

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 95**

**Senators Seitz, Thomas**

**Cosponsors: Senators Yuko, Brown, Uecker, Patton, Schiavoni, Eklund, Tavares,  
Bacon, Cafaro, Gentile**

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**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 35,000 to create outdoor refreshment 4  
areas, to exempt persons within such an area 5  
from the open container law, to create the 6  
Outdoor Refreshment Area Study Committee, and to 7  
declare an emergency. 8

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

**Section 1.** That section 4301.62 be amended and section 9  
4301.82 of the Revised Code be enacted to read as follows: 10

**Sec. 4301.62.** (A) As used in this section: 11

(1) "Chauffeured limousine" means a vehicle registered 12  
under section 4503.24 of the Revised Code. 13

(2) "Street," "highway," and "motor vehicle" have the same 14  
meanings as in section 4511.01 of the Revised Code. 15

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

following circumstances:	18
(1) Except as provided in division (C) (1) (e) of this section, in an agency store;	19 20
(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;	21 22 23
(3) In any other public place;	24
(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;	25 26 27 28 29
(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.	30 31 32 33
(C) (1) A person may have in the person's possession an opened container of any of the following:	34 35
(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;	36 37 38 39 40 41
(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;	42 43 44 45

(c) Beer or intoxicating liquor consumed on the premises 46  
of a convention facility as provided in section 4303.201 of the 47  
Revised Code; 48

(d) Beer or intoxicating liquor to be consumed during 49  
tastings and samplings approved by rule of the liquor control 50  
commission; 51

(e) Spirituous liquor to be consumed for purposes of a 52  
tasting sample, as defined in section 4301.171 of the Revised 53  
Code. 54

(2) A person may have in the person's possession on an F 55  
liquor permit premises an opened container of beer or 56  
intoxicating liquor that was not purchased from the holder of 57  
the F permit if the premises for which the F permit is issued is 58  
a music festival and the holder of the F permit grants 59  
permission for that possession on the premises during the period 60  
for which the F permit is issued. As used in this division, 61  
"music festival" means a series of outdoor live musical 62  
performances, extending for a period of at least three 63  
consecutive days and located on an area of land of at least 64  
forty acres. 65

(3) (a) A person may have in the person's possession on a 66  
D-2 liquor permit premises an opened or unopened container of 67  
wine that was not purchased from the holder of the D-2 permit if 68  
the premises for which the D-2 permit is issued is an outdoor 69  
performing arts center, the person is attending an orchestral 70  
performance, and the holder of the D-2 permit grants permission 71  
for the possession and consumption of wine in certain 72  
predesignated areas of the premises during the period for which 73  
the D-2 permit is issued. 74

(b) As used in division (C) (3) (a) of this section:	75
(i) "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.	76 77 78
(ii) "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.	79 80 81 82 83
(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in division (C) (3) (b) (i) of this section if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.	84 85 86 87 88 89 90 91
(5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending an orchestral performance and the holder of the F-9 permit grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued.	92 93 94 95 96 97 98 99
As used in division (C) (5) of this section, "orchestral performance" has the same meaning as in division (C) (3) (b) of this section.	100 101 102
(6) (a) A person may have in the person's possession on the	103

property of an outdoor motorsports facility an opened or 104  
unopened container of beer or intoxicating liquor that was not 105  
purchased from the owner of the facility if both of the 106  
following apply: 107

(i) The person is attending a racing event at the 108  
facility; and 109

(ii) The owner of the facility grants permission for the 110  
possession and consumption of beer or intoxicating liquor on the 111  
property of the facility. 112

(b) As used in division (C) (6) (a) of this section: 113

(i) "Racing event" means a motor vehicle racing event 114  
sanctioned by one or more motor racing sanctioning 115  
organizations. 116

(ii) "Outdoor motorsports facility" means an outdoor 117  
racetrack to which all of the following apply: 118

(I) It is two and four-tenths miles or more in length. 119

(II) It is located on two hundred acres or more of land. 120

(III) The primary business of the owner of the facility is 121  
the hosting and promoting of racing events. 122

(IV) The holder of a D-1, D-2, or D-3 permit is located on 123  
the property of the facility. 124

(7) (a) A person may have in the person's possession an 125  
opened container of beer or intoxicating liquor at an outdoor 126  
location within an outdoor refreshment area created under 127  
section 4301.82 of the Revised Code if the opened container of 128  
beer or intoxicating liquor was purchased from a qualified 129  
permit holder to which both of the following apply: 130

(i) The permit holder's premises is located within the outdoor refreshment area. 131  
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(ii) The permit held by the permit holder has an outdoor refreshment area designation. 133  
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(b) Division (C) (7) of this section, does not authorize a person to do either of the following: 135  
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(i) Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere; 137  
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(ii) Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under division (D) or (E) of this section. 140  
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(D) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply: 146  
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(1) The person or guest is a passenger in the limousine. 150

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located. 151  
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(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking. 154  
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(E) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for 157  
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consumption on the premises where sold is not an opened 159  
container for the purposes of this section if both of the 160  
following apply: 161

(1) The opened bottle of wine is securely resealed by the 162  
permit holder or an employee of the permit holder before the 163  
bottle is removed from the premises. The bottle shall be secured 164  
in such a manner that it is visibly apparent if the bottle has 165  
been subsequently opened or tampered with. 166

(2) The opened bottle of wine that is resealed in 167  
accordance with division (E) (1) of this section is stored in the 168  
trunk of a motor vehicle or, if the motor vehicle does not have 169  
a trunk, behind the last upright seat or in an area not normally 170  
occupied by the driver or passengers and not easily accessible 171  
by the driver. 172

Sec. 4301.82. (A) As used in this section, "qualified 173  
permit holder" means the holder of an A-1, A-1-A, A-1c, A-2, or 174  
D permit issued under Chapter 4303. of the Revised Code. 175

(B) The executive officer of a municipal corporation or 176  
the fiscal officer of a township may file an application with 177  
the legislative authority of the municipal corporation or 178  
township to have property within the municipal corporation or 179  
township designated as an outdoor refreshment area or to expand 180  
an existing outdoor refreshment area to include additional 181  
property within the municipal corporation or township. The 182  
executive officer or fiscal officer shall ensure that the 183  
application contains all of the following: 184

(1) A map or survey of the proposed outdoor refreshment 185  
area, which shall not exceed three hundred twenty contiguous 186  
acres or one-half square mile, in sufficient detail to identify 187

<u>the boundaries of the area;</u>	188
<u>(2) A general statement of the nature and types of establishments that will be located within the proposed outdoor refreshment area;</u>	189 190 191
<u>(3) A statement that the proposed outdoor refreshment area will encompass not fewer than four qualified permit holders;</u>	192 193
<u>(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;</u>	194 195 196
<u>(5) Proposed requirements for the purpose of ensuring safety within the proposed outdoor refreshment area.</u>	197 198
<u>(C) Within forty-five days after the date the application is filed with the legislative authority of a municipal corporation or township, the legislative authority shall publish public notice of the application 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. The legislative authority shall ensure that the notice states that the application is on file in the office of the clerk of the municipal corporation or township and is available for inspection by the public during regular business hours. The legislative authority also shall indicate in the notice the date and time of any public hearing to be held regarding the application by the legislative authority.</u>	199 200 201 202 203 204 205 206 207 208 209 210 211
<u>Not earlier than thirty but not later than sixty days after the initial publication of notice, the legislative authority shall approve or disapprove the application by either ordinance or resolution, as applicable. Approval of an application requires an affirmative vote of a majority of the</u>	212 213 214 215 216



legislative authority. Upon approval of the application by the 217  
legislative authority, the territory described in the 218  
application constitutes an outdoor refreshment area. The 219  
legislative authority shall provide to the division of liquor 220  
control notice of the approval of the application and a 221  
description of the area specified in the application. If the 222  
legislative authority disapproves the application, the executive 223  
officer of a municipal corporation or fiscal officer of a 224  
township may make changes in the application to secure its 225  
approval by the legislative authority. 226

(D) The creation of outdoor refreshment areas is limited 227  
as follows: 228

(1) A municipal corporation or township with a population 229  
of more than two hundred seventy-five thousand shall not create 230  
more than three outdoor refreshment areas. 231

(2) A municipal corporation or township with a population 232  
of more than one hundred fifty thousand but less than or equal 233  
to two hundred seventy-five thousand shall not create more than 234  
two outdoor refreshment areas. 235

(3) A municipal corporation or township with a population 236  
of more than thirty-five thousand but less than or equal to one 237  
hundred fifty thousand shall not create more than one outdoor 238  
refreshment area. 239

(4) A municipal corporation or township with a population 240  
of thirty-five thousand or less shall not create an outdoor 241  
refreshment area. 242

For purposes of this section, the population of a 243  
municipal corporation or township is deemed to be the population 244  
shown by the most recent regular federal decennial census. 245

(E) As soon as possible after receiving notice that an 246  
outdoor refreshment area has been approved, the division of 247  
liquor control, for purposes of section 4301.62 of the Revised 248  
Code, shall issue an outdoor refreshment area designation to 249  
each qualified permit holder located within the refreshment area 250  
that is in compliance with all applicable requirements under 251  
Chapters 4301. and 4303. of the Revised Code. The division shall 252  
not charge any fee for the issuance of the designation. Any 253  
permit holder that receives such a designation shall comply with 254  
all laws, rules, and regulations that govern its license type 255  
and, if applicable, any safety requirements established for the 256  
area under division (F) of this section. 257

(F) (1) At the time of the creation of an outdoor 258  
refreshment area or any time thereafter, the legislative 259  
authority of a municipal corporation or township in which such 260  
an area is located may adopt an ordinance or resolution, as 261  
applicable, that establishes requirements the legislative 262  
authority determines necessary to ensure safety within the area. 263  
The legislative authority may, but is not required to, include 264  
in the ordinance or resolution any safety requirements proposed 265  
in an application under division (B) of this section to 266  
designate or expand the outdoor refreshment area. The 267  
legislative authority may subsequently modify the safety 268  
requirements as determined necessary by the legislative 269  
authority. 270

(2) Prior to adopting an ordinance or resolution under 271  
this division, the legislative authority shall give notice of 272  
its proposed action by publication once a week for two 273  
consecutive weeks in one newspaper of general circulation in the 274  
municipal corporation or township or as provided in section 7.16 275  
of the Revised Code. 276

(3) The legislative authority shall provide to the 277  
division of liquor control notice of any safety requirements 278  
established or modified under this division. 279

(G) Section 4399.18 of the Revised Code applies to a 280  
liquor permit holder located within an outdoor refreshment area 281  
in the same manner as if the liquor permit holder were not 282  
located in an outdoor refreshment area. 283

(H) (1) Five years after the date of creation of an outdoor 284  
refreshment area, the legislative authority of the municipal 285  
corporation or township that created the area under this section 286  
shall review the operation of the area and shall, by ordinance 287  
or resolution, either approve the continued operation of the 288  
area or dissolve the area. Prior to adopting the ordinance or 289  
resolution, the legislative authority shall give notice of its 290  
proposed action by publication once a week for two consecutive 291  
weeks in one newspaper of general circulation in the municipal 292  
corporation or township or as provided in section 7.16 of the 293  
Revised Code. 294

If the legislative authority dissolves the outdoor 295  
refreshment area, the outdoor refreshment area ceases to exist. 296  
The legislative authority then shall provide notice of its 297  
action to the division of liquor control and the division shall 298  
revoke all outdoor refreshment area designations issued to 299  
qualified permit holders within the dissolved area. If the 300  
legislative authority approves the continued operation of the 301  
outdoor refreshment area, the area continues in operation. 302

(2) Five years after the approval of the continued 303  
operation of an outdoor refreshment area under division (H) (1) 304  
of this section, the legislative authority shall conduct a 305  
review in the same manner as provided in division (H) (1) of this 306

section. The legislative authority also shall conduct such a 307  
review five years after any subsequent approval of continued 308  
operation under division (H)(2) of this section. 309

(I) At any time, the legislative authority of a municipal 310  
corporation or township in which an outdoor refreshment area is 311  
located may, by ordinance or resolution, dissolve all or a part 312  
of the outdoor refreshment area. Prior to adopting the 313  
resolution or ordinance, the legislative authority shall give 314  
notice of its proposed action by publication once a week for two 315  
consecutive weeks in one newspaper of general circulation in the 316  
municipal corporation or township or as provided in section 7.16 317  
of the Revised Code. If the legislative authority dissolves all 318  
or part of an outdoor refreshment area, the area designated in 319  
the ordinance or resolution no longer constitutes an outdoor 320  
refreshment area. The legislative authority shall provide notice 321  
of its actions to the division of liquor control. Upon receipt 322  
of the notice, the division shall revoke all outdoor refreshment 323  
area designations issued to qualified permit holders within the 324  
dissolved area or portion of the area. 325

**Section 2.** That existing section 4301.62 of the Revised 326  
Code is hereby repealed. 327

**Section 3.** (A) There is hereby created the Outdoor 328  
Refreshment Area Study Committee. The Committee shall consist of 329  
the following seven members who shall be appointed not later 330  
than five days after the effective date of this section: 331

(1) Two members of the Senate, one of whom shall be a 332  
member of the majority party and one of whom shall be a member 333  
of the minority party, both appointed by the President of the 334  
Senate; 335

(2) Two members of the House of Representatives, one of whom shall be a member of the majority party and one of whom shall be a member of the minority party, both appointed by the Speaker of the House of Representatives;

(3) One county commissioner, appointed by the President of the Senate;

(4) One representative of a municipal corporation, or township, with a population of thirty-five thousand or less, appointed by the Speaker of the House of Representatives;

(5) One representative of the Division of Liquor Control, appointed by the Governor.

(B) The Committee first shall meet not later than ten days after the effective date of this section at the call of the President of the Senate. At the first meeting, the Committee shall select a chairperson and vice-chairperson from among its members. Thereafter, the Committee shall meet at the call of its chairperson as necessary to carry out its duties. Members of the Committee are not entitled to compensation for serving on the Committee, but may continue to receive the compensation and benefits accruing from their regular offices or employments.

(C) The Committee shall study the utility and viability of allowing municipal corporations or townships that have a population of thirty-five thousand or less to create an outdoor refreshment area under section 4301.82 of the Revised Code, as enacted by this act. Not later than December 1, 2015, the Study Committee shall issue a report of its findings and recommendations to the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of

Representatives. After submitting the report, the Study 365  
Committee shall cease to exist. 366

**Section 4.** This act is hereby declared to be an emergency 367  
measure necessary for the immediate preservation of the public 368  
peace, health, and safety. The reason for such necessity is that 369  
local authorities across the state need to engage in long range 370  
planning for upcoming sporting, entertainment, and cultural 371  
events that may be enhanced by the existence of outdoor 372  
refreshment areas. Therefore, this act shall go into immediate 373  
effect. 374