



# Ohio Legislative Service Commission

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## Bill Analysis

Jeff Grim

### H.B. 26

129th General Assembly  
(As Introduced)

**Reps.** Letson, Gerberry, Pillich, Stinziano, Stautberg, McGregor, O'Brien, Hagan, Yuko

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## BILL SUMMARY

- Permits persons located in municipal corporations or unincorporated areas of counties of specified populations to apply to establish a local entertainment district.
  - Exempts an application for a D-1, D-2, and D-5 liquor permit for an establishment located in a local entertainment district from certain population quota restrictions.
  - Creates the T-1 liquor permit to authorize certain colleges and universities and professional athletic teams to allow the consumption of beer and intoxicating liquor brought into a restricted area on property that they own or lease.
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## CONTENT AND OPERATION

### Overview

The bill authorizes the establishment of local entertainment districts located in municipal corporations or in the unincorporated areas of counties. Under the bill, a district can only be established in a municipal corporation with a population of less than 100,000 or in an unincorporated area of a county with a population of more than 125,000.

The bill then exempts local entertainment districts from existing population quota restrictions applicable to D-1, D-2, and D-5 liquor permits, provided certain criteria are met. D-1 and D-2 permits apply, respectively, to beer and wine sales for on-premises or off-premises consumption. A D-5 permit applies to beer and intoxicating liquor for on-premises or off-premises consumption, e.g. restaurants and night clubs.

The bill also creates the T-1 liquor permit. A T-1 liquor permit may be issued to certain colleges and universities and professional athletic teams to authorize the college,

university, or team to allow consumption of beer and intoxicating liquor in specified areas.

## **Local entertainment districts**

As stated above, the bill authorizes the establishment of local entertainment districts. A "local entertainment district" is a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to certain establishments within the district. Those establishments include hotels; restaurants; retail sales establishments; enclosed shopping centers; museums; performing arts theaters; motion picture theaters; night clubs; convention facilities; sports facilities; entertainment facilities or complexes; or any combination of the establishments described above that provide similar services to the community.<sup>1</sup>

### **Liquor permits for local entertainment district**

The bill provides that existing population quota restrictions established in statute and in rules of the Liquor Control Commission that limit the issuance of D-1, D-2, and D-5 liquor permits do not restrict the issuance of any of those permits for a premises located in a local entertainment district, provided that all of the following apply:

(1) The applicant for the permit is the owner or operator of a licensed retail food establishment or a licensed food service operation.

(2) The applicant for the permit has not been issued a D-1, D-2, or D-5 permit in the six months before filing the application for a D-1, D-2, or D-5 permit for a premises located in a local entertainment district.

(3) 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 75% of its total gross annual receipts.

Under the bill, a D-1, D-2, or D-5 permit must not be transferred out of the local entertainment district. Additionally, the bill prohibits more than one D-1, D-2, or D-5 permit to be issued within a local entertainment district for each five acres of land located within the district. Finally, not more than ten D-1, D-2, or D-5 permits, or any combination of those permits, can be issued within a single local entertainment district.<sup>2</sup>

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<sup>1</sup> R.C. 4301.82(A)(1).

<sup>2</sup> R.C. 4303.29(B)(8).

Existing law generally limits the total number of D-1, D-2, and D-5 liquor permits that can be issued in each municipal corporation and in the unincorporated area of each township, based upon the population of that municipal corporation or unincorporated area of the township. However, continuing law provides some exceptions to these population quota restrictions. For example, the quotas do not restrict the issuance of a D permit to authorized applicants for such a permit for certain municipally owned airports; a municipal corporation, township, or county soldiers' memorial; a municipal corporation-, township-, county-, metropolitan park district-, or state-owned golf course; the State Fairgrounds; Capitol Square; Ohio Judicial Center; or certain zoological parks. Thus, an application for a D permit for any of these locations is exempt from population quota restrictions.<sup>3</sup>

### **Application to seek designation of local entertainment district**

Any owner of property located in a municipal corporation seeking to have that property, or that property and other surrounding property, designated as a local entertainment district must file an application seeking this designation with the mayor of the municipal corporation in which that property is located. Similarly, a property owner located in the unincorporated area of a county must file an application seeking local entertainment district designation with the board of county commissioners of the county. The application is a public record for purposes of Public Records Law upon its receipt by the mayor or board of county commissioners.

The bill requires an application to designate an area as a local entertainment district to contain all of the following:

- (1) The applicant's name and address;
- (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;
- (3) A general statement of the nature and types of establishments described above 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 above;
- (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;

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<sup>3</sup> R.C. 4303.29.

(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; and

(6) A handling and processing fee to accompany the application, in an amount determined by the municipal corporation or county, payable to the municipal corporation or county.<sup>4</sup>

### **Process for application for area located in municipal corporation**

The bill requires an application relating to an area located in a municipal corporation to be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within 30 days after receiving the application, must submit the application with the mayor's recommendation to the legislative authority of the municipal corporation.

Within 30 days after it receives the application and the mayor's recommendations relating to the application, the legislative authority of the municipal corporation, by notice published once a week for two consecutive weeks in at least one newspaper of general circulation in the municipal corporation, must provide notice to the public. The notice must state that the application is on file in the office of the clerk of the municipal corporation and is available for inspection by the public during regular business hours. The notice must also indicate the date and time of any public hearing by the municipal legislative authority on the application.

Within 75 days after the date the application is filed with the mayor of a municipal corporation, the legislative authority of the municipal corporation must approve or disapprove the application. The approval or disapproval must be based on whether the proposed local entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The bill requires the community considered at a minimum to include the municipal corporation in which the community is located. Any approval of an application must be by an affirmative majority vote of the legislative authority. The bill specifies that not more than one local entertainment district can be designated within the municipal corporation.<sup>5</sup>

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<sup>4</sup> R.C. 4301.82(B).

<sup>5</sup> R.C. 4301.82(C).

## **Process for application for area located in county**

The bill establishes a similar procedure for areas that are located in unincorporated areas of a county as those procedures required for areas that are located in municipal corporations. However, the application must be filed with the board of county commissioners of the county in which the unincorporated area described in the application is located. Also, two other significant differences are that:

--The application must be on file in the office of the county auditor and is available for public inspection; and

--No more than one local entertainment district can be designated within the unincorporated area of the county.<sup>6</sup>

## **Approval or disapproval of application**

If the municipal legislative authority or board of county commissioners disapproves the application, the applicant can make changes in the application to secure its approval by the legislative authority or board of county commissioners. Any area approved by the legislative authority or board of county commissioners constitutes a local entertainment district.<sup>7</sup>

## **Losing designation as local entertainment district**

All or part of an area designated as a local entertainment district can lose this designation. The legislative authority of a municipal corporation in which a local entertainment district is located, or the board of county commissioners of the county in whose unincorporated area a local entertainment district is located, after giving notice of its proposed action by publication once a week for two consecutive weeks in at least one newspaper of general circulation in the municipal corporation or county, can determine that all or part of the area fails to meet the standards for designation of an area as a local entertainment district. If the legislative authority or board makes that determination, the area designated in the ordinance or resolution no longer constitutes a local entertainment district.<sup>8</sup>

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<sup>6</sup> R.C. 4301.82(C).

<sup>7</sup> R.C. 4301.82(C).

<sup>8</sup> R.C. 4301.82(D).

## T-1 liquor permit

### Creation

The bill creates the T-1 liquor permit and authorizes it to be issued to any college or university or to any professional athletic team. The permit allows persons to bring beer and intoxicating liquor in its original package, flask, or other container into an area on property that the college, university, or team owns or leases, for consumption in that area, if:

- (1) A fence or similar barrier encloses the area; and
- (2) Security personnel are stationed at each exit from the area to prevent any person from leaving the area with an opened flask or other container of beer or intoxicating liquor.<sup>9</sup>

The bill amends the Opened Container Law to remove the consumption of beer or intoxicating liquor on the premises of a T-1 liquor permit holder from the general prohibition against persons having in their possession in a public place an opened container of beer or intoxicating liquor.<sup>10</sup>

The bill defines "college or university" as a state institution of higher education, or a private institution of higher education, with an FTE (full-time equivalent) student enrollment of less than 15,000. "Professional athletic team" is defined as a professional baseball, basketball, football, hockey, or soccer team that owns or leases a stadium or arena that has a seating capacity of at least 4,000. "State institution of higher education" means each of the four-year state universities, the Northeastern Ohio Universities College of Medicine, and each community college, state community college, university branch, or technical college.<sup>11</sup>

### Characteristics

The Division of Liquor Control in the Department of Commerce must prepare and make available application forms for the T-1 liquor permit and may require applicants to furnish the information the Division determines is necessary for the bill's

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<sup>9</sup> R.C. 4303.235(B).

<sup>10</sup> R.C. 4301.62(C)(1)(c).

<sup>11</sup> R.C. 4303.232(A), in part by reference to R.C. 3345.011, not in the bill.

administration. The Division must specify on each T-1 liquor permit its effective period, which must not exceed three days. The fee for the T-1 liquor permit is \$50.<sup>12</sup>

### **Prohibition and penalty**

The bill prohibits any holder of a T-1 liquor permit from providing or selling beer or intoxicating liquor by the drink or in its original package, flask, or other container in connection with the use of an area under the T-1 liquor permit.<sup>13</sup> A violation of the prohibition is punishable by a fine of not less than \$25 and not more than \$50.<sup>14</sup>

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## **HISTORY**

| <b>ACTION</b> | <b>DATE</b> |
|---------------|-------------|
| Introduced    | 01-18-11    |

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<sup>12</sup> R.C. 4303.232(C).

<sup>13</sup> R.C. 4303.235(D).

<sup>14</sup> R.C. 4303.37 and 4303.99(C), not in the bill.