

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**S. B. No. 320**

**Senator DeMora**

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**A BILL**

To amend section 4301.62 and to enact section 1  
4301.173 of the Revised Code to require an 2  
agency store to open and reseal an allocated 3  
bottle of spirituous liquor prior to the 4  
bottle's retail sale. 5

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

**Section 1.** That section 4301.62 be amended and section 6  
4301.173 of the Revised Code be enacted to read as follows: 7

**Sec. 4301.173.** (A) As used in this section, "bottle of 8  
allocated spirituous liquor" means a bottle of spirituous liquor 9  
to which both of the following apply: 10

(1) It is sold by the manufacturer to the division of 11  
liquor control for retail sale at agency stores. 12

(2) The brand and type of the bottle of spirituous liquor 13  
is sold to the division only in limited quantities such that 14  
there is a high demand for the bottle as determined by the 15  
division. 16

(B) At the time of the retail sale of a bottle of 17  
allocated spirituous liquor, an owner or employee of an agency 18

store shall do both of the following: 19

(1) Open the bottle of spirituous liquor that is sold; 20

(2) Reseal the opened bottle in accordance with rules  
adopted under this section. 21  
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(C) No person shall consume spirituous liquor that is from  
a bottle opened under this section until the bottle is opened  
after its resealing under this section. 23  
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(D) (1) The liquor control commission shall adopt rules in  
accordance with Chapter 119. of the Revised Code establishing  
both of the following: 26  
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(a) An appropriate and effective method of resealing a  
bottle of spirituous liquor for purposes of this section; 29  
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(b) Civil penalties for violating division (C) of this  
section. The amount of the civil penalties shall not exceed two  
thousand dollars per violation. 31  
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(2) Notwithstanding any provision of section 121.95 of the  
Revised Code to the contrary, a regulatory restriction contained  
in a rule adopted under this section is not subject to sections  
121.95 to 121.953 of the Revised Code. 34  
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**Sec. 4301.62.** (A) As used in this section: 38

(1) "Chauffeured limousine" means a vehicle registered  
under section 4503.24 of the Revised Code. 39  
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(2) "Street," "highway," and "motor vehicle" have the same  
meanings as in section 4511.01 of the Revised Code. 41  
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(B) No person shall have in the person's possession an  
opened container of beer or intoxicating liquor in any of the  
following circumstances: 43  
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(1) Except as provided in division (C) (1) (e) of this section, in an agency store;	46 47
(2) Except as provided in division (C) or (J) of this section, on the premises of the holder of any permit issued by the division of liquor control;	48 49 50
(3) In any other public place;	51
(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;	52 53 54 55 56
(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.	57 58 59 60
(C) (1) A person may have in the person's possession an opened container of any of the following:	61 62
(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, D-9, E, F, F-2, F-5, F-7, F-8, or F-9 permit;	63 64 65 66 67 68
(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, A-2f, S-1, or S-2 permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;	69 70 71 72 73 74

(c) Beer or intoxicating liquor consumed on the premises 75  
of a convention facility as provided in section 4303.201 of the 76  
Revised Code; 77

(d) Beer or intoxicating liquor to be consumed during 78  
tastings and samplings approved by rule of the liquor control 79  
commission; 80

(e) Spirituous liquor to be consumed for purposes of a 81  
tasting sample, as defined in section 4301.171 of the Revised 82  
Code; 83

(f) Beer or intoxicating liquor to be consumed in an 84  
outdoor area described in division (B) (1) of section 4303.188 of 85  
the Revised Code. 86

(2) A person may have in the person's possession on an F 87  
liquor permit premises an opened container of beer or 88  
intoxicating liquor that was not purchased from the holder of 89  
the F permit if the premises for which the F permit is issued is 90  
a music festival and the holder of the F permit grants 91  
permission for that possession on the premises during the period 92  
for which the F permit is issued. As used in this division, 93  
"music festival" means a series of outdoor live musical 94  
performances, extending for a period of at least three 95  
consecutive days and located on an area of land of at least 96  
forty acres. 97

(3) (a) A person may have in the person's possession on a 98  
D-2 liquor permit premises an opened or unopened container of 99  
wine that was not purchased from the holder of the D-2 permit if 100  
the premises for which the D-2 permit is issued is an outdoor 101  
performing arts center, the person is attending an orchestral 102  
performance, and the holder of the D-2 permit grants permission 103

for the possession and consumption of wine in certain 104  
predesignated areas of the premises during the period for which 105  
the D-2 permit is issued. 106

(b) As used in division (C) (3) (a) of this section: 107

(i) "Orchestral performance" means a concert comprised of 108  
a group of not fewer than forty musicians playing various 109  
musical instruments. 110

(ii) "Outdoor performing arts center" means an outdoor 111  
performing arts center that is located on not less than one 112  
hundred fifty acres of land and that is open for performances 113  
from the first day of April to the last day of October of each 114  
year. 115

(4) A person may have in the person's possession an opened 116  
or unopened container of beer or intoxicating liquor at an 117  
outdoor location at which the person is attending an orchestral 118  
performance as defined in division (C) (3) (b) (i) of this section 119  
if the person with supervision and control over the performance 120  
grants permission for the possession and consumption of beer or 121  
intoxicating liquor in certain predesignated areas of that 122  
outdoor location. 123

(5) A person may have in the person's possession on an F-9 124  
liquor permit premises an opened or unopened container of beer 125  
or intoxicating liquor that was not purchased from the holder of 126  
the F-9 permit if the F-9 permit holder grants permission for 127  
the possession and consumption of beer or intoxicating liquor in 128  
certain predesignated areas of the premises during the period 129  
for which the F-9 permit is issued. 130

(6) (a) A person may have in the person's possession on the 131  
property of an outdoor motorsports facility an opened or 132

unopened container of beer or intoxicating liquor that was not	133
purchased from the owner of the facility if both of the	134
following apply:	135
(i) The person is attending a racing event at the	136
facility; and	137
(ii) The owner of the facility grants permission for the	138
possession and consumption of beer or intoxicating liquor on the	139
property of the facility.	140
(b) As used in division (C) (6) (a) of this section:	141
(i) "Racing event" means a motor vehicle racing event	142
sanctioned by one or more motor racing sanctioning	143
organizations.	144
(ii) "Outdoor motorsports facility" means an outdoor	145
racetrack to which all of the following apply:	146
(I) It is two and four-tenths miles or more in length.	147
(II) It is located on two hundred acres or more of land.	148
(III) The primary business of the owner of the facility is	149
the hosting and promoting of racing events.	150
(IV) The holder of a D-1, D-2, or D-3 permit is located on	151
the property of the facility.	152
(7) (a) A person may have in the person's possession an	153
opened container of beer or intoxicating liquor at an outdoor	154
location within an outdoor refreshment area created under	155
section 4301.82 of the Revised Code if the opened container of	156
beer or intoxicating liquor was purchased from an A-1, A-1-A, A-	157
1c, A-2, A-2f, D class, or F class permit holder to which both	158
of the following apply:	159

(i) The permit holder's premises is located within the outdoor refreshment area.	160 161
(ii) The permit held by the permit holder has an outdoor refreshment area designation.	162 163
(b) Division (C) (7) of this section does not authorize a person to do either of the following:	164 165
(i) Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;	166 167 168
(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.	169 170 171 172
(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.	173 174
(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:	175 176 177 178 179
(i) The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;	180 181 182
(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.	183 184 185 186
(b) As used in division (C) (8) of this section, "market"	187

means a market, for which an F-8 permit is held, that has been 188  
in operation since 1860. 189

(D) This section does not apply to a person who pays all 190  
or a portion of the fee imposed for the use of a chauffeured 191  
limousine pursuant to a prearranged contract, or the guest of 192  
the person, when all of the following apply: 193

(1) The person or guest is a passenger in the limousine. 194

(2) The person or guest is located in the limousine, but 195  
is not occupying a seat in the front compartment of the 196  
limousine where the operator of the limousine is located. 197

(3) The limousine is located on any street, highway, or 198  
other public or private property open to the public for purposes 199  
of vehicular travel or parking. 200

(E) An opened bottle of wine that was purchased from the 201  
holder of a permit that authorizes the sale of wine for 202  
consumption on the premises where sold is not an opened 203  
container for the purposes of this section if both of the 204  
following apply: 205

(1) The opened bottle of wine is securely resealed by the 206  
permit holder or an employee of the permit holder before the 207  
bottle is removed from the premises. The bottle shall be secured 208  
in such a manner that it is visibly apparent if the bottle has 209  
been subsequently opened or tampered with. 210

(2) The opened bottle of wine that is resealed in 211  
accordance with division (E) (1) of this section is stored in the 212  
trunk of a motor vehicle or, if the motor vehicle does not have 213  
a trunk, behind the last upright seat or in an area not normally 214  
occupied by the driver or passengers and not easily accessible 215  
by the driver. 216

(F) (1) Except if an ordinance or resolution is enacted or 217  
adopted under division (F) (2) of this section, this section does 218  
not apply to a person who, pursuant to a prearranged contract, 219  
is a passenger riding on a commercial quadricycle when all of 220  
the following apply: 221

(a) The person is not occupying a seat in the front of the 222  
commercial quadricycle where the operator is steering or 223  
braking. 224

(b) The commercial quadricycle is being operated on a 225  
street, highway, or other public or private property open to the 226  
public for purposes of vehicular travel or parking. 227

(c) The person has in their possession on the commercial 228  
quadricycle an opened container of beer or wine. 229

(d) The person has in their possession on the commercial 230  
quadricycle not more than either thirty-six ounces of beer or 231  
eighteen ounces of wine. 232

(2) The legislative authority of a municipal corporation 233  
or township may enact an ordinance or adopt a resolution, as 234  
applicable, that prohibits a passenger riding on a commercial 235  
quadricycle from possessing an opened container of beer or wine. 236

(3) As used in this section, "commercial quadricycle" 237  
means a vehicle that has fully-operative pedals for propulsion 238  
entirely by human power and that meets all of the following 239  
requirements: 240

(a) It has four wheels and is operated in a manner similar 241  
to a bicycle. 242

(b) It has at least five seats for passengers. 243

(c) It is designed to be powered by the pedaling of the 244

operator and the passengers.	245
(d) It is used for commercial purposes.	246
(e) It is operated by the vehicle owner or an employee of the owner.	247 248
(G) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.	249 250 251 252 253
As used in division (G) of this section, "market" means an establishment that:	254 255
(1) Leases space in the market to individual vendors, not less than fifty per cent of which are retail food establishments or food service operations licensed under Chapter 3717. of the Revised Code;	256 257 258 259
(2) Has an indoor sales floor area of not less than twenty-two thousand square feet;	260 261
(3) Hosts a farmer's market on each Saturday from April through December.	262 263
(H) (1) As used in this section, "alcoholic beverage" has the same meaning as in section 4303.185 of the Revised Code.	264 265
(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.	266 267 268 269 270 271

(I) This section does not apply to a person who has in the person's possession an opened container of beer or intoxicating liquor in a public-use airport, as described in division (D) (2) (a) (iii) of section 4303.181 of the Revised Code, when both of the following apply:

(1) Consumption of the opened container of beer or intoxicating liquor occurs in the area of the airport terminal that is restricted to persons taking flights to and from the airport; and

(2) The consumption is authorized under division (D) (2) (a) of section 4303.181 of the Revised Code.

(J) This section does not apply to a person that has in the person's possession an opened container of homemade beer or wine that is served in accordance with division (E) of section 4301.201 of the Revised Code.

(K) A bottle of spirituous liquor purchased from an agency store is not an opened container for the purposes of this section if either of the following apply:

(1) The bottle is open for resealing in accordance with rules adopted under section 4301.173 of the Revised Code, and no spirituous liquor has been consumed or otherwise removed from the bottle prior to resealing.

(2) The bottle is securely resealed in accordance with those rules and has not subsequently been opened after resealing.

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