

**As Introduced**

**128th General Assembly  
Regular Session  
2009-2010**

**H. B. No. 445**

**Representative Letson**

**Cosponsors: Representatives Domenick, McGregor, Yuko, Bolon, Hagan**

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**A B I L L**

To amend section 4303.29 and to enact section 4301.82 1  
of the Revised Code to establish local 2  
entertainment districts in municipal corporations 3  
or unincorporated areas of counties of specified 4  
populations for the purpose of the issuance of 5  
D-1, D-2, and D-5 liquor permits under specified 6  
conditions. 7

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

**Section 1.** That section 4303.29 be amended and section 8  
4301.82 of the Revised Code be enacted to read as follows: 9

**Sec. 4301.82.** (A) As used in this section: 10

(1) "Local entertainment district" means a bounded area that 11  
includes or will include a combination of entertainment, retail, 12  
educational, sporting, social, cultural, or arts establishments 13  
within close proximity to some or all of the following types of 14  
establishments within the district, or other types of 15  
establishments similar to these: 16

(a) Hotels; 17

(b) Restaurants; 18

<u>(c) Retail sales establishments;</u>	19
<u>(d) Enclosed shopping centers;</u>	20
<u>(e) Museums;</u>	21
<u>(f) Performing arts theaters;</u>	22
<u>(g) Motion picture theaters;</u>	23
<u>(h) Night clubs;</u>	24
<u>(i) Convention facilities;</u>	25
<u>(j) Sports facilities;</u>	26
<u>(k) Entertainment facilities or complexes;</u>	27
<u>(l) Any combination of the establishments described in</u>	28
<u>divisions (A)(1)(a) to (k) of this section that provide similar</u>	29
<u>services to the community.</u>	30
<u>(2) "Municipal corporation" means a municipal corporation</u>	31
<u>with a population of less than one hundred thousand.</u>	32
<u>(3) "County" means a county with a population of more than</u>	33
<u>one hundred twenty-five thousand.</u>	34
<u>(B) Any owner of property located in a municipal corporation</u>	35
<u>seeking to have that property, or that property and other</u>	36
<u>surrounding property, designated as a local entertainment district</u>	37
<u>shall file an application seeking this designation with the mayor</u>	38
<u>of the municipal corporation in which that property is located.</u>	39
<u>Any owner of property located in the unincorporated area of a</u>	40
<u>county seeking to have that property, or that property and other</u>	41
<u>surrounding property, designated as a local entertainment district</u>	42
<u>shall file an application seeking this designation with the board</u>	43
<u>of county commissioners of the county in whose unincorporated area</u>	44
<u>that property is located. An application to designate an area as a</u>	45
<u>local entertainment district shall contain all of the following:</u>	46
<u>(1) The applicant's name and address;</u>	47

(2) A map or survey of the proposed local entertainment district in sufficient detail to identify the boundaries of the district and the property owned by the applicant; 48  
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(3) A general statement of the nature and types of establishments described in division (A) of this section that are or will be located within the proposed local entertainment district and any other establishments located in the proposed local entertainment district that are not described in division (A) of this section; 51  
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(4) If some or all of the establishments within the proposed local entertainment district have not yet been developed, the proposed time frame for completing the development of these establishments; 57  
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(5) Evidence that the uses of land within the proposed local entertainment district are in accord with the municipal corporation's or county's master zoning plan or map; 61  
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(6) A handling and processing fee to accompany the application, payable to the applicable municipal corporation or county, in an amount determined by that municipal corporation or county. 64  
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(C) An application relating to an area located in a municipal corporation shall be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within thirty days after receiving the application, shall submit the application with the mayor's recommendation to the legislative authority of the municipal corporation. An application relating to an area located in the unincorporated area of a county shall be addressed and submitted to the board of county commissioners of the county in whose unincorporated area the area described in the application is located. The application is a public record for purposes of 68  
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section 149.43 of the Revised Code upon its receipt by the mayor 79  
or board of county commissioners. 80

Within thirty days after it receives the application and the 81  
mayor's recommendations relating to the application, the 82  
legislative authority of the municipal corporation, by notice 83  
published once a week for two consecutive weeks in at least one 84  
newspaper of general circulation in the municipal corporation, 85  
shall notify the public that the application is on file in the 86  
office of the clerk of the municipal corporation and is available 87  
for inspection by the public during regular business hours. Within 88  
thirty days after it receives the application, the board of county 89  
commissioners, by notice published once a week for two consecutive 90  
weeks in at least one newspaper of general circulation in the 91  
county, shall notify the public that the application is on file in 92  
the office of the county auditor and is available for inspection 93  
by the public during regular business hours. The notice shall also 94  
indicate the date and time of any public hearing by the municipal 95  
legislative authority or board of county commissioners on the 96  
application. 97

Within seventy-five days after the date the application is 98  
filed with the mayor of a municipal corporation, the legislative 99  
authority of the municipal corporation by ordinance or resolution 100  
shall approve or disapprove the application based on whether the 101  
proposed local entertainment district does or will substantially 102  
contribute to entertainment, retail, educational, sporting, 103  
social, cultural, or arts opportunities for the community. The 104  
community considered shall at a minimum include the municipal 105  
corporation in which the community is located. Any approval of an 106  
application shall be by an affirmative majority vote of the 107  
legislative authority. Not more than one local entertainment 108  
district shall be designated within the municipal corporation. 109

Within seventy-five days after the date the application is 110

filed with a board of county commissioners, the board by 111  
resolution shall approve or disapprove the application based on 112  
whether the proposed local entertainment district does or will 113  
substantially contribute to entertainment, retail, educational, 114  
sporting, social, cultural, or arts opportunities for the 115  
community. The community considered shall at a minimum include at 116  
least a portion of the county in which the community is located. 117  
Any approval of an application shall be by an affirmative majority 118  
vote of the board of county commissioners. Not more than one local 119  
entertainment district shall be designated within the 120  
unincorporated area of the county. 121

If the municipal legislative authority or board of county 122  
commissioners disapproves the application, the applicant may make 123  
changes in the application to secure its approval by the 124  
legislative authority or board of county commissioners. Any area 125  
approved by the legislative authority or board of county 126  
commissioners constitutes a local entertainment district. 127

(D) All or part of an area designated as a local 128  
entertainment district may lose this designation as provided in 129  
this division. The legislative authority of a municipal 130  
corporation in which a local entertainment district is located, or 131  
the board of county commissioners of the county in whose 132  
unincorporated area a local entertainment district is located, 133  
after giving notice of its proposed action by publication once a 134  
week for two consecutive weeks in at least one newspaper of 135  
general circulation in the municipal corporation or county, may 136  
determine by ordinance or resolution in the case of the 137  
legislative authority of a municipal corporation, or by resolution 138  
in the case of a board of county commissioners of a county, that 139  
all or part of the area fails to meet the standards described in 140  
this section for designation of an area as a local entertainment 141  
district. If the legislative authority or board so determines, the 142

area designated in the ordinance or resolution no longer 143  
constitutes a local entertainment district. 144

**Sec. 4303.29.** (A) No permit, other than an H permit, shall be 145  
issued to a firm or partnership unless all the members of the firm 146  
or partnership are citizens of the United States. No permit, other 147  
than an H permit, shall be issued to an individual who is not a 148  
citizen of the United States. No permit, other than an E or H 149  
permit, shall be issued to any corporation organized under the 150  
laws of any country, territory, or state other than this state 151  
until it has furnished the division of liquor control with 152  
evidence that it has complied with the laws of this state relating 153  
to the transaction of business in this state. 154

The division may refuse to issue any permit to or refuse to 155  
renew any permit of any person convicted of any felony that is 156  
reasonably related to the person's fitness to operate a liquor 157  
permit business in this state. No holder of a permit shall sell, 158  
assign, transfer, or pledge the permit without the written consent 159  
of the division. 160

(B)(1) No D-3 permit shall be issued to any club unless the 161  
club has been continuously engaged in the activity specified in 162  
section 4303.15 of the Revised Code, as a qualification for that 163  
class of permit, for two years at the time the permit is issued. 164

(2)(a) Subject to division (B)(2)(b) of this section, upon 165  
application by properly qualified persons, one C-1 and C-2 permit 166  
shall be issued for each one thousand population or part of that 167  
population, and one D-1 and D-2 permit shall be issued for each 168  
two thousand population or part of that population, in each 169  
municipal corporation and in the unincorporated area of each 170  
township. 171

Subject to division (B)(2)(b) of this section, not more than 172  
one D-3, D-4, or D-5 permit shall be issued for each two thousand 173

population or part of that population in any municipal corporation 174  
and in the unincorporated area of any township, except that, in 175  
any city of a population of fifty-five thousand or more, one D-3 176  
permit may be issued for each fifteen hundred population or part 177  
of that population. 178

(b)(i) Division (B)(2)(a) of this section does not prohibit 179  
the transfer of location or the transfer of ownership and location 180  
of a C-1, C-2, D-1, D-2, D-3, or D-5 permit from a municipal 181  
corporation or the unincorporated area of a township in which the 182  
number of permits of that class exceeds the number of such permits 183  
authorized to be issued under division (B)(2)(a) of this section 184  
to an economic development project located in another municipal 185  
corporation or the unincorporated area of another township in 186  
which no additional permits of that class may be issued to the 187  
applicant under division (B)(2)(a) of this section, but the 188  
transfer of location or transfer of ownership and location of the 189  
permit may occur only if the applicant notifies the municipal 190  
corporation or township to which the location of the permit will 191  
be transferred regarding the transfer and that municipal 192  
corporation or township acknowledges in writing to the division of 193  
liquor control, at the time the application for the transfer of 194  
location or transfer of ownership and location of the permit is 195  
filed, that the transfer will be to an economic development 196  
project. This acknowledgment by the municipal corporation or 197  
township does not prohibit it from requesting a hearing under 198  
section 4303.26 of the Revised Code. The applicant is eligible to 199  
apply for and receive the transfer of location of the permit under 200  
division (B)(2)(b) of this section if all permits of that class 201  
that may be issued under division (B)(2)(a) of this section in the 202  
applicable municipal corporation or unincorporated area of the 203  
township have already been issued or if the number of applications 204  
filed for permits of that class in that municipal corporation or 205  
the unincorporated area of that township exceed the number of 206

permits of that class that may be issued there under division 207  
(B)(2)(a) of this section. 208

A permit transferred under division (B)(2)(b) of this section 209  
may be subsequently transferred to a different owner at the same 210  
location, or to the same owner or a different owner at a different 211  
location in the same municipal corporation or in the 212  
unincorporated area of the same township, as long as the same or 213  
new location meets the economic development project criteria set 214  
forth in this section. 215

(ii) Factors that shall be used to determine the designation 216  
of an economic development project include, but are not limited 217  
to, architectural certification of the plans and the cost of the 218  
project, the number of jobs that will be created by the project, 219  
projected earnings of the project, projected tax revenues for the 220  
political subdivisions in which the project will be located, and 221  
the amount of financial investment in the project. The 222  
superintendent of liquor control shall determine whether the 223  
existing or proposed business that is seeking a permit described 224  
in division (B)(2)(b) of this section qualifies as an economic 225  
development project and, if the superintendent determines that it 226  
so qualifies, shall designate the business as an economic 227  
development project. 228

(3) Nothing in this section shall be construed to restrict 229  
the issuance of a permit to a municipal corporation for use at a 230  
municipally owned airport at which commercial airline companies 231  
operate regularly scheduled flights on which space is available to 232  
the public. A municipal corporation applying for a permit for such 233  
a municipally owned airport is exempt, in regard to that 234  
application, from the population restrictions contained in this 235  
section and from population quota restrictions contained in any 236  
rule of the liquor control commission. A municipal corporation 237  
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a 238



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 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.

(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.

(6) As used in division (B)(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 271  
meaning as in section 105.41 of the Revised Code; and "Ohio 272  
judicial center" means the site of the Ohio supreme court and its 273  
grounds. 274

Nothing in this section shall be construed to restrict the 275  
issuance of one or more D permits to one or more applicants for 276  
all or a part of the state fairgrounds, capitol square, or the 277  
Ohio judicial center. An application for a D permit for the state 278  
fairgrounds, capitol square, or the Ohio judicial center is exempt 279  
from the population quota restrictions contained in this section 280  
and from the population quota restrictions contained in any rule 281  
of the liquor control commission. The location of a D permit 282  
issued for the state fairgrounds, capitol square, or the Ohio 283  
judicial center shall not be transferred. An applicant for a D-1, 284  
D-2, D-3, or D-5 permit for the state fairgrounds is not subject 285  
to section 4303.31 of the Revised Code. 286

Pursuant to section 1711.09 of the Revised Code, the holder 287  
of a D permit issued for the state fairgrounds shall not deal in 288  
spirituous liquor at the state fairgrounds during, or for one week 289  
before or for three days after, any fair held at the state 290  
fairgrounds. 291

(7) Nothing in this section shall be construed to prohibit 292  
the issuance of a D permit for a premises located at a zoological 293  
park at which sales have been approved in an election held under 294  
former section 4301.356 of the Revised Code. An application for a 295  
D permit for such a premises is exempt from the population 296  
restrictions contained in this section, from the population quota 297  
restrictions contained in any rule of the liquor control 298  
commission, and from section 4303.31 of the Revised Code. The 299  
location of a D permit issued for a premises at such a zoological 300  
park shall not be transferred, and no quota or other restrictions 301  
shall be placed on the number of D permits that may be issued for 302

a premises at such a zoological park. 303

(8) As used in division (B)(8) of this section, "local 304  
entertainment district" has the same meaning as in section 4301.82 305  
of the Revised Code. 306

Nothing in this section shall be construed to prohibit the 307  
issuance of a D-1, D-2, or D-5 permit for a premises located in a 308  
local entertainment district, provided that all of the following 309  
apply: 310

(a) The applicant for the permit is the owner or operator of 311  
a retail food establishment or a food service operation licensed 312  
under Chapter 3717. of the Revised Code. 313

(b) The applicant for the permit has not been issued a D-1, 314  
D-2, or D-5 permit in the six months prior to filing the 315  
application for a D-1, D-2, or D-5 permit for a premises located 316  
in a local entertainment district. 317

(c) The premises for which a permit is proposed to be issued 318  
has gross annual receipts from the sale of food and meals for 319  
consumption on the premises that constitute not less than 320  
seventy-five per cent of its total gross annual receipts. 321

An application for a D-1, D-2, or D-5 permit for a premises 322  
located in a local entertainment district is exempt from the 323  
population restrictions established in this section, from the 324  
population quota restrictions established in any rule of the 325  
liquor control commission, and from section 4303.31 of the Revised 326  
Code. Such a D-1, D-2, or D-5 permit shall not be transferred out 327  
of the local entertainment district. Not more than one D-1, D-2, 328  
or D-5 permit shall be issued within a local entertainment 329  
district for each five acres of land located within the district. 330  
Not more than ten D-1, D-2, or D-5 permits, or any combination of 331  
those permits, may be issued within a single local entertainment 332  
district. 333

(C)(1) No D-3, D-4, D-5, or D-5a permit shall be issued in 334  
any election precinct in any municipal corporation or in any 335  
election precinct in the unincorporated area of any township, in 336  
which at the November, 1933, election a majority of the electors 337  
voting thereon in the municipal corporation or in the 338  
unincorporated area of the township voted against the repeal of 339  
Section 9 of Article XV, Ohio Constitution, unless the sale of 340  
spirituous liquor by the glass is authorized by a majority vote of 341  
the electors voting on the question in the precinct at an election 342  
held pursuant to this section or by a majority vote of the 343  
electors of the precinct voting on question (C) at a special local 344  
option election held in the precinct pursuant to section 4301.35 345  
of the Revised Code. Upon the request of an elector, the board of 346  
elections of the county that encompasses the precinct shall 347  
furnish the elector with a copy of the instructions prepared by 348  
the secretary of state under division (P) of section 3501.05 of 349  
the Revised Code and, within fifteen days after the request, a 350  
certificate of the number of signatures required for a valid 351  
petition under this section. 352

Upon the petition of thirty-five per cent of the total number 353  
of voters voting in any such precinct for the office of governor 354  
at the preceding general election, filed with the board of 355  
elections of the county in which such precinct is located not 356  
later than seventy-five days before a general election, the board 357  
shall prepare ballots and hold an election at such general 358  
election upon the question of allowing spirituous liquor to be 359  
sold by the glass in such precinct. The ballots shall be approved 360  
in form by the secretary of state. The results of the election 361  
shall be certified by the board to the secretary of state, who 362  
shall certify the results to the division. 363

(2) No holder of a class D-3 permit issued for a boat or 364  
vessel shall sell spirituous liquor in any precinct, in which the 365

election provided for in this section may be held, unless the sale 366  
of spirituous liquor by the drink has been authorized by vote of 367  
the electors as provided in this section or in section 4301.35 of 368  
the Revised Code. 369

(D) Any holder of a C or D permit whose permit premises were 370  
purchased in 1986 or 1987 by the state or any state agency for 371  
highway purposes shall be issued the same permit at another 372  
location notwithstanding any quota restrictions contained in this 373  
chapter or in any rule of the liquor control commission. 374

**Section 2.** That existing section 4303.29 of the Revised Code 375  
is hereby repealed. 376