(122nd General Assembly)
(Amended Substitute House Bill Number 390)

AN ACT

To amend sections 4301.01, 4301.34, 4301.351, 4301.37, 4301.39, and 4305.14 and to enact sections 4301.322, 4301.332, 4301.353, 4301.354, 4301.363, and 4301.364 of the Revised Code to allow a local option liquor election on the sale of beer, the sale of wine and mixed beverages, the sale of spirituous liquor, and Sunday sales in a portion of a precinct or residence district where the status of such sales as allowed or prohibited is inconsistent with the status of such sales in the remainder of the precinct or residence district, to shorten from four years to two years the period before local option liquor questions may be resubmitted to the voters, to exempt for a two-year period from the effects of local option elections the sale of beer and intoxicating liquor at the State Fairgrounds and at the Ohio Historical Society and Ohio Village contiguous to the State Fairgrounds, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4301.01, 4301.34, 4301.351, 4301.37, 4301.39, and 4305.14 be amended and sections 4301.322, 4301.332, 4301.353, 4301.354, 4301.363, and 4301.364 of the Revised Code be enacted to read as follows:

Sec. 4301.01. (A) As used in the Revised Code:

(1) "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer as defined in division (B)(2) of this section, containing one-half of one per cent or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether the same are medicated, proprietary, or patented. The phrase includes wine, as defined in division

(B)(3) of this section even if it contains less than four per cent of alcohol by volume, mixed beverages, as defined in division (B)(4) of this section even if they contain less than four per cent of alcohol by volume, cider, as defined in division (B)(23) of this section, alcohol, and all solids and confections which contain any alcohol.

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the Revised Code, "sale" and "sell" include exchange, barter, gift, offer for sale, sale, distribution and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to section 4301.21 of the Revised Code. "Sale" and "sell" do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the division of liquor control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any such orders until the solicitor has been registered with the division pursuant to section 4303.25 of the Revised Code.

(3) "Vehicle" includes all means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.

(B) As used in sections 4301.01 to 4301.74 of the Revised Code:

(1) "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. "Alcohol" does not include denatured alcohol and wood alcohol.

(2) "Beer," "malt liquor," or "malt beverages" includes all brewed or fermented malt products containing one-half of one per cent or more of alcohol by volume but not more than six per cent of alcohol by weight.

(3) "Wine" includes all liquids fit to use for beverage purposes containing not less than one-half of one per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume, which is made from the fermented juices of grapes, fruits, or other agricultural products, except that as used in sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the Revised Code, and, for purposes of determining the rate of the tax that applies, division (B) of section 4301.43 of the Revised Code, "wine" does not include cider.

(4) "Mixed beverages" such as bottled and prepared cordials, cocktails, and highballs are products obtained by mixing any type of whiskey, neutral spirits, brandy, gin, or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than one-half of one

per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume.

(5) "Spirituous liquor" includes all intoxicating liquors containing more than twenty-one per cent of alcohol by volume.

(6) "Sealed container" means any container having a capacity of not more than one hundred twenty-eight fluid ounces, the opening of which is closed to prevent the entrance of air.

(7) "Person" includes firms and corporations.

(8) "Manufacture" includes all processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.

(9) "Manufacturer" means any person engaged in the business of manufacturing beer or intoxicating liquor.

(10) "Wholesale distributor" and "distributor" means a person engaged in the business of selling to retail dealers for purposes of resale.

(11) "Hotel" has the meaning set forth in section 3731.01 of the Revised Code, subject to the exceptions mentioned in section 3731.03 of the Revised Code.

(12) "Restaurant" means a place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. "Restaurant" does not include drugstores, confectionery stores, lunch stands, night clubs, and filling stations.

(13) "Club" means a corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part thereof operated solely for those purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.

(14) "Night club" means a place operated for profit, where food is served for consumption on the premises and one or more forms of amusement are provided or permitted for a consideration which may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by the patrons thereof.

(15) "At retail" means for use or consumption by the purchaser and not for resale.

(16) "Drugstore" means an establishment as defined in section 4729.27 of the Revised Code, which is under the management or control of a legally registered pharmacist.

(17) "Enclosed shopping center" means a group of retail sales and service business establishments that face into an enclosed mall, share common ingress, egress, and parking facilities, and are situated on a tract of land that contains an area of not less than five hundred thousand square feet. "Enclosed shopping center" also includes not more than one business establishment that is located within a free-standing building on such a tract of land, so long as the sale of beer and intoxicating liquor on the tract of land was approved in an election held under former section 4301.353 of the Revised Code.

(18) "Controlled access alcohol and beverage cabinet" means a closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device which requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages, or food may be sold.

(19) "Residence district" means two or more contiguous election precincts located within the same county and also located within the same municipal corporation or within the unincorporated area of the same township, as described by a petition authorized by section 4301.33, 4301.332, 4303.29, or 4305.14 of the Revised Code.

(20) "Low-alcohol beverage" means any brewed or fermented malt product, or any product made from the fermented juices of grapes, fruits, or other agricultural products, that contains either no alcohol or less than one-half of one per cent of alcohol by volume. The beverages described in division (B)(20) of this section do not include a soft drink such as root beer, birch beer, or ginger beer.

~~(22)~~~~(22)~~~~(23)~~(21) "Cider" means all liquids fit to use for beverage purposes that contain one-half of one per cent of alcohol by volume, but not more than six per cent of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.

Sec. 4301.322. The electors of an election precinct or residence district may exercise the privilege of local option under sections 4301.353 and 4301.354 Of the Revised Code on the sale of beer, the sale of wine and mixed beverages, or the sale of spirituous liquor, on Sunday or on other days of the week, in a portion of the precinct or residence district in which the status of such sales as allowed or prohibited is inconsistent with the status of such sales in the remainder of the precinct or residence district because of a change in precinct boundaries by the board of elections or an annexation of territory to a municipal corporation. The privilege conferred by this section

is in addition to the privilege conferred on the electors of an election precinct or residence district as specified in section 4301.32, 4301.321, 4303.29, or 4305.14 Of the Revised Code.

If an election is held in a residence district under section 4301.353 or 4301.354 Of the Revised Code, no more than one precinct in the residence district may be a precinct in which the status of sales in a portion of that precinct of the type of beer or intoxicating liquor that is the subject of the election is inconsistent with the status of such sales in the remainder of that precinct.

Sec. 4301.332. (A) The board of elections shall provide to a petitioner circulating a petition for an election for the submission of one or more of the questions specified in section 4301.353 or 4301.354 Of the Revised Code, at the time of taking out the petition, the names of the streets and, if appropriate, the address numbers of residences and business establishments within the precinct or residence district that would be affected by the results of the election, and a form prescribed by the secretary of state for notifying affected permit holders of the circulation of a petition for an election for the submission of one or more of the questions specified in section 4301.353 or 4301.354 Of the Revised Code. The petitioner shall, not less than forty-five days before the petition-filing deadline for the election, as provided in this section, file with the division of liquor control the information regarding names of streets and, if appropriate, address numbers of residences and business establishments provided by the board of elections, and specify to the division the portion of the precinct or residence district that would be affected by the results of the election and the filing deadline. The division shall, within a reasonable period of time and not later than fifteen days before the filing deadline, supply the petitioner with a list of the names and addresses of permit holders, if any, who would be affected by the election. The list shall contain a heading with the following words: "Liquor permit holders who would be affected by the question(s) set forth on petition for a local option election."

Within five days after a petitioner has received from the division the list of liquor permit holders, if any, who would be affected by the question or questions set forth on a petition for local option election, the petitioner, using the form provided by the board of elections, shall notify by certified mail each permit holder whose name appears on that list. The form for notifying affected permit holders shall require the petitioner to state the petitioner's name and street address and shall contain a statement that a petition is being circulated for an election for the submission of the question or questions specified in section 4301.353 or 4301.354 Of the Revised

Code. The form shall require the petitioner to state the question or questions to be submitted as they appear on the petition.

The petitioner shall attach a copy of the list provided by the division to each petition paper. A part petition paper circulated at any time without the list of affected permit holders attached to it is invalid.

At the time the petitioner files the petition with the board of elections, the petitioner shall provide to the board the list supplied by the division and an affidavit certifying that the petitioner notified all affected permit holders, if any, on the list in the manner and within the time required in this section and that, at the time each signer of the petition affixed the signer's signature to the petition, the petition paper contained a copy of the list of affected permit holders.

Within five days after receiving a petition calling for an election for the submission of one or more of the questions specified in section 4301.353 or 4301.354 Of the Revised Code, the board shall give notice by certified mail that it has received the petition to all liquor permit holders, if any, whose names appear on the list of affected permit holders filed by the petitioner as furnished by the division. Failure of the petitioner to supply the affidavit required by this section and a complete and accurate list of liquor permit holders as furnished by the division invalidates the entire petition. The board of elections shall provide to a permit holder who would be affected by a proposed local option election, on the permit holder's request, the names of the streets, and, if appropriate, the address numbers of residences and business establishments within the portion of the precinct or residence district that would be affected by the results of the election. The board may charge a reasonable fee for this information when provided to the petitioner and the permit holder.

This division does not apply to an election held under section 4301.353 or 4301.354 Of the Revised Code if the results of the election would not affect any permit holder.

(B) Upon the presentation of a petition, not later than four p.m. of the seventy-fifth day before the day of a general or primary election, to the board of elections of the county where the precinct or residence district is located, designating whether it is a petition for an election for the submission of one or both of the questions specified in section 4301.353 Of the Revised Code, or a petition for the submission of one or more of the questions specified in section 4301.354 Of the Revised Code, designating the particular question or questions specified in section 4301.353 or 4301.354 Of the Revised Code that are to be submitted, and signed by the qualified electors of the precinct or residence district concerned, equal in

number to thirty-five per cent of the total number of votes cast in the precinct or residence district concerned for the office of governor at the preceding general election for that office, in the case of an election within a single precinct, or equal in number to fifty-five per cent of the total number of votes cast in the residence district concerned for the office of governor at the preceding general election for that office, in the case of an election within a residence district, the board shall submit the question or questions specified in the petition to the electors of the precinct or residence district concerned, on the day of the next general or primary election, whichever occurs first and shall proceed as follows:

(1) Such board shall, not later than the sixty-sixth day before the day of the election for which the question or questions on the petition would qualify for submission to the electors of the precinct or residence district, examine and determine the sufficiency of the signatures and review, examine, and determine the validity of the petition and, in case of overlapping residence district petitions or overlapping precinct and residence district petitions presented within that period, determine which of the petitions shall govern the further proceedings of the board. In the case where the board determines that two or more overlapping petitions are valid, the earlier filed petition shall govern. The board shall certify the sufficiency and validity of any petition determined to be valid. The board shall determine the validity of the petition as of the time of certification as described in this division.

(2) If a petition is sufficient, and, in case of overlapping residence district petitions or overlapping precinct and residence district petitions, after the board has determined the governing petition, the board to which the petition has been presented shall order the holding of a special election in the precinct or residence district for the submission of whichever of the questions specified in section 4301.353 or 4301.354 Of the Revised Code are designated in the petition, on the day of the next general or primary election, whichever occurs first.

(C) All petitions filed with a board of elections under this section shall be open to public inspection under rules adopted by the board.

(D) Protest against local option petitions may be filed by any elector eligible to vote on the question or questions described in the petitions or by a permit holder in the precinct or residence district as described in the petitions, not later than four p.m. of the sixty-fourth day before the day of the general or primary election for which the petition qualified. The protest shall be in writing and shall be filed with the election officials with whom the petition was filed. Upon filing of the protest, the election officials with

whom it is filed shall promptly fix the time for hearing it, and shall mail notice of the filing of the protest and the time and place for hearing it to the person who filed the petition and to the person who filed the protest. At the time and place fixed, the election officials shall hear the protest and determine the validity of the petition.

Sec. 4301.34. The petition provided for in section 4301.33 ~~or,~~ 4301.331, or 4301.332 of the Revised Code may consist of one or more separate petition papers. Petitions shall be governed by the rules set forth in section 3501.38 of the Revised Code.

Sec. 4301.351. If a petition is for submission of the question of whether the sale of intoxicating liquor shall be permitted on Sunday, a special election shall be held in the precinct or residence district at the time fixed as provided in section 4301.33 of the Revised Code. The expenses of holding the election shall be charged to the municipal corporation or township of which the precinct or residence district is a part.

At the election one or more of the following questions, as designated in a valid petition, shall be submitted to the electors of the precinct or residence district:

(A) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this (precinct) (district) on other days of the week, be permitted in this ..... for consumption on the premises where sold, between the hours of one p.m. and midnight on Sunday?"

(B) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this (precinct) (district) on other days of the week, be permitted in this ..... for consumption on the premises where sold, between the hours of one p.m. and midnight on Sunday, at licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises?"

(C) "Shall the sale of wine and mixed beverages of the same types as may be legally sold in this (precinct) (district) on other days of the week, be permitted in this ..... for consumption off the premises where sold, between the hours of one p.m. and midnight on Sunday?"

No C or D permit holder who first applied for ~~his~~ such a permit after April 15, 1982, shall sell beer on Sunday unless the sale of intoxicating liquor is authorized in the precinct or residence district or portion thereof at an election on question (A), (B), or (C) of this section or at an election on question (A), (B), or (C) of section 4301.354 Of the Revised Code. No D-6 permit is required for the sale of beer on Sunday.

The board of elections to which the petition is presented shall furnish printed ballots at the election in accordance with section 3505.06 of the

Revised Code, and separate ballots shall be used for the special election. One or more of the questions prescribed by this section, as designated in the petition, shall be set forth on each ballot and the board shall insert in each question the name or an accurate description of the precinct or residence district in which the election is to be held. Votes shall be cast as provided in section 3505.06 of the Revised Code.

Sec. 4301.353. If a petition is filed under section 4301.332 Of the Revised Code for the submission of the one or more questions set forth in this section, a special election shall be held in the precinct or residence district as ordered by the board of elections under that section. The expense of holding the special election shall be charged to the municipal corporation or township of which the precinct or residence district is a part.

At the election, one or both of the following questions as designated in a valid petition shall be submitted to the electors of the precinct or residence district concerning sales on days of the week other than Sunday:

(A) "Shall the sales of (insert one or both of the following: Beer, or wine and mixed beverages) by the package, under permits that authorize sale for off-premises consumption only, be permitted in a portion of this (precinct) (district) in which the status of the sale of (insert one or both of the following: beer, or wine and mixed beverages as allowed or prohibited is inconsistent with the status of such sale in the remainder of the (precinct) (district)?"

(B) "Shall the sale of (insert one or more of the following: beer, wine and mixed beverages, or spirituous liquor), under permits that authorize sale for on-premises consumption only, and under permits that authorize sale for both on-premises and off-premises consumption, be permitted in a portion of this (precinct) (district) in which the status of the sale of (insert one or more of the following: beer, wine and mixed beverages, or spirituous liquor) as allowed or prohibited is inconsistent with the status of such sale in the remainder of the (precinct) (district)?"

The board of elections shall furnish printed ballots at the special election as provided under section 3505.06 Of the Revised Code, except that a separate ballot shall be used for the special election. One or both of the questions set forth in this section shall be printed on each ballot and the board shall insert in the question and statement appropriate words to complete each and a description of the portion of the precinct or residence district that would be affected by the results of the election.

The description of the portion of the precinct or residence district shall include either the complete listing of street addresses in that portion or a condensed text that accurately describes the boundaries of the portion of the

precinct or residence district by street name or by another name generally known by the residents of the portion of the precinct or residence district. If other than a full street listing is used, the full street listing also shall be posted in each polling place in a location that is easily accessible to all voters. Failure of the board of elections to completely and accurately list all street addresses in the affected area of the precinct or residence district does not affect the validity of the election at which the failure occurred and is not grounds for contesting an election under section 3515.08 of the Revised Code. Votes shall be cast as provided under section 3505.06 Of the Revised Code.

Sec. 4301.354. If a petition is filed under section 4301.332 Of the Revised Code for the submission of the one or more questions set forth in this section, a special election shall be held in the precinct or residence district as ordered by the board of elections under that section. The expense of holding the special election shall be charged to the municipal corporation or township of which the precinct or residence district is a part.

At the election, one or more of the following questions as designated in a valid petition shall be submitted to the electors of the (precinct) (district) concerning Sunday sales:

(A) "Shall the sale of intoxicating liquor be permitted in a portion of this (precinct) (district) between the hours of onep.m. and midnight on Sunday for consumption on the premises where sold, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the (precinct) (district)?"

(B) "Shall the sale of intoxicating liquor be permitted in a portion of this (precinct) (district) between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold at licensed premises where the sale of food and other goods exceeds fifty per cent of the total gross receipts of the permit holder at the premises, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the (precinct) (district)?"

(C) "Shall the sale of wine and mixed beverages be permitted in a portion of this (precinct) (district) between the hours of one p.m. and midnight on Sunday for consumption off the premises where sold, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the (precinct) (district)?"

The board of elections shall furnish printed ballots at the special election as provided under section 3505.06 Of the Revised Code, except that a separate ballot shall be used for the special election. The one or more questions set forth in this section shall be printed on each ballot and the

board shall insert in the question and statement appropriate words to complete each and a description of the portion of the precinct or residence district that would be affected by the results of the election.

The description of the portion of the precinct or residence district shall include either the complete listing of street addresses in that portion or a condensed text that accurately describes the boundaries of the portion of the precinct or residence district by street name or by another name generally known by the residents of the portion of the precinct or residence district. If other than a full street listing is used, the full street listing also shall be posted in each polling place in a location that is easily accessible to all voters. Failure of the board of elections to completely and accurately list all street addresses in the affected area of the precinct or residence district does not affect the validity of the election at which the failure occurred and is not grounds for contesting an election under section 3515.08 of the Revised Code. Votes shall be cast as provided under section 3505.06 Of the Revised Code.

Sec. 4301.363. (A) If a majority of the electors in a precinct or residence district vote "yes" on question (A) as set forth in section 4301.353 Of the Revised Code, the sale of beer, or wine and mixed beverages, as specified in the question shall be permitted in the portion of the precinct or residence district affected by the results of the election for sale by the package under permits that authorize the sale for off-premises consumption only, subject only to Chapters 4301. and 4303. Of the Revised Code.

(B) If a majority of the electors in a precinct or residence district vote "yes" on question (B) as set forth in section 4301.353 Of the Revised Code, the sale of beer, wine and mixed beverages, or spirituous liquor as specified in the question shall be permitted in the portion of the precinct or residence district affected by the results of the election under permits that authorize the sale for on-premises consumption only, and under permits that authorize the sale for both on-premises and off-premises consumption, subject only to Chapters 4301. and 4303. Of the Revised Code.

(C) If a majority of the electors in a precinct or residence district vote "no" on question (A) as set forth in section 4301.353 Of the Revised Code, no sales of beer, or wine and mixed beverages, as specified in the question shall be permitted in the portion of the precinct or residence district affected by the results of the election.

(D) If a majority of the electors in a precinct or residence district vote "no" on question (B) as set forth in section 4301.353 Of the Revised Code, no sales of beer, wine and mixed beverages, or spirituous liquor as specified in the question shall be permitted in the portion of the precinct or residence

district affected by the results of the election.

Sec. 4301.364. (A) If a majority of the electors in a precinct or residence district vote "yes" on question (A) as set forth in section 4301.354 Of the Revised Code, the sale of intoxicating liquor, of the same types as may be legally sold in the precinct or residence district on other days of the week, shall be permitted in the portion of the precinct or residence district affected by the results of the election between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold, subject only to Chapters 4301. and 4303. Of the Revised Code.

(B) If a majority of the electors in a precinct or residence district vote "yes" on question (B) as set forth in section 4301.354 Of the Revised Code, the sale of intoxicating liquor, of the same types as may be legally sold in the precinct or residence district on other days of the week, shall be permitted in the portion of the precinct or residence district affected by the results of the election between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold at licensed premises where the sale of food and other goods exceeds fifty per cent of the total gross receipts of the permit holder at the premises, subject only to Chapters 4301. and 4303. Of the Revised Code.

(C) If a majority of the electors in a precinct or residence district vote "yes" on question (C) as set forth in section 4301.354 Of the Revised Code, the sale of wine and mixed beverages shall be permitted in the portion of the precinct or residence district affected by the results of the election between the hours of one p.m. and midnight on Sunday for consumption off the premises where sold, subject only to Chapters 4301. and 4303. Of the Revised Code.

(D) If a majority of the electors in a precinct or residence district vote "no" on question (A) as set forth in section 4301.354 Of the Revised Code, no sale of intoxicating liquor shall be permitted between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold in the portion of the precinct or residence district affected by the results of the election.

(E) If a majority of the electors in a precinct or residence district vote "no" on question (B) as set forth in section 4301.354 Of the Revised Code, no sale of intoxicating liquor, shall be permitted between the hours of one p.m. and midnight on Sunday for consumption on the premises where sold at licensed premises where the sale of food and other goods exceeds fifty per cent of the total gross receipts of the permit holder at the premises, in the portion of the precinct or residence district affected by the results of the election.

(F) If a majority of the electors in a precinct or residence district vote "no" on question (C) as set forth in section 4301.354 Of the Revised Code, no sale of wine or mixed beverages shall be permitted between the hours of one p.m. and midnight on Sunday for consumption off the premises where sold in the portion of the precinct or residence district affected by the results of the election.

Sec. 4301.37. (A) When a local option election, other than an election under section 4301.351 ~~or~~, 4301.352, 4301.353, or 4301.354 of the Revised Code, is held in any precinct or residence district, the result of the election shall be effective in the precinct or residence district until another election is called and held pursuant to sections 4301.32 to 4301.36 of the Revised Code, but no such election shall be held in ~~any~~ the precinct, residence district, or part of a residence district on the same question more than once in each ~~four~~ TWO years.

(B) When a local option election under section 4301.351 of the Revised Code is held in any precinct or residence district, the result of the election shall be effective in the precinct or residence district until another election is called and held pursuant to sections 4301.32 to 4301.361 of the Revised Code, but no such election shall be held under section 4301.351 Of the Revised Code in ~~any~~ the precinct, residence district, or part of a residence district on the same question more than once in each ~~four~~ TWO years.

(C) When a local option election is held in a precinct under section 4301.352 of the Revised Code, and a majority of the electors voting on the question vote "yes," no subsequent local option election shall be held in the precinct upon the sale of beer or intoxicating liquor by the class C or D permit holder at the specified premises for a period of at least ~~four~~ TWO calendar years from the date of the most recent local option election, except that this division shall not be construed to prohibit the holding or affect the results of a local option election under section 4301.35, 4301.351, 4303.29, or 4305.14 of the Revised Code.

(D) ~~When a local option election has been held under section 4301.35 or 4301.351 of the Revised Code prior to April 4, 1985, in a precinct or district, as defined in section 4301.32 of the Revised Code prior to April 4, 1985, the results of the election shall be effective in the district until another election is called and held pursuant to sections 4301.32 to 4301.361 of the Revised Code, but no such election shall be held in any election precinct, residence district, or part of a residence district that is part of the precinct or district on a question contained in section 4301.35 or 4301.351 of the Revised Code until four years have passed since the date of the most recent election in that precinct or district on that question.~~ When a local option

election is held in a precinct or residence district under section 4301.353 or 4301.354 Of the Revised Code, the results of the election shall be effective until another election is held under that section on the same question, but no such election shall be held in a precinct or residence district under that section on the same question for a period of at least two years from the date of the most recent election. This division shall not be construed to prohibit the future holding of, or affect the future results of, a local option election held under section 4301.35, 4301.351, 4303.29, or 4305.14 Of the Revised Code.

Sec. 4301.39. (A) When the board of elections of any county determines that a petition for a local option election, presented pursuant to section 4301.33, 4301.331, 4301.332, 4303.29, or 4305.14 of the Revised Code is sufficient, it shall forthwith, by mail, notify the division of liquor control of the fact that such a petition has been filed and approved by it. Upon the determination of the results of any such election, the board shall forthwith notify the division by mail of the result and shall forward with the notice a plat of the precinct or residence district in which the election was held and, if applicable, shall separately identify the portion of the precinct or residence district affected by the election.

(B) On the plat of a precinct or residence district, forwarded with the results of an election that was held under section 4301.35, 4301.351, 4301.353, 4301.354, or 4303.29 of the Revised Code, the board shall show and designate all of the streets and highways in the precinct or residence district.

(C) On the plat of a precinct, forwarded with the results of an election that was held under section 4301.352 of the Revised Code, the board shall show and designate all of the following:

(1) All of the streets and highways in the precinct;

(2) The permit premises designated in the petition that was filed under section 4301.331 of the Revised Code;

(3) A class C or D permit holder's personal or corporate name, and if it is different from the permit holder's personal or corporate name, the name of the business conducted by the permit holder on the designated premises;

(4) The address of the designated premises. ~~the holder's the holder's~~

(D) If an application for recount is filed with the board of elections pursuant to section 3515.02 of the Revised Code or if an election contest is commenced pursuant to section 3515.09 of the Revised Code, the board of elections shall send written notice of the recount or contest, by certified mail, to the superintendent of liquor control within two days from the date of the filing of the application for recount or the commencement of an

election contest. Upon the final determination of an election recount or contest, the board of elections shall send notice of the final determination, by certified mail, to the superintendent and the liquor control commission.

(E) If, as the result of a local option election, the use of a permit is made partially unlawful, the division shall, within thirty days after receipt of the final notice of the result of the election, pick up and amend the permit by inserting appropriate restrictions on the permit, and forthwith reissue the permit without charge or refund to the permit holder.

If, as the result of a local option election, except a local option election held pursuant to section 4301.352 of the Revised Code, the use of a permit is made wholly unlawful, the permit holder may, within thirty days after the certification of such final result by the board of elections to the division, deliver the permit holder's permit to the division for safekeeping as provided in section 4303.272 of the Revised Code.

(F) If a municipal corporation or township has been paid all the moneys due it from permit fees under section 4301.30 of the Revised Code, it shall refund to the division ninety per cent of the money attributed to the unexpired portion of all permits which are still in force at the time of a local option election that makes use of the permits unlawful, except that no refund shall be made for the unexpired portion of a license year that is less than thirty days. Failure of the municipal corporation or township to refund the amount due entitles the permit holders to operate under their permits until the refund has been made.

If a municipal corporation or township has been paid all the money due it from permit fees under section 4301.30 of the Revised Code, it shall refund to the division ninety per cent of the money attributable to the unexpired portion of a permit at the time a local option election under section 4301.352 of the Revised Code makes use of the permit unlawful, except that no refund shall be made for the unexpired portion of a license year that is less than thirty days. Failure of the municipal corporation or township to refund the amount due entitles the permit holder to operate under the permit until the refund has been made.

Sec. 4305.14. (A) As used in this section, "residence district" has the same meaning as in section 4301.01 of the Revised Code.

(B) The following questions regarding the sale of beer by holders of C or D permits may be presented to the qualified electors of an election precinct or residence district:

(1) "Shall the sale of beer as defined in section 4305.08 of the Revised Code under permits which authorize sale for off-premises consumption only be permitted within this (precinct) (district)?"

(2) "Shall the sale of beer as defined in section 4305.08 of the Revised Code under permits which authorize sale for on-premises consumption only, and under permits which authorize sale for both on-premises and off-premises consumption, be permitted in this (precinct) (district)?"

The exact wording of the question as submitted and form of ballot as printed shall be determined by the board of elections in the county wherein the election is held, subject to approval of the secretary of state.

Upon the request of an elector, a board of elections of a county that encompasses an election precinct or residence district shall furnish to the elector a copy of the instructions prepared by the secretary of state under division (P) of section 3501.05 of the Revised Code and, within fifteen days after the request, with a certificate indicating the number of valid signatures that will be required on a petition to hold a special election in that precinct or residence district on either or both of the questions specified in this section.

The board shall provide to a petitioner, at the time the petitioner takes out a petition, the names of the streets and, if appropriate, the address numbers of residences and business establishments within the precinct or residence district in which the election is sought, and a form prescribed by the secretary of state for notifying affected permit holders of the circulation of a petition for an election for the submission of one or more of the questions specified in division (B) of this section. The petitioner shall, not less than forty-five days before the petition-filing deadline for an election provided for in this section, file with the division of liquor control the information regarding names of streets and, if appropriate, address numbers of residences and business establishments provided by the board of elections, and specify to the division the precinct or residence district that is concerned and the filing deadline. The division shall, within a reasonable period of time and not later than fifteen days before the filing deadline, supply the petitioner with a list of the names and addresses of permit holders who would be affected by the election. The list shall contain a heading with the following words: "liquor permit holders who would be affected by the question(s) set forth on a petition for a local option election."

Within five days after receiving from the division the list of liquor permit holders who would be affected by the question or questions set forth on a petition for local option election, the petitioner shall, using the form provided by the board of elections, notify by certified mail each permit holder whose name appears on that list. The form for notifying affected permit holders shall require the petitioner to state the petitioner's name and street address and shall contain a statement that a petition is being circulated

for an election for the submission of the question or questions specified in division (B) of this section. The form shall require the petitioner to state the question or questions to be submitted as they appear on the petition.

The petitioner shall attach a copy of the list provided ~~to him~~ by the division to each petition paper. A part petition paper circulated at any time without the list of affected permit holders attached to it is invalid.

At the time of filing the petition with the board of elections, the petitioner shall provide to the board of elections the list supplied by the division and an affidavit certifying that the petitioner notified all affected permit holders on the list in the manner and within the time required in this section and that, at the time each signer of the petition signed the petition, the petition paper contained a copy of the list of affected permit holders.

Within five days after receiving a petition calling for an election for the submission of the question or questions set forth in this section, the board of elections shall give notice by certified mail that it has received the petition to all liquor permit holders whose names appear on the list of affected permit holders filed by the petitioner as furnished by the division. Failure of the petitioner to supply the affidavit required by this section and a complete and accurate list of liquor permit holders as furnished by the division invalidates the entire petition. The board of elections shall provide to a permit holder who would be affected by a proposed local option election, on the permit holder's request, the names of the streets, and, if appropriate, the address numbers of residences and business establishments within the precinct or residence district in which the election is sought. The board may charge a reasonable fee for this information when provided to the petitioner and the permit holder.

Upon presentation not later than four p.m. of the seventy-fifth day before the day of a general or primary election, of a petition to the board of elections of the county wherein such election is sought to be held, requesting the holding of such election on either or both of the questions specified in this section, signed by qualified electors of the precinct or residence district concerned equal in number to thirty-five per cent of the total number of votes cast in the precinct concerned for the office of governor at the preceding general election for that office, in the case of an election within a single precinct, or equal in number to fifty-five per cent of the total number of votes cast in the residence district concerned for the office of governor at the preceding general election for that office, in the case of an election within a residence district, such board shall submit the question or questions specified in the petition to the electors of the precinct or residence district concerned, on the day of the next general or primary election, whichever

occurs first.

(C) The board shall proceed as follows:

(1) Such board shall, not later than the sixty-sixth day before the day of the election for which the question or questions on the petition would qualify for submission to the electors of the precinct or residence district, examine and determine the sufficiency of the signatures and review, examine, and determine the validity of such petition and, in case of overlapping precinct petitions or overlapping residence district petitions or overlapping precinct and residence district petitions presented within that period, determine which of the petitions shall govern the further proceedings of the board. In the case where the board determines that two or more overlapping petitions are valid, the earlier petition shall govern. The board shall certify the sufficiency and validity of any petition determined to be valid. The board shall determine the validity of the petition as of the time of certification as described in division (B)(1) of this section.

(2) If the petition is valid, and, in case of overlapping precinct petitions or overlapping residence district petitions or overlapping precinct and residence district petitions, after the board has determined the governing petition, the board shall order the holding of a special election in the precinct or residence district for the submission of the question or questions specified in the petition, on the day of the next general or primary election, whichever occurs first.

All petitions filed with a board of elections under this section shall be open to public inspection under regulations adopted by the board.

(D) Protest against a local option petition may be filed by any qualified elector eligible to vote on the question or questions specified in the petition or by a permit holder in the precinct or residence district as described in the petition, not later than four p.m. of the sixty-fourth day before the day of such general or primary election. Such protest must be in writing and shall be filed with the election officials with whom the petition was filed. Upon filing of such protest the election officials with whom it is filed shall promptly fix the time for hearing the same, and shall forthwith mail notice of the filing of the protest and the time for hearing it to the person who filed the petition which is protested and to the person who filed the protest. At the time fixed, the election officials shall hear the protest and determine the validity of the petition.

(E) If a majority of the electors voting on the question in the precinct or residence district vote "yes" on question (1) or (2) as set forth in division (B) of this section, the sale of beer as specified in that question shall be permitted in the precinct or residence district and no subsequent election

shall be held in the precinct or residence district under this section on the same question for a period of at least two years from the date of the most recent election.

If a majority of the electors voting on the question in the precinct or residence district vote "no" on question (1) or (2) as set forth in division (B) of this section, no C or D permit holder shall sell beer as specified in that question within the precinct or residence district during the period the election is in effect and no subsequent election shall be held in the precinct or residence district under this section on the same question for a period of at least two years from the date of the most recent election.

~~(F) No election shall be held under this section on the same question more often than once in each four years. No election shall be held on question (1) or (2) as set forth in division (B) of this section if an election was held in the same precinct or residence district within four years before the date of the election on question (1) or (2) on the question specified in this section before May 13, 1987.~~

~~When a local option election has been held under this section prior to April 4, 1985, in a district, as described in this section prior to April 4, 1985, the results of the election shall be effective in the district until another election is held pursuant to this section, but no such election shall be held in any election precinct that is part of the district until four years have passed since the date of the most recent election held under this section in that district.~~

SECTION 2. That existing sections 4301.01, 4301.34, 4301.351, 4301.37, 4301.39, and 4305.14 of the Revised Code are hereby repealed.

SECTION 3. Notwithstanding division (A) of section 4301.322 of the Revised Code, as enacted by this act, a petitioner circulating a petition for an election for the submission of one or more of the questions specified in section 4301.353 or 4301.354 of the Revised Code as enacted by this act to be held on the day of the 1997 general election shall file with the Division of Liquor Control, not less than thirty days before the petition-filing deadline for the election, as provided in section 4301.322 of the Revised Code as enacted by this act, the information regarding the names of streets and, if appropriate, address numbers of residences and business establishments provided by the board of elections under that division and shall specify to the Division the portion of the precinct or residence district that would be affected by the results of the election and the filing deadline, as provided in

that section.

SECTION 4. The amendments made to sections 4301.37 and 4305.14 of the Revised Code by this act reducing from four years to two years the minimum period of time after the holding of a local option election before another local option election may be held in the precinct, residence district, or portion of a residence district on the same question apply to questions that were submitted at elections held on the day of the May 1994 primary election and at subsequent elections.

SECTION 5. Section 4301.01 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 239, Am. Sub. S.B. 149, and Am. Sub. S.B. 162 of the 121st General Assembly, with the new language of none of the acts shown in capital letters. Section 4301.39 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 149 and Am. Sub. S.B. 162 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

Section 6. For a period of two years beginning on the effective date of this section, sections 4301.32 to 4301.391, 4301.41, and 4305.14 of the Revised Code and the provisions for local option elections and the election on the question of the repeal of Section 9 of Article XV, Ohio Constitution, in section 4303.29 of the Revised Code, do not affect or prohibit the sale of beer or intoxicating liquor at any of the following:

(A) The State Fairgrounds. As used in this division and in division (B) of this section, "State Fairgrounds" means the property that is held by the state for the purpose of conducting fairs, expositions, and exhibits and that is maintained and managed by the Ohio Expositions Commission under section 991.03 of the Revised Code.

(B) The Ohio Historical Society and Ohio Village, which are located contiguous to the State Fairgrounds in Columbus, Ohio.

SECTION 7. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity lies in the fact that this act must be effective before the filing deadline in August 1997 for the November 1997 general election so that the act's new provisions can apply to that election. Therefore, this act shall go into immediate effect.

_____

Speaker _____ of the House of Representatives.

_____

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

_____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

_____

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

_____

Secretary of State.

File No. _____ Effective Date _____