

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 298**

**Senator Cafaro**

**Cosponsors: Senators Brown, Seitz, Kearney**

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**A B I L L**

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

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

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

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

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

(a) Hotels; 17

(b) Restaurants; 18

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b)(i) Division (B)(2)(a) of this section does not prohibit 179  
the transfer of location or the transfer of ownership and location 180  
of a C-1, C-2, D-1, D-2, D-3, or D-5 permit from a municipal 181  
corporation or the unincorporated area of a township to an 182  
economic development project located in another municipal 183  
corporation or the unincorporated area of another township in 184  
which no additional permits of that class may be issued to the 185  
applicant under division (B)(2)(a) of this section. However, the 186  
transfer may occur only if the applicant notifies the municipal 187  
corporation or township to which the location of the permit will 188  
be transferred regarding the transfer and the municipal 189  
corporation or township acknowledges in writing to the division of 190  
liquor control that the transfer will be to an economic 191  
development project. The municipal corporation or township shall 192  
submit the acknowledgment at the time the application for the 193  
transfer is filed with the division. 194

The acknowledgment by the municipal corporation or township 195  
does not prohibit it from requesting a hearing under section 196  
4303.26 of the Revised Code. The applicant is eligible to apply 197  
for and receive the transfer of location of the permit under 198  
division (B)(2)(b) of this section if permits of that class that 199  
may be issued under division (B)(2)(a) of this section in the 200  
applicable municipal corporation or unincorporated area of the 201  
township have already been issued or if the number of applications 202  
filed for permits of that class in that municipal corporation or 203  
the unincorporated area of that township exceed the number of 204  
permits of that class that may be issued there under division 205

(B)(2)(a) of this section. 206

A permit transferred under division (B)(2)(b) of this section 207  
may be subsequently transferred to a different owner at the same 208  
location, or to the same owner or a different owner at a different 209  
location in the same municipal corporation or in the 210  
unincorporated area of the same township, as long as the same or 211  
new location meets the economic development project criteria set 212  
forth in this section. 213

(ii) Factors that shall be used to determine the designation 214  
of an economic development project include, but are not limited 215  
to, architectural certification of the plans and the cost of the 216  
project, the number of jobs that will be created by the project, 217  
projected earnings of the project, projected tax revenues for the 218  
political subdivisions in which the project will be located, and 219  
the amount of financial investment in the project. The 220  
superintendent of liquor control shall determine whether the 221  
existing or proposed business that is seeking a permit described 222  
in division (B)(2)(b) of this section qualifies as an economic 223  
development project and, if the superintendent determines that it 224  
so qualifies, shall designate the business as an economic 225  
development project. 226

(3) Nothing in this section shall be construed to restrict 227  
the issuance of a permit to a municipal corporation for use at a 228  
municipally owned airport at which commercial airline companies 229  
operate regularly scheduled flights on which space is available to 230  
the public. A municipal corporation applying for a permit for such 231  
a municipally owned airport is exempt, in regard to that 232  
application, from the population restrictions contained in this 233  
section and from population quota restrictions contained in any 234  
rule of the liquor control commission. A municipal corporation 235  
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a 236  
municipally owned airport is subject to section 4303.31 of the 237



Revised Code. 238

(4) Nothing in this section shall be construed to prohibit 239  
the issuance of a D permit to the board of trustees of a soldiers' 240  
memorial for a premises located at a soldiers' memorial 241  
established pursuant to Chapter 345. of the Revised Code. An 242  
application for a D permit by the board for those premises is 243  
exempt from the population restrictions contained in this section 244  
and from the population quota restrictions contained in any rule 245  
of the liquor control commission. The location of a D permit 246  
issued to the board for those premises shall not be transferred. A 247  
board of trustees of a soldiers' memorial applying for a D-1, D-2, 248  
D-3, D-4, or D-5 permit for the soldiers' memorial is subject to 249  
section 4303.31 of the Revised Code. 250

(5) Nothing in this section shall be construed to restrict 251  
the issuance of a permit for a premises located at a golf course 252  
owned by a municipal corporation, township, or county, owned by a 253  
park district created under Chapter 1545. of the Revised Code, or 254  
owned by the state. The location of such a permit issued on or 255  
after September 26, 1984, for a premises located at such a golf 256  
course shall not be transferred. Any application for such a permit 257  
is exempt from the population quota restrictions contained in this 258  
section and from the population quota restrictions contained in 259  
any rule of the liquor control commission. A municipal 260  
corporation, township, county, park district, or state agency 261  
applying for a D-1, D-2, D-3, D-4, or D-5 permit for such a golf 262  
course is subject to section 4303.31 of the Revised Code. 263

(6) As used in division (B)(6) of this section, "fair" has 264  
the same meaning as in section 991.01 of the Revised Code; "state 265  
fairgrounds" means the property that is held by the state for the 266  
purpose of conducting fairs, expositions, and exhibits and that is 267  
maintained and managed by the Ohio expositions commission under 268  
section 991.03 of the Revised Code; "capitol square" has the same 269

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.

(8) As used in division (B)(8) of this section, "local entertainment district" has the same meaning as in section 4301.82 of the Revised Code. 302  
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Nothing in this section shall be construed to prohibit the issuance of a D-1, D-2, or D-5 permit for a premises located in a local entertainment district, provided that all of the following apply: 305  
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(a) The applicant for the permit is the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code. 309  
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(b) The applicant for the permit has not been issued a D-1, D-2, or D-5 permit in the six months prior to filing the application for a D-1, D-2, or D-5 permit for a premises located in a local entertainment district. 312  
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(c) The premises for which a permit is proposed to be issued has gross annual receipts from the sale of food and meals for consumption on the premises that constitute not less than seventy-five per cent of its total gross annual receipts. 316  
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An application for a D-1, D-2, or D-5 permit for a premises located in a local entertainment district is exempt from the population restrictions established in this section, from the population quota restrictions established in any rule of the liquor control commission, and from section 4303.31 of the Revised Code. Such a D-1, D-2, or D-5 permit shall not be transferred out of the local entertainment district. Not more than one D-1, D-2, or D-5 permit shall be issued within a local entertainment district for each five acres of land located within the district. Not more than ten D-1, D-2, or D-5 permits, or any combination of those permits, may be issued within a single local entertainment district. 320  
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(C)(1) No D-3, D-4, D-5, or D-5a permit shall be issued in 332

any election precinct in any municipal corporation or in any 333  
election precinct in the unincorporated area of any township, in 334  
which at the November, 1933, election a majority of the electors 335  
voting thereon in the municipal corporation or in the 336  
unincorporated area of the township voted against the repeal of 337  
Section 9 of Article XV, Ohio Constitution, unless the sale of 338  
spirituous liquor by the glass is authorized by a majority vote of 339  
the electors voting on the question in the precinct at an election 340  
held pursuant to this section or by a majority vote of the 341  
electors of the precinct voting on question (C) at a special local 342  
option election held in the precinct pursuant to section 4301.35 343  
of the Revised Code. Upon the request of an elector, the board of 344  
elections of the county that encompasses the precinct shall 345  
furnish the elector with a copy of the instructions prepared by 346  
the secretary of state under division (P) of section 3501.05 of 347  
the Revised Code and, within fifteen days after the request, a 348  
certificate of the number of signatures required for a valid 349  
petition under this section. 350

Upon the petition of thirty-five per cent of the total number 351  
of voters voting in any such precinct for the office of governor 352  
at the preceding general election, filed with the board of 353  
elections of the county in which such precinct is located not 354  
later than ninety days before a general election, the board shall 355  
prepare ballots and hold an election at such general election upon 356  
the question of allowing spirituous liquor to be sold by the glass 357  
in such precinct. The ballots shall be approved in form by the 358  
secretary of state. The results of the election shall be certified 359  
by the board to the secretary of state, who shall certify the 360  
results to the division. 361

(2) No holder of a class D-3 permit issued for a boat or 362  
vessel shall sell spirituous liquor in any precinct, in which the 363  
election provided for in this section may be held, unless the sale 364

of spirituous liquor by the drink has been authorized by vote of 365  
the electors as provided in this section or in section 4301.35 of 366  
the Revised Code. 367

(D) Any holder of a C or D permit whose permit premises were 368  
purchased in 1986 or 1987 by the state or any state agency for 369  
highway purposes shall be issued the same permit at another 370  
location notwithstanding any quota restrictions contained in this 371  
chapter or in any rule of the liquor control commission. 372

**Section 2.** That existing section 4303.29 of the Revised Code 373  
is hereby repealed. 374