

As Reported by the Senate Agriculture Committee

132nd General Assembly

Regular Session

2017-2018

Sub. 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

Senators Hoagland, Hackett, Beagle, Kunze

A BILL

To amend sections 4301.62 and 4301.82 and to enact
sections 1545.081 and 4303.101 of the Revised
Code to revise certain provisions of the liquor
control laws.

1
2
3
4

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

Section 1. That sections 4301.62 and 4301.82 be amended
and sections 1545.081 and 4303.101 of the Revised Code be
enacted to read as follows:

5
6
7

Sec. 1545.081. Notwithstanding division (C) (1) (b) of
section 9.03 of the Revised Code, the board of park
commissioners of a park district may use public funds to
publish, advertise, or otherwise communicate information
regarding activities related to a permit issued to the park
district under Chapter 4303. of the Revised Code.

8
9
10
11
12
13

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

14

(1) "Chauffeured limousine" means a vehicle registered

15

under section 4503.24 of the Revised Code. 16

(2) "Street," "highway," and "motor vehicle" have the same 17
meanings as in section 4511.01 of the Revised Code. 18

(B) No person shall have in the person's possession an 19
opened container of beer or intoxicating liquor in any of the 20
following circumstances: 21

(1) Except as provided in division (C) (1) (e) of this 22
section, in an agency store; 23

(2) Except as provided in division (C) of this section, on 24
the premises of the holder of any permit issued by the division 25
of liquor control; 26

(3) In any other public place; 27

(4) Except as provided in division (D) or (E) of this 28
section, while operating or being a passenger in or on a motor 29
vehicle on any street, highway, or other public or private 30
property open to the public for purposes of vehicular travel or 31
parking; 32

(5) Except as provided in division (D) or (E) of this 33
section, while being in or on a stationary motor vehicle on any 34
street, highway, or other public or private property open to the 35
public for purposes of vehicular travel or parking. 36

(C) (1) A person may have in the person's possession an 37
opened container of any of the following: 38

(a) Beer or intoxicating liquor that has been lawfully 39
purchased for consumption on the premises where bought from the 40
holder of an A-1-A, A-2, A-2f, A-3a, D-1, D-2, D-3, D-3a, D-4, 41
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, 42
D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F- 43

7, or F-8 permit; 44

(b) Beer, wine, or mixed beverages served for consumption 45
on the premises by the holder of an F-3 permit, wine served as a 46
tasting sample by an A-2 permit holder or S permit holder for 47
consumption on the premises of a farmers market for which an F- 48
10 permit has been issued, or wine served for consumption on the 49
premises by the holder of an F-4 or F-6 permit; 50

(c) Beer or intoxicating liquor consumed on the premises 51
of a convention facility as provided in section 4303.201 of the 52
Revised Code; 53

(d) Beer or intoxicating liquor to be consumed during 54
tastings and samplings approved by rule of the liquor control 55
commission; 56

(e) Spirituous liquor to be consumed for purposes of a 57
tasting sample, as defined in section 4301.171 of the Revised 58
Code. 59

(2) A person may have in the person's possession on an F 60
liquor permit premises an opened container of beer or 61
intoxicating liquor that was not purchased from the holder of 62
the F permit if the premises for which the F permit is issued is 63
a music festival and the holder of the F permit grants 64
permission for that possession on the premises during the period 65
for which the F permit is issued. As used in this division, 66
"music festival" means a series of outdoor live musical 67
performances, extending for a period of at least three 68
consecutive days and located on an area of land of at least 69
forty acres. 70

(3) (a) A person may have in the person's possession on a 71
D-2 liquor permit premises an opened or unopened container of 72

wine that was not purchased from the holder of the D-2 permit if 73
the premises for which the D-2 permit is issued is an outdoor 74
performing arts center, the person is attending an orchestral 75
performance, and the holder of the D-2 permit grants permission 76
for the possession and consumption of wine in certain 77
predesignated areas of the premises during the period for which 78
the D-2 permit is issued. 79

(b) As used in division (C) (3) (a) of this section: 80

(i) "Orchestral performance" means a concert comprised of 81
a group of not fewer than forty musicians playing various 82
musical instruments. 83

(ii) "Outdoor performing arts center" means an outdoor 84
performing arts center that is located on not less than one 85
hundred fifty acres of land and that is open for performances 86
from the first day of April to the last day of October of each 87
year. 88

(4) A person may have in the person's possession an opened 89
or unopened container of beer or intoxicating liquor at an 90
outdoor location at which the person is attending an orchestral 91
performance as defined in division (C) (3) (b) (i) of this section 92
if the person with supervision and control over the performance 93
grants permission for the possession and consumption of beer or 94
intoxicating liquor in certain predesignated areas of that 95
outdoor location. 96

(5) A person may have in the person's possession on an F-9 97
liquor permit premises an opened or unopened container of beer 98
or intoxicating liquor that was not purchased from the holder of 99
the F-9 permit if the person is attending either of the 100
following: 101

(a) An orchestral performance and the F-9 permit holder 102
grants permission for the possession and consumption of beer or 103
intoxicating liquor in certain predesignated areas of the 104
premises during the period for which the F-9 permit is issued; 105

(b) An outdoor performing arts event or orchestral 106
performance that is free of charge and the F-9 permit holder 107
annually hosts not less than twenty-five other events or 108
performances that are free of charge on the permit premises. 109

As used in division (C) (5) of this section, "orchestral 110
performance" has the same meaning as in division (C) (3) (b) of 111
this section. 112

(6) (a) A person may have in the person's possession on the 113
property of an outdoor motorsports facility an opened or 114
unopened container of beer or intoxicating liquor that was not 115
purchased from the owner of the facility if both of the 116
following apply: 117

(i) The person is attending a racing event at the 118
facility; and 119

(ii) The owner of the facility grants permission for the 120
possession and consumption of beer or intoxicating liquor on the 121
property of the facility. 122

(b) As used in division (C) (6) (a) of this section: 123

(i) "Racing event" means a motor vehicle racing event 124
sanctioned by one or more motor racing sanctioning 125
organizations. 126

(ii) "Outdoor motorsports facility" means an outdoor 127
racetrack to which all of the following apply: 128

(I) It is two and four-tenths miles or more in length. 129

(II) It is located on two hundred acres or more of land. 130

(III) The primary business of the owner of the facility is 131
the hosting and promoting of racing events. 132

(IV) The holder of a D-1, D-2, or D-3 permit is located on 133
the property of the facility. 134

(7) (a) A person may have in the person's possession an 135
opened container of beer or intoxicating liquor at an outdoor 136
location within an outdoor refreshment area created under 137
section 4301.82 of the Revised Code if the opened container of 138
beer or intoxicating liquor was purchased from ~~a qualified~~ an A- 139
1, A-1-A, A-1c, A-2, A-2f, D class, or F class permit holder to 140
which both of the following apply: 141

(i) The permit holder's premises is located within the 142
outdoor refreshment area. 143

(ii) The permit held by the permit holder has an outdoor 144
refreshment area designation. 145

(b) Division (C) (7) of this section does not authorize a 146
person to do either of the following: 147

(i) Enter the premises of an establishment within an 148
outdoor refreshment area while possessing an opened container of 149
beer or intoxicating liquor acquired elsewhere; 150

(ii) Possess an opened container of beer or intoxicating 151
liquor while being in or on a motor vehicle within an outdoor 152
refreshment area, unless the motor vehicle is stationary and is 153
not being operated in a lane of vehicular travel or unless the 154
possession is otherwise authorized under division (D) or (E) of 155
this section. 156

(c) As used in division (C) (7) of this section, "D class 157

permit holder" does not include a D-6 or D-8 permit holder. 158

(8) (a) A person may have in the person's possession on the 159
property of a market, within a defined F-8 permit premises, an 160
opened container of beer or intoxicating liquor that was 161
purchased from a D permit premises that is located immediately 162
adjacent to the market if both of the following apply: 163

(i) The market grants permission for the possession and 164
consumption of beer and intoxicating liquor within the defined 165
F-8 permit premises; 166

(ii) The market is hosting an event pursuant to an F-8 167
permit and the market has notified the division of liquor 168
control about the event in accordance with division (A) (3) of 169
section 4303.208 of the Revised Code. 170

(b) As used in division (C) (8) of this section, "market" 171
means a market, for which an F-8 permit is held, that has been 172
in operation since 1860. 173

(D) This section does not apply to a person who pays all 174
or a portion of the fee imposed for the use of a chauffeured 175
limousine pursuant to a prearranged contract, or the guest of 176
the person, when all of the following apply: 177

(1) The person or guest is a passenger in the limousine. 178

(2) The person or guest is located in the limousine, but 179
is not occupying a seat in the front compartment of the 180
limousine where the operator of the limousine is located. 181

(3) The limousine is located on any street, highway, or 182
other public or private property open to the public for purposes 183
of vehicular travel or parking. 184

(E) An opened bottle of wine that was purchased from the 185

holder of a permit that authorizes the sale of wine for 186
consumption on the premises where sold is not an opened 187
container for the purposes of this section if both of the 188
following apply: 189

(1) The opened bottle of wine is securely resealed by the 190
permit holder or an employee of the permit holder before the 191
bottle is removed from the premises. The bottle shall be secured 192
in such a manner that it is visibly apparent if the bottle has 193
been subsequently opened or tampered with. 194

(2) The opened bottle of wine that is resealed in 195
accordance with division (E) (1) of this section is stored in the 196
trunk of a motor vehicle or, if the motor vehicle does not have 197
a trunk, behind the last upright seat or in an area not normally 198
occupied by the driver or passengers and not easily accessible 199
by the driver. 200

(F) (1) Except if an ordinance or resolution is enacted or 201
adopted under division (F) (2) of this section, this section does 202
not apply to a person who, pursuant to a prearranged contract, 203
is a passenger riding on a commercial quadricycle when all of 204
the following apply: 205

(a) The person is not occupying a seat in the front of the 206
commercial quadricycle where the operator is steering or 207
braking. 208

(b) The commercial quadricycle is being operated on a 209
street, highway, or other public or private property open to the 210
public for purposes of vehicular travel or parking. 211

(c) The person has in their possession on the commercial 212
quadricycle an opened container of beer or wine. 213

(d) The person has in their possession on the commercial 214

quadricycle not more than either thirty-six ounces of beer or 215
eighteen ounces of wine. 216

(2) The legislative authority of a municipal corporation 217
or township may enact an ordinance or adopt a resolution, as 218
applicable, that prohibits a passenger riding on a commercial 219
quadricycle from possessing an opened container of beer or wine. 220

(3) As used in this section, "commercial quadricycle" 221
means a vehicle that has fully-operative pedals for propulsion 222
entirely by human power and that meets all of the following 223
requirements: 224

(a) It has four wheels and is operated in a manner similar 225
to a bicycle. 226

(b) It has at least five seats for passengers. 227

(c) It is designed to be powered by the pedaling of the 228
operator and the passengers. 229

(d) It is used for commercial purposes. 230

(e) It is operated by the vehicle owner or an employee of 231
the owner. 232

(G) This section does not apply to a person that has in 233
the person's possession an opened container of beer or 234
intoxicating liquor on the premises of a market if the beer or 235
intoxicating liquor has been purchased from a D liquor permit 236
holder that is located in the market. 237

As used in division (G) of this section, "market" means an 238
establishment that: 239

(1) Leases space in the market to individual vendors, not 240
less than fifty per cent of which are retail food establishments 241

or food service operations licensed under Chapter 3717. of the 242
Revised Code; 243

(2) Has an indoor sales floor area of not less than 244
twenty-two thousand square feet; 245

(3) Hosts a farmer's market on each Saturday from April 246
through December. 247

Sec. 4301.82. (A) As used in this section, ~~"qualified~~ 248

(1) "Qualified permit holder" means the holder of an A-1, 249
A-1-A, A-1c, A-2, A-2f, or D class permit issued under Chapter 250
4303. of the Revised Code. 251

(2) "D class permit" does not include a D-6 or D-8 permit. 252

(B) The executive officer of a municipal corporation or 253
the fiscal officer of a township may file an application with 254
the legislative authority of the municipal corporation or 255
township to have property within the municipal corporation or 256
township designated as an outdoor refreshment area or to expand 257
an existing outdoor refreshment area to include additional 258
property within the municipal corporation or township. The 259
executive officer or fiscal officer shall ensure that the 260
application contains all of the following: 261

(1) A map or survey of the proposed outdoor refreshment 262
area in sufficient detail to identify the boundaries of the 263
area, which shall not exceed either of the following, as 264
applicable: 265

(a) Three hundred twenty contiguous acres or one-half 266
square mile if the municipal corporation or township has a 267
population of more than thirty-five thousand as specified in 268
division (D) of this section; 269

(b) One hundred fifty contiguous acres if the municipal 270
corporation or township has a population of thirty-five thousand 271
or less as specified in division (D) of this section. 272

(2) A general statement of the nature and types of 273
establishments that will be located within the proposed outdoor 274
refreshment area; 275

(3) A statement that the proposed outdoor refreshment area 276
will encompass not fewer than four qualified permit holders; 277

(4) Evidence that the uses of land within the proposed 278
outdoor refreshment area are in accord with the master zoning 279
plan or map of the municipal corporation or township; 280

(5) Proposed requirements for the purpose of ensuring 281
public health and safety within the proposed outdoor refreshment 282
area. 283

(C) Within forty-five days after the date the application 284
is filed with the legislative authority of a municipal 285
corporation or township, the legislative authority shall publish 286
public notice of the application once a week for two consecutive 287
weeks in one newspaper of general circulation in the municipal 288
corporation or township or as provided in section 7.16 of the 289
Revised Code. The legislative authority shall ensure that the 290
notice states that the application is on file in the office of 291
the clerk of the municipal corporation or township and is 292
available for inspection by the public during regular business 293
hours. The legislative authority also shall indicate in the 294
notice the date and time of any public hearing to be held 295
regarding the application by the legislative authority. 296

Not earlier than thirty but not later than sixty days 297
after the initial publication of notice, the legislative 298

authority shall approve or disapprove the application by either 299
ordinance or resolution, as applicable. Approval of an 300
application requires an affirmative vote of a majority of the 301
legislative authority. Upon approval of the application by the 302
legislative authority, the territory described in the 303
application constitutes an outdoor refreshment area. The 304
legislative authority shall provide to the division of liquor 305
control and the investigative unit of the department of public 306
safety notice of the approval of the application and a 307
description of the area specified in the application. If the 308
legislative authority disapproves the application, the executive 309
officer of a municipal corporation or fiscal officer of a 310
township may make changes in the application to secure its 311
approval by the legislative authority. 312

(D) The creation of outdoor refreshment areas is limited 313
as follows: 314

(1) A municipal corporation or township with a population 315
of more than fifty thousand shall not create more than two 316
outdoor refreshment areas. 317

(2) A municipal corporation or township with a population 318
of more than thirty-five thousand but less than or equal to 319
fifty thousand shall not create more than one outdoor 320
refreshment area. 321

(3) (a) Except as provided in division (D) (3) (b) of this 322
section, a municipal corporation or township with a population 323
of thirty-five thousand or less shall not create an outdoor 324
refreshment area. 325

(b) A municipal corporation or township with a population 326
of thirty-five thousand or less may create one outdoor 327

refreshment area if the proposed area will include at least four 328
qualified permit holders and be composed of one hundred fifty or 329
fewer contiguous acres. 330

For purposes of this section, the population of a 331
municipal corporation or township is deemed to be the population 332
shown by the most recent regular federal decennial census. 333

(E) As soon as possible after receiving notice that an 334
outdoor refreshment area has been approved, the division of 335
liquor control, for purposes of section 4301.62 of the Revised 336
Code, shall issue an outdoor refreshment area designation to 337
each qualified permit holder located within the refreshment area 338
that is in compliance with all applicable requirements under 339
Chapters 4301. and 4303. of the Revised Code. The division shall 340
not charge any fee for the issuance of the designation. Any 341
permit holder that receives such a designation shall comply with 342
all laws, rules, and regulations that govern its license type, 343
and the applicable public health and safety requirements 344
established for the area under division (F) of this section. 345

(F) (1) At the time of the creation of an outdoor 346
refreshment area, the legislative authority of a municipal 347
corporation or township in which such an area is located shall 348
adopt an ordinance or resolution, as applicable, that 349
establishes requirements the legislative authority determines 350
necessary to ensure public health and safety within the area. 351
The legislative authority shall include in the ordinance or 352
resolution all of the following: 353

(a) The specific boundaries of the area, including street 354
addresses; 355

(b) The number, spacing, and type of signage designating 356

the area; 357

(c) The hours of operation for the area; 358

(d) The number of personnel needed to ensure public safety 359
in the area; 360

(e) A sanitation plan that will help maintain the 361
appearance and public health of the area; 362

(f) The number of personnel needed to execute the 363
sanitation plan; 364

(g) A requirement that beer and intoxicating liquor be 365
served solely in plastic bottles or other plastic containers in 366
the area. 367

The legislative authority may, but is not required to, 368
include in the ordinance or resolution any public health and 369
safety requirements proposed in an application under division 370
(B) of this section to designate or expand the outdoor 371
refreshment area. The legislative authority may subsequently 372
modify the public health and safety requirements as determined 373
necessary by the legislative authority. 374

(2) Prior to adopting an ordinance or resolution under 375
this division, the legislative authority shall give notice of 376
its proposed action by publication once a week for two 377
consecutive weeks in one newspaper of general circulation in the 378
municipal corporation or township or as provided in section 7.16 379
of the Revised Code. 380

(3) The legislative authority shall provide to the 381
division of liquor control and the investigative unit of the 382
department of public safety notice of the public health and 383
safety requirements established or modified under this division. 384

(G) If an outdoor refreshment area has been created in 385
accordance with this section, the holder of an F class permit 386
that sponsors an event located in the outdoor refreshment area 387
may apply to the division for issuance of an outdoor refreshment 388
area designation. The division shall issue such a designation if 389
the division determines that the permit holder is in compliance 390
with all applicable requirements established under this chapter 391
and Chapter 4303. of the Revised Code. An F class permit holder 392
that receives a designation under this division shall do both of 393
the following: 394

(1) Comply with all laws, rules, and regulations that 395
govern its type of permit, and the applicable public health and 396
safety requirements established for the outdoor refreshment area 397
under division (F) of this section; 398

(2) Not block ingress or egress to the outdoor refreshment 399
area or any other liquor permit premises located within the 400
area. 401

(H) Section 4399.18 of the Revised Code applies to a 402
liquor permit holder located within an outdoor refreshment area 403
in the same manner as if the liquor permit holder were not 404
located in an outdoor refreshment area. 405

~~(H)~~ (I) (1) Five years after the date of creation of an 406
outdoor refreshment area, the legislative authority of the 407
municipal corporation or township that created the area under 408
this section shall review the operation of the area and shall, 409
by ordinance or resolution, either approve the continued 410
operation of the area or dissolve the area. Prior to adopting 411
the ordinance or resolution, the legislative authority shall 412
give notice of its proposed action by publication once a week 413
for two consecutive weeks in one newspaper of general 414

circulation in the municipal corporation or township or as 415
provided in section 7.16 of the Revised Code. 416

If the legislative authority dissolves the outdoor 417
refreshment area, the outdoor refreshment area ceases to exist. 418
The legislative authority then shall provide notice of its 419
action to the division of liquor control and the investigative 420
unit of the department of public safety. Upon receipt of the 421
notice, the division shall revoke all outdoor refreshment area 422
designations issued to qualified permit holders within the 423
dissolved area. If the legislative authority approves the 424
continued operation of the outdoor refreshment area, the area 425
continues in operation. 426

(2) Five years after the approval of the continued 427
operation of an outdoor refreshment area under division ~~(H)~~(I) 428
(1) of this section, the legislative authority shall conduct a 429
review in the same manner as provided in division ~~(H)~~(I)(1) of 430
this section. The legislative authority also shall conduct such 431
a review five years after any subsequent approval of continued 432
operation under division ~~(H)~~(I)(2) of this section. 433

~~(I)~~(J) At any time, the legislative authority of a 434
municipal corporation or township in which an outdoor 435
refreshment area is located may, by ordinance or resolution, 436
dissolve all or a part of the outdoor refreshment area. Prior to 437
adopting the resolution or ordinance, the legislative authority 438
shall give notice of its proposed action by publication once a 439
week for two consecutive weeks in one newspaper of general 440
circulation in the municipal corporation or township or as 441
provided in section 7.16 of the Revised Code. If the legislative 442
authority dissolves all or part of an outdoor refreshment area, 443
the area designated in the ordinance or resolution no longer 444

constitutes an outdoor refreshment area. The legislative 445
authority shall provide notice of its actions to the division of 446
liquor control and the investigative unit of the department of 447
public safety. Upon receipt of the notice, the division shall 448
revoke all outdoor refreshment area designations issued to 449
qualified permit holders or the holder of an F class permit 450
within the dissolved area or portion of the area. 451

Sec. 4303.101. (A) Subject to division (B) of this 452
section, a B class permit holder may sell at retail beer, wine, 453
or mixed beverages that the permit holder is authorized to 454
distribute under this chapter, only by the individual drink in 455
glass or from a container, for purposes of on-premises 456
consumption. 457

(B) A B class permit holder may sell beer, wine, or mixed 458
beverages under division (A) of this section only if the sale is 459
for an event that is hosted by the permit holder and that is 460
either of the following: 461

(1) For a charitable, benevolent, cultural, educational, 462
or political purpose; 463

(2) Not open to the general public. 464

Section 2. That existing sections 4301.62 and 4301.82 of 465
the Revised Code are hereby repealed. 466