

AN ACT

To amend sections 4301.10, 4301.17, 4301.62, 4303.02, 4303.041, 4303.181, 4303.184, 4303.25, and 4303.29 and to enact sections 4301.171 and 4303.209 of the Revised Code to revise certain provisions of the Liquor Law.

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

SECTION 1. That sections 4301.10, 4301.17, 4301.62, 4303.02, 4303.041, 4303.181, 4303.184, 4303.25, and 4303.29 be amended and sections 4301.171 and 4303.209 of the Revised Code be enacted to read as follows:

Sec. 4301.10. (A) The division of liquor control shall do all of the following:

(1) Control the traffic in beer and intoxicating liquor in this state, including the manufacture, importation, and sale of beer and intoxicating liquor;

(2) Grant or refuse permits for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor and the sale of alcohol, as authorized or required by this chapter and Chapter 4303. of the Revised Code. A certificate, signed by the superintendent of liquor control and to which is affixed the official seal of the division, stating that it appears from the records of the division that no permit has been issued to the person specified in the certificate, or that a permit, if issued, has been revoked, canceled, or suspended, shall be received as prima-facie evidence of the facts recited in the certificate in any court or before any officer of this state.

(3) Put into operation, manage, and control a system of state liquor stores for the sale of spirituous liquor at retail and to holders of permits authorizing the sale of spirituous liquor; however, the division shall not establish any drive-in state liquor stores; and by means of those types of stores, and any manufacturing plants, distributing and bottling plants, warehouses, and other facilities that it considers expedient, establish and maintain a state monopoly of the distribution of spirituous liquor and its sale in packages or containers; and for that purpose, manufacture, buy, import, possess, and sell spirituous liquors as provided in this chapter and Chapter

4303. of the Revised Code, and in the rules promulgated by the superintendent of liquor control pursuant to those chapters; lease or in any manner acquire the use of any land or building required for any of those purposes; purchase any equipment that is required; and borrow money to carry on its business, and issue, sign, endorse, and accept notes, checks, and bills of exchange; but all obligations of the division created under authority of this division shall be a charge only upon the moneys received by the division from the sale of spirituous liquor and its other business transactions in connection with the sale of spirituous liquor, and shall not be general obligations of the state;

(4) Enforce the administrative provisions of this chapter and Chapter 4303. of the Revised Code, and the rules and orders of the liquor control commission and the superintendent relating to the manufacture, importation, transportation, distribution, and sale of beer or intoxicating liquor. The attorney general, any prosecuting attorney, and any prosecuting officer of a municipal corporation or a municipal court shall, at the request of the division of liquor control or the department of public safety, prosecute any person charged with the violation of any provision in those chapters or of any section of the Revised Code relating to the manufacture, importation, transportation, distribution, and sale of beer or intoxicating liquor.

(5) Determine the locations of all state liquor stores and manufacturing, distributing, and bottling plants required in connection with those stores, subject to this chapter and Chapter 4303. of the Revised Code;

(6) Conduct inspections of liquor permit premises to determine compliance with the administrative provisions of this chapter and Chapter 4303. of the Revised Code and the rules adopted under those provisions by the liquor control commission.

Except as otherwise provided in division (A)(6) of this section, those inspections may be conducted only during those hours in which the permit holder is open for business and only by authorized agents or employees of the division or by any peace officer, as defined in section 2935.01 of the Revised Code. Inspections may be conducted at other hours only to determine compliance with laws or commission rules that regulate the hours of sale of beer or intoxicating liquor and only if the investigator has reasonable cause to believe that those laws or rules are being violated. Any inspection conducted pursuant to division (A)(6) of this section is subject to all of the following requirements:

(a) The only property that may be confiscated is contraband, as defined in section 2901.01 of the Revised Code, or property that is otherwise necessary for evidentiary purposes.

(b) A complete inventory of all property confiscated from the premises shall be given to the permit holder or the permit holder's agent or employee by the confiscating agent or officer at the conclusion of the inspection. At that time, the inventory shall be signed by the confiscating agent or officer, and the agent or officer shall give the permit holder or the permit holder's agent or employee the opportunity to sign the inventory.

(c) Inspections conducted pursuant to division (A)(6) of this section shall be conducted in a reasonable manner. A finding by any court of competent jurisdiction that an inspection was not conducted in a reasonable manner in accordance with this section or any rules adopted by the commission may be considered grounds for suppression of evidence. A finding by the commission that an inspection was not conducted in a reasonable manner in accordance with this section or any rules adopted by it may be considered grounds for dismissal of the commission case.

If any court of competent jurisdiction finds that property confiscated as the result of an administrative inspection is not necessary for evidentiary purposes and is not contraband, as defined in section 2901.01 of the Revised Code, the court shall order the immediate return of the confiscated property, provided that property is not otherwise subject to forfeiture, to the permit holder. However, the return of this property is not grounds for dismissal of the case. The commission likewise may order the return of confiscated property if no criminal prosecution is pending or anticipated.

(7) Delegate to any of its agents or employees any power of investigation that the division possesses with respect to the enforcement of any of the administrative laws relating to beer or intoxicating liquor, provided that this division does not authorize the division to designate any agent or employee to serve as an enforcement agent. The employment and designation of enforcement agents shall be within the exclusive authority of the director of public safety pursuant to sections 5502.13 to 5502.19 of the Revised Code.

(8) Collect the following fees:

(a) A biennial fifty-dollar registration fee for each agent, solicitor, trade marketing professional, or salesperson, registered pursuant to section 4303.25 of the Revised Code, of a beer or intoxicating liquor manufacturer, supplier, broker, trade marketing company, or wholesale distributor doing business in this state;

(b) A fifty-dollar product registration fee for each new beer or intoxicating liquor product sold in this state. The product registration fee also applies to products sold in this state by B-2a and S permit holders. The product registration fee shall be accompanied by a copy of the federal label

and product approval for the new product.

(c) An annual three-hundred-dollar supplier registration fee from each manufacturer or supplier that produces and ships into this state, or ships into this state, intoxicating liquor or beer, in addition to an initial application fee of one hundred dollars. A manufacturer that produces and ships beer or wine into this state and that holds only an S permit is exempt from the supplier registration fee. A manufacturer that produces and ships wine into this state and that holds a B-2a permit shall pay an annual seventy-six-dollar supplier registration fee. A manufacturer that produces and ships wine into this state and that does not hold either an S or a B-2a permit, but that produces less than two hundred fifty thousand gallons of wine per year and that is entitled to a tax credit under 27 C.F.R. 24.278 shall pay an annual seventy-six-dollar supplier registration fee. A B-2a or S permit holder that does not sell its wine to wholesale distributors of wine in this state and an S permit holder that does not sell its beer to wholesale distributors of beer in this state shall not be required to submit to the division territory designation forms.

Each supplier, agent, solicitor, trade marketing professional, or salesperson registration issued under this division shall authorize the person named to carry on the activity specified in the registration. Each agent, solicitor, trade marketing professional, or salesperson registration is valid for two years or for the unexpired portion of a two-year registration period. Each supplier registration is valid for one year or for the unexpired portion of a one-year registration period. Registrations shall end on their respective uniform expiration date, which shall be designated by the division, and are subject to suspension, revocation, cancellation, or fine as authorized by this chapter and Chapter 4303. of the Revised Code.

As used in this division, "trade marketing company" and "trade marketing professional" have the same meanings as in section 4301.171 of the Revised Code.

(9) Establish a system of electronic data interchange within the division and regulate the electronic transfer of information and funds among persons and governmental entities engaged in the manufacture, distribution, and retail sale of alcoholic beverages;

(10) Notify all holders of retail permits of the forms of permissible identification for purposes of division (A) of section 4301.639 of the Revised Code;

(11) Exercise all other powers expressly or by necessary implication conferred upon the division by this chapter and Chapter 4303. of the Revised Code, and all powers necessary for the exercise or discharge of any power, duty, or function expressly conferred or imposed upon the division

by those chapters.

(B) The division may do all of the following:

(1) Sue, but may be sued only in connection with the execution of leases of real estate and the purchases and contracts necessary for the operation of the state liquor stores that are made under this chapter and Chapter 4303. of the Revised Code;

(2) Enter into leases and contracts of all descriptions and acquire and transfer title to personal property with regard to the sale, distribution, and storage of spirituous liquor within the state;

(3) Terminate at will any lease entered into pursuant to division (B)(2) of this section upon first giving ninety days' notice in writing to the lessor of its intention to do so;

(4) Fix the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor shall be sold by the division. Those retail prices shall be the same at all state liquor stores, except to the extent that a price differential is required to collect a county sales tax levied pursuant to section 5739.021 of the Revised Code and for which tax the tax commissioner has authorized prepayment pursuant to section 5739.05 of the Revised Code. In fixing selling prices, the division shall compute an anticipated gross profit at least sufficient to provide in each calendar year all costs and expenses of the division and also an adequate working capital reserve for the division. The gross profit shall not exceed forty per cent of the retail selling price based on costs of the division, and in addition the sum required by section 4301.12 of the Revised Code to be paid into the state treasury. An amount equal to one and one-half per cent of that gross profit shall be paid into the statewide treatment and prevention fund created by section 4301.30 of the Revised Code and be appropriated by the general assembly from the fund to the department of alcohol and drug addiction services as provided in section 4301.30 of the Revised Code.

On spirituous liquor manufactured in this state from the juice of grapes or fruits grown in this state, the division shall compute an anticipated gross profit of not to exceed ten per cent.

The wholesale prices fixed under this division shall be at a discount of not less than six per cent of the retail selling prices as determined by the division in accordance with this section.

(C) The division may approve the expansion or diminution of a premises to which a liquor permit has been issued and may adopt standards governing such an expansion or diminution.

Sec. 4301.17. (A)(1) Subject to local option as provided in sections 4301.32 to 4301.40 of the Revised Code, five state liquor stores or agencies

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

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

(3) Except as otherwise provided in this section and section 4301.171 of the Revised Code, 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~~. An agency to which a D-8 permit has been issued may allow the sale of tasting samples of spirituous liquor in accordance with section 4301.171 of the Revised Code. A tasting sample shall not be sold for the purpose of general consumption. As used in this section with respect to beer, wine, and mixed beverages, "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, 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, consenting to any assignment, or consenting to any relocation, the division shall notify the legislative authority of the municipal corporation in which the agency store is to be located, or the board of county commissioners and the board of township trustees of the county and the

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

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

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

(C) All agency contracts entered into by the division pursuant to this

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

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

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

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

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

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

(E) The division shall require every agent to give bond with surety to the satisfaction of the division, in the amount the division fixes, conditioned

for the faithful performance of the agent's duties as prescribed by the division.

Sec. 4301.171. (A) As used in this section:

(1) "Broker" and "solicitor" have the same meanings as in rules adopted by the superintendent of liquor control under section 4303.25 of the Revised Code.

(2) "Tasting sample" means a small amount of spirituous liquor that is provided in a serving of not more than a quarter ounce of spirituous liquor and, if provided, not more than one ounce of nonalcoholic mixer to an authorized purchaser and that allows the purchaser to determine, by tasting only, the quality and character of the beverage.

(3) "Trade marketing company" means a company that solicits the purchase of beer and intoxicating liquor and educates the public about beer and intoxicating liquor.

(4) "Trade marketing professional" means an individual who is an employee of, or is under contract with, a trade marketing company and who has successfully completed a training program described in section 4301.253 of the Revised Code.

(B) Notwithstanding section 4301.24 of the Revised Code, an agency store to which a D-8 permit has been issued may allow a trade marketing professional, broker, or solicitor to offer for sale tasting samples of spirituous liquor when conducted in accordance with this section. A tasting sample shall not be sold for the purpose of general consumption.

(C) Tasting samples of spirituous liquor may be offered for sale at an agency store by a trade marketing professional, broker, or solicitor if all of the following apply:

(1) The tasting samples are sold only in the area of the agency store in which spirituous liquor is sold and that area is open to the public.

(2) The tasting samples are sold only by the trade marketing professional, broker, or solicitor.

(3) The spirituous liquor is registered under division (A)(8) of section 4301.10 of the Revised Code.

(4) Not less than five business days prior to the sale, the trade marketing professional, broker, or solicitor has provided written notice to the division of liquor control of the date and time of the sampling, and of the type and brand of spirituous liquor to be sampled at the agency store.

(D) A sale of tasting samples of spirituous liquor is subject to rules adopted by the superintendent of liquor control or the liquor control commission.

(E) An offering for sale of tasting samples of spirituous liquor shall be

limited to a period of not more than two hours.

(F) For purposes of offering for sale tasting samples of spirituous liquor, an agency store shall purchase the spirituous liquor at the current retail price. An authorized purchaser shall be charged not less than fifty cents for each tasting sample of spirituous liquor. However, the aggregate amount charged for the sale of tasting samples shall be sufficient to cover the wholesale price of the spirituous liquor being tasted as that price is fixed under division (B)(4) of section 4301.10 of the Revised Code. Of the amount collected from the sale of tasting samples of spirituous liquor, the trade marketing professional, broker, or solicitor shall reimburse the agency store for the amount of the retail price of the spirituous liquor. When the sale of tasting samples of spirituous liquor at an agency store is completed, any bottles of spirituous liquor used to provide tasting samples that are not empty shall be marked as "sample" and removed from the agency store by the trade marketing professional, broker, or solicitor, as applicable.

(G) No trade marketing professional, broker, or solicitor shall do any of the following:

(1) Advertise the offering for sale of tasting samples of spirituous liquor other than at the agency store where the tasting samples will be offered;

(2) Solicit orders or make sales of tasting samples of spirituous liquor for quantities greater than those specified in division (G)(3) of this section;

(3) Allow any authorized purchaser to consume more than four tasting samples of spirituous liquor per day.

(H) The purchase of a tasting sample of spirituous liquor shall not be contingent upon the purchase of any other product from an agency store.

(I) No employee of an agency store that allows the sale of tasting samples of spirituous liquor shall purchase or consume a tasting sample while on duty.

(J) If an employee of an agency store that allows the sale of tasting samples of spirituous liquor consumes a tasting sample of spirituous liquor, the employee shall not perform the employee's duties and responsibilities at the agency store on the day the tasting sample is consumed.

(K) No person under twenty-one years of age shall consume a tasting sample of spirituous liquor.

(L) Not more than five events at which the sale of tasting samples of spirituous liquor are offered shall occur at an agency store in a calendar month.

(M) No trade marketing professional, trade marketing company, broker, solicitor, owner or operator of an agency store, or an agent or employee of the owner or operator shall violate this section or any rules adopted by the

superintendent or the commission for the purposes of this section.

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

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

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

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

(1) ~~In a state liquor~~ Except as provided in division (C)(1)(e) of this section, in an agency store;

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

(3) In any other public place;

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

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

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

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, 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-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 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;

(e) Spirituous liquor to be consumed for purposes of a tasting sample, as defined in section 4301.171 of the Revised Code.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F

permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

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

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

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

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

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in division (C)(3)(b)(i) of this section if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending an orchestral performance and the holder of the F-9 permit grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued.

As used in division (C)(5) of this section, "orchestral performance" has the same meaning as in division (C)(3)(b) of this section.

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

apply:

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

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

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

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

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

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

Sec. 4303.02. Permit A-1 may be issued to a manufacturer to manufacture beer and sell beer products in bottles or containers for home use and to retail and wholesale permit holders under rules ~~promulgated~~ adopted by the division of liquor control. In addition, an A-1 permit holder may sell beer manufactured on the premises at retail, by individual drink in a glass or from a container, for consumption on the premises where sold. The fee for this permit is three thousand nine hundred six dollars for each plant during the year covered by the permit.

Sec. 4303.041. (A) An A-3a permit may be issued to a distiller that manufactures less than ten thousand gallons of spirituous liquor per year. An A-3a permit holder may sell to a personal consumer, in sealed containers for consumption off the premises where manufactured, spirituous liquor that the permit holder manufactures, but sales to the personal consumer may occur only by an in-person transaction at the permit premises. The A-3a permit holder shall not ship, send, or use an H permit holder to deliver spirituous liquor to the personal consumer.

"Distiller" means a person in this state who mashes, ferments, distills, and ages spirituous liquor.

~~Not more than one A-3a permit may be issued per county and only in a~~

~~county with a population exceeding eight hundred thousand.~~

(B)(1) Except as otherwise provided in this section, no A-3a permit shall be issued unless the sale of spirituous liquor by the glass for consumption on the premises or by the package for consumption off the premises is authorized in the election precinct in which the A-3a permit is proposed to be located.

(2) Division (B)(1) of this section does not prohibit the issuance of an A-3a permit to an applicant for such a permit who has filed an application with the division of liquor control before the effective date of this amendment.

(C)(1) An A-3a permit holder may offer for sale tasting samples of spirituous liquor. The A-3a permit holder shall not serve more than four tasting samples of spirituous liquor per person per day. A tasting sample shall not exceed a quarter ounce. Tasting samples shall be only for the purpose of allowing a purchaser to determine, by tasting only, the quality and character of the spirituous liquor. The tasting samples shall be offered for sale in accordance with rules adopted by the division of liquor control.

(2) An A-3a permit holder shall sell not more than one and one-half liters of spirituous liquor per day from the permit premises to the same personal consumer.

An A-3a permit holder may sell spirituous liquor in sealed containers for consumption off the premises where manufactured as an independent contractor under agreement, by virtue of the permit, with the division of liquor control. The price at which the A-3a permit holder shall sell each spirituous liquor product to a personal consumer is to be determined by the division of liquor control. For an A-3a permit holder to purchase and then offer spirituous liquor for retail sale, the spirituous liquor need not first leave the physical possession of the A-3a permit holder to be so registered. The spirituous liquor that the A-3a permit holder buys from the division of liquor control shall be maintained in a separate area of the permit premises for sale to personal consumers. The A-3a permit holder shall sell such spirituous liquor in sealed containers for consumption off the premises where manufactured as an independent contractor by virtue of the permit issued by the division of liquor control, but the permit holder shall not be compensated as provided in division (A)(1) of section 4301.17 of the Revised Code. Each A-3a permit holder shall be subject to audit by the division of liquor control.

(D) The fee for the A-3a permit is ~~three thousand nine hundred six~~ dollars for each plant, but if the production capacity of a plant is less than five hundred wine barrels of fifty gallons each annually, the fee is two dollars per fifty-gallon barrel.

(E) The holder of an A-3a permit may also exercise the same privileges as the holder of an A-3 permit.

Sec. 4303.181. (A) Permit D-5a may be issued either to the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests or is owned by a state institution of higher education as defined in section 3345.011 of the Revised Code or a private college or university, and that qualifies under the other requirements of this section, or to the owner or operator of a restaurant specified under this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to registered guests in their rooms, which may be sold by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code; and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. The premises of the hotel or motel shall include a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is affiliated with the hotel or motel and within or contiguous to the hotel or motel, and that serves food within the hotel or motel, but the principal business of the owner or operator of the hotel or motel shall be the accommodation of transient guests. In addition to the privileges authorized in this division, the holder of a D-5a permit may exercise the same privileges as the holder of a D-5 permit.

The owner or operator of a hotel, motel, or restaurant who qualified for and held a D-5a permit on August 4, 1976, may, if the owner or operator held another permit before holding a D-5a permit, either retain a D-5a permit or apply for the permit formerly held, and the division of liquor control shall issue the permit for which the owner or operator applies and formerly held, notwithstanding any quota.

A D-5a permit shall not be transferred to another location. No quota restriction shall be placed on the number of D-5a permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(B) Permit D-5b may be issued to the owner, operator, tenant, lessee, or occupant of an enclosed shopping center to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold; and to sell the same products in the same manner and amount not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges

authorized in this division, the holder of a D-5b permit may exercise the same privileges as a holder of a D-5 permit.

A D-5b permit shall not be transferred to another location.

One D-5b permit may be issued at an enclosed shopping center containing at least two hundred twenty-five thousand, but less than four hundred thousand, square feet of floor area.

Two D-5b permits may be issued at an enclosed shopping center containing at least four hundred thousand square feet of floor area. No more than one D-5b permit may be issued at an enclosed shopping center for each additional two hundred thousand square feet of floor area or fraction of that floor area, up to a maximum of five D-5b permits for each enclosed shopping center. The number of D-5b permits that may be issued at an enclosed shopping center shall be determined by subtracting the number of D-3 and D-5 permits issued in the enclosed shopping center from the number of D-5b permits that otherwise may be issued at the enclosed shopping center under the formulas provided in this division. Except as provided in this section, no quota shall be placed on the number of D-5b permits that may be issued. Notwithstanding any quota provided in this section, the holder of any D-5b permit first issued in accordance with this section is entitled to its renewal in accordance with section 4303.271 of the Revised Code.

The holder of a D-5b permit issued before April 4, 1984, whose tenancy is terminated for a cause other than nonpayment of rent, may return the D-5b permit to the division of liquor control, and the division shall cancel that permit. Upon cancellation of that permit and upon the permit holder's payment of taxes, contributions, premiums, assessments, and other debts owing or accrued upon the date of cancellation to this state and its political subdivisions and a filing with the division of a certification of that payment, the division shall issue to that person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as that person requests. The division shall issue the D-5 permit, or the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, D-3, or D-5 permits currently issued in the municipal corporation or in the unincorporated area of the township where that person's proposed premises is located equals or exceeds the maximum number of such permits that can be issued in that municipal corporation or in the unincorporated area of that township under the population quota restrictions contained in section 4303.29 of the Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not be transferred to another location. If a D-5b permit is canceled under the provisions of this paragraph, the number of D-5b permits that may be issued at the enclosed shopping center for which the D-5b permit was

issued, under the formula provided in this division, shall be reduced by one if the enclosed shopping center was entitled to more than one D-5b permit under the formula.

The fee for this permit is two thousand three hundred forty-four dollars.

(C) Permit D-5c may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that qualifies under the other requirements of this section to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5c permit may exercise the same privileges as the holder of a D-5 permit.

To qualify for a D-5c permit, the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, shall have operated the restaurant at the proposed premises for not less than twenty-four consecutive months immediately preceding the filing of the application for the permit, have applied for a D-5 permit no later than December 31, 1988, and appear on the division's quota waiting list for not less than six months immediately preceding the filing of the application for the permit. In addition to these requirements, the proposed D-5c permit premises shall be located within a municipal corporation and further within an election precinct that, at the time of the application, has no more than twenty-five per cent of its total land area zoned for residential use.

A D-5c permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued.

Any person who has held a D-5c permit for at least two years may apply for a D-5 permit, and the division of liquor control shall issue the D-5 permit notwithstanding the quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission.

The fee for this permit is one thousand five hundred sixty-three dollars.

(D) Permit D-5d may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located at an airport operated by a board of county commissioners pursuant to section 307.20 of the Revised Code, at an airport operated by a port authority pursuant to Chapter 4582. of the Revised Code, or at an airport operated by a regional airport authority pursuant to Chapter

308. of the Revised Code. The holder of a D-5d permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5d permit may exercise the same privileges as the holder of a D-5 permit.

A D-5d permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(E) Permit D-5e may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, or that is a charitable organization under any chapter of the Revised Code, and that owns or operates a riverboat that meets all of the following:

- (1) Is permanently docked at one location;
- (2) Is designated as an historical riverboat by the Ohio historical society;
- (3) Contains not less than fifteen hundred square feet of floor area;
- (4) Has a seating capacity of fifty or more persons.

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

The fee for this permit is one thousand two hundred nineteen dollars.

(F) Permit D-5f may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following:

- (1) It contains not less than twenty-five hundred square feet of floor area.

(2) It is located on or in, or immediately adjacent to, the shoreline of, a navigable river.

(3) It provides docking space for twenty-five boats.

(4) It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative authority that the issuance of the D-5f permit is not inconsistent with that political subdivision's comprehensive development plan or other economic development goal as officially established by the local legislative authority.

The holder of a D-5f permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5f permit shall not be transferred to another location.

The division of liquor control shall not issue a D-5f permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

A fee for this permit is two thousand three hundred forty-four dollars.

As used in this division, "navigable river" means a river that is also a "navigable water" as defined in the "Federal Power Act," 94 Stat. 770 (1980), 16 U.S.C. 796.

(G) Permit D-5g may be issued to a nonprofit corporation that is either the owner or the operator of a national professional sports museum. The holder of a D-5g permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5g permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5g permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5g permits that may be issued. The fee for this permit is one thousand eight hundred seventy-five dollars.

(H)(1) Permit D-5h may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that owns or operates any of the following:

(a) A fine arts museum, provided that the nonprofit organization has no less than one thousand five hundred bona fide members possessing full membership privileges;

(b) A community arts center. As used in division (H)(1)(b) of this

section, "community arts center" means a facility that provides arts programming to the community in more than one arts discipline, including, but not limited to, exhibits of works of art and performances by both professional and amateur artists.

(c) A community theater, provided that the nonprofit organization is a member of the Ohio arts council and the American community theatre association and has been in existence for not less than ten years. As used in division (H)(1)(c) of this section, "community theater" means a facility that contains at least one hundred fifty seats and has a primary function of presenting live theatrical performances and providing recreational opportunities to the community.

(2) The holder of a D-5h permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5h permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued.

(3) The fee for a D-5h permit is one thousand eight hundred seventy-five dollars.

(I) Permit D-5i may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following requirements:

(1) It is located in a municipal corporation or a township with a population of one hundred thousand or less.

(2) It has inside seating capacity for at least one hundred forty persons.

(3) It has at least four thousand square feet of floor area.

(4) It offers full-course meals, appetizers, and sandwiches.

(5) Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five per cent of its total gross receipts.

(6) It has at least one of the following characteristics:

(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.

(b) It is located on property that is owned or leased by the state or a state agency, and its owner or operator has authorization from the state or the state agency that owns or leases the property to obtain a D-5i permit.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in

the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5i permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. In addition to the privileges authorized in this division, the holder of a D-5i permit may exercise the same privileges as the holder of a D-5 permit.

A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit unless the retail food establishment or food service operation for which it is issued continues to meet the requirements described in divisions (I)(1) to (6) of this section. No quota restrictions shall be placed on the number of D-5i permits that may be issued. The fee for the D-5i permit is two thousand three hundred forty-four dollars.

~~(J)(4)~~ Permit D-5j may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5j permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

~~(2)~~ The D-5j permit shall be issued only within a community entertainment district that is designated under section 4301.80 of the Revised Code and that meets one of the following qualifications:

~~(a)(1)~~ It is located in a municipal corporation with a population of at least one hundred thousand.

~~(b)(2)~~ It is located in a municipal corporation with a population of at least twenty thousand, and either of the following applies:

~~(i)(a)~~ It contains an amusement park the rides of which have been issued a permit by the department of agriculture under Chapter 1711. of the Revised Code.

~~(ii)(b)~~ Not less than fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

~~(e)(3)~~ It is located in a township with a population of at least forty thousand.

~~(d)(4)~~ It is located in a township with a population of at least twenty thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area

located in the township.

(5) It is located in a municipal corporation with a population between ten thousand and twenty thousand, and both of the following apply:

(a) The municipal corporation was incorporated as a village prior to calendar year 1840 and currently has a historic downtown business district.

(b) The municipal corporation is located in the same county as another municipal corporation with at least one community entertainment district.

(6) It is located in a municipal corporation with a population of at least ten thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

~~(e)~~(7) It is located in a municipal corporation with a population of at least five thousand, and not less than one hundred million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

~~(3)~~ The location of a D-5j permit may be transferred only within the geographic boundaries of the community entertainment district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

~~(4)~~ Not more than one D-5j permit shall be issued within each community entertainment district for each five acres of land located within the district. Not more than fifteen D-5j permits may be issued within a single community entertainment district. Except as otherwise provided in division (J)(4) of this section, no quota restrictions shall be placed upon the number of D-5j permits that may be issued.

~~(5)~~ The fee for a D-5j permit is two thousand three hundred forty-four dollars.

(K)(1) Permit D-5k may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that is the owner or operator of a botanical garden recognized by the American association of botanical gardens and arboreta, and that has not less than twenty-five hundred bona fide members.

(2) The holder of a D-5k permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, on the premises where sold.

(3) The holder of a D-5k permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m.

(4) A D-5k permit shall not be transferred to another location.

(5) No quota restrictions shall be placed on the number of D-5k permits

that may be issued.

(6) The fee for the D-5k permit is one thousand eight hundred seventy-five dollars.

(L)(1) Permit D-5l may be issued to the owner or the operator of a ~~retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code~~ business establishment to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5l permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(2) The D-5l permit shall be issued only to a premises ~~that has gross annual receipts from the sale of food and meals that constitute not less than seventy five per cent of its total gross annual receipts,~~ that is located within a revitalization district that is designated under section 4301.81 of the Revised Code, that is located in a municipal corporation or township in which the number of D-5 permits issued equals or exceeds the number of those permits that may be issued in that municipal corporation or township under section 4303.29 of the Revised Code, and that is located in a county with a population of one hundred twenty-five thousand or less according to the population estimates certified by the department of development for calendar year 2006.

(3) The location of a D-5l permit may be transferred only within the geographic boundaries of the revitalization district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

(4) Not more than one D-5l permit shall be issued within each revitalization district for each five acres of land located within the district. Not more than ~~five~~ fifteen D-5l permits may be issued within a single revitalization district. Except as otherwise provided in division (L)(4) of this section, no quota restrictions shall be placed upon the number of D-5l permits that may be issued.

(5) No D-5l permit shall be issued to an adult entertainment establishment as defined in section 2907.39 of the Revised Code.

(6) The fee for a D-5l permit is two thousand three hundred forty-four dollars.

(M) Permit D-5m may be issued to either the owner or the operator of a retail food establishment or food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this

chapter and that is located in, or affiliated with, a center for the preservation of wild animals as defined in section 4301.404 of the Revised Code, to sell beer and any intoxicating liquor at retail, only by the glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5m permit may exercise the same privileges as the holder of a D-5 permit.

A D-5m permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5m permits that may be issued. The fee for a permit D-5m is two thousand three hundred forty-four dollars.

(N) Permit D-5n shall be issued to either a casino operator or a casino management company licensed under Chapter 3772. of the Revised Code that operates a casino facility under that chapter, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5n permit may exercise the same privileges as the holder of a D-5 permit. A D-5n permit shall not be transferred to another location. Only one D-5n permit may be issued per casino facility and not more than four D-5n permits shall be issued in this state. The fee for a permit D-5n shall be twenty thousand dollars. The holder of a D-5n permit may conduct casino gaming on the permit premises notwithstanding any provision of the Revised Code or Administrative Code.

(O) Permit D-5o may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located within a casino facility for which a D-5n permit has been issued. The holder of a D-5o permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5o permit may exercise the same privileges as the holder of a D-5 permit. A D-5o permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued. The fee for this

permit is two thousand three hundred forty-four dollars.

Sec. 4303.184. (A) Subject to division (B) of this section, a D-8 permit may be issued to ~~the~~ either of the following:

(1) An agency store:

(2) The holder of a C-1, C-2, or C-2x permit issued to a retail store that has either of the following characteristics:

~~(1)~~(a) The store has at least five thousand five hundred square feet of floor area, and it generates more than sixty per cent of its sales in general merchandise items and food for consumption off the premises where sold.

~~(2)~~(b) Wine constitutes at least sixty per cent of the value of the store's inventory.

(B) A D-8 permit may be issued to the holder of a C-1, C-2, or C-2x permit only if the premises of the permit holder are located in a precinct, or at a particular location in a precinct, in which the sale of beer, wine, or mixed beverages is permitted for consumption off the premises where sold. Sales under a D-8 permit are not affected by whether sales for consumption on the premises where sold are permitted in the precinct or at the particular location where the D-8 premises are located.

~~(C)~~(1) The holder of a D-8 permit described in division (A)(2) of this section may sell tasting samples of beer, wine, and mixed beverages, but not spirituous liquor, at retail, for consumption on the premises where sold in an amount not to exceed two ounces or another amount designated by rule of the liquor control commission. A tasting sample shall not be sold for general consumption. No

(2) The holder of a D-8 permit described in division (A)(1) of this section may allow the sale of tasting samples of spirituous liquor in accordance with section 4301.171 of the Revised Code.

(3) No D-8 permit holder described in division (A)(2) of this section shall allow any authorized purchaser to consume more than four tasting samples of beer, wine, or mixed beverages, or any combination of beer, wine, or mixed beverages, per day.

(D)(1) Notwithstanding sections 4303.11 and 4303.121 of the Revised Code, the holder of a D-8 permit described in division (A)(2) of this section may sell beer that is dispensed from containers that have a capacity equal to or greater than five and one-sixth gallons if all of the following conditions are met:

(a) A product registration fee for the beer has been paid as required in division (A)(8)(b) of section 4301.10 of the Revised Code.

(b) The beer is dispensed only in glass containers whose capacity does not exceed one gallon and not for consumption on the premises where sold.

(c) The containers are sealed, marked, and transported in accordance with division (E) of section 4301.62 of the Revised Code.

(d) The containers have been cleaned immediately before being filled in accordance with rule 4301:1-1-28 of the Administrative Code.

(2) Beer that is sold and dispensed under division (D)(1) of this section is subject to both of the following:

(a) All applicable rules adopted by the liquor control commission, including, but not limited to, rule 4301:1-1-27 and rule 4301:1-1-72 of the Administrative Code;

(b) All applicable federal laws and regulations.

(E) The privileges authorized under for the holder of a D-8 permit described in division (A)(2) of this section may only be exercised in conjunction with and during the hours of operation authorized by a C-1, C-2, C-2x, or D-6 permit.

~~(E)~~(F) A D-8 permit shall not be transferred to another location.

~~(F)~~(G) The fee for the D-8 permit is five hundred dollars.

Sec. 4303.209. (A)(1) The division of liquor control may issue an F-9 permit to a nonprofit corporation that operates a park on property leased from a municipal corporation or a nonprofit corporation that provides or manages entertainment programming pursuant to an agreement with a nonprofit corporation that operates a park on property leased from a municipal corporation to sell beer or intoxicating liquor by the individual drink at specific events conducted within the park property and appurtenant streets, but only if, and only at times at which, the sale of beer and intoxicating liquor on the premises is otherwise permitted by law. Additionally, an F-9 permit may be issued only if the park property is located in a county that has a population of between one million one hundred thousand and one million two hundred thousand on the effective date of this section.

(2) The division may issue separate F-9 permits to a nonprofit corporation that operates a park on property leased from a municipal corporation and a nonprofit corporation that provides or manages entertainment programming pursuant to an agreement with a nonprofit corporation that operates a park on property leased from a municipal corporation to be effective during the same time period. However, the permit privileges may be exercised by only one of the holders of an F-9 permit at specific events. The other holder of an F-9 permit shall certify to the division that it will not exercise its permit privileges during that specific event.

(3) The premises on which an F-9 permit will be used shall be clearly

defined and sufficiently restricted to allow proper supervision of the permit's use by state and local law enforcement officers. Sales under an F-9 permit shall be confined to the same hours permitted to the holder of a D-3 permit.

(4) The fee for an F-9 permit is one thousand seven hundred dollars. An F-9 permit is effective for a period not to exceed nine months as specified in the permit. An F-9 permit is not transferable or renewable. However, the holder of an F-9 permit may apply for a new F-9 permit at any time. The holder of an F-9 permit shall make sales only at those specific events about which the permit holder has notified in advance the division of liquor control, the department of public safety, and the chief, sheriff, or other principal peace officer of the local law enforcement agencies having jurisdiction over the premises.

(B)(1) An application for the issuance of an F-9 permit is subject to the notice and hearing requirements established in division (A) of section 4303.26 of the Revised Code.

(2) The liquor control commission shall adopt rules under Chapter 119. of the Revised Code necessary to administer this section.

(C) No F-9 permit holder shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of an F-9 permit and on any officer, agent, or employee of that permit holder.

(D) Nothing in this section prohibits the division from issuing an F-2 permit for a specific event not conducted by the holder of an F-9 permit provided that the holder of the F-9 permit certifies to the division that it will not exercise its permit privileges during that specific event.

Sec. 4303.25. No person personally or by the person's clerk, agent, or employee shall manufacture, manufacture for sale, offer, keep, or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this state, or transport, import, or cause to be transported or imported any beer, intoxicating liquor, or alcohol in or into this state for delivery, use, or sale, unless the person has fully complied with this chapter and Chapter 4301. of the Revised Code or is the holder of a permit issued by the division of liquor control and in force at the time.

The superintendent of liquor control may adopt rules requiring a person acting as an agent, solicitor, trade marketing professional, or salesperson for a manufacturer, supplier, broker, trade marketing company, or wholesale distributor, who solicits permit holders authorized to deal in beer and intoxicating liquor, to be registered with the division and may cite the registrant to the liquor control commission for a violation of this chapter, Chapter 4301. of the Revised Code, or the rules adopted by the commission

or superintendent.

A trade marketing professional may be registered for more than one trade marketing company.

No manufacturer, supplier, wholesale distributor, broker, or retailer of beer or intoxicating liquor, or other person shall employ, retain, or otherwise utilize any person in this state to act as an employee, agent, solicitor, or salesperson, or act in any other representative capacity to sell, solicit, take orders, or receive offers to purchase or expressions of interest to purchase beer or intoxicating liquor from any person, at any location other than a liquor permit premises, except as specifically authorized by Chapter 4301. or 4303. of the Revised Code or rules adopted thereunder. No function, event, or party shall take place at any location other than a liquor permit premises where any person acts in any manner to sell, solicit, take orders, or receive offers to purchase or expressions of intent to purchase beer or intoxicating liquor to or from any person, except as specifically authorized by Chapter 4301. or 4303. of the Revised Code or rules adopted thereunder.

As used in this section, "trade marketing company" and "trade marketing professional" have the same meanings as in section 4301.171 of the Revised Code.

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. No permit, other than an H permit, shall be issued to an individual who is not a citizen of the United States. No permit, other than an E or H permit, shall be issued to any corporation organized under the laws of any country, territory, or state other than this state until it has furnished the division of liquor control with evidence that it has complied with the laws of this state relating to the transaction of business in this state.

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

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

(2)(a) Subject to division (B)(2)(b) of this section, upon application by properly qualified persons, one C-1 and C-2 permit shall be issued for each one thousand population or part of that population, and one D-1 and D-2

permit shall be issued for each two thousand population or part of that population, in each municipal corporation and in the unincorporated area of each township.

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

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

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

A permit transferred under division (B)(2)(b) of this section may be subsequently transferred to a different owner at the same location, or to the same owner or a different owner at a different location in the same

municipal corporation or in the unincorporated area of the same township, as long as the same or new location meets the economic development project criteria set forth in this section.

(ii) Factors that shall be used to determine the designation of an economic development project include, but are not limited to, architectural certification of the plans and the cost of the project, the number of jobs that will be created by the project, projected earnings of the project, projected tax revenues for the political subdivisions in which the project will be located, and the amount of financial investment in the project. The superintendent of liquor control shall determine whether the existing or proposed business that is seeking a permit described in division (B)(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 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 meaning as in section 105.41 of the Revised Code; and "Ohio judicial center" means the site of the Ohio supreme court and its grounds.

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

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

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

(C)(1) No D-3, D-4, D-5, or D-5a permit shall be issued in any election precinct in any municipal corporation or in any election precinct in the

unincorporated area of any township, in which at the November, 1933, election a majority of the electors voting thereon in the municipal corporation or in the unincorporated area of the township voted against the repeal of Section 9 of Article XV, Ohio Constitution, unless the sale of spirituous liquor by the glass is authorized by a majority vote of the electors voting on the question in the precinct at an election held pursuant to this section or by a majority vote of the electors of the precinct voting on question (C) at a special local option election held in the precinct pursuant to section 4301.35 of the Revised Code. Upon the request of an elector, the board of elections of the county that encompasses the precinct shall furnish the elector with a copy of the instructions prepared by the secretary of state under division (P) of section 3501.05 of the Revised Code and, within fifteen days after the request, a certificate of the number of signatures required for a valid petition under this section.

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

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

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

SECTION 2. That existing sections 4301.10, 4301.17, 4301.62, 4303.02, 4303.041, 4303.181, 4303.184, 4303.25, and 4303.29 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 243

129th G.A.

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

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____