

As Passed by the Senate

**129th General Assembly
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Sub. S. B. No. 298

Senator Cafaro

**Cosponsors: Senators Brown, Seitz, Kearney, Beagle, Hughes, Hite, Turner,
Bacon, Balderson, Burke, Gentile, Lehner, Oelslager, Patton, Sawyer,
Schaffer, Schiavoni, Smith, Tavares, Wagoner**

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A B I L L

To amend section 4303.181 of the Revised Code to 1
alter the conditions under which a D-51 liquor 2
permit may be issued. 3

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

Section 1. That section 4303.181 of the Revised Code be 4
amended to read as follows: 5

Sec. 4303.181. (A) Permit D-5a may be issued either to the 6
owner or operator of a hotel or motel that is required to be 7
licensed under section 3731.03 of the Revised Code, that contains 8
at least fifty rooms for registered transient guests or is owned 9
by a state institution of higher education as defined in section 10
3345.011 of the Revised Code or a private college or university, 11
and that qualifies under the other requirements of this section, 12
or to the owner or operator of a restaurant specified under this 13
section, to sell beer and any intoxicating liquor at retail, only 14
by the individual drink in glass and from the container, for 15
consumption on the premises where sold, and to registered guests 16
in their rooms, which may be sold by means of a controlled access 17

alcohol and beverage cabinet in accordance with division (B) of 18
section 4301.21 of the Revised Code; and to sell the same products 19
in the same manner and amounts not for consumption on the premises 20
as may be sold by holders of D-1 and D-2 permits. The premises of 21
the hotel or motel shall include a retail food establishment or a 22
food service operation licensed pursuant to Chapter 3717. of the 23
Revised Code that operates as a restaurant for purposes of this 24
chapter and that is affiliated with the hotel or motel and within 25
or contiguous to the hotel or motel, and that serves food within 26
the hotel or motel, but the principal business of the owner or 27
operator of the hotel or motel shall be the accommodation of 28
transient guests. In addition to the privileges authorized in this 29
division, the holder of a D-5a permit may exercise the same 30
privileges as the holder of a D-5 permit. 31

The owner or operator of a hotel, motel, or restaurant who 32
qualified for and held a D-5a permit on August 4, 1976, may, if 33
the owner or operator held another permit before holding a D-5a 34
permit, either retain a D-5a permit or apply for the permit 35
formerly held, and the division of liquor control shall issue the 36
permit for which the owner or operator applies and formerly held, 37
notwithstanding any quota. 38

A D-5a permit shall not be transferred to another location. 39
No quota restriction shall be placed on the number of D-5a permits 40
that may be issued. 41

The fee for this permit is two thousand three hundred 42
forty-four dollars. 43

(B) Permit D-5b may be issued to the owner, operator, tenant, 44
lessee, or occupant of an enclosed shopping center to sell beer 45
and intoxicating liquor at retail, only by the individual drink in 46
glass and from the container, for consumption on the premises 47
where sold; and to sell the same products in the same manner and 48
amount not for consumption on the premises as may be sold by 49

holders of D-1 and D-2 permits. In addition to the privileges 50
authorized in this division, the holder of a D-5b permit may 51
exercise the same privileges as a holder of a D-5 permit. 52

A D-5b permit shall not be transferred to another location. 53

One D-5b permit may be issued at an enclosed shopping center 54
containing at least two hundred twenty-five thousand, but less 55
than four hundred thousand, square feet of floor area. 56

Two D-5b permits may be issued at an enclosed shopping center 57
containing at least four hundred thousand square feet of floor 58
area. No more than one D-5b permit may be issued at an enclosed 59
shopping center for each additional two hundred thousand square 60
feet of floor area or fraction of that floor area, up to a maximum 61
of five D-5b permits for each enclosed shopping center. The number 62
of D-5b permits that may be issued at an enclosed shopping center 63
shall be determined by subtracting the number of D-3 and D-5 64
permits issued in the enclosed shopping center from the number of 65
D-5b permits that otherwise may be issued at the enclosed shopping 66
center under the formulas provided in this division. Except as 67
provided in this section, no quota shall be placed on the number 68
of D-5b permits that may be issued. Notwithstanding any quota 69
provided in this section, the holder of any D-5b permit first 70
issued in accordance with this section is entitled to its renewal 71
in accordance with section 4303.271 of the Revised Code. 72

The holder of a D-5b permit issued before April 4, 1984, 73
whose tenancy is terminated for a cause other than nonpayment of 74
rent, may return the D-5b permit to the division of liquor 75
control, and the division shall cancel that permit. Upon 76
cancellation of that permit and upon the permit holder's payment 77
of taxes, contributions, premiums, assessments, and other debts 78
owing or accrued upon the date of cancellation to this state and 79
its political subdivisions and a filing with the division of a 80
certification of that payment, the division shall issue to that 81

person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 82
that person requests. The division shall issue the D-5 permit, or 83
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 84
D-3, or D-5 permits currently issued in the municipal corporation 85
or in the unincorporated area of the township where that person's 86
proposed premises is located equals or exceeds the maximum number 87
of such permits that can be issued in that municipal corporation 88
or in the unincorporated area of that township under the 89
population quota restrictions contained in section 4303.29 of the 90
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 91
be transferred to another location. If a D-5b permit is canceled 92
under the provisions of this paragraph, the number of D-5b permits 93
that may be issued at the enclosed shopping center for which the 94
D-5b permit was issued, under the formula provided in this 95
division, shall be reduced by one if the enclosed shopping center 96
was entitled to more than one D-5b permit under the formula. 97

The fee for this permit is two thousand three hundred 98
forty-four dollars. 99

(C) Permit D-5c may be issued to the owner or operator of a 100
retail food establishment or a food service operation licensed 101
pursuant to Chapter 3717. of the Revised Code that operates as a 102
restaurant for purposes of this chapter and that qualifies under 103
the other requirements of this section to sell beer and any 104
intoxicating liquor at retail, only by the individual drink in 105
glass and from the container, for consumption on the premises 106
where sold, and to sell the same products in the same manner and 107
amounts not for consumption on the premises as may be sold by 108
holders of D-1 and D-2 permits. In addition to the privileges 109
authorized in this division, the holder of a D-5c permit may 110
exercise the same privileges as the holder of a D-5 permit. 111

To qualify for a D-5c permit, the owner or operator of a 112
retail food establishment or a food service operation licensed 113

pursuant to Chapter 3717. of the Revised Code that operates as a 114
restaurant for purposes of this chapter, shall have operated the 115
restaurant at the proposed premises for not less than twenty-four 116
consecutive months immediately preceding the filing of the 117
application for the permit, have applied for a D-5 permit no later 118
than December 31, 1988, and appear on the division's quota waiting 119
list for not less than six months immediately preceding the filing 120
of the application for the permit. In addition to these 121
requirements, the proposed D-5c permit premises shall be located 122
within a municipal corporation and further within an election 123
precinct that, at the time of the application, has no more than 124
twenty-five per cent of its total land area zoned for residential 125
use. 126

A D-5c permit shall not be transferred to another location. 127
No quota restriction shall be placed on the number of such permits 128
that may be issued. 129

Any person who has held a D-5c permit for at least two years 130
may apply for a D-5 permit, and the division of liquor control 131
shall issue the D-5 permit notwithstanding the quota restrictions 132
contained in section 4303.29 of the Revised Code or in any rule of 133
the liquor control commission. 134

The fee for this permit is one thousand five hundred 135
sixty-three dollars. 136

(D) Permit D-5d may be issued to the owner or operator of a 137
retail food establishment or a food service operation licensed 138
pursuant to Chapter 3717. of the Revised Code that operates as a 139
restaurant for purposes of this chapter and that is located at an 140
airport operated by a board of county commissioners pursuant to 141
section 307.20 of the Revised Code, at an airport operated by a 142
port authority pursuant to Chapter 4582. of the Revised Code, or 143
at an airport operated by a regional airport authority pursuant to 144
Chapter 308. of the Revised Code. The holder of a D-5d permit may 145

sell beer and any intoxicating liquor at retail, only by the 146
individual drink in glass and from the container, for consumption 147
on the premises where sold, and may sell the same products in the 148
same manner and amounts not for consumption on the premises where 149
sold as may be sold by the holders of D-1 and D-2 permits. In 150
addition to the privileges authorized in this division, the holder 151
of a D-5d permit may exercise the same privileges as the holder of 152
a D-5 permit. 153

A D-5d permit shall not be transferred to another location. 154
No quota restrictions shall be placed on the number of such 155
permits that may be issued. 156

The fee for this permit is two thousand three hundred 157
forty-four dollars. 158

(E) Permit D-5e may be issued to any nonprofit organization 159
that is exempt from federal income taxation under the "Internal 160
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 161
amended, or that is a charitable organization under any chapter of 162
the Revised Code, and that owns or operates a riverboat that meets 163
all of the following: 164

(1) Is permanently docked at one location; 165

(2) Is designated as an historical riverboat by the Ohio 166
historical society; 167

(3) Contains not less than fifteen hundred square feet of 168
floor area; 169

(4) Has a seating capacity of fifty or more persons. 170

The holder of a D-5e permit may sell beer and intoxicating 171
liquor at retail, only by the individual drink in glass and from 172
the container, for consumption on the premises where sold. 173

A D-5e permit shall not be transferred to another location. 174
No quota restriction shall be placed on the number of such permits 175

that may be issued. The population quota restrictions contained in 176
section 4303.29 of the Revised Code or in any rule of the liquor 177
control commission shall not apply to this division, and the 178
division shall issue a D-5e permit to any applicant who meets the 179
requirements of this division. However, the division shall not 180
issue a D-5e permit if the permit premises or proposed permit 181
premises are located within an area in which the sale of 182
spirituous liquor by the glass is prohibited. 183

The fee for this permit is one thousand two hundred nineteen 184
dollars. 185

(F) Permit D-5f may be issued to the owner or operator of a 186
retail food establishment or a food service operation licensed 187
under Chapter 3717. of the Revised Code that operates as a 188
restaurant for purposes of this chapter and that meets all of the 189
following: 190

(1) It contains not less than twenty-five hundred square feet 191
of floor area. 192

(2) It is located on or in, or immediately adjacent to, the 193
shoreline of, a navigable river. 194

(3) It provides docking space for twenty-five boats. 195

(4) It provides entertainment and recreation, provided that 196
not less than fifty per cent of the business on the permit 197
premises shall be preparing and serving meals for a consideration. 198

In addition, each application for a D-5f permit shall be 199
accompanied by a certification from the local legislative 200
authority that the issuance of the D-5f permit is not inconsistent 201
with that political subdivision's comprehensive development plan 202
or other economic development goal as officially established by 203
the local legislative authority. 204

The holder of a D-5f permit may sell beer and intoxicating 205

liquor at retail, only by the individual drink in glass and from 206
the container, for consumption on the premises where sold. 207

A D-5f permit shall not be transferred to another location. 208

The division of liquor control shall not issue a D-5f permit 209
if the permit premises or proposed permit premises are located 210
within an area in which the sale of spirituous liquor by the glass 211
is prohibited. 212

A fee for this permit is two thousand three hundred 213
forty-four dollars. 214

As used in this division, "navigable river" means a river 215
that is also a "navigable water" as defined in the "Federal Power 216
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 217

(G) Permit D-5g may be issued to a nonprofit corporation that 218
is either the owner or the operator of a national professional 219
sports museum. The holder of a D-5g permit may sell beer and any 220
intoxicating liquor at retail, only by the individual drink in 221
glass and from the container, for consumption on the premises 222
where sold. The holder of a D-5g permit shall sell no beer or 223
intoxicating liquor for consumption on the premises where sold 224
after two-thirty a.m. A D-5g permit shall not be transferred to 225
another location. No quota restrictions shall be placed on the 226
number of D-5g permits that may be issued. The fee for this permit 227
is one thousand eight hundred seventy-five dollars. 228

(H)(1) Permit D-5h may be issued to any nonprofit 229
organization that is exempt from federal income taxation under the 230
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 231
501(c)(3), as amended, that owns or operates any of the following: 232

(a) A fine arts museum, provided that the nonprofit 233
organization has no less than one thousand five hundred bona fide 234
members possessing full membership privileges; 235

(b) A community arts center. As used in division (H)(1)(b) of 236
this section, "community arts center" means a facility that 237
provides arts programming to the community in more than one arts 238
discipline, including, but not limited to, exhibits of works of 239
art and performances by both professional and amateur artists. 240

(c) A community theater, provided that the nonprofit 241
organization is a member of the Ohio arts council and the American 242
community theatre association and has been in existence for not 243
less than ten years. As used in division (H)(1)(c) of this 244
section, "community theater" means a facility that contains at 245
least one hundred fifty seats and has a primary function of 246
presenting live theatrical performances and providing recreational 247
opportunities to the community. 248

(2) The holder of a D-5h permit may sell beer and any 249
intoxicating liquor at retail, only by the individual drink in 250
glass and from the container, for consumption on the premises 251
where sold. The holder of a D-5h permit shall sell no beer or 252
intoxicating liquor for consumption on the premises where sold 253
after one a.m. A D-5h permit shall not be transferred to another 254
location. No quota restrictions shall be placed on the number of 255
D-5h permits that may be issued. 256

(3) The fee for a D-5h permit is one thousand eight hundred 257
seventy-five dollars. 258

(I) Permit D-5i may be issued to the owner or operator of a 259
retail food establishment or a food service operation licensed 260
under Chapter 3717. of the Revised Code that operates as a 261
restaurant for purposes of this chapter and that meets all of the 262
following requirements: 263

(1) It is located in a municipal corporation or a township 264
with a population of one hundred thousand or less. 265

(2) It has inside seating capacity for at least one hundred 266

forty persons.	267
(3) It has at least four thousand square feet of floor area.	268
(4) It offers full-course meals, appetizers, and sandwiches.	269
(5) Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five per cent of its total gross receipts.	270 271 272
(6) It has at least one of the following characteristics:	273
(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.	274 275
(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.	276 277 278 279
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.	280 281 282 283 284 285 286 287 288 289 290
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.	291 292 293 294 295 296

The fee for the D-5i permit is two thousand three hundred 297
forty-four dollars. 298

(J) Permit D-5j may be issued to the owner or the operator of 299
a retail food establishment or a food service operation licensed 300
under Chapter 3717. of the Revised Code to sell beer and 301
intoxicating liquor at retail, only by the individual drink in 302
glass and from the container, for consumption on the premises 303
where sold and to sell beer and intoxicating liquor in the same 304
manner and amounts not for consumption on the premises where sold 305
as may be sold by the holders of D-1 and D-2 permits. The holder 306
of a D-5j permit may exercise the same privileges, and shall 307
observe the same hours of operation, as the holder of a D-5 308
permit. 309

The D-5j permit shall be issued only within a community 310
entertainment district that is designated under section 4301.80 of 311
the Revised Code and that meets one of the following 312
qualifications: 313

(1) It is located in a municipal corporation with a 314
population of at least one hundred thousand. 315

(2) It is located in a municipal corporation with a 316
population of at least twenty thousand, and either of the 317
following applies: 318

(a) It contains an amusement park the rides of which have 319
been issued a permit by the department of agriculture under 320
Chapter 1711. of the Revised Code. 321

(b) Not less than fifty million dollars will be invested in 322
development and construction in the community entertainment 323
district's area located in the municipal corporation. 324

(3) It is located in a township with a population of at least 325
forty thousand. 326

(4) It is located in a township with a population of at least 327
twenty thousand, and not less than seventy million dollars will be 328
invested in development and construction in the community 329
entertainment district's area located in the township. 330

(5) It is located in a municipal corporation with a 331
population between ten thousand and twenty thousand, and both of 332
the following apply: 333

(a) The municipal corporation was incorporated as a village 334
prior to calendar year 1840 and currently has a historic downtown 335
business district. 336

(b) The municipal corporation is located in the same county 337
as another municipal corporation with at least one community 338
entertainment district. 339

(6) It is located in a municipal corporation with a 340
population of at least ten thousand, and not less than seventy 341
million dollars will be invested in development and construction 342
in the community entertainment district's area located in the 343
municipal corporation. 344

(7) It is located in a municipal corporation with a 345
population of at least five thousand, and not less than one 346
hundred million dollars will be invested in development and 347
construction in the community entertainment district's area 348
located in the municipal corporation. 349

The location of a D-5j permit may be transferred only within 350
the geographic boundaries of the community entertainment district 351
in which it was issued and shall not be transferred outside the 352
geographic boundaries of that district. 353

Not more than one D-5j permit shall be issued within each 354
community entertainment district for each five acres of land 355
located within the district. Not more than fifteen D-5j permits 356
may be issued within a single community entertainment district. 357

Except as otherwise provided in division (J)(4) of this section, 358
no quota restrictions shall be placed upon the number of D-5j 359
permits that may be issued. 360

The fee for a D-5j permit is two thousand three hundred 361
forty-four dollars. 362

(K)(1) Permit D-5k may be issued to any nonprofit 363
organization that is exempt from federal income taxation under the 364
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 365
501(c)(3), as amended, that is the owner or operator of a 366
botanical garden recognized by the American association of 367
botanical gardens and arboreta, and that has not less than 368
twenty-five hundred bona fide members. 369

(2) The holder of a D-5k permit may sell beer and any 370
intoxicating liquor at retail, only by the individual drink in 371
glass and from the container, on the premises where sold. 372

(3) The holder of a D-5k permit shall sell no beer or 373
intoxicating liquor for consumption on the premises where sold 374
after one a.m. 375

(4) A D-5k permit shall not be transferred to another 376
location. 377

(5) No quota restrictions shall be placed on the number of 378
D-5k permits that may be issued. 379

(6) The fee for the D-5k permit is one thousand eight hundred 380
seventy-five dollars. 381

(L)(1) Permit D-5l may be issued to the owner or the operator 382
of a retail food establishment or a food service operation 383
licensed under Chapter 3717. of the Revised Code to sell beer and 384
intoxicating liquor at retail, only by the individual drink in 385
glass and from the container, for consumption on the premises 386
where sold and to sell beer and intoxicating liquor in the same 387

manner and amounts not for consumption on the premises where sold 388
as may be sold by the holders of D-1 and D-2 permits. The holder 389
of a D-51 permit may exercise the same privileges, and shall 390
observe the same hours of operation, as the holder of a D-5 391
permit. 392

(2) The D-51 permit shall be issued only to a premises ~~that~~ 393
to which all of the following apply: 394

(a) The premises has gross annual receipts from the sale of 395
food and meals that constitute not less than seventy-five per cent 396
of its total gross annual receipts, ~~that.~~ 397

(b) The premises is located within a revitalization district 398
that is designated under section 4301.81 of the Revised Code, ~~that.~~ 399
~~that.~~ 400

(c) The premises is located in a municipal corporation or 401
township in which the number of D-5 permits issued equals or 402
exceeds the number of those permits that may be issued in that 403
municipal corporation or township under section 4303.29 of the 404
Revised Code, ~~and that.~~ 405

(d) The premises meets either of the following 406
qualifications: 407

(i) It is located in a county with a population of one 408
hundred twenty-five thousand or less according to the population 409
estimates certified by the department of development for calendar 410
year 2006. 411

(ii) It is located in the municipal corporation that has the 412
largest population in a county when the county has a population 413
between two hundred fifteen thousand and two hundred twenty-five 414
thousand according to the population estimates certified by the 415
department for calendar year 2006. Division (L)(2)(b) of this 416
section applies only to a municipal corporation that is wholly 417
located in a county. 418

(3) The location of a D-5l permit may be transferred only 419
within the geographic boundaries of the revitalization district in 420
which it was issued and shall not be transferred outside the 421
geographic boundaries of that district. 422

(4) Not more than one D-5l permit shall be issued within each 423
revitalization district for each five acres of land located within 424
the district. Not more than fifteen D-5l permits may be issued 425
within a single revitalization district. Except as otherwise 426
provided in division (L)(4) of this section, no quota restrictions 427
shall be placed upon the number of D-5l permits that may be 428
issued. 429

(5) No D-5l permit shall be issued to an adult entertainment 430
establishment as defined in section 2907.39 of the Revised Code. 431

(6) The fee for a D-5l permit is two thousand three hundred 432
forty-four dollars. 433

(M) Permit D-5m may be issued to either the owner or the 434
operator of a retail food establishment or food service operation 435
licensed under Chapter 3717. of the Revised Code that operates as 436
a restaurant for purposes of this chapter and that is located in, 437
or affiliated with, a center for the preservation of wild animals 438
as defined in section 4301.404 of the Revised Code, to sell beer 439
and any intoxicating liquor at retail, only by the glass and from 440
the container, for consumption on the premises where sold, and to 441
sell the same products in the same manner and amounts not for 442
consumption on the premises as may be sold by the holders of D-1 443
and D-2 permits. In addition to the privileges authorized by this 444
division, the holder of a D-5m permit may exercise the same 445
privileges as the holder of a D-5 permit. 446

A D-5m permit shall not be transferred to another location. 447
No quota restrictions shall be placed on the number of D-5m 448
permits that may be issued. The fee for a permit D-5m is two 449

thousand three hundred forty-four dollars. 450

(N) Permit D-5n shall be issued to either a casino operator 451
or a casino management company licensed under Chapter 3772. of the 452
Revised Code that operates a casino facility under that chapter, 453
to sell beer and any intoxicating liquor at retail, only by the 454
individual drink in glass and from the container, for consumption 455
on the premises where sold, and to sell the same products in the 456
same manner and amounts not for consumption on the premises as may 457
be sold by the holders of D-1 and D-2 permits. In addition to the 458
privileges authorized by this division, the holder of a D-5n 459
permit may exercise the same privileges as the holder of a D-5 460
permit. A D-5n permit shall not be transferred to another 461
location. Only one D-5n permit may be issued per casino facility 462
and not more than four D-5n permits shall be issued in this state. 463
The fee for a permit D-5n shall be twenty thousand dollars. The 464
holder of a D-5n permit may conduct casino gaming on the permit 465
premises notwithstanding any provision of the Revised Code or 466
Administrative Code. 467

(O) Permit D-5o may be issued to the owner or operator of a 468
retail food establishment or a food service operation licensed 469
under Chapter 3717. of the Revised Code that operates as a 470
restaurant for purposes of this chapter and that is located within 471
a casino facility for which a D-5n permit has been issued. The 472
holder of a D-5o permit may sell beer and any intoxicating liquor 473
at retail, only by the individual drink in glass and from the 474
container, for consumption on the premises where sold, and may 475
sell the same products in the same manner and amounts not for 476
consumption on the premises where sold as may be sold by the 477
holders of D-1 and D-2 permits. In addition to the privileges 478
authorized by this division, the holder of a D-5o permit may 479
exercise the same privileges as the holder of a D-5 permit. A D-5o 480
permit shall not be transferred to another location. No quota 481

restrictions shall be placed on the number of such permits that 482
may be issued. The fee for this permit is two thousand three 483
hundred forty-four dollars. 484

Section 2. That existing section 4303.181 of the Revised Code 485
is hereby repealed. 486