

As Passed by the Senate

132nd General Assembly

Regular Session

2017-2018

Sub. H. B. No. 522

Representative Lanese

Cosponsors: Representatives Anielski, Antonio, Arndt, Brenner, Celebrezze, Hambley, Leland, Lepore-Hagan, Manning, Miller, Patton, Ramos, Retherford, Rogers, Scherer, Schuring, Seitz, Strahorn, Sweeney, West, Wiggam

Senators Hoagland, Hackett, Beagle, Kunze, Bacon, Burke, Coley, Dolan, Eklund, McColley, Schiavoni, Thomas, Uecker, Wilson

A BILL

To amend sections 4301.62 and 4301.82 and to enact 1
sections 1545.081 and 4303.101 of the Revised 2
Code to revise certain provisions of the liquor 3
control laws. 4

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

Section 1. That sections 4301.62 and 4301.82 be amended 5
and sections 1545.081 and 4303.101 of the Revised Code be 6
enacted to read as follows: 7

Sec. 1545.081. Notwithstanding division (C) (1) (b) of 8
section 9.03 of the Revised Code, the board of park 9
commissioners of a park district may use public funds to 10
publish, advertise, or otherwise communicate information 11
regarding activities related to a permit issued to the park 12
district under Chapter 4303. of the Revised Code. 13

Sec. 4301.62. (A) As used in this section: 14

(1) "Chauffeured limousine" means a vehicle registered under section 4503.24 of the Revised Code. 15
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-2f, 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, 39
40
41
42

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; 43
44

(b) Beer, wine, or mixed beverages served for consumption 45
on the premises by the holder of an F-3 permit, wine served as a 46
tasting sample by an A-2 permit holder or S permit holder for 47
consumption on the premises of a farmers market for which an F- 48
10 permit has been issued, or wine served for consumption on the 49
premises by the holder of an F-4 or F-6 permit; 50

(c) Beer or intoxicating liquor consumed on the premises 51
of a convention facility as provided in section 4303.201 of the 52
Revised Code; 53

(d) Beer or intoxicating liquor to be consumed during 54
tastings and samplings approved by rule of the liquor control 55
commission; 56

(e) Spirituous liquor to be consumed for purposes of a 57
tasting sample, as defined in section 4301.171 of the Revised 58
Code. 59

(2) A person may have in the person's possession on an F 60
liquor permit premises an opened container of beer or 61
intoxicating liquor that was not purchased from the holder of 62
the F permit if the premises for which the F permit is issued is 63
a music festival and the holder of the F permit grants 64
permission for that possession on the premises during the period 65
for which the F permit is issued. As used in this division, 66
"music festival" means a series of outdoor live musical 67
performances, extending for a period of at least three 68
consecutive days and located on an area of land of at least 69
forty acres. 70

(3) (a) A person may have in the person's possession on a 71

D-2 liquor permit premises an opened or unopened container of 72
wine that was not purchased from the holder of the D-2 permit if 73
the premises for which the D-2 permit is issued is an outdoor 74
performing arts center, the person is attending an orchestral 75
performance, and the holder of the D-2 permit grants permission 76
for the possession and consumption of wine in certain 77
predesignated areas of the premises during the period for which 78
the D-2 permit is issued. 79

(b) As used in division (C) (3) (a) of this section: 80

(i) "Orchestral performance" means a concert comprised of 81
a group of not fewer than forty musicians playing various 82
musical instruments. 83

(ii) "Outdoor performing arts center" means an outdoor 84
performing arts center that is located on not less than one 85
hundred fifty acres of land and that is open for performances 86
from the first day of April to the last day of October of each 87
year. 88

(4) A person may have in the person's possession an opened 89
or unopened container of beer or intoxicating liquor at an 90
outdoor location at which the person is attending an orchestral 91
performance as defined in division (C) (3) (b) (i) of this section 92
if the person with supervision and control over the performance 93
grants permission for the possession and consumption of beer or 94
intoxicating liquor in certain predesignated areas of that 95
outdoor location. 96

(5) A person may have in the person's possession on an F-9 97
liquor permit premises an opened or unopened container of beer 98
or intoxicating liquor that was not purchased from the holder of 99
the F-9 permit if the person is attending either of the 100

following:	101
(a) An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;	102 103 104 105
(b) An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.	106 107 108 109
As used in division (C) (5) of this section, "orchestral performance" has the same meaning as in division (C) (3) (b) of this section.	110 111 112
(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:	113 114 115 116 117
(i) The person is attending a racing event at the facility; and	118 119
(ii) The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility.	120 121 122
(b) As used in division (C) (6) (a) of this section:	123
(i) "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.	124 125 126
(ii) "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:	127 128

(I) It is two and four-tenths miles or more in length.	129
(II) It is located on two hundred acres or more of land.	130
(III) The primary business of the owner of the facility is the hosting and promoting of racing events.	131 132
(IV) The holder of a D-1, D-2, or D-3 permit is located on the property of the facility.	133 134
(7) (a) A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under section 4301.82 of the Revised Code if the opened container of beer or intoxicating liquor was purchased from a qualified <u>an A-1, A-1-A, A-1c, A-2, A-2f, D class, or F class</u> permit holder to which both of the following apply:	135 136 137 138 139 140 141
(i) The permit holder's premises is located within the outdoor refreshment area.	142 143
(ii) The permit held by the permit holder has an outdoor refreshment area designation.	144 145
(b) Division (C) (7) of this section does not authorize a person to do either of the following:	146 147
(i) Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;	148 149 150
(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.	151 152 153 154 155 156

<u>(c) As used in division (C) (7) of this section, "D class permit holder" does not include a D-6 or D-8 permit holder.</u>	157
	158
(8) (a) A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:	159
	160
	161
	162
	163
(i) The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;	164
	165
	166
(ii) The market is hosting an event pursuant to an F-8 permit and the market has notified the division of liquor control about the event in accordance with division (A) (3) of section 4303.208 of the Revised Code.	167
	168
	169
	170
(b) As used in division (C) (8) of this section, "market" means a market, for which an F-8 permit is held, that has been in operation since 1860.	171
	172
	173
(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:	174
	175
	176
	177
(1) The person or guest is a passenger in the limousine.	178
(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.	179
	180
	181
(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.	182
	183
	184

(E) An opened bottle of wine that was purchased from the 185
holder of a permit that authorizes the sale of wine for 186
consumption on the premises where sold is not an opened 187
container for the purposes of this section if both of the 188
following apply: 189

(1) The opened bottle of wine is securely resealed by the 190
permit holder or an employee of the permit holder before the 191
bottle is removed from the premises. The bottle shall be secured 192
in such a manner that it is visibly apparent if the bottle has 193
been subsequently opened or tampered with. 194

(2) The opened bottle of wine that is resealed in 195
accordance with division (E) (1) of this section is stored in the 196
trunk of a motor vehicle or, if the motor vehicle does not have 197
a trunk, behind the last upright seat or in an area not normally 198
occupied by the driver or passengers and not easily accessible 199
by the driver. 200

(F) (1) Except if an ordinance or resolution is enacted or 201
adopted under division (F) (2) of this section, this section does 202
not apply to a person who, pursuant to a prearranged contract, 203
is a passenger riding on a commercial quadricycle when all of 204
the following apply: 205

(a) The person is not occupying a seat in the front of the 206
commercial quadricycle where the operator is steering or 207
braking. 208

(b) The commercial quadricycle is being operated on a 209
street, highway, or other public or private property open to the 210
public for purposes of vehicular travel or parking. 211

(c) The person has in their possession on the commercial 212
quadricycle an opened container of beer or wine. 213

(d) The person has in their possession on the commercial 214
quadricycle not more than either thirty-six ounces of beer or 215
eighteen ounces of wine. 216

(2) The legislative authority of a municipal corporation 217
or township may enact an ordinance or adopt a resolution, as 218
applicable, that prohibits a passenger riding on a commercial 219
quadricycle from possessing an opened container of beer or wine. 220

(3) As used in this section, "commercial quadricycle" 221
means a vehicle that has fully-operative pedals for propulsion 222
entirely by human power and that meets all of the following 223
requirements: 224

(a) It has four wheels and is operated in a manner similar 225
to a bicycle. 226

(b) It has at least five seats for passengers. 227

(c) It is designed to be powered by the pedaling of the 228
operator and the passengers. 229

(d) It is used for commercial purposes. 230

(e) It is operated by the vehicle owner or an employee of 231
the owner. 232

(G) This section does not apply to a person that has in 233
the person's possession an opened container of beer or 234
intoxicating liquor on the premises of a market if the beer or 235
intoxicating liquor has been purchased from a D liquor permit 236
holder that is located in the market. 237

As used in division (G) of this section, "market" means an 238
establishment that: 239

(1) Leases space in the market to individual vendors, not 240

less than fifty per cent of which are retail food establishments 241
or food service operations licensed under Chapter 3717. of the 242
Revised Code; 243

(2) Has an indoor sales floor area of not less than 244
twenty-two thousand square feet; 245

(3) Hosts a farmer's market on each Saturday from April 246
through December. 247

Sec. 4301.82. (A) As used in this section, ~~"qualified~~ : 248

(1) "Qualified permit holder" means the holder of an A-1, 249
A-1-A, A-1c, A-2, A-2f, or D class permit issued under Chapter 250
4303. of the Revised Code. 251

(2) "D class permit" does not include a D-6 or D-8 permit. 252

(B) The executive officer of a municipal corporation or 253
the fiscal officer of a township may file an application with 254
the legislative authority of the municipal corporation or 255
township to have property within the municipal corporation or 256
township designated as an outdoor refreshment area or to expand 257
an existing outdoor refreshment area to include additional 258
property within the municipal corporation or township. The 259
executive officer or fiscal officer shall ensure that the 260
application contains all of the following: 261

(1) A map or survey of the proposed outdoor refreshment 262
area in sufficient detail to identify the boundaries of the 263
area, which shall not exceed either of the following, as 264
applicable: 265

(a) Three hundred twenty contiguous acres or one-half 266
square mile if the municipal corporation or township has a 267
population of more than thirty-five thousand as specified in 268

division (D) of this section;	269
(b) One hundred fifty contiguous acres if the municipal corporation or township has a population of thirty-five thousand or less as specified in division (D) of this section.	270 271 272
(2) A general statement of the nature and types of establishments that will be located within the proposed outdoor refreshment area;	273 274 275
(3) A statement that the proposed outdoor refreshment area will encompass not fewer than four qualified permit holders;	276 277
(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;	278 279 280
(5) Proposed requirements for the purpose of ensuring public health and safety within the proposed outdoor refreshment area.	281 282 283
(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.	284 285 286 287 288 289 290 291 292 293 294 295 296
Not earlier than thirty but not later than sixty days	297

after the initial publication of notice, the legislative 298
authority shall approve or disapprove the application by either 299
ordinance or resolution, as applicable. Approval of an 300
application requires an affirmative vote of a majority of the 301
legislative authority. Upon approval of the application by the 302
legislative authority, the territory described in the 303
application constitutes an outdoor refreshment area. The 304
legislative authority shall provide to the division of liquor 305
control and the investigative unit of the department of public 306
safety notice of the approval of the application and a 307
description of the area specified in the application. If the 308
legislative authority disapproves the application, the executive 309
officer of a municipal corporation or fiscal officer of a 310
township may make changes in the application to secure its 311
approval by the legislative authority. 312

(D) The creation of outdoor refreshment areas is limited 313
as follows: 314

(1) A municipal corporation or township with a population 315
of more than fifty thousand shall not create more than two 316
outdoor refreshment areas. 317

(2) A municipal corporation or township with a population 318
of more than thirty-five thousand but less than or equal to 319
fifty thousand shall not create more than one outdoor 320
refreshment area. 321

(3) (a) Except as provided in division (D) (3) (b) of this 322
section, a municipal corporation or township with a population 323
of thirty-five thousand or less shall not create an outdoor 324
refreshment area. 325

(b) A municipal corporation or township with a population 326

of thirty-five thousand or less may create one outdoor 327
refreshment area if the proposed area will include at least four 328
qualified permit holders and be composed of one hundred fifty or 329
fewer contiguous acres. 330

For purposes of this section, the population of a 331
municipal corporation or township is deemed to be the population 332
shown by the most recent regular federal decennial census. 333

(E) As soon as possible after receiving notice that an 334
outdoor refreshment area has been approved, the division of 335
liquor control, for purposes of section 4301.62 of the Revised 336
Code, shall issue an outdoor refreshment area designation to 337
each qualified permit holder located within the refreshment area 338
that is in compliance with all applicable requirements under 339
Chapters 4301. and 4303. of the Revised Code. The division shall 340
not charge any fee for the issuance of the designation. Any 341
permit holder that receives such a designation shall comply with 342
all laws, rules, and regulations that govern its license type, 343
and the applicable public health and safety requirements 344
established for the area under division (F) of this section. 345

(F) (1) At the time of the creation of an outdoor 346
refreshment area, the legislative authority of a municipal 347
corporation or township in which such an area is located shall 348
adopt an ordinance or resolution, as applicable, that 349
establishes requirements the legislative authority determines 350
necessary to ensure public health and safety within the area. 351
The legislative authority shall include in the ordinance or 352
resolution all of the following: 353

(a) The specific boundaries of the area, including street 354
addresses; 355

(b) The number, spacing, and type of signage designating the area;	356 357
(c) The hours of operation for the area;	358
(d) The number of personnel needed to ensure public safety in the area;	359 360
(e) A sanitation plan that will help maintain the appearance and public health of the area;	361 362
(f) The number of personnel needed to execute the sanitation plan;	363 364
(g) A requirement that beer and intoxicating liquor be served solely in plastic bottles or other plastic containers in the area.	365 366 367
The legislative authority may, but is not required to, include in the ordinance or resolution any public health and safety requirements proposed in an application under division (B) of this section to designate or expand the outdoor refreshment area. The legislative authority may subsequently modify the public health and safety requirements as determined necessary by the legislative authority.	368 369 370 371 372 373 374
(2) Prior to adopting an ordinance or resolution under this division, 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.	375 376 377 378 379 380
(3) The legislative authority shall provide to the division of liquor control and the investigative unit of the department of public safety notice of the public health and	381 382 383

safety requirements established or modified under this division. 384

(G) If an outdoor refreshment area has been created in 385
accordance with this section, the holder of an F class permit 386
that sponsors an event located in the outdoor refreshment area 387
may apply to the division for issuance of an outdoor refreshment 388
area designation. The division shall issue such a designation if 389
the division determines that the permit holder is in compliance 390
with all applicable requirements established under this chapter 391
and Chapter 4303. of the Revised Code. An F class permit holder 392
that receives a designation under this division shall do both of 393
the following: 394

(1) Comply with all laws, rules, and regulations that 395
govern its type of permit, and the applicable public health and 396
safety requirements established for the outdoor refreshment area 397
under division (F) of this section; 398

(2) Not block ingress or egress to the outdoor refreshment 399
area or any other liquor permit premises located within the 400
area. 401

(H) Section 4399.18 of the Revised Code applies to a 402
liquor permit holder located within an outdoor refreshment area 403
in the same manner as if the liquor permit holder were not 404
located in an outdoor refreshment area. 405

~~(H)~~ (I) (1) Five years after the date of creation of an 406
outdoor refreshment area, the legislative authority of the 407
municipal corporation or township that created the area under 408
this section shall review the operation of the area and shall, 409
by ordinance or resolution, either approve the continued 410
operation of the area or dissolve the area. Prior to adopting 411
the ordinance or resolution, the legislative authority shall 412

give notice of its proposed action by publication once a week 413
for two consecutive weeks in one newspaper of general 414
circulation in the municipal corporation or township or as 415
provided in section 7.16 of the Revised Code. 416

If the legislative authority dissolves the outdoor 417
refreshment area, the outdoor refreshment area ceases to exist. 418
The legislative authority then shall provide notice of its 419
action to the division of liquor control and the investigative 420
unit of the department of public safety. Upon receipt of the 421
notice, the division shall revoke all outdoor refreshment area 422
designations issued to qualified permit holders within the 423
dissolved area. If the legislative authority approves the 424
continued operation of the outdoor refreshment area, the area 425
continues in operation. 426

(2) Five years after the approval of the continued 427
operation of an outdoor refreshment area under division ~~(H)~~(I) 428
(1) of this section, the legislative authority shall conduct a 429
review in the same manner as provided in division ~~(H)~~(I)(1) of 430
this section. The legislative authority also shall conduct such 431
a review five years after any subsequent approval of continued 432
operation under division ~~(H)~~(I)(2) of this section. 433

~~(I)~~(J) At any time, the legislative authority of a 434
municipal corporation or township in which an outdoor 435
refreshment area is located may, by ordinance or resolution, 436
dissolve all or a part of the outdoor refreshment area. Prior to 437
adopting the resolution or ordinance, the legislative authority 438
shall give notice of its proposed action by publication once a 439
week for two consecutive weeks in one newspaper of general 440
circulation in the municipal corporation or township or as 441
provided in section 7.16 of the Revised Code. If the legislative 442

authority dissolves all or part of an outdoor refreshment area, 443
the area designated in the ordinance or resolution no longer 444
constitutes an outdoor refreshment area. The legislative 445
authority shall provide notice of its actions to the division of 446
liquor control and the investigative unit of the department of 447
public safety. Upon receipt of the notice, the division shall 448
revoke all outdoor refreshment area designations issued to 449
qualified permit holders or the holder of an F class permit 450
within the dissolved area or portion of the area. 451

Sec. 4303.101. (A) Subject to division (B) of this 452
section, a B class permit holder may sell at retail beer, wine, 453
or mixed beverages that the permit holder is authorized to 454
distribute under this chapter, only by the individual drink in 455
glass or from a container, for purposes of on-premises 456
consumption. 457

(B) A B class permit holder may sell beer, wine, or mixed 458
beverages under division (A) of this section only if the sale is 459
for an event that is hosted by the permit holder and that is 460
either of the following: 461

(1) For a charitable, benevolent, cultural, educational, 462
or political purpose; 463

(2) Not open to the general public. 464

Section 2. That existing sections 4301.62 and 4301.82 of 465
the Revised Code are hereby repealed. 466