of liquor control shall refuse to transfer 283
the ownership of or transfer the location of a retail permit under 284
this chapter while criminal proceedings are pending against the 285
holder of the permit for a violation of division (C)(1) of section 286
2913.46 of the Revised Code. The department of public safety shall 287
notify the division whenever criminal proceedings have commenced 288
for a violation of division (C)(1) of section 2913.46 of the 289
Revised Code. 290

(F) The division of liquor control shall refuse to issue, 291
renew, or transfer the ownership or location of a retail permit 292
under this chapter if the applicant has been found to be 293
maintaining a nuisance under section 3767.05 of the Revised Code 294
at the premises for which the issuance, renewal, or transfer of 295
ownership or location of the retail permit is sought. 296

(G) The division of liquor control shall refuse to transfer 297
the ownership of, or to transfer the location of, a C-1, C-2, or 298
C-2x permit if the transfer will be in, or to a premises located 299
in, a municipal corporation or the unincorporated area of a 300
township in which the number of permits of that class actually 301
issued exceeds the number of permits of that class allowed under 302

section 4303.29 of the Revised Code. 303

Section 2. That existing sections 4303.29 and 4303.292 of the 304
Revised Code are hereby repealed. 305