

**As Introduced**

**132nd General Assembly  
Regular Session  
2017-2018**

**H. B. No. 522**

**Representative Lanese**

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**A BILL**

To amend sections 4301.62 and 4301.82 of the 1  
Revised Code to allow an outdoor refreshment 2  
area to include F liquor permit holders. 3

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

**Section 1.** That sections 4301.62 and 4301.82 of the 4  
Revised Code be amended to read as follows: 5

**Sec. 4301.62.** (A) As used in this section: 6

(1) "Chauffeured limousine" means a vehicle registered 7  
under section 4503.24 of the Revised Code. 8

(2) "Street," "highway," and "motor vehicle" have the same 9  
meanings as in section 4511.01 of the Revised Code. 10

(B) No person shall have in the person's possession an 11  
opened container of beer or intoxicating liquor in any of the 12  
following circumstances: 13

(1) Except as provided in division (C) (1) (e) of this 14  
section, in an agency store; 15

(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 property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:	105 106 107 108 109
(i) The person is attending a racing event at the facility; and	110 111
(ii) The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility.	112 113 114
(b) As used in division (C) (6) (a) of this section:	115
(i) "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.	116 117 118
(ii) "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:	119 120
(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 the hosting and promoting of racing events.	123 124
(IV) The holder of a D-1, D-2, or D-3 permit is located on the property of the facility.	125 126
(7) (a) A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under section 4301.82 of the Revised Code if the opened container of	127 128 129 130

beer or intoxicating liquor was purchased from ~~a qualified~~ an A-1, A-1-A, A-1c, A-2, A-2f, D class, or F class permit holder to which both of the following apply:

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

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

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

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

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

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

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

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

(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 to a bicycle.	217 218
(b) It has at least five seats for passengers.	219
(c) It is designed to be powered by the pedaling of the operator and the passengers.	220 221
(d) It is used for commercial purposes.	222
(e) It is operated by the vehicle owner or an employee of the owner.	223 224
(G) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.	225 226 227 228 229
As used in division (G) of this section, "market" means an establishment that:	230 231
(1) Leases space in the market to individual vendors, not less than fifty per cent of which are retail food establishments or food service operations licensed under Chapter 3717. of the Revised Code;	232 233 234 235
(2) Has an indoor sales floor area of not less than twenty-two thousand square feet;	236 237
(3) Hosts a farmer's market on each Saturday from April through December.	238 239
<b>Sec. 4301.82.</b> (A) As used in this section, <del>"qualified</del> <u>:</u>	240
<u>(1) "Qualified permit holder"</u> means the holder of an A-1, A-1-A, A-1c, A-2, A-2f, or D <u>class</u> permit issued under Chapter	241 242

4303. of the Revised Code.	243
<u>(2) "D class permit" does not include a D-6 or D-8 permit.</u>	244
(B) The executive officer of a municipal corporation or the fiscal officer of a township may file an application with the legislative authority of the municipal corporation or township to have property within the municipal corporation or township designated as an outdoor refreshment area or to expand an existing outdoor refreshment area to include additional property within the municipal corporation or township. The executive officer or fiscal officer shall ensure that the application contains all of the following:	245 246 247 248 249 250 251 252 253
(1) A map or survey of the proposed outdoor refreshment area in sufficient detail to identify the boundaries of the area, which shall not exceed either of the following, as applicable:	254 255 256 257
(a) Three hundred twenty contiguous acres or one-half square mile if the municipal corporation or township has a population of more than thirty-five thousand as specified in division (D) of this section;	258 259 260 261
(b) One hundred fifty contiguous acres if the municipal corporation or township has a population of thirty-five thousand or less as specified in division (D) of this section.	262 263 264
(2) A general statement of the nature and types of establishments that will be located within the proposed outdoor refreshment area;	265 266 267
(3) A statement that the proposed outdoor refreshment area will encompass not fewer than four qualified permit holders;	268 269
(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