

As Reported by the Senate State and Local Government Committee

131st General Assembly

Regular Session

2015-2016

Sub. 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, Anielski, Antonio, Barnes, Brinkman, Buchy, Celebrezze, Dovilla, Hackett, Rogers, Schuring, Sheehy, Strahorn, Terhar, Speaker Rosenberger

Senators Uecker, Yuko

A BILL

To amend sections 4301.62 and 4303.208 and to enact
section 4301.82 of the Revised Code to allow
municipal corporations and townships with a
population of more than 35,000 to create outdoor
refreshment areas, to exempt persons within an
outdoor refreshment area from the open container
law, to exempt persons who are passengers on a
commercial quadricycle from that law, to revise
the law governing F-8 liquor permits, and to
declare an emergency.

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

Section 1. That sections 4301.62 and 4303.208 be amended
and section 4301.82 of the Revised Code be enacted to read as
follows:

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

(1) "Chauffeured limousine" means a vehicle registered

under section 4503.24 of the Revised Code.	16
(2) "Street," "highway," and "motor vehicle" have the same meanings as in section 4511.01 of the Revised Code.	17 18
(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:	19 20 21
(1) Except as provided in division (C) (1) (e) of this section, in an agency store;	22 23
(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;	24 25 26
(3) In any other public place;	27
(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;	28 29 30 31 32
(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.	33 34 35 36
(C) (1) A person may have in the person's possession an opened container of any of the following:	37 38
(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	39 40 41 42 43

F-8 permit;	44
(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;	45 46 47 48
(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code;	49 50 51
(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission;	52 53 54
(e) Spirituous liquor to be consumed for purposes of a tasting sample, as defined in section 4301.171 of the Revised Code.	55 56 57
(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.	58 59 60 61 62 63 64 65 66 67 68
(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	69 70 71 72

performing arts center, the person is attending an orchestral 73
performance, and the holder of the D-2 permit grants permission 74
for the possession and consumption of wine in certain 75
predesignated areas of the premises during the period for which 76
the D-2 permit is issued. 77

(b) As used in division (C) (3) (a) of this section: 78

(i) "Orchestral performance" means a concert comprised of 79
a group of not fewer than forty musicians playing various 80
musical instruments. 81

(ii) "Outdoor performing arts center" means an outdoor 82
performing arts center that is located on not less than one 83
hundred fifty acres of land and that is open for performances 84
from the first day of April to the last day of October of each 85
year. 86

(4) A person may have in the person's possession an opened 87
or unopened container of beer or intoxicating liquor at an 88
outdoor location at which the person is attending an orchestral 89
performance as defined in division (C) (3) (b) (i) of this section 90
if the person with supervision and control over the performance 91
grants permission for the possession and consumption of beer or 92
intoxicating liquor in certain predesignated areas of that 93
outdoor location. 94

(5) A person may have in the person's possession on an F-9 95
liquor permit premises an opened or unopened container of beer 96
or intoxicating liquor that was not purchased from the holder of 97
the F-9 permit if the person is attending an orchestral 98
performance and the holder of the F-9 permit grants permission 99
for the possession and consumption of beer or intoxicating 100
liquor in certain predesignated areas of the premises during the 101

period for which the F-9 permit is issued.	102
As used in division (C) (5) of this section, "orchestral performance" has the same meaning as in division (C) (3) (b) of this section.	103 104 105
(6) (a) A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:	106 107 108 109 110
(i) The person is attending a racing event at the facility; and	111 112
(ii) The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility.	113 114 115
(b) As used in division (C) (6) (a) of this section:	116
(i) "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.	117 118 119
(ii) "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:	120 121
(I) It is two and four-tenths miles or more in length.	122
(II) It is located on two hundred acres or more of land.	123
(III) The primary business of the owner of the facility is the hosting and promoting of racing events.	124 125
(IV) The holder of a D-1, D-2, or D-3 permit is located on the property of the facility.	126 127
<u>(7) (a) A person may have in the person's possession an</u>	128

opened container of beer or intoxicating liquor at an outdoor 129
location within an outdoor refreshment area created under 130
section 4301.82 of the Revised Code if the opened container of 131
beer or intoxicating liquor was purchased from a qualified 132
permit holder to which both of the following apply: 133

(i) The permit holder's premises is located within the 134
outdoor refreshment area. 135

(ii) The permit held by the permit holder has an outdoor 136
refreshment area designation. 137

(b) Division (C) (7) of this section does not authorize a 138
person to do either of the following: 139

(i) Enter the premises of an establishment within an 140
outdoor refreshment area while possessing an opened container of 141
beer or intoxicating liquor acquired elsewhere; 142

(ii) Possess an opened container of beer or intoxicating 143
liquor while being in or on a motor vehicle within an outdoor 144
refreshment area, unless the motor vehicle is stationary and is 145
not being operated in a lane of vehicular travel or unless the 146
possession is otherwise authorized under division (D) or (E) of 147
this section. 148

(D) This section does not apply to a person who pays all 149
or a portion of the fee imposed for the use of a chauffeured 150
limousine pursuant to a prearranged contract, or the guest of 151
the person, when all of the following apply: 152

(1) The person or guest is a passenger in the limousine. 153

(2) The person or guest is located in the limousine, but 154
is not occupying a seat in the front compartment of the 155
limousine where the operator of the limousine is located. 156

(3) The limousine is located on any street, highway, or 157
other public or private property open to the public for purposes 158
of vehicular travel or parking. 159

(E) An opened bottle of wine that was purchased from the 160
holder of a permit that authorizes the sale of wine for 161
consumption on the premises where sold is not an opened 162
container for the purposes of this section if both of the 163
following apply: 164

(1) The opened bottle of wine is securely resealed by the 165
permit holder or an employee of the permit holder before the 166
bottle is removed from the premises. The bottle shall be secured 167
in such a manner that it is visibly apparent if the bottle has 168
been subsequently opened or tampered with. 169

(2) The opened bottle of wine that is resealed in 170
accordance with division (E) (1) of this section is stored in the 171
trunk of a motor vehicle or, if the motor vehicle does not have 172
a trunk, behind the last upright seat or in an area not normally 173
occupied by the driver or passengers and not easily accessible 174
by the driver. 175

(F) (1) Except if an ordinance or resolution is enacted or 176
adopted under division (F) (2) of this section, this section does 177
not apply to a person who, pursuant to a prearranged contract, 178
is a passenger riding on a commercial quadricycle when all of 179
the following apply: 180

(a) The person is not occupying a seat in the front of the 181
commercial quadricycle where the operator is steering or 182
braking. 183

(b) The commercial quadricycle is being operated on a 184
street, highway, or other public or private property open to the 185

public for purposes of vehicular travel or parking. 186

(c) The person has in their possession on the commercial 187
quadricycle an opened container of beer or wine. 188

(d) The person has in their possession on the commercial 189
quadricycle not more than either thirty-six ounces of beer or 190
eighteen ounces of wine. 191

(2) The legislative authority of a municipal corporation 192
or township may enact an ordinance or adopt a resolution, as 193
applicable, that prohibits a passenger riding on a commercial 194
quadricycle from possessing an opened container of beer or wine. 195

(3) As used in this section, "commercial quadricycle" 196
means a vehicle that has fully-operative pedals for propulsion 197
entirely by human power and that meets all of the following 198
requirements: 199

(a) It has four wheels and is operated in a manner similar 200
to a bicycle. 201

(b) It has at least five seats for passengers. 202

(c) It is designed to be powered by the pedaling of the 203
operator and the passengers. 204

(d) It is used for commercial purposes. 205

(e) It is operated by the vehicle owner or an employee of 206
the owner. 207

Sec. 4301.82. (A) As used in this section, "qualified 208
permit holder" means the holder of an A-1, A-1-A, A-1c, A-2, or 209
D permit issued under Chapter 4303. of the Revised Code. 210

(B) The executive officer of a municipal corporation or 211
the fiscal officer of a township may file an application with 212

the legislative authority of the municipal corporation or 213
township to have property within the municipal corporation or 214
township designated as an outdoor refreshment area or to expand 215
an existing outdoor refreshment area to include additional 216
property within the municipal corporation or township. The 217
executive officer or fiscal officer shall ensure that the 218
application contains all of the following: 219

(1) A map or survey of the proposed outdoor refreshment 220
area in sufficient detail to identify the boundaries of the 221
area, which shall not exceed either of the following, as 222
applicable: 223

(a) Three hundred twenty contiguous acres or one-half 224
square mile if the municipal corporation or township has a 225
population of more than thirty-five thousand as specified in 226
division (D) of this section; 227

(b) One hundred fifty contiguous acres if the municipal 228
corporation or township has a population of thirty-five thousand 229
or less as specified in division (D) of this section. 230

(2) A general statement of the nature and types of 231
establishments that will be located within the proposed outdoor 232
refreshment area; 233

(3) A statement that the proposed outdoor refreshment area 234
will encompass not fewer than four qualified permit holders; 235

(4) Evidence that the uses of land within the proposed 236
outdoor refreshment area are in accord with the master zoning 237
plan or map of the municipal corporation or township; 238

(5) Proposed requirements for the purpose of ensuring 239
public health and safety within the proposed outdoor refreshment 240
area. 241

(C) Within forty-five days after the date the application 242
is filed with the legislative authority of a municipal 243
corporation or township, the legislative authority shall publish 244
public notice of the application once a week for two consecutive 245
weeks in one newspaper of general circulation in the municipal 246
corporation or township or as provided in section 7.16 of the 247
Revised Code. The legislative authority shall ensure that the 248
notice states that the application is on file in the office of 249
the clerk of the municipal corporation or township and is 250
available for inspection by the public during regular business 251
hours. The legislative authority also shall indicate in the 252
notice the date and time of any public hearing to be held 253
regarding the application by the legislative authority. 254

Not earlier than thirty but not later than sixty days 255
after the initial publication of notice, the legislative 256
authority shall approve or disapprove the application by either 257
ordinance or resolution, as applicable. Approval of an 258
application requires an affirmative vote of a majority of the 259
legislative authority. Upon approval of the application by the 260
legislative authority, the territory described in the 261
application constitutes an outdoor refreshment area. The 262
legislative authority shall provide to the division of liquor 263
control and the investigative unit of the department of public 264
safety notice of the approval of the application and a 265
description of the area specified in the application. If the 266
legislative authority disapproves the application, the executive 267
officer of a municipal corporation or fiscal officer of a 268
township may make changes in the application to secure its 269
approval by the legislative authority. 270

(D) The creation of outdoor refreshment areas is limited 271
as follows: 272

(1) A municipal corporation or township with a population 273
of more than fifty thousand shall not create more than two 274
outdoor refreshment areas. 275

(2) A municipal corporation or township with a population 276
of more than thirty-five thousand but less than or equal to 277
fifty thousand shall not create more than one outdoor 278
refreshment area. 279

(3) (a) Except as provided in division (D) (3) (b) of this 280
section, a municipal corporation or township with a population 281
of thirty-five thousand or less shall not create an outdoor 282
refreshment area. 283

(b) A municipal corporation or township with a population 284
of thirty-five thousand or less may create one outdoor 285
refreshment area if the proposed area will include at least four 286
qualified permit holders and be composed of one hundred fifty or 287
fewer contiguous acres. 288

For purposes of this section, the population of a 289
municipal corporation or township is deemed to be the population 290
shown by the most recent regular federal decennial census. 291

(E) As soon as possible after receiving notice that an 292
outdoor refreshment area has been approved, the division of 293
liquor control, for purposes of section 4301.62 of the Revised 294
Code, shall issue an outdoor refreshment area designation to 295
each qualified permit holder located within the refreshment area 296
that is in compliance with all applicable requirements under 297
Chapters 4301. and 4303. of the Revised Code. The division shall 298
not charge any fee for the issuance of the designation. Any 299
permit holder that receives such a designation shall comply with 300
all laws, rules, and regulations that govern its license type, 301

and the applicable public health and safety requirements 302
established for the area under division (F) of this section. 303

(F)(1) At the time of the creation of an outdoor 304
refreshment area, the legislative authority of a municipal 305
corporation or township in which such an area is located shall 306
adopt an ordinance or resolution, as applicable, that 307
establishes requirements the legislative authority determines 308
necessary to ensure public health and safety within the area. 309
The legislative authority shall include in the ordinance or 310
resolution all of the following: 311

(a) The specific boundaries of the area, including street 312
addresses; 313

(b) The number, spacing, and type of signage designating 314
the area; 315

(c) The hours of operation for the area; 316

(d) The number of personnel needed to ensure public safety 317
in the area; 318

(e) A sanitation plan that will help maintain the 319
appearance and public health of the area; 320

(f) The number of personnel needed to execute the 321
sanitation plan; 322

(g) A requirement that beer and intoxicating liquor be 323
served solely in plastic bottles or other plastic containers in 324
the area. 325

The legislative authority may, but is not required to, 326
include in the ordinance or resolution any public health and 327
safety requirements proposed in an application under division 328
(B) of this section to designate or expand the outdoor 329

refreshment area. The legislative authority may subsequently 330
modify the public health and safety requirements as determined 331
necessary by the legislative authority. 332

(2) Prior to adopting an ordinance or resolution under 333
this division, the legislative authority shall give notice of 334
its proposed action by publication once a week for two 335
consecutive weeks in one newspaper of general circulation in the 336
municipal corporation or township or as provided in section 7.16 337
of the Revised Code. 338

(3) The legislative authority shall provide to the 339
division of liquor control and the investigative unit of the 340
department of public safety notice of the public health and 341
safety requirements established or modified under this division. 342

(G) Section 4399.18 of the Revised Code applies to a 343
liquor permit holder located within an outdoor refreshment area 344
in the same manner as if the liquor permit holder were not 345
located in an outdoor refreshment area. 346

(H) (1) Five years after the date of creation of an outdoor 347
refreshment area, the legislative authority of the municipal 348
corporation or township that created the area under this section 349
shall review the operation of the area and shall, by ordinance 350
or resolution, either approve the continued operation of the 351
area or dissolve the area. Prior to adopting the ordinance or 352
resolution, the legislative authority shall give notice of its 353
proposed action by publication once a week for two consecutive 354
weeks in one newspaper of general circulation in the municipal 355
corporation or township or as provided in section 7.16 of the 356
Revised Code. 357

If the legislative authority dissolves the outdoor 358

refreshment area, the outdoor refreshment area ceases to exist. 359
The legislative authority then shall provide notice of its 360
action to the division of liquor control and the investigative 361
unit of the department of public safety. Upon receipt of the 362
notice, the division shall revoke all outdoor refreshment area 363
designations issued to qualified permit holders within the 364
dissolved area. If the legislative authority approves the 365
continued operation of the outdoor refreshment area, the area 366
continues in operation. 367

(2) Five years after the approval of the continued 368
operation of an outdoor refreshment area under division (H) (1) 369
of this section, the legislative authority shall conduct a 370
review in the same manner as provided in division (H) (1) of this 371
section. The legislative authority also shall conduct such a 372
review five years after any subsequent approval of continued 373
operation under division (H) (2) of this section. 374

(I) At any time, the legislative authority of a municipal 375
corporation or township in which an outdoor refreshment area is 376
located may, by ordinance or resolution, dissolve all or a part 377
of the outdoor refreshment area. Prior to adopting the 378
resolution or ordinance, the legislative authority shall give 379
notice of its proposed action by publication once a week for two 380
consecutive weeks in one newspaper of general circulation in the 381
municipal corporation or township or as provided in section 7.16 382
of the Revised Code. If the legislative authority dissolves all 383
or part of an outdoor refreshment area, the area designated in 384
the ordinance or resolution no longer constitutes an outdoor 385
refreshment area. The legislative authority shall provide notice 386
of its actions to the division of liquor control and the 387
investigative unit of the department of public safety. Upon 388
receipt of the notice, the division shall revoke all outdoor 389

refreshment area designations issued to qualified permit holders 390
within the dissolved area or portion of the area. 391

Sec. 4303.208. (A) (1) The division of liquor control may 392
issue an F-8 permit to a not-for-profit organization that 393
manages, for the benefit of the public and by contract with a 394
political subdivision of this state, publicly owned property to 395
sell beer or intoxicating liquor by the individual drink at 396
specific events conducted on the publicly owned property and 397
appurtenant streets, but only if, and then only at times at 398
which, the sale of beer and intoxicating liquor on the premises 399
is otherwise permitted by law. Additionally, an F-8 permit may 400
be issued only if the publicly owned property is located in a 401
county that has a population of ~~between more than~~ seven hundred 402
fifty thousand ~~and nine hundred thousand on July 10, 2007~~on and 403
after the effective date of this amendment. 404

(2) The premises on which an F-8 permit will be used shall 405
be clearly defined and sufficiently restricted to allow proper 406
supervision of the permit's use by state and local law 407
enforcement officers. Sales under an F-8 permit shall be 408
confined to the same hours permitted to the holder of a D-3 409
permit. 410

(3) The fee for an F-8 permit is one thousand seven 411
hundred dollars. An F-8 permit is effective for a period not to 412
exceed nine months as specified in the permit. An F-8 permit is 413
not transferable or renewable. However, the holder of an F-8 414
permit may apply for a new F-8 permit at any time. An F-8 permit 415
is not effective until any F-8 permit currently held expires. 416
The holder of an F-8 permit shall make sales only at those 417
specific events about which the permit holder has notified in 418
advance the division of liquor control, the department of public 419

safety, and the chief, sheriff, or other principal peace officer 420
of the local law enforcement agencies having jurisdiction over 421
the premises. 422

(B) (1) An application for the issuance of an F-8 permit is 423
subject to the notice and hearing requirements established in 424
division (A) of section 4303.26 of the Revised Code. 425

(2) The liquor control commission shall adopt under 426
Chapter 119. of the Revised Code rules necessary to administer 427
this section. 428

(C) No F-8 permit holder shall sell beer or intoxicating 429
liquor beyond the hours of sale allowed by the permit. This 430
division imposes strict liability on the holder of an F-8 permit 431
and on any officer, agent, or employee of that permit holder. 432

(D) Nothing in this section prohibits the division from 433
issuing an F, F-2, or F-6 permit for a specific event not 434
conducted by the holder of an F-8 permit provided that the 435
holder of the F-8 permit certifies to the division that it will 436
not exercise its permit privileges during that specific event. 437

Section 2. That existing section 4301.62 and 4303.208 of 438
the Revised Code are hereby repealed. 439

Section 3. Divisions (B) (1) (b) and (D) (3) (b) of section 440
4301.82 of the Revised Code, as enacted by this act, take effect 441
two years after the effective date of this section. 442

Section 4. This act is hereby declared to be an emergency 443
measure necessary for the immediate preservation of the public 444
peace, health, and safety. The reason for such necessity is that 445
local authorities across the state need to engage in long range 446
planning for upcoming sporting, entertainment, and cultural 447
events that may be enhanced by the existence of outdoor 448

refreshment areas and by other changes to the law made by this
act. Therefore, this act shall go into immediate effect.

449

450