

L_131_0291-6

131st General Assembly
Regular Session
2015-2016

Sub. H. B. 47

A BILL

To amend sections 4301.62 and 4303.208 and to enact 1
sections 4301.82 and 4303.185 of the Revised 2
Code to allow municipal corporations and 3
townships with a population of more than 25,000 4
to create outdoor refreshment areas, to create 5
the Outdoor Refreshment Area Study Committee, to 6
exempt persons within an outdoor refreshment 7
area from the open container law, to exempt 8
persons who are passengers on a commercial 9
quadricycle from that law, to create the D-9 10
liquor permit to allow the serving of beer or 11
wine at an art gallery, to revise the law 12
governing F-8 liquor permits, and to declare an 13
emergency. 14

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

Section 1. That sections 4301.62 and 4303.208 be amended 15
and sections 4301.82 and 4303.185 of the Revised Code be enacted 16
to read as follows: 17

Sec. 4301.62. (A) As used in this section: 18



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(1) "Chauffeured limousine" means a vehicle registered under section 4503.24 of the Revised Code. 19
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(2) "Street," "highway," and "motor vehicle" have the same meanings as in section 4511.01 of the Revised Code. 21
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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: 23
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(1) Except as provided in division (C) (1) (e) of this section, in an agency store; 26
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(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; 28
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(3) In any other public place; 31

(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; 32
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(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. 37
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(C) (1) A person may have in the person's possession an opened container of any of the following: 41
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(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, 43
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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;	47 48
(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;	49 50 51 52
(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code;	53 54 55
(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission;	56 57 58
(e) Spirituous liquor to be consumed for purposes of a tasting sample, as defined in section 4301.171 of the Revised Code.	59 60 61
(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.	62 63 64 65 66 67 68 69 70 71 72
(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	73 74 75

the premises for which the D-2 permit is issued is an outdoor 76
performing arts center, the person is attending an orchestral 77
performance, and the holder of the D-2 permit grants permission 78
for the possession and consumption of wine in certain 79
predesignated areas of the premises during the period for which 80
the D-2 permit is issued. 81

(b) As used in division (C) (3) (a) of this section: 82

(i) "Orchestral performance" means a concert comprised of 83
a group of not fewer than forty musicians playing various 84
musical instruments. 85

(ii) "Outdoor performing arts center" means an outdoor 86
performing arts center that is located on not less than one 87
hundred fifty acres of land and that is open for performances 88
from the first day of April to the last day of October of each 89
year. 90

(4) A person may have in the person's possession an opened 91
or unopened container of beer or intoxicating liquor at an 92
outdoor location at which the person is attending an orchestral 93
performance as defined in division (C) (3) (b) (i) of this section 94
if the person with supervision and control over the performance 95
grants permission for the possession and consumption of beer or 96
intoxicating liquor in certain predesignated areas of that 97
outdoor location. 98

(5) A person may have in the person's possession on an F-9 99
liquor permit premises an opened or unopened container of beer 100
or intoxicating liquor that was not purchased from the holder of 101
the F-9 permit if the person is attending an orchestral 102
performance and the holder of the F-9 permit grants permission 103
for the possession and consumption of beer or intoxicating 104

liquor in certain predesignated areas of the premises during the 105
period for which the F-9 permit is issued. 106

As used in division (C) (5) of this section, "orchestral 107
performance" has the same meaning as in division (C) (3) (b) of 108
this section. 109

(6) (a) A person may have in the person's possession on the 110
property of an outdoor motorsports facility an opened or 111
unopened container of beer or intoxicating liquor that was not 112
purchased from the owner of the facility if both of the 113
following apply: 114

(i) The person is attending a racing event at the 115
facility; and 116

(ii) The owner of the facility grants permission for the 117
possession and consumption of beer or intoxicating liquor on the 118
property of the facility. 119

(b) As used in division (C) (6) (a) of this section: 120

(i) "Racing event" means a motor vehicle racing event 121
sanctioned by one or more motor racing sanctioning 122
organizations. 123

(ii) "Outdoor motorsports facility" means an outdoor 124
racetrack to which all of the following apply: 125

(I) It is two and four-tenths miles or more in length. 126

(II) It is located on two hundred acres or more of land. 127

(III) The primary business of the owner of the facility is 128
the hosting and promoting of racing events. 129

(IV) The holder of a D-1, D-2, or D-3 permit is located on 130
the property of the facility. 131

(7) (a) A person may have in the person's possession an 132
opened container of beer or intoxicating liquor at an outdoor 133
location within an outdoor refreshment area created under 134
section 4301.82 of the Revised Code if the opened container of 135
beer or intoxicating liquor was purchased from a qualified 136
permit holder to which both of the following apply: 137

(i) The permit holder's premises is located within the 138
outdoor refreshment area. 139

(ii) The permit held by the permit holder has an outdoor 140
refreshment area designation. 141

(b) Division (C) (7) of this section does not authorize a 142
person to do either of the following: 143

(i) Enter the premises of an establishment within an 144
outdoor refreshment area while possessing an opened container of 145
beer or intoxicating liquor acquired elsewhere; 146

(ii) Possess an opened container of beer or intoxicating 147
liquor while being in or on a motor vehicle within an outdoor 148
refreshment area, unless the motor vehicle is stationary and is 149
not being operated in a lane of vehicular travel or unless the 150
possession is otherwise authorized under division (D) or (E) of 151
this section. 152

(D) This section does not apply to a person who pays all 153
or a portion of the fee imposed for the use of a chauffeured 154
limousine pursuant to a prearranged contract, or the guest of 155
the person, when all of the following apply: 156

(1) The person or guest is a passenger in the limousine. 157

(2) The person or guest is located in the limousine, but 158
is not occupying a seat in the front compartment of the 159

limousine where the operator of the limousine is located. 160

(3) The limousine is located on any street, highway, or 161
other public or private property open to the public for purposes 162
of vehicular travel or parking. 163

(E) An opened bottle of wine that was purchased from the 164
holder of a permit that authorizes the sale of wine for 165
consumption on the premises where sold is not an opened 166
container for the purposes of this section if both of the 167
following apply: 168

(1) The opened bottle of wine is securely resealed by the 169
permit holder or an employee of the permit holder before the 170
bottle is removed from the premises. The bottle shall be secured 171
in such a manner that it is visibly apparent if the bottle has 172
been subsequently opened or tampered with. 173

(2) The opened bottle of wine that is resealed in 174
accordance with division (E) (1) of this section is stored in the 175
trunk of a motor vehicle or, if the motor vehicle does not have 176
a trunk, behind the last upright seat or in an area not normally 177
occupied by the driver or passengers and not easily accessible 178
by the driver. 179

(F) (1) This section does not apply to a person who, 180
pursuant to a prearranged contract, is a passenger riding on a 181
commercial quadricycle when all of the following apply: 182

(a) The person is not occupying a seat in the front of the 183
commercial quadricycle where the operator is steering or 184
braking. 185

(b) The commercial quadricycle is being operated on a 186
street, highway, or other public or private property open to the 187
public for purposes of vehicular travel or parking. 188

(c) The person has in their possession on the commercial quadricycle an opened container of beer or wine. 189
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(2) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements: 191
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(a) It has four wheels and is operated in a manner similar to a bicycle. 195
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(b) It has at least five seats for passengers. 197

(c) It is designed to be powered by the pedaling of the operator and the passengers. 198
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(d) It is used for commercial purposes. 200

(e) It is operated by the vehicle owner or an employee of the owner. 201
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Sec. 4301.82. (A) As used in this section, "qualified permit holder" means the holder of an A-1, A-1-A, A-1c, A-2, or D permit issued under Chapter 4303. of the Revised Code. 203
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(B) The executive officer of a municipal corporation or the fiscal officer of a township may file an application with the legislative authority of the municipal corporation or township to have property within the municipal corporation or township designated as an outdoor refreshment area or to expand an existing outdoor refreshment area to include additional property within the municipal corporation or township. The executive officer or fiscal officer shall ensure that the application contains all of the following: 206
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(1) A map or survey of the proposed outdoor refreshment area, which shall not exceed three hundred twenty contiguous 215
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acres or one-half square mile, in sufficient detail to identify 217
the boundaries of the area; 218

(2) A general statement of the nature and types of 219
establishments that will be located within the proposed outdoor 220
refreshment area; 221

(3) A statement that the proposed outdoor refreshment area 222
will encompass not fewer than four qualified permit holders; 223

(4) Evidence that the uses of land within the proposed 224
outdoor refreshment area are in accord with the master zoning 225
plan or map of the municipal corporation or township; 226

(5) Proposed requirements for the purpose of ensuring 227
safety within the proposed outdoor refreshment area. 228

(C) Within forty-five days after the date the application 229
is filed with the legislative authority of a municipal 230
corporation or township, the legislative authority shall publish 231
public notice of the application once a week for two consecutive 232
weeks in one newspaper of general circulation in the municipal 233
corporation or township or as provided in section 7.16 of the 234
Revised Code. The legislative authority shall ensure that the 235
notice states that the application is on file in the office of 236
the clerk of the municipal corporation or township and is 237
available for inspection by the public during regular business 238
hours. The legislative authority also shall indicate in the 239
notice the date and time of any public hearing to be held 240
regarding the application by the legislative authority. 241

Not earlier than thirty but not later than sixty days 242
after the initial publication of notice, the legislative 243
authority shall approve or disapprove the application by either 244
ordinance or resolution, as applicable. Approval of an 245

application requires an affirmative vote of a majority of the 246
legislative authority. Upon approval of the application by the 247
legislative authority, the territory described in the 248
application constitutes an outdoor refreshment area. The 249
legislative authority shall provide to the division of liquor 250
control and the investigative unit of the department of public 251
safety notice of the approval of the application and a 252
description of the area specified in the application. If the 253
legislative authority disapproves the application, the executive 254
officer of a municipal corporation or fiscal officer of a 255
township may make changes in the application to secure its 256
approval by the legislative authority. 257

(D) The creation of outdoor refreshment areas is limited 258
as follows: 259

(1) A municipal corporation or township with a population 260
of more than two hundred seventy-five thousand shall not create 261
more than three outdoor refreshment areas. 262

(2) A municipal corporation or township with a population 263
of more than one hundred fifty thousand but less than or equal 264
to two hundred seventy-five thousand shall not create more than 265
two outdoor refreshment areas. 266

(3) A municipal corporation or township with a population 267
of more than twenty-five thousand but less than or equal to one 268
hundred fifty thousand shall not create more than one outdoor 269
refreshment area. 270

(4) A municipal corporation or township with a population 271
of twenty-five thousand or less shall not create an outdoor 272
refreshment area. 273

For purposes of this section, the population of a 274

municipal corporation or township is deemed to be the population 275
shown by the most recent regular federal decennial census. 276

(E) As soon as possible after receiving notice that an 277
outdoor refreshment area has been approved, the division of 278
liquor control, for purposes of section 4301.62 of the Revised 279
Code, shall issue an outdoor refreshment area designation to 280
each qualified permit holder located within the refreshment area 281
that is in compliance with all applicable requirements under 282
Chapters 4301. and 4303. of the Revised Code. The division shall 283
not charge any fee for the issuance of the designation. Any 284
permit holder that receives such a designation shall comply with 285
all laws, rules, and regulations that govern its license type, 286
and the safety requirements established for the area under 287
division (F) of this section. 288

(F) (1) At the time of the creation of an outdoor 289
refreshment area, the legislative authority of a municipal 290
corporation or township in which such an area is located shall 291
adopt an ordinance or resolution, as applicable, that 292
establishes requirements the legislative authority determines 293
necessary to ensure safety within the area. The legislative 294
authority may, but is not required to, include in the ordinance 295
or resolution any safety requirements proposed in an application 296
under division (B) of this section to designate or expand the 297
outdoor refreshment area. The legislative authority may 298
subsequently modify the safety requirements as determined 299
necessary by the legislative authority. 300

(2) Prior to adopting an ordinance or resolution under 301
this division, the legislative authority shall give notice of 302
its proposed action by publication once a week for two 303
consecutive weeks in one newspaper of general circulation in the 304

municipal corporation or township or as provided in section 7.16 305
of the Revised Code. 306

(3) The legislative authority shall provide to the 307
division of liquor control and the investigative unit of the 308
department of public safety notice of the safety requirements 309
established or modified under this division. 310

(G) Section 4399.18 of the Revised Code applies to a 311
liquor permit holder located within an outdoor refreshment area 312
in the same manner as if the liquor permit holder were not 313
located in an outdoor refreshment area. 314

(H) (1) Five years after the date of creation of an outdoor 315
refreshment area, the legislative authority of the municipal 316
corporation or township that created the area under this section 317
shall review the operation of the area and shall, by ordinance 318
or resolution, either approve the continued operation of the 319
area or dissolve the area. Prior to adopting the ordinance or 320
resolution, the legislative authority shall give notice of its 321
proposed action by publication once a week for two consecutive 322
weeks in one newspaper of general circulation in the municipal 323
corporation or township or as provided in section 7.16 of the 324
Revised Code. 325

If the legislative authority dissolves the outdoor 326
refreshment area, the outdoor refreshment area ceases to exist. 327
The legislative authority then shall provide notice of its 328
action to the division of liquor control and the investigative 329
unit of the department of public safety. Upon receipt of the 330
notice, the division shall revoke all outdoor refreshment area 331
designations issued to qualified permit holders within the 332
dissolved area. If the legislative authority approves the 333
continued operation of the outdoor refreshment area, the area 334

continues in operation. 335

(2) Five years after the approval of the continued 336
operation of an outdoor refreshment area under division (H) (1) 337
of this section, the legislative authority shall conduct a 338
review in the same manner as provided in division (H) (1) of this 339
section. The legislative authority also shall conduct such a 340
review five years after any subsequent approval of continued 341
operation under division (H) (2) of this section. 342

(I) At any time, the legislative authority of a municipal 343
corporation or township in which an outdoor refreshment area is 344
located may, by ordinance or resolution, dissolve all or a part 345
of the outdoor refreshment area. Prior to adopting the 346
resolution or ordinance, the legislative authority shall give 347
notice of its proposed action by publication once a week for two 348
consecutive weeks in one newspaper of general circulation in the 349
municipal corporation or township or as provided in section 7.16 350
of the Revised Code. If the legislative authority dissolves all 351
or part of an outdoor refreshment area, the area designated in 352
the ordinance or resolution no longer constitutes an outdoor 353
refreshment area. The legislative authority shall provide notice 354
of its actions to the division of liquor control and the 355
investigative unit of the department of public safety. Upon 356
receipt of the notice, the division shall revoke all outdoor 357
refreshment area designations issued to qualified permit holders 358
within the dissolved area or portion of the area. 359

Sec. 4303.185. (A) As used in this section, "art gallery" 360
means a room or building that is devoted to the exhibition and 361
sale of original works of art. 362

(B) A D-9 permit may be issued to the owner or operator of 363
an art gallery to serve beer or wine, without charge, by the 364

individual glass or from the container, for consumption on the 365
premises of the art gallery. The holder of a D-9 permit may 366
serve such beer or wine at not more than twenty events per year. 367
The fee for the D-9 permit is one hundred dollars. 368

Sec. 4303.208. (A) (1) The division of liquor control may 369
issue an F-8 permit to a not-for-profit organization that 370
manages, for the benefit of the public and by contract with a 371
political subdivision of this state, publicly owned property to 372
sell beer or intoxicating liquor by the individual drink at 373
specific events conducted on the publicly owned property and 374
appurtenant streets, but only if, and then only at times at 375
which, the sale of beer and intoxicating liquor on the premises 376
is otherwise permitted by law. Additionally, an F-8 permit may 377
be issued only if the publicly owned property is located in a 378
county that has a population of between seven hundred fifty 379
thousand and nine hundred thousand on July 10, 2007. 380

(2) The premises on which an F-8 permit will be used shall 381
be clearly defined and sufficiently restricted to allow proper 382
supervision of the permit's use by state and local law 383
enforcement officers. Sales under an F-8 permit shall be 384
confined to the same hours permitted to the holder of a D-3 385
permit. 386

(3) The fee for an F-8 permit is one thousand seven 387
hundred dollars. An F-8 permit is effective for a period not to 388
exceed nine months as specified in the permit. An F-8 permit is 389
not transferable or renewable. However, the holder of an F-8 390
permit may apply for a new F-8 permit at any time. An F-8 permit 391
is not effective until any F-8 permit currently held expires. 392
The holder of an F-8 permit shall make sales only at those 393
specific events about which the permit holder has notified in 394

advance the division of liquor control, the department of public 395
safety, and the chief, sheriff, or other principal peace officer 396
of the local law enforcement agencies having jurisdiction over 397
the premises. 398

(B) (1) An application for the issuance of an F-8 permit is 399
subject to the notice and hearing requirements established in 400
division (A) of section 4303.26 of the Revised Code. 401

(2) The liquor control commission shall adopt under 402
Chapter 119. of the Revised Code rules necessary to administer 403
this section. 404

(C) No F-8 permit holder shall sell beer or intoxicating 405
liquor beyond the hours of sale allowed by the permit. This 406
division imposes strict liability on the holder of an F-8 permit 407
and on any officer, agent, or employee of that permit holder. 408

(D) Nothing in this section prohibits the division from 409
issuing an F-2, or F-6 permit for a specific event not 410
conducted by the holder of an F-8 permit provided that the 411
holder of the F-8 permit certifies to the division that it will 412
not exercise its permit privileges during that specific event. 413

Section 2. That existing section 4301.62 and 4303.208 of 414
the Revised Code are hereby repealed. 415

Section 3. (A) There is hereby created the Outdoor 416
Refreshment Area Study Committee. The Committee shall consist of 417
the following seven members who shall be appointed not later 418
than five days after the effective date of this section: 419

(1) Two members of the Senate, one of whom shall be a 420
member of the majority party and one of whom shall be a member 421
of the minority party, both appointed by the President of the 422
Senate; 423

(2) Two members of the House of Representatives, one of 424
whom shall be a member of the majority party and one of whom 425
shall be a member of the minority party, both appointed by the 426
Speaker of the House of Representatives; 427

(3) One county commissioner, appointed by the President of 428
the Senate; 429

(4) One representative of a municipal corporation, or 430
township, with a population of twenty-five thousand or less, 431
appointed by the Speaker of the House of Representatives; 432

(5) One representative of the Division of Liquor Control, 433
appointed by the Governor. 434

(B) The Committee first shall meet not later than thirty 435
days after the effective date of this section. At the first 436
meeting, the Committee shall select a chairperson and vice- 437
chairperson from among its members. Thereafter, the Committee 438
shall meet at the call of its chairperson as necessary to carry 439
out its duties. Members of the Committee are not entitled to 440
compensation for serving on the Committee, but may continue to 441
receive the compensation and benefits accruing from their 442
regular offices or employments. 443

(C) The Committee shall study the utility and viability of 444
allowing municipal corporations or townships that have a 445
population of twenty-five thousand or less to create an outdoor 446
refreshment area under section 4301.82 of the Revised Code, as 447
enacted by this act. Not later than December 1, 2015, the Study 448
Committee shall issue a report of its findings and 449
recommendations to the President of the Senate, the Minority 450
Leader of the Senate, the Speaker of the House of 451
Representatives, and the Minority Leader of the House of 452

Representatives. After submitting the report, the Study 453
Committee shall cease to exist. 454

Section 4. This act is hereby declared to be an emergency 455
measure necessary for the immediate preservation of the public 456
peace, health, and safety. The reason for such necessity is that 457
local authorities across the state need to engage in long range 458
planning for upcoming sporting, entertainment, and cultural 459
events that may be enhanced by the existence of outdoor 460
refreshment areas and by other changes to the law made by this 461
act. Therefore, this act shall go into immediate effect. 462