

As Introduced

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H. B. No. 47

Representatives Blessing, Driehaus

**Cosponsors: Representatives Ramos, Retherford, Becker, Conditt, Maag, Kuhns,
Antani, Reece, Slesnick, Young, Dever, Kraus, O'Brien, M., Lepore-Hagan**

A BILL

To amend section 4301.62 and to enact section 1
4301.82 of the Revised Code to allow municipal 2
corporations and townships with a population of 3
more than 25,000 to create outdoor refreshment 4
areas, to exempt persons within such an area 5
from the open container law, and to declare an 6
emergency. 7

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

Section 1. That section 4301.62 be amended and section 8
4301.82 of the Revised Code be enacted to read as follows: 9

Sec. 4301.62. (A) As used in this section: 10

(1) "Chauffeured limousine" means a vehicle registered 11
under section 4503.24 of the Revised Code. 12

(2) "Street," "highway," and "motor vehicle" have the same 13
meanings as in section 4511.01 of the Revised Code. 14

(B) No person shall have in the person's possession an 15
opened container of beer or intoxicating liquor in any of the 16
following circumstances: 17

(1) Except as provided in division (C) (1) (e) of this section, in an agency store;	18 19
(2) Except as provided in division (C) of this section, on the premises of the holder of any permit issued by the division of liquor control;	20 21 22
(3) In any other public place;	23
(4) Except as provided in division (D) or (E) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;	24 25 26 27 28
(5) Except as provided in division (D) or (E) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.	29 30 31 32
(C) (1) A person may have in the person's possession an opened container of any of the following:	33 34
(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 permit;	35 36 37 38 39 40
(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;	41 42 43 44
(c) Beer or intoxicating liquor consumed on the premises	45

of a convention facility as provided in section 4303.201 of the Revised Code; 46
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(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission; 48
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(e) Spirituous liquor to be consumed for purposes of a tasting sample, as defined in section 4301.171 of the Revised Code. 51
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(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres. 54
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(3) (a) A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued. 65
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(b) As used in division (C) (3) (a) of this section: 74

(i) "Orchestral performance" means a concert comprised of 75
a group of not fewer than forty musicians playing various 76
musical instruments. 77

(ii) "Outdoor performing arts center" means an outdoor 78
performing arts center that is located on not less than one 79
hundred fifty acres of land and that is open for performances 80
from the first day of April to the last day of October of each 81
year. 82

(4) A person may have in the person's possession an opened 83
or unopened container of beer or intoxicating liquor at an 84
outdoor location at which the person is attending an orchestral 85
performance as defined in division (C) (3) (b) (i) of this section 86
if the person with supervision and control over the performance 87
grants permission for the possession and consumption of beer or 88
intoxicating liquor in certain predesignated areas of that 89
outdoor location. 90

(5) A person may have in the person's possession on an F-9 91
liquor permit premises an opened or unopened container of beer 92
or intoxicating liquor that was not purchased from the holder of 93
the F-9 permit if the person is attending an orchestral 94
performance and the holder of the F-9 permit grants permission 95
for the possession and consumption of beer or intoxicating 96
liquor in certain predesignated areas of the premises during the 97
period for which the F-9 permit is issued. 98

As used in division (C) (5) of this section, "orchestral 99
performance" has the same meaning as in division (C) (3) (b) of 100
this section. 101

(6) (a) A person may have in the person's possession on the 102
property of an outdoor motorsports facility an opened or 103

unopened container of beer or intoxicating liquor that was not 104
purchased from the owner of the facility if both of the 105
following apply: 106

(i) The person is attending a racing event at the 107
facility; and 108

(ii) The owner of the facility grants permission for the 109
possession and consumption of beer or intoxicating liquor on the 110
property of the facility. 111

(b) As used in division (C) (6) (a) of this section: 112

(i) "Racing event" means a motor vehicle racing event 113
sanctioned by one or more motor racing sanctioning 114
organizations. 115

(ii) "Outdoor motorsports facility" means an outdoor 116
racetrack to which all of the following apply: 117

(I) It is two and four-tenths miles or more in length. 118

(II) It is located on two hundred acres or more of land. 119

(III) The primary business of the owner of the facility is 120
the hosting and promoting of racing events. 121

(IV) The holder of a D-1, D-2, or D-3 permit is located on 122
the property of the facility. 123

(7) A person may have in the person's possession an opened 124
container of beer or intoxicating liquor at an outdoor location 125
within an outdoor refreshment area created under section 4301.82 126
of the Revised Code if the opened container of beer or 127
intoxicating liquor was purchased from a qualified permit holder 128
to which both of the following apply: 129

(a) The permit holder's premises is located within the 130

outdoor refreshment area. 131

(b) The permit held by the permit holder has an outdoor
refreshment area designation. 132
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Notwithstanding division (C) (7) of this section, no person
shall enter the premises of an establishment within an outdoor
refreshment area while possessing an opened container of beer or
intoxicating liquor acquired elsewhere. 134
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(D) This section does not apply to a person who pays all 138
or a portion of the fee imposed for the use of a chauffeured 139
limousine pursuant to a prearranged contract, or the guest of 140
the person, when all of the following apply: 141

(1) The person or guest is a passenger in the limousine. 142

(2) The person or guest is located in the limousine, but 143
is not occupying a seat in the front compartment of the 144
limousine where the operator of the limousine is located. 145

(3) The limousine is located on any street, highway, or 146
other public or private property open to the public for purposes 147
of vehicular travel or parking. 148

(E) An opened bottle of wine that was purchased from the 149
holder of a permit that authorizes the sale of wine for 150
consumption on the premises where sold is not an opened 151
container for the purposes of this section if both of the 152
following apply: 153

(1) The opened bottle of wine is securely resealed by the 154
permit holder or an employee of the permit holder before the 155
bottle is removed from the premises. The bottle shall be secured 156
in such a manner that it is visibly apparent if the bottle has 157
been subsequently opened or tampered with. 158

(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 a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

Sec. 4301.82. (A) As used in this section, "qualified permit holder" means the holder of an A-1, A-1-A, A-1c, A-2, or D permit issued under Chapter 4303. of the Revised Code.

(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:

(1) A map or survey of the proposed outdoor refreshment area, which shall not exceed three hundred twenty contiguous acres or one-half of a square mile, in sufficient detail to identify the boundaries of the area;

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

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

(4) Evidence that the uses of land within the proposed outdoor refreshment area are in accord with the master zoning

plan or map of the municipal corporation or township; 188

(5) Proposed requirements for the purpose of ensuring 189
safety within the proposed outdoor refreshment area. 190

(C) Within forty-five days after the date the application 191
is filed with the legislative authority of a municipal 192
corporation or township, the legislative authority shall publish 193
public notice of the application once a week for two consecutive 194
weeks in one newspaper of general circulation in the municipal 195
corporation or township or as provided in section 7.16 of the 196
Revised Code. The legislative authority shall ensure that the 197
notice states that the application is on file in the office of 198
the clerk of the municipal corporation or township and is 199
available for inspection by the public during regular business 200
hours. The legislative authority also shall indicate in the 201
notice the date and time of any public hearing to be held 202
regarding the application by the legislative authority. 203

Not earlier than thirty but not later than sixty days 204
after the initial publication of notice, the legislative 205
authority shall approve or disapprove the application by either 206
ordinance or resolution, as applicable. Approval of an 207
application requires an affirmative vote of a majority of the 208
legislative authority. Upon approval of the application by the 209
legislative authority, the territory described in the 210
application constitutes an outdoor refreshment area. The 211
legislative authority shall provide to the division of liquor 212
control notice of the approval of the application and a 213
description of the area specified in the application. If the 214
legislative authority disapproves the application, the executive 215
officer of a municipal corporation or fiscal officer of a 216
township may make changes in the application to secure its 217

approval by the legislative authority. 218

(D) The creation of outdoor refreshment areas is limited 219
as follows: 220

(1) A municipal corporation or township with a population 221
of more than two hundred seventy-five thousand shall not create 222
more than three outdoor refreshment areas. 223

(2) A municipal corporation or township with a population 224
of more than one hundred fifty thousand but less than or equal 225
to two hundred seventy-five thousand shall not create more than 226
two outdoor refreshment areas. 227

(3) A municipal corporation or township with a population 228
of more than twenty-five thousand but less than or equal to one 229
hundred fifty thousand shall not create more than one outdoor 230
refreshment area. 231

(4) A municipal corporation or township with a population 232
of twenty-five thousand or less shall not create an outdoor 233
refreshment area. 234

For purposes of this section, the population of a 235
municipal corporation or township is deemed to be the population 236
shown by the most recent regular federal decennial census. 237

(E) As soon as possible after receiving notice that an 238
outdoor refreshment area has been approved, the division of 239
liquor control, for purposes of section 4301.62 of the Revised 240
Code, shall issue an outdoor refreshment area designation to 241
each qualified permit holder located within the refreshment area 242
that is in compliance with all applicable requirements under 243
Chapters 4301. and 4303. of the Revised Code. The division shall 244
not charge any fee for the issuance of the designation. Any 245
permit holder that receives such a designation shall comply with 246

all laws, rules, and regulations that govern its license type 247
and, if applicable, any safety requirements established for the 248
area under division (F) of this section. 249

(F) (1) At the time of the creation of an outdoor 250
refreshment area or any time thereafter, the legislative 251
authority of a municipal corporation or township in which such 252
an area is located may adopt an ordinance or resolution, as 253
applicable, that establishes requirements the legislative 254
authority determines necessary to ensure safety within the area. 255
The legislative authority may, but is not required to, include 256
in the ordinance or resolution any safety requirements proposed 257
in an application under division (B) of this section to 258
designate or expand the outdoor refreshment area. The 259
legislative authority may subsequently modify the safety 260
requirements as determined necessary by the legislative 261
authority. 262

(2) Prior to adopting an ordinance or resolution under 263
this division, the legislative authority shall give notice of 264
its proposed action by publication once a week for two 265
consecutive weeks in one newspaper of general circulation in the 266
municipal corporation or township or as provided in section 7.16 267
of the Revised Code. 268

(3) The legislative authority shall provide to the 269
division of liquor control notice of any safety requirements 270
established or modified under this division. 271

(G) Section 4399.18 of the Revised Code applies to a 272
liquor permit holder located within an outdoor refreshment area 273
in the same manner as if the liquor permit holder were not 274
located in an outdoor refreshment area. 275

(H) (1) Five years after the date of creation of an outdoor refreshment area, the legislative authority of the municipal corporation or township that created the area under this section shall review the operation of the area and shall, by ordinance or resolution, either approve the continued operation of the area or dissolve the area. Prior to adopting the ordinance or resolution, the legislative authority shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code. 276
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If the legislative authority dissolves the outdoor refreshment area, the outdoor refreshment area ceases to exist. The legislative authority then shall provide notice of its action to the division of liquor control and the division shall revoke all outdoor refreshment area designations issued to qualified permit holders within the dissolved area. If the legislative authority approves the continued operation of the outdoor refreshment area, the area continues in operation. 287
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(2) Five years after the approval of the continued operation of an outdoor refreshment area under division (H) (1) of this section, the legislative authority shall conduct a review in the same manner as provided in division (H) (1) of this section. The legislative authority also shall conduct such a review five years after any subsequent approval of continued operation under division (H) (2) of this section. 295
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(I) At any time, the legislative authority of a municipal corporation or township in which an outdoor refreshment area is located may, by ordinance or resolution, dissolve all or a part of the outdoor refreshment area. Prior to adopting the 302
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resolution or ordinance, the legislative authority shall give 306
notice of its proposed action by publication once a week for two 307
consecutive weeks in one newspaper of general circulation in the 308
municipal corporation or township or as provided in section 7.16 309
of the Revised Code. If the legislative authority dissolves all 310
or part of an outdoor refreshment area, the area designated in 311
the ordinance or resolution no longer constitutes an outdoor 312
refreshment area. The legislative authority shall provide notice 313
of its actions to the division of liquor control. Upon receipt 314
of the notice, the division shall revoke all outdoor refreshment 315
area designations issued to qualified permit holders within the 316
dissolved area or portion of the area. 317

Section 2. That existing section 4301.62 of the Revised 318
Code is hereby repealed. 319

Section 3. This act is hereby declared to be an emergency 320
measure necessary for the immediate preservation of the public 321
peace, health, and safety. The reason for such necessity is that 322
local authorities across the state need to engage in long range 323
planning for upcoming sporting, entertainment, and cultural 324
events that may be enhanced by the existence of outdoor 325
refreshment areas. Therefore, this act shall go into immediate 326
effect. 327