As Introduced

132nd General Assembly

Regular Session 2017-2018

H. B. No. 509

Representatives Hambley, Sweeney

Cosponsors: Representatives Stein, Becker, Young, Perales, Rezabek, Boggs, Kent, Scherer, Dever, West, Hill, Carfagna, Brenner, Henne, Thompson, Ingram, Kick, Howse, Reineke, Brinkman, Manning, Rogers, Cera, Celebrezze, Sheehy

A BILL

То	amend sections 4301.62 and 4303.2010 and to	1
	enact sections 901.172 and 4303.2011 of the	2
	Revised Code to create the F-11 liquor permit to	3
	authorize the sale of beer under specified	4
	circumstances at a farmers market and to	5
	authorize the Department of Agriculture to	6
	promote the use of Ohio-produced agricultural	7
	goods grown for inclusion in beer or cider	8
	through a promotional program.	9

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

Section 1. That sections 4301.62 and 4303.2010 be amended	10
and sections 901.172 and 4303.2011 of the Revised Code be	11
enacted to read as follows:	12
Sec. 901.172. (A) As used in this section, "beer" and	1.3
Sec. Joi.1/2. (A) AS used in this section, been and	TO
"cider" have the same meanings as in section 4301.01 of the	14
Revised Code.	15
(B) The department of agriculture may promote the use of	16

Ohio-produced agricultural goods grown for inclusion in beer or	17
cider through the issuance of logotypes to qualified producers	18
and processors under a promotional certification program to be	19
developed and administered by the division of markets. The	20
program shall be entitled "Ohio Proud Craft Beer."	21
Pursuant to rules adopted under Chapter 119. of the	22
Revised Code, the department may establish reasonable fees and	23
criteria for participation in the program. All such fees shall	24
be credited to the general revenue fund and used to finance the	25
program.	26
Sec. 4301.62. (A) As used in this section:	27
(1) "Chauffeured limousine" means a vehicle registered	28
under section 4503.24 of the Revised Code.	29
(2) "Street," "highway," and "motor vehicle" have the same	30
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meanings as in section 4511.01 of the Revised Code.	51
(B) No person shall have in the person's possession an	32
opened container of beer or intoxicating liquor in any of the	33
following circumstances:	34
(1) Except as provided in division (C)(1) (e) (h) of this	35
section, in an agency store;	36
(2) Except as provided in division (C) of this section, on	37
the premises of the holder of any permit issued by the division	38
of liquor control;	39
(3) In any other public place;	40
(4) Except as provided in division (D) or (E) of this	41
section, while operating or being a passenger in or on a motor	42
vehicle on any street, highway, or other public or private	43
property open to the public for purposes of vehicular travel or	44
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parking;	
(5) Except as provided in division (D) or (E) of this	46
section, while being in or on a stationary motor vehicle on any	47
street, highway, or other public or private property open to the	48
public for purposes of vehicular travel or parking.	49
(C)(1) A person may have in the person's possession an	50
opened container of any of the following:	51
(a) Beer or intoxicating liquor that has been lawfully	52
purchased for consumption on the premises where bought from the	53
holder of an A-1-A, A-2, A-2f, A-3a, D-1, D-2, D-3, D-3a, D-4,	54
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i,	55
D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-	56
7, or F-8 permit;	57
(b) Beer, wine, or mixed beverages served for consumption	58
on the premises by the holder of an F-3 permit, wine ;	59
(c) Wine served as a tasting sample by an A-2 or A-2f	60
permit holder or S permit holder for consumption on the premises	61
of a farmers market for which an F-10 permit has been issued, or	62
wine-;	63
(d) Beer served as a tasting sample by a brewer, as	64
defined in section 4303.2011 of the Revised Code, for	65
consumption on the premises of a farmers market for which an F-	66
<u>11 permit has been issued;</u>	67
(e) Wine served for consumption on the premises by the	68
holder of an F-4 or F-6 permit;	69
(c) (f) Beer or intoxicating liquor consumed on the	70
premises of a convention facility as provided in section	71
4303.201 of the Revised Code;	72

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

(e) (h)Spirituous liquor to be consumed for purposes of a76tasting sample, as defined in section 4301.171 of the Revised77Code.78

(2) A person may have in the person's possession on an F 79 liquor permit premises an opened container of beer or 80 intoxicating liquor that was not purchased from the holder of 81 the F permit if the premises for which the F permit is issued is 82 a music festival and the holder of the F permit grants 83 permission for that possession on the premises during the period 84 for which the F permit is issued. As used in this division, 85 "music festival" means a series of outdoor live musical 86 performances, extending for a period of at least three 87 consecutive days and located on an area of land of at least 88 forty acres. 89

(3) (a) A person may have in the person's possession on a 90 D-2 liquor permit premises an opened or unopened container of 91 wine that was not purchased from the holder of the D-2 permit if 92 the premises for which the D-2 permit is issued is an outdoor 93 performing arts center, the person is attending an orchestral 94 performance, and the holder of the D-2 permit grants permission 95 for the possession and consumption of wine in certain 96 predesignated areas of the premises during the period for which 97 the D-2 permit is issued. 98

(b) As used in division (C)(3)(a) of this section: 99

(i) "Orchestral performance" means a concert comprised of 100a group of not fewer than forty musicians playing various 101

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musical instruments.

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

(4) A person may have in the person's possession an opened 108 or unopened container of beer or intoxicating liquor at an 109 outdoor location at which the person is attending an orchestral 110 performance as defined in division (C) (3) (b) (i) of this section 111 if the person with supervision and control over the performance 112 grants permission for the possession and consumption of beer or 113 intoxicating liquor in certain predesignated areas of that 114 outdoor location. 115

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

(a) An orchestral performance and the F-9 permit holder
grants permission for the possession and consumption of beer or
intoxicating liquor in certain predesignated areas of the
premises during the period for which the F-9 permit is issued;
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(b) An outdoor performing arts event or orchestral
performance that is free of charge and the F-9 permit holder
annually hosts not less than twenty-five other events or
performances that are free of charge on the permit premises.
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As used in division (C)(5) of this section, "orchestral 129 performance" has the same meaning as in division (C)(3)(b) of 130

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this section. 131 (6) (a) A person may have in the person's possession on the 132 property of an outdoor motorsports facility an opened or 133 unopened container of beer or intoxicating liquor that was not 134 purchased from the owner of the facility if both of the 135 following apply: 136 (i) The person is attending a racing event at the 137 facility; and 138 (ii) The owner of the facility grants permission for the 139 possession and consumption of beer or intoxicating liquor on the 140 141 property of the facility. (b) As used in division (C)(6)(a) of this section: 142 (i) "Racing event" means a motor vehicle racing event 143 sanctioned by one or more motor racing sanctioning 144 organizations. 145 (ii) "Outdoor motorsports facility" means an outdoor 146 racetrack to which all of the following apply: 147 (I) It is two and four-tenths miles or more in length. 148 (II) It is located on two hundred acres or more of land. 149 (III) The primary business of the owner of the facility is 150 the hosting and promoting of racing events. 151 (IV) The holder of a D-1, D-2, or D-3 permit is located on 152 the property of the facility. 153 (7) (a) A person may have in the person's possession an 154 opened container of beer or intoxicating liquor at an outdoor 155 location within an outdoor refreshment area created under 156

section 4301.82 of the Revised Code if the opened container of

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beer or intoxicating liquor was purchased from a qualified	158
permit holder to which both of the following apply:	159
(i) The permit holder's premises is located within the	160
outdoor refreshment area.	161
(ii) The permit held by the permit holder has an outdoor	162
refreshment area designation.	163
(b) Division (C)(7) of this section does not authorize a	164
person to do either of the following:	165
(i) Enter the premises of an establishment within an	166
outdoor refreshment area while possessing an opened container of	167
beer or intoxicating liquor acquired elsewhere;	168
(ii) Possess an opened container of beer or intoxicating	169
liquor while being in or on a motor vehicle within an outdoor	170
refreshment area, unless the motor vehicle is stationary and is	171
not being operated in a lane of vehicular travel or unless the	172
possession is otherwise authorized under division (D) or (E) of	173
this section.	174
(8)(a) A person may have in the person's possession on the	175
property of a market, within a defined F-8 permit premises, an	176
opened container of beer or intoxicating liquor that was	177
purchased from a D permit premises that is located immediately	178
adjacent to the market if both of the following apply:	179
(i) The market grants permission for the possession and	180
consumption of beer and intoxicating liquor within the defined	181
F-8 permit premises;	182
(ii) The market is hosting an event pursuant to an F-8	183
permit and the market has notified the division of liquor	184
control about the event in accordance with division (A)(3) of	185

section 4303.208 of the Revised Code.

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

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

(1) The person or guest is a passenger in the limousine. 19

(2) The person or guest is located in the limousine, but
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is not occupying a seat in the front compartment of the
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limousine where the operator of the limousine is located.
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(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

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

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

(2) The opened bottle of wine that is resealed in
accordance with division (E) (1) of this section is stored in the
trunk of a motor vehicle or, if the motor vehicle does not have
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a trunk, behind the last upright seat or in an area not normally 214 occupied by the driver or passengers and not easily accessible 215 by the driver. 216

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

(a) The person is not occupying a seat in the front of the222commercial quadricycle where the operator is steering orbraking.

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

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

(d) The person has in their possession on the commercial
 quadricycle not more than either thirty-six ounces of beer or
 eighteen ounces of wine.
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(2) The legislative authority of a municipal corporation
or township may enact an ordinance or adopt a resolution, as
applicable, that prohibits a passenger riding on a commercial
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quadricycle from possessing an opened container of beer or wine.
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(3) As used in this section, "commercial quadricycle"
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means a vehicle that has fully-operative pedals for propulsion
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entirely by human power and that meets all of the following
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requirements:

(a) It has four wheels and is operated in a manner similar 241

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to a bicycle.	242
(b) It has at least five seats for passengers.	243
(c) It is designed to be powered by the pedaling of the	244
operator and the passengers.	245
(d) It is used for commercial purposes.	246
(e) It is operated by the vehicle owner or an employee of	247
the owner.	248
(G) This section does not apply to a person that has in	249
the person's possession an opened container of beer or	250
intoxicating liquor on the premises of a market if the beer or	251
intoxicating liquor has been purchased from a D liquor permit	252
holder that is located in the market.	253
As used in division (G) of this section, "market" means an	254
establishment that:	255
(1) Leases space in the market to individual vendors, not	256
less than fifty per cent of which are retail food establishments	257
or food service operations licensed under Chapter 3717. of the	258
Revised Code;	259
(2) Has an indoor sales floor area of not less than	260
twenty-two thousand square feet;	261
(3) Hosts a farmer's market on each Saturday from April	262
through December.	263
Sec. 4303.2010. (A) As used in this section:	264
(1) "Farmers market" means a farmers market registered	265
with the director of agriculture under section 3717.221 of the	266
Revised Code. "Farmers market" does not include a for-profit	267
farmers market, a farmers market located at a rest area within	268

the limits of the right-of-way of an interstate highway, a269farmers market located at a service facility as defined in270Chapter 5537. of the Revised Code that is along the Ohio271turnpike, or a farmers market with fewer than five farmers272market participants.273

(2) "A-2 permit holder" means an A-2 <u>or A-2f</u> permit holder that produces less than two hundred and fifty thousand gallons of wine per year.

(B) The division of liquor control may issue an F-10 277
permit to a person who organizes a farmers market. Pursuant to 278
the permit, the F-10 permit holder may allow a farmers market 279
participant that is an A-2 permit holder or S permit holder to 280
do the following at the location of the farmers market: 281

(1) Sell tasting samples of wine manufactured by the A-2 permit holder or S permit holder for consumption on the premises where the farmers market is located;

(2) Sell wine manufactured by the A-2 permit holder or S
permit holder in sealed containers for consumption off the
premises where the farmers market is located.
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(C) An applicant for an F-10 permit shall submit an
application for the permit to the division of liquor control.
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The application shall include the location of the farmers market
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that is the subject of the application.

(D) The premises of the farmers market for which the F-10
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permit is issued shall be clearly defined and sufficiently
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restricted to allow proper enforcement of the permit by state
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and local law enforcement officers. If an F-10 permit is issued
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for all or a portion of the same premises for which another
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class of permit is issued, the division of liquor control shall

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suspend that permit holder's privileges in that portion of the	298
premises in which the F-10 permit is in effect. However, an F-10	299
permit and an F-11 permit may be valid concurrently if both	300
permits are issued to the same person.	301
(E) No A-2 permit holder or S permit holder shall do any	302
of the following at a farmers market for which an F-10 permit	303
has been issued:	304
(1) Sell a tasting sample in an amount that exceeds one	305
ounce;	306
(2) Sell more than one sample of each wine offered for	307
sale to any one person;	308
(3) Sell more than five varieties of wine as tasting	309
samples per day;	310
(4) Sell a variety of wine that is offered for	311
distribution by a wholesale distributor in any state. Division	312
(E)(4) of this section does not apply to a variety of wine	313
solely distributed by the A-2 permit holder or S permit holder.	314
(5) Sell more than four and one-half liters of wine per	315
household for off-premises consumption under division (B)(2) of	316
this section;	317
(6) Allow any person other than the A-2 permit holder or S	318
permit holder, a member of the applicable permit holder's	319
family, or an employee of the applicable permit holder to sell	320
wine.	321
(F) The F-10 permit is effective for nine months. The	322
permit is not renewable. However, a person who organizes a	323
farmers market may re-apply for a new permit. The fee for the F-	324
10 permit is one hundred dollars.	325

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(G) An A-2 permit holder or S permit holder shall not	326
conduct the activities described in division (B) of this section	327
unless the sale of wine for consumption on the premises and the	328
sale of wine for consumption off the premises is authorized in	329
the election precinct in which the farmers market that is the	330
subject of the F-10 permit is located.	331
(H) No F-10 permit holder shall allow more than four A-2	332
permit holders, four S permit holders, or a combination of four	333
A-2 permit holders and S permit holders per day to conduct the	334
activities described in division (B) of this section on the	335
premises of the applicable farmers market.	336
Sec. 4303.2011. (A) As used in this section:	337
(1) "Farmers market" has the same meaning as in section	338
4303.2010 of the Revised Code.	339
(2) "Brewer" means an S permit holder that produces not	340
more than thirty-one million gallons of beer in a calendar year	341
<u>or an A-1c permit holder.</u>	342
(B) The division of liquor control may issue an F-11	343
permit to a person who organizes a farmers market. Pursuant to	344
the permit, the F-11 permit holder may allow a farmers market	345
participant that is a brewer to do the following at the location	346
of the farmers market:	347
(1) Sell tasting samples of beer manufactured by the	348
brewer for consumption on the premises where the farmers market	349
is located;	350
(2) Sell beer manufactured by the brewer in sealed	351
containers for consumption off the premises where the farmers	352
market is located.	353

(C) An applicant for an F-11 permit shall submit an	354
application for the permit to the division of liquor control.	355
The application shall include the location of the farmers market	356
that is the subject of the application.	357
(D) The premises of the farmers market for which the F-11	358
permit is issued shall be clearly defined and sufficiently	359
restricted to allow proper enforcement of the permit by state	360
and local law enforcement officers. If an F-11 permit is issued	361
for all or a portion of the same premises for which another	362
class of permit is issued, the division of liquor control shall	363
suspend that permit holder's privileges in that portion of the	364
premises in which the F-11 permit is in effect. However, an F-11	365
permit and an F-10 permit may be valid concurrently if both	366
permits are issued to the same person.	367
(E) No brewer shall do any of the following at a farmers	368
market for which an F-11 permit has been issued:	369
(1) Sell a tasting sample in an amount that exceeds one	370
ounce;	371
(2) Sell more than one sample of each beer offered for	372
sale to any one person;	373
(3) Sell more than five varieties of beer as tasting	374
samples per day;	375
(4) Sell a variety of beer that the brewer is prohibited	376
from selling under a contract with a wholesale distributor;	377
(5) Sell more than two hundred sixteen ounces of beer per	378
household for off-premises consumption under division (B)(2) of	379
this section;	380
(6) Allow any person other than the brewer, a member of	381

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the applicable brewer's family, or an employee of the brewer to	382
sell beer.	383
(F) The F-11 permit is effective for nine months. The	384
permit is not renewable. However, a person who organizes a	385
farmers market may reapply for a new permit. The fee for the F-	386
<u>11 permit is one hundred dollars.</u>	387
(G) A brewer shall not conduct the activities described in	388
division (B) of this section unless the sale of beer for	389
consumption on the premises and the sale of beer for consumption	390
off the premises is authorized in the election precinct in which	391
the farmers market that is the subject of the F-11 permit is	392
located.	393
(H) No F-11 permit holder shall allow more than four	394
brewers per day to conduct the activities described in division	395
(B) of this section on the premises of the applicable farmers	396
market.	397
Section 2. That existing sections 4301.62 and 4303.2010 of	398
the Revised Code are hereby repealed.	399
Section 3. This act is hereby entitled the "Ohio Proud	400
Craft Beer Act."	401