

As Passed by the Senate

133rd General Assembly

Regular Session

2019-2020

Sub. H. B. No. 669

Representatives Swearingen, LaRe

Cosponsors: Representatives Romanchuk, Jordan, Reineke, Seitz, Becker, Abrams, Jones, Carfagna, Cross, Hambley, Lang, Weinstein, Sheehy, Carruthers, Clites, Crossman, Galonski, Greenspan, Hillyer, Holmes, A., Ingram, Miller, J., Miranda, Patton, Perales, Rogers, Strahorn, West

Senators Antonio, Blessing, Brenner, Burke, Coley, Eklund, Gavarone, Hackett, Hoagland, Huffman, S., Manning, McColley, O'Brien, Wilson, Yuko

A BILL

To amend section 4301.62 and to enact section 1
4303.185 of the Revised Code to enact provisions 2
of law relative to the sale and delivery of 3
alcoholic beverages by liquor permit holders and 4
to the expansion of sales areas of liquor permit 5
holders and to declare an emergency. 6

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

Section 1. That section 4301.62 be amended and section 7
4303.185 of the Revised Code be enacted to read as follows: 8

Sec. 4301.62. (A) As used in this section: 9

(1) "Chauffeured limousine" means a vehicle registered 10
under section 4503.24 of the Revised Code. 11

(2) "Street," "highway," and "motor vehicle" have the same 12
meanings as in section 4511.01 of the Revised Code. 13

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

(1) Except as provided in division (C) (1) (e) of this section, in an agency store;

(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;

(3) In any other public place;

(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;

(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.

(C) (1) A person may have in the person's possession an opened container of any of the following:

(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, 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;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a

tasting sample by an A-2 permit holder or S permit holder for 42
consumption on the premises of a farmers market for which an F- 43
10 permit has been issued, or wine served for consumption on the 44
premises by the holder of an F-4 or F-6 permit; 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 76
a group of not fewer than forty musicians playing various 77
musical instruments. 78

(ii) "Outdoor performing arts center" means an outdoor 79
performing arts center that is located on not less than one 80
hundred fifty acres of land and that is open for performances 81
from the first day of April to the last day of October of each 82
year. 83

(4) A person may have in the person's possession an opened 84
or unopened container of beer or intoxicating liquor at an 85
outdoor location at which the person is attending an orchestral 86
performance as defined in division (C) (3) (b) (i) of this section 87
if the person with supervision and control over the performance 88
grants permission for the possession and consumption of beer or 89
intoxicating liquor in certain predesignated areas of that 90
outdoor location. 91

(5) A person may have in the person's possession on an F-9 92
liquor permit premises an opened or unopened container of beer 93
or intoxicating liquor that was not purchased from the holder of 94
the F-9 permit if the person is attending either of the 95
following: 96

(a) An orchestral performance and the F-9 permit holder 97
grants permission for the possession and consumption of beer or 98
intoxicating liquor in certain predesignated areas of the 99

premises during the period for which the F-9 permit is issued;	100
(b) An outdoor performing arts event or orchestral	101
performance that is free of charge and the F-9 permit holder	102
annually hosts not less than twenty-five other events or	103
performances that are free of charge on the permit premises.	104
As used in division (C) (5) of this section, "orchestral	105
performance" has the same meaning as in division (C) (3) (b) of	106
this section.	107
(6) (a) A person may have in the person's possession on the	108
property of an outdoor motorsports facility an opened or	109
unopened container of beer or intoxicating liquor that was not	110
purchased from the owner of the facility if both of the	111
following apply:	112
(i) The person is attending a racing event at the	113
facility; and	114
(ii) The owner of the facility grants permission for the	115
possession and consumption of beer or intoxicating liquor on the	116
property of the facility.	117
(b) As used in division (C) (6) (a) of this section:	118
(i) "Racing event" means a motor vehicle racing event	119
sanctioned by one or more motor racing sanctioning	120
organizations.	121
(ii) "Outdoor motorsports facility" means an outdoor	122
racetrack to which all of the following apply:	123
(I) It is two and four-tenths miles or more in length.	124
(II) It is located on two hundred acres or more of land.	125
(III) The primary business of the owner of the facility is	126

the hosting and promoting of racing events.	127
(IV) The holder of a D-1, D-2, or D-3 permit is located on the property of the facility.	128 129
(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 an A-1, A-1-A, A-1c, A-2, A-2f, D class, or F class permit holder to which both of the following apply:	130 131 132 133 134 135 136
(i) The permit holder's premises is located within the outdoor refreshment area.	137 138
(ii) The permit held by the permit holder has an outdoor refreshment area designation.	139 140
(b) Division (C) (7) of this section does not authorize a person to do either of the following:	141 142
(i) Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;	143 144 145
(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 possession is otherwise authorized under division (D) or (E) of this section.	146 147 148 149
(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.	150 151
(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	152 153 154

purchased from a D permit premises that is located immediately	155
adjacent to the market if both of the following apply:	156
(i) The market grants permission for the possession and	157
consumption of beer and intoxicating liquor within the defined	158
F-8 permit premises;	159
(ii) The market is hosting an event pursuant to an F-8	160
permit and the market has notified the division of liquor	161
control about the event in accordance with division (A) (3) of	162
section 4303.208 of the Revised Code.	163
(b) As used in division (C) (8) of this section, "market"	164
means a market, for which an F-8 permit is held, that has been	165
in operation since 1860.	166
(D) This section does not apply to a person who pays all	167
or a portion of the fee imposed for the use of a chauffeured	168
limousine pursuant to a prearranged contract, or the guest of	169
the person, when all of the following apply:	170
(1) The person or guest is a passenger in the limousine.	171
(2) The person or guest is located in the limousine, but	172
is not occupying a seat in the front compartment of the	173
limousine where the operator of the limousine is located.	174
(3) The limousine is located on any street, highway, or	175
other public or private property open to the public for purposes	176
of vehicular travel or parking.	177
(E) An opened bottle of wine that was purchased from the	178
holder of a permit that authorizes the sale of wine for	179
consumption on the premises where sold is not an opened	180
container for the purposes of this section if both of the	181
following apply:	182

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

(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.

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

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

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

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

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

(2) The legislative authority of a municipal corporation or township may enact an ordinance or adopt a resolution, as

applicable, that prohibits a passenger riding on a commercial	212
quadricycle from possessing an opened container of beer or wine.	213
(3) As used in this section, "commercial quadricycle"	214
means a vehicle that has fully-operative pedals for propulsion	215
entirely by human power and that meets all of the following	216
requirements:	217
(a) It has four wheels and is operated in a manner similar	218
to a bicycle.	219
(b) It has at least five seats for passengers.	220
(c) It is designed to be powered by the pedaling of the	221
operator and the passengers.	222
(d) It is used for commercial purposes.	223
(e) It is operated by the vehicle owner or an employee of	224
the owner.	225
(G) This section does not apply to a person that has in	226
the person's possession an opened container of beer or	227
intoxicating liquor on the premises of a market if the beer or	228
intoxicating liquor has been purchased from a D liquor permit	229
holder that is located in the market.	230
As used in division (G) of this section, "market" means an	231
establishment that:	232
(1) Leases space in the market to individual vendors, not	233
less than fifty per cent of which are retail food establishments	234
or food service operations licensed under Chapter 3717. of the	235
Revised Code;	236
(2) Has an indoor sales floor area of not less than	237
twenty-two thousand square feet;	238

(3) Hosts a farmer's market on each Saturday from April through December.	239 240
<u>(H) (1) As used in this section, "alcoholic beverage" has the same meaning as in section 4303.185 of the Revised Code.</u>	241 242
<u>(2) An alcoholic beverage in a closed container being transported under section 4303.185 of the Revised Code to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing.</u>	243 244 245 246 247 248
<u>Sec. 4303.185. (A) As used in this section:</u>	249
<u>(1) "Alcoholic beverage" means beer, wine, mixed beverages, or spirituous liquor.</u>	250 251
<u>(2) "Personal consumer" means an individual who is at least twenty-one years of age and intends to use a purchased alcoholic beverage for personal consumption only and not for resale or other commercial purposes.</u>	252 253 254 255
<u>(3) "Qualified permit holder" has the same meaning as in section 4301.82 of the Revised Code and also includes an A-3a permit holder.</u>	256 257 258
<u>(B) (1) In addition to any other sales authorized by a qualified permit holder's permit, a qualified permit holder may sell alcoholic beverages by the individual drink in sealed, closed containers to a personal consumer for off-premises consumption, including via delivery to the location of the personal consumer.</u>	259 260 261 262 263 264
<u>(2) A qualified permit holder may only sell alcoholic beverages under division (B) (1) of this section if the permit</u>	265 266

holder also sells a meal with the alcoholic beverages. 267

(3) A qualified permit holder shall not sell more than 268
three alcoholic beverages per meal to any individual under 269
division (B) (1) of this section. 270

(C) (1) A qualified permit holder may only sell types of 271
alcoholic beverages under division (B) of this section that the 272
qualified permit holder is otherwise authorized to sell under 273
the qualified permit holder's permit. 274

(2) Prior to delivering an alcoholic beverage to a 275
personal consumer under this section, a qualified permit holder, 276
or an employee of the qualified permit holder, shall make a bona 277
fide effort to ensure that the personal consumer is at least 278
twenty-one years of age. 279

(3) A qualified permit holder may use an H permit holder 280
to make deliveries authorized under this section. 281

Section 2. That existing section 4301.62 of the Revised 282
Code is hereby repealed. 283

Section 3. (A) As used in this section: 284

(1) "Alcoholic beverage" means beer, wine, mixed 285
beverages, or spirituous liquor as those terms are defined in 286
section 4301.01 of the Revised Code. 287

(2) "Personal consumer" means an individual who is at 288
least twenty-one years of age and intends to use a purchased 289
alcoholic beverage for personal consumption only and not for 290
resale or other commercial purposes. 291

(3) "Qualified permit holder" has the same meaning as in 292
section 4301.82 of the Revised Code and also includes an A-3a 293
permit holder under Chapter 4303. of the Revised Code. 294

(B) (1) Notwithstanding any other provision of law to the contrary and in addition to areas in which a qualified permit holder is authorized to sell alcoholic beverages under the qualified permit holder's permit, a qualified permit holder may sell alcoholic beverages by the individual drink for consumption as follows:

(a) In any area of the qualified permit holder's property in which sales are not currently authorized and that is outdoors, including the qualified permit holder's parking area;

(b) In any outdoor area of public property that is immediately adjacent to the qualified permit holder's premises, provided that the permit holder obtains written consent in accordance with division (C) of this section;

(c) In any outdoor area of private property that is immediately adjacent to the qualified permit holder's premises, provided that the permit holder obtains the written consent of the owner of the private property.

(2) If a qualified permit holder sells alcoholic beverages in an outdoor area, the qualified permit holder shall clearly delineate the area where personal consumers may consume alcoholic beverages.

(C) For purposes of division (B) (1) (b) of this section, a qualified permit holder shall obtain the written consent of either of the following:

(1) If the public property is located in a municipal corporation, the executive officer of the municipal corporation or the executive officer's designee. If the executive officer or the executive officer's designee denies consent, the qualified permit holder may appeal the denial to the legislative authority

of the municipal corporation. The legislative authority may 324
adopt a resolution requesting the executive officer to 325
reconsider the executive officer's denial. 326

(2) If the public property is located in the 327
unincorporated area of a township, the legislative authority of 328
the township by the adoption of a resolution consenting to the 329
sale of alcoholic beverages. 330

(D) Section 4301.62 of the Revised Code does not apply to 331
the consumption of an alcoholic beverage in an outdoor area 332
described in division (B)(1) of this section. 333

(E) A qualified permit holder that sells alcoholic 334
beverages by the individual drink in an outdoor area under 335
division (B)(1) of this section shall notify the Division of 336
Liquor Control and the Investigative Unit of the Department of 337
Public Safety of the areas that the qualified permit holder 338
intends to sell the alcoholic beverages. The qualified permit 339
holder shall provide the notice not later than ten days prior to 340
the commencement of such sales. 341

(F) This section is operative through December 31, 2022. 342

Section 4. Section 4301.62 of the Revised Code is 343
presented in this act as a composite of the section as amended 344
by both H.B. 522 of the 132nd General Assembly and H.B. 62 of 345
the 133rd General Assembly. The General Assembly, applying the 346
principle stated in division (B) of section 1.52 of the Revised 347
Code that amendments are to be harmonized if reasonably capable 348
of simultaneous operation, finds that the composite is the 349
resulting version of the section in effect prior to the 350
effective date of the section as presented in this act. 351

Section 5. This act is hereby declared to be an emergency 352

measure necessary for the immediate preservation of the public 353
peace, health, and safety. The reason for such necessity is to 354
provide economic relief to liquor permit holders as a result of 355
the COVID-19 outbreak. Therefore, this act shall go into 356
immediate effect. 357