

As Introduced

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

S. B. No. 252

Senator Cafaro

Cosponsors: Senators Wagoner, Schiavoni, Seitz

—

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
49
50

(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
52
53
54
55
56

(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
58
59
60

(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
62
63

(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
65
66
67

(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
69
70
71
72
73
74
75
76
77
78

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 ninety days before a general election, the board shall 357
prepare ballots and hold an election at such general election upon 358
the question of allowing spirituous liquor to be sold by the glass 359
in such precinct. The ballots shall be approved in form by the 360
secretary of state. The results of the election shall be certified 361
by the board to the secretary of state, who shall certify the 362
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