

As Passed by the House

132nd General Assembly

Regular Session

2017-2018

H. B. No. 522

Representative Lanese

Cosponsors: Representatives Anielski, Antonio, Arndt, Brenner, Celebrezze, Hambley, Leland, Lepore-Hagan, Manning, Miller, Patton, Ramos, Retherford, Rogers, Scherer, Schuring, Seitz, Strahorn, Sweeney, West, Wiggam

A BILL

To amend sections 4301.62 and 4301.82 of the
Revised Code to allow an outdoor refreshment
area to include F liquor permit holders.

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

Section 1. That sections 4301.62 and 4301.82 of the
Revised Code be amended to read as follows:

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) 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 16
the premises of the holder of any permit issued by the division 17
of liquor control; 18

(3) In any other public place; 19

(4) Except as provided in division (D) or (E) of this 20
section, while operating or being a passenger in or on a motor 21
vehicle on any street, highway, or other public or private 22
property open to the public for purposes of vehicular travel or 23
parking; 24

(5) Except as provided in division (D) or (E) of this 25
section, while being in or on a stationary motor vehicle on any 26
street, highway, or other public or private property open to the 27
public for purposes of vehicular travel or parking. 28

(C) (1) A person may have in the person's possession an 29
opened container of any of the following: 30

(a) Beer or intoxicating liquor that has been lawfully 31
purchased for consumption on the premises where bought from the 32
holder of an A-1-A, A-2, A-2f, A-3a, D-1, D-2, D-3, D-3a, D-4, 33
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, 34
D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F- 35
7, or F-8 permit; 36

(b) Beer, wine, or mixed beverages served for consumption 37
on the premises by the holder of an F-3 permit, wine served as a 38
tasting sample by an A-2 permit holder or S permit holder for 39
consumption on the premises of a farmers market for which an F- 40
10 permit has been issued, or wine served for consumption on the 41
premises by the holder of an F-4 or F-6 permit; 42

(c) Beer or intoxicating liquor consumed on the premises 43
of a convention facility as provided in section 4303.201 of the 44

Revised Code; 45

(d) Beer or intoxicating liquor to be consumed during 46
tastings and samplings approved by rule of the liquor control 47
commission; 48

(e) Spirituous liquor to be consumed for purposes of a 49
tasting sample, as defined in section 4301.171 of the Revised 50
Code. 51

(2) A person may have in the person's possession on an F 52
liquor permit premises an opened container of beer or 53
intoxicating liquor that was not purchased from the holder of 54
the F permit if the premises for which the F permit is issued is 55
a music festival and the holder of the F permit grants 56
permission for that possession on the premises during the period 57
for which the F permit is issued. As used in this division, 58
"music festival" means a series of outdoor live musical 59
performances, extending for a period of at least three 60
consecutive days and located on an area of land of at least 61
forty acres. 62

(3) (a) A person may have in the person's possession on a 63
D-2 liquor permit premises an opened or unopened container of 64
wine that was not purchased from the holder of the D-2 permit if 65
the premises for which the D-2 permit is issued is an outdoor 66
performing arts center, the person is attending an orchestral 67
performance, and the holder of the D-2 permit grants permission 68
for the possession and consumption of wine in certain 69
predesignated areas of the premises during the period for which 70
the D-2 permit is issued. 71

(b) As used in division (C) (3) (a) of this section: 72

(i) "Orchestral performance" means a concert comprised of 73

a group of not fewer than forty musicians playing various 74
musical instruments. 75

(ii) "Outdoor performing arts center" means an outdoor 76
performing arts center that is located on not less than one 77
hundred fifty acres of land and that is open for performances 78
from the first day of April to the last day of October of each 79
year. 80

(4) A person may have in the person's possession an opened 81
or unopened container of beer or intoxicating liquor at an 82
outdoor location at which the person is attending an orchestral 83
performance as defined in division (C) (3) (b) (i) of this section 84
if the person with supervision and control over the performance 85
grants permission for the possession and consumption of beer or 86
intoxicating liquor in certain predesignated areas of that 87
outdoor location. 88

(5) A person may have in the person's possession on an F-9 89
liquor permit premises an opened or unopened container of beer 90
or intoxicating liquor that was not purchased from the holder of 91
the F-9 permit if the person is attending either of the 92
following: 93

(a) An orchestral performance and the F-9 permit holder 94
grants permission for the possession and consumption of beer or 95
intoxicating liquor in certain predesignated areas of the 96
premises during the period for which the F-9 permit is issued; 97

(b) An outdoor performing arts event or orchestral 98
performance that is free of charge and the F-9 permit holder 99
annually hosts not less than twenty-five other events or 100
performances that are free of charge on the permit premises. 101

As used in division (C) (5) of this section, "orchestral 102

performance" has the same meaning as in division (C) (3) (b) of 103
this section. 104

(6) (a) A person may have in the person's possession on the 105
property of an outdoor motorsports facility an opened or 106
unopened container of beer or intoxicating liquor that was not 107
purchased from the owner of the facility if both of the 108
following apply: 109

(i) The person is attending a racing event at the 110
facility; and 111

(ii) The owner of the facility grants permission for the 112
possession and consumption of beer or intoxicating liquor on the 113
property of the facility. 114

(b) As used in division (C) (6) (a) of this section: 115

(i) "Racing event" means a motor vehicle racing event 116
sanctioned by one or more motor racing sanctioning 117
organizations. 118

(ii) "Outdoor motorsports facility" means an outdoor 119
racetrack to which all of the following apply: 120

(I) It is two and four-tenths miles or more in length. 121

(II) It is located on two hundred acres or more of land. 122

(III) The primary business of the owner of the facility is 123
the hosting and promoting of racing events. 124

(IV) The holder of a D-1, D-2, or D-3 permit is located on 125
the property of the facility. 126

(7) (a) A person may have in the person's possession an 127
opened container of beer or intoxicating liquor at an outdoor 128
location within an outdoor refreshment area created under 129

section 4301.82 of the Revised Code if the opened container of 130
beer or intoxicating liquor was purchased from ~~a qualified~~ an A- 131
1, A-1-A, A-1c, A-2, A-2f, D class, or F class permit holder to 132
which both of the following apply: 133

(i) The permit holder's premises is located within the 134
outdoor refreshment area. 135

(ii) The permit held by the permit holder has an outdoor 136
refreshment area designation. 137

(b) Division (C) (7) of this section does not authorize a 138
person to do either of the following: 139

(i) Enter the premises of an establishment within an 140
outdoor refreshment area while possessing an opened container of 141
beer or intoxicating liquor acquired elsewhere; 142

(ii) Possess an opened container of beer or intoxicating 143
liquor while being in or on a motor vehicle within an outdoor 144
refreshment area, unless the motor vehicle is stationary and is 145
not being operated in a lane of vehicular travel or unless the 146
possession is otherwise authorized under division (D) or (E) of 147
this section. 148

(c) As used in division (C) (7) of this section, "D class 149
permit holder" does not include a D-6 or D-8 permit holder. 150

(8) (a) A person may have in the person's possession on the 151
property of a market, within a defined F-8 permit premises, an 152
opened container of beer or intoxicating liquor that was 153
purchased from a D permit premises that is located immediately 154
adjacent to the market if both of the following apply: 155

(i) The market grants permission for the possession and 156
consumption of beer and intoxicating liquor within the defined 157

F-8 permit premises; 158

(ii) The market is hosting an event pursuant to an F-8 159
permit and the market has notified the division of liquor 160
control about the event in accordance with division (A) (3) of 161
section 4303.208 of the Revised Code. 162

(b) As used in division (C) (8) of this section, "market" 163
means a market, for which an F-8 permit is held, that has been 164
in operation since 1860. 165

(D) This section does not apply to a person who pays all 166
or a portion of the fee imposed for the use of a chauffeured 167
limousine pursuant to a prearranged contract, or the guest of 168
the person, when all of the following apply: 169

(1) The person or guest is a passenger in the limousine. 170

(2) The person or guest is located in the limousine, but 171
is not occupying a seat in the front compartment of the 172
limousine where the operator of the limousine is located. 173

(3) The limousine is located on any street, highway, or 174
other public or private property open to the public for purposes 175
of vehicular travel or parking. 176

(E) An opened bottle of wine that was purchased from the 177
holder of a permit that authorizes the sale of wine for 178
consumption on the premises where sold is not an opened 179
container for the purposes of this section if both of the 180
following apply: 181

(1) The opened bottle of wine is securely resealed by the 182
permit holder or an employee of the permit holder before the 183
bottle is removed from the premises. The bottle shall be secured 184
in such a manner that it is visibly apparent if the bottle has 185

been subsequently opened or tampered with. 186

(2) The opened bottle of wine that is resealed in 187
accordance with division (E) (1) of this section is stored in the 188
trunk of a motor vehicle or, if the motor vehicle does not have 189
a trunk, behind the last upright seat or in an area not normally 190
occupied by the driver or passengers and not easily accessible 191
by the driver. 192

(F) (1) Except if an ordinance or resolution is enacted or 193
adopted under division (F) (2) of this section, this section does 194
not apply to a person who, pursuant to a prearranged contract, 195
is a passenger riding on a commercial quadricycle when all of 196
the following apply: 197

(a) The person is not occupying a seat in the front of the 198
commercial quadricycle where the operator is steering or 199
braking. 200

(b) The commercial quadricycle is being operated on a 201
street, highway, or other public or private property open to the 202
public for purposes of vehicular travel or parking. 203

(c) The person has in their possession on the commercial 204
quadricycle an opened container of beer or wine. 205

(d) The person has in their possession on the commercial 206
quadricycle not more than either thirty-six ounces of beer or 207
eighteen ounces of wine. 208

(2) The legislative authority of a municipal corporation 209
or township may enact an ordinance or adopt a resolution, as 210
applicable, that prohibits a passenger riding on a commercial 211
quadricycle from possessing an opened container of beer or wine. 212

(3) As used in this section, "commercial quadricycle" 213

means a vehicle that has fully-operative pedals for propulsion 214
entirely by human power and that meets all of the following 215
requirements: 216

(a) It has four wheels and is operated in a manner similar 217
to a bicycle. 218

(b) It has at least five seats for passengers. 219

(c) It is designed to be powered by the pedaling of the 220
operator and the passengers. 221

(d) It is used for commercial purposes. 222

(e) It is operated by the vehicle owner or an employee of 223
the owner. 224

(G) This section does not apply to a person that has in 225
the person's possession an opened container of beer or 226
intoxicating liquor on the premises of a market if the beer or 227
intoxicating liquor has been purchased from a D liquor permit 228
holder that is located in the market. 229

As used in division (G) of this section, "market" means an 230
establishment that: 231

(1) Leases space in the market to individual vendors, not 232
less than fifty per cent of which are retail food establishments 233
or food service operations licensed under Chapter 3717. of the 234
Revised Code; 235

(2) Has an indoor sales floor area of not less than 236
twenty-two thousand square feet; 237

(3) Hosts a farmer's market on each Saturday from April 238
through December. 239

Sec. 4301.82. (A) As used in this section, ~~"qualified~~ 240

(1) "Qualified permit holder" means the holder of an A-1, 241
A-1-A, A-1c, A-2, A-2f, or D class permit issued under Chapter 242
4303. of the Revised Code. 243

(2) "D class permit" does not include a D-6 or D-8 permit. 244

(B) The executive officer of a municipal corporation or 245
the fiscal officer of a township may file an application with 246
the legislative authority of the municipal corporation or 247
township to have property within the municipal corporation or 248
township designated as an outdoor refreshment area or to expand 249
an existing outdoor refreshment area to include additional 250
property within the municipal corporation or township. The 251
executive officer or fiscal officer shall ensure that the 252
application contains all of the following: 253

(1) A map or survey of the proposed outdoor refreshment 254
area in sufficient detail to identify the boundaries of the 255
area, which shall not exceed either of the following, as 256
applicable: 257

(a) Three hundred twenty contiguous acres or one-half 258
square mile if the municipal corporation or township has a 259
population of more than thirty-five thousand as specified in 260
division (D) of this section; 261

(b) One hundred fifty contiguous acres if the municipal 262
corporation or township has a population of thirty-five thousand 263
or less as specified in division (D) of this section. 264

(2) A general statement of the nature and types of 265
establishments that will be located within the proposed outdoor 266
refreshment area; 267

(3) A statement that the proposed outdoor refreshment area 268
will encompass not fewer than four qualified permit holders; 269

(4) Evidence that the uses of land within the proposed 270
outdoor refreshment area are in accord with the master zoning 271
plan or map of the municipal corporation or township; 272

(5) Proposed requirements for the purpose of ensuring 273
public health and safety within the proposed outdoor refreshment 274
area. 275

(C) Within forty-five days after the date the application 276
is filed with the legislative authority of a municipal 277
corporation or township, the legislative authority shall publish 278
public notice of the application once a week for two consecutive 279
weeks in one newspaper of general circulation in the municipal 280
corporation or township or as provided in section 7.16 of the 281
Revised Code. The legislative authority shall ensure that the 282
notice states that the application is on file in the office of 283
the clerk of the municipal corporation or township and is 284
available for inspection by the public during regular business 285
hours. The legislative authority also shall indicate in the 286
notice the date and time of any public hearing to be held 287
regarding the application by the legislative authority. 288

Not earlier than thirty but not later than sixty days 289
after the initial publication of notice, the legislative 290
authority shall approve or disapprove the application by either 291
ordinance or resolution, as applicable. Approval of an 292
application requires an affirmative vote of a majority of the 293
legislative authority. Upon approval of the application by the 294
legislative authority, the territory described in the 295
application constitutes an outdoor refreshment area. The 296
legislative authority shall provide to the division of liquor 297
control and the investigative unit of the department of public 298
safety notice of the approval of the application and a 299

description of the area specified in the application. If the 300
legislative authority disapproves the application, the executive 301
officer of a municipal corporation or fiscal officer of a 302
township may make changes in the application to secure its 303
approval by the legislative authority. 304

(D) The creation of outdoor refreshment areas is limited 305
as follows: 306

(1) A municipal corporation or township with a population 307
of more than fifty thousand shall not create more than two 308
outdoor refreshment areas. 309

(2) A municipal corporation or township with a population 310
of more than thirty-five thousand but less than or equal to 311
fifty thousand shall not create more than one outdoor 312
refreshment area. 313

(3) (a) Except as provided in division (D) (3) (b) of this 314
section, a municipal corporation or township with a population 315
of thirty-five thousand or less shall not create an outdoor 316
refreshment area. 317

(b) A municipal corporation or township with a population 318
of thirty-five thousand or less may create one outdoor 319
refreshment area if the proposed area will include at least four 320
qualified permit holders and be composed of one hundred fifty or 321
fewer contiguous acres. 322

For purposes of this section, the population of a 323
municipal corporation or township is deemed to be the population 324
shown by the most recent regular federal decennial census. 325

(E) As soon as possible after receiving notice that an 326
outdoor refreshment area has been approved, the division of 327
liquor control, for purposes of section 4301.62 of the Revised 328

Code, shall issue an outdoor refreshment area designation to 329
each qualified permit holder located within the refreshment area 330
that is in compliance with all applicable requirements under 331
Chapters 4301. and 4303. of the Revised Code. The division shall 332
not charge any fee for the issuance of the designation. Any 333
permit holder that receives such a designation shall comply with 334
all laws, rules, and regulations that govern its license type, 335
and the applicable public health and safety requirements 336
established for the area under division (F) of this section. 337

(F) (1) At the time of the creation of an outdoor 338
refreshment area, the legislative authority of a municipal 339
corporation or township in which such an area is located shall 340
adopt an ordinance or resolution, as applicable, that 341
establishes requirements the legislative authority determines 342
necessary to ensure public health and safety within the area. 343
The legislative authority shall include in the ordinance or 344
resolution all of the following: 345

(a) The specific boundaries of the area, including street 346
addresses; 347

(b) The number, spacing, and type of signage designating 348
the area; 349

(c) The hours of operation for the area; 350

(d) The number of personnel needed to ensure public safety 351
in the area; 352

(e) A sanitation plan that will help maintain the 353
appearance and public health of the area; 354

(f) The number of personnel needed to execute the 355
sanitation plan; 356

(g) A requirement that beer and intoxicating liquor be 357
served solely in plastic bottles or other plastic containers in 358
the area. 359

The legislative authority may, but is not required to, 360
include in the ordinance or resolution any public health and 361
safety requirements proposed in an application under division 362
(B) of this section to designate or expand the outdoor 363
refreshment area. The legislative authority may subsequently 364
modify the public health and safety requirements as determined 365
necessary by the legislative authority. 366

(2) Prior to adopting an ordinance or resolution under 367
this division, the legislative authority shall give notice of 368
its proposed action by publication once a week for two 369
consecutive weeks in one newspaper of general circulation in the 370
municipal corporation or township or as provided in section 7.16 371
of the Revised Code. 372

(3) The legislative authority shall provide to the 373
division of liquor control and the investigative unit of the 374
department of public safety notice of the public health and 375
safety requirements established or modified under this division. 376

(G) If an outdoor refreshment area has been created in 377
accordance with this section, the holder of an F class permit 378
that sponsors an event located in the outdoor refreshment area 379
may apply to the division for issuance of an outdoor refreshment 380
area designation. The division shall issue such a designation if 381
the division determines that the permit holder is in compliance 382
with all applicable requirements established under this chapter 383
and Chapter 4303. of the Revised Code. An F class permit holder 384
that receives a designation under this division shall do both of 385
the following: 386

(1) Comply with all laws, rules, and regulations that 387
govern its type of permit, and the applicable public health and 388
safety requirements established for the outdoor refreshment area 389
under division (F) of this section; 390

(2) Not block ingress or egress to the outdoor refreshment 391
area or any other liquor permit premises located within the 392
area. 393

(H) Section 4399.18 of the Revised Code applies to a 394
liquor permit holder located within an outdoor refreshment area 395
in the same manner as if the liquor permit holder were not 396
located in an outdoor refreshment area. 397

~~(H)~~ (I) (1) Five years after the date of creation of an 398
outdoor refreshment area, the legislative authority of the 399
municipal corporation or township that created the area under 400
this section shall review the operation of the area and shall, 401
by ordinance or resolution, either approve the continued 402
operation of the area or dissolve the area. Prior to adopting 403
the ordinance or resolution, the legislative authority shall 404
give notice of its proposed action by publication once a week 405
for two consecutive weeks in one newspaper of general 406
circulation in the municipal corporation or township or as 407
provided in section 7.16 of the Revised Code. 408

If the legislative authority dissolves the outdoor 409
refreshment area, the outdoor refreshment area ceases to exist. 410
The legislative authority then shall provide notice of its 411
action to the division of liquor control and the investigative 412
unit of the department of public safety. Upon receipt of the 413
notice, the division shall revoke all outdoor refreshment area 414
designations issued to qualified permit holders within the 415
dissolved area. If the legislative authority approves the 416

continued operation of the outdoor refreshment area, the area 417
continues in operation. 418

(2) Five years after the approval of the continued 419
operation of an outdoor refreshment area under division ~~(H)~~(I) 420
(1) of this section, the legislative authority shall conduct a 421
review in the same manner as provided in division ~~(H)~~(I)(1) of 422
this section. The legislative authority also shall conduct such 423
a review five years after any subsequent approval of continued 424
operation under division ~~(H)~~(I)(2) of this section. 425

~~(I)~~(J) At any time, the legislative authority of a 426
municipal corporation or township in which an outdoor 427
refreshment area is located may, by ordinance or resolution, 428
dissolve all or a part of the outdoor refreshment area. Prior to 429
adopting the resolution or ordinance, the legislative authority 430
shall give notice of its proposed action by publication once a 431
week for two consecutive weeks in one newspaper of general 432
circulation in the municipal corporation or township or as 433
provided in section 7.16 of the Revised Code. If the legislative 434
authority dissolves all or part of an outdoor refreshment area, 435
the area designated in the ordinance or resolution no longer 436
constitutes an outdoor refreshment area. The legislative 437
authority shall provide notice of its actions to the division of 438
liquor control and the investigative unit of the department of 439
public safety. Upon receipt of the notice, the division shall 440
revoke all outdoor refreshment area designations issued to 441
qualified permit holders or the holder of an F class permit 442
within the dissolved area or portion of the area. 443

Section 2. That existing sections 4301.62 and 4301.82 of 444
the Revised Code are hereby repealed. 445