

L\_131\_0291-7

131st General Assembly  
Regular Session  
2015-2016

Sub. H. B. 47

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**A BILL**

To amend sections 4301.62 and 4303.208 and to enact 1  
section 4301.82 of the Revised Code to allow 2  
municipal corporations and townships with a 3  
population of more than 35,000 to create outdoor 4  
refreshment areas, to create the Outdoor 5  
Refreshment Area Study Committee, to exempt 6  
persons within an outdoor refreshment area from 7  
the open container law, to exempt persons who 8  
are passengers on a commercial quadricycle from 9  
that law, to revise the law governing F-8 liquor 10  
permits, and to declare an emergency. 11

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

**Section 1.** That sections 4301.62 and 4303.208 be amended 12  
and section 4301.82 of the Revised Code be enacted to read as 13  
follows: 14

**Sec. 4301.62.** (A) As used in this section: 15

(1) "Chauffeured limousine" means a vehicle registered 16  
under section 4503.24 of the Revised Code. 17



(2) "Street," "highway," and "motor vehicle" have the same 18  
meanings as in section 4511.01 of the Revised Code. 19

(B) No person shall have in the person's possession an 20  
opened container of beer or intoxicating liquor in any of the 21  
following circumstances: 22

(1) Except as provided in division (C) (1) (e) of this 23  
section, in an agency store; 24

(2) Except as provided in division (C) of this section, on 25  
the premises of the holder of any permit issued by the division 26  
of liquor control; 27

(3) In any other public place; 28

(4) Except as provided in division (D) or (E) of this 29  
section, while operating or being a passenger in or on a motor 30  
vehicle on any street, highway, or other public or private 31  
property open to the public for purposes of vehicular travel or 32  
parking; 33

(5) Except as provided in division (D) or (E) of this 34  
section, while being in or on a stationary motor vehicle on any 35  
street, highway, or other public or private property open to the 36  
public for purposes of vehicular travel or parking. 37

(C) (1) A person may have in the person's possession an 38  
opened container of any of the following: 39

(a) Beer or intoxicating liquor that has been lawfully 40  
purchased for consumption on the premises where bought from the 41  
holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, 42  
D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, 43  
D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or 44  
F-8 permit; 45

(b) Beer, wine, or mixed beverages served for consumption 46  
on the premises by the holder of an F-3 permit or wine served 47  
for consumption on the premises by the holder of an F-4 or F-6 48  
permit; 49

(c) Beer or intoxicating liquor consumed on the premises 50  
of a convention facility as provided in section 4303.201 of the 51  
Revised Code; 52

(d) Beer or intoxicating liquor to be consumed during 53  
tastings and samplings approved by rule of the liquor control 54  
commission; 55

(e) Spirituous liquor to be consumed for purposes of a 56  
tasting sample, as defined in section 4301.171 of the Revised 57  
Code. 58

(2) A person may have in the person's possession on an F 59  
liquor permit premises an opened container of beer or 60  
intoxicating liquor that was not purchased from the holder of 61  
the F permit if the premises for which the F permit is issued is 62  
a music festival and the holder of the F permit grants 63  
permission for that possession on the premises during the period 64  
for which the F permit is issued. As used in this division, 65  
"music festival" means a series of outdoor live musical 66  
performances, extending for a period of at least three 67  
consecutive days and located on an area of land of at least 68  
forty acres. 69

(3) (a) A person may have in the person's possession on a 70  
D-2 liquor permit premises an opened or unopened container of 71  
wine that was not purchased from the holder of the D-2 permit if 72  
the premises for which the D-2 permit is issued is an outdoor 73  
performing arts center, the person is attending an orchestral 74

performance, and the holder of the D-2 permit grants permission 75  
for the possession and consumption of wine in certain 76  
predesignated areas of the premises during the period for which 77  
the D-2 permit is issued. 78

(b) As used in division (C) (3) (a) of this section: 79

(i) "Orchestral performance" means a concert comprised of 80  
a group of not fewer than forty musicians playing various 81  
musical instruments. 82

(ii) "Outdoor performing arts center" means an outdoor 83  
performing arts center that is located on not less than one 84  
hundred fifty acres of land and that is open for performances 85  
from the first day of April to the last day of October of each 86  
year. 87

(4) A person may have in the person's possession an opened 88  
or unopened container of beer or intoxicating liquor at an 89  
outdoor location at which the person is attending an orchestral 90  
performance as defined in division (C) (3) (b) (i) of this section 91  
if the person with supervision and control over the performance 92  
grants permission for the possession and consumption of beer or 93  
intoxicating liquor in certain predesignated areas of that 94  
outdoor location. 95

(5) A person may have in the person's possession on an F-9 96  
liquor permit premises an opened or unopened container of beer 97  
or intoxicating liquor that was not purchased from the holder of 98  
the F-9 permit if the person is attending an orchestral 99  
performance and the holder of the F-9 permit grants permission 100  
for the possession and consumption of beer or intoxicating 101  
liquor in certain predesignated areas of the premises during the 102  
period for which the F-9 permit is issued. 103

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

(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:

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

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

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

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

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

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

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

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

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

(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 131  
section 4301.82 of the Revised Code if the opened container of 132  
beer or intoxicating liquor was purchased from a qualified 133  
permit holder to which both of the following apply: 134

(i) The permit holder's premises is located within the 135  
outdoor refreshment area. 136

(ii) The permit held by the permit holder has an outdoor 137  
refreshment area designation. 138

(b) Division (C) (7) of this section does not authorize a 139  
person to do either of the following: 140

(i) Enter the premises of an establishment within an 141  
outdoor refreshment area while possessing an opened container of 142  
beer or intoxicating liquor acquired elsewhere; 143

(ii) Possess an opened container of beer or intoxicating 144  
liquor while being in or on a motor vehicle within an outdoor 145  
refreshment area, unless the motor vehicle is stationary and is 146  
not being operated in a lane of vehicular travel or unless the 147  
possession is otherwise authorized under division (D) or (E) of 148  
this section. 149

(D) This section does not apply to a person who pays all 150  
or a portion of the fee imposed for the use of a chauffeured 151  
limousine pursuant to a prearranged contract, or the guest of 152  
the person, when all of the following apply: 153

(1) The person or guest is a passenger in the limousine. 154

(2) The person or guest is located in the limousine, but 155  
is not occupying a seat in the front compartment of the 156  
limousine where the operator of the limousine is located. 157

(3) The limousine is located on any street, highway, or 158

other public or private property open to the public for purposes 159  
of vehicular travel or parking. 160

(E) An opened bottle of wine that was purchased from the 161  
holder of a permit that authorizes the sale of wine for 162  
consumption on the premises where sold is not an opened 163  
container for the purposes of this section if both of the 164  
following apply: 165

(1) The opened bottle of wine is securely resealed by the 166  
permit holder or an employee of the permit holder before the 167  
bottle is removed from the premises. The bottle shall be secured 168  
in such a manner that it is visibly apparent if the bottle has 169  
been subsequently opened or tampered with. 170

(2) The opened bottle of wine that is resealed in 171  
accordance with division (E)(1) of this section is stored in the 172  
trunk of a motor vehicle or, if the motor vehicle does not have 173  
a trunk, behind the last upright seat or in an area not normally 174  
occupied by the driver or passengers and not easily accessible 175  
by the driver. 176

(F)(1) Except if an ordinance or resolution is enacted or 177  
adopted under division (F)(2) of this section, this section does 178  
not apply to a person who, pursuant to a prearranged contract, 179  
is a passenger riding on a commercial quadricycle when all of 180  
the following apply: 181

(a) The person is not occupying a seat in the front of the 182  
commercial quadricycle where the operator is steering or 183  
braking. 184

(b) The commercial quadricycle is being operated on a 185  
street, highway, or other public or private property open to the 186  
public for purposes of vehicular travel or parking. 187

(c) The person has in their possession on the commercial 188  
quadricycle an opened container of beer or wine. 189

(d) The person has in their possession on the commercial 190  
quadricycle not more than either thirty-six ounces of beer or 191  
eighteen ounces of wine. 192

(2) The legislative authority of a municipal corporation 193  
or township may enact an ordinance or adopt a resolution, as 194  
applicable, that prohibits a passenger riding on a commercial 195  
quadricycle from possessing an opened container of beer or wine. 196

(3) As used in this section, "commercial quadricycle" 197  
means a vehicle that has fully-operative pedals for propulsion 198  
entirely by human power and that meets all of the following 199  
requirements: 200

(a) It has four wheels and is operated in a manner similar 201  
to a bicycle. 202

(b) It has at least five seats for passengers. 203

(c) It is designed to be powered by the pedaling of the 204  
operator and the passengers. 205

(d) It is used for commercial purposes. 206

(e) It is operated by the vehicle owner or an employee of 207  
the owner. 208

**Sec. 4301.82.** (A) As used in this section, "qualified 209  
permit holder" means the holder of an A-1, A-1-A, A-1c, A-2, or 210  
D permit issued under Chapter 4303. of the Revised Code. 211

(B) The executive officer of a municipal corporation or 212  
the fiscal officer of a township may file an application with 213  
the legislative authority of the municipal corporation or 214



township to have property within the municipal corporation or 215  
township designated as an outdoor refreshment area or to expand 216  
an existing outdoor refreshment area to include additional 217  
property within the municipal corporation or township. The 218  
executive officer or fiscal officer shall ensure that the 219  
application contains all of the following: 220

(1) A map or survey of the proposed outdoor refreshment 221  
area, which shall not exceed three hundred twenty contiguous 222  
acres or one-half square mile, in sufficient detail to identify 223  
the boundaries of the area; 224

(2) A general statement of the nature and types of 225  
establishments that will be located within the proposed outdoor 226  
refreshment area; 227

(3) A statement that the proposed outdoor refreshment area 228  
will encompass not fewer than four qualified permit holders; 229

(4) Evidence that the uses of land within the proposed 230  
outdoor refreshment area are in accord with the master zoning 231  
plan or map of the municipal corporation or township; 232

(5) Proposed requirements for the purpose of ensuring 233  
public health and safety within the proposed outdoor refreshment 234  
area. 235

(C) Within forty-five days after the date the application 236  
is filed with the legislative authority of a municipal 237  
corporation or township, the legislative authority shall publish 238  
public notice of the application once a week for two consecutive 239  
weeks in one newspaper of general circulation in the municipal 240  
corporation or township or as provided in section 7.16 of the 241  
Revised Code. The legislative authority shall ensure that the 242  
notice states that the application is on file in the office of 243

the clerk of the municipal corporation or township and is 244  
available for inspection by the public during regular business 245  
hours. The legislative authority also shall indicate in the 246  
notice the date and time of any public hearing to be held 247  
regarding the application by the legislative authority. 248

Not earlier than thirty but not later than sixty days 249  
after the initial publication of notice, the legislative 250  
authority shall approve or disapprove the application by either 251  
ordinance or resolution, as applicable. Approval of an 252  
application requires an affirmative vote of a majority of the 253  
legislative authority. Upon approval of the application by the 254  
legislative authority, the territory described in the 255  
application constitutes an outdoor refreshment area. The 256  
legislative authority shall provide to the division of liquor 257  
control and the investigative unit of the department of public 258  
safety notice of the approval of the application and a 259  
description of the area specified in the application. If the 260  
legislative authority disapproves the application, the executive 261  
officer of a municipal corporation or fiscal officer of a 262  
township may make changes in the application to secure its 263  
approval by the legislative authority. 264

(D) The creation of outdoor refreshment areas is limited 265  
as follows: 266

(1) A municipal corporation or township with a population 267  
of more than fifty thousand shall not create more than two 268  
outdoor refreshment areas. 269

(2) A municipal corporation or township with a population 270  
of more than thirty-five thousand but less than or equal to 271  
fifty thousand shall not create more than one outdoor 272  
refreshment area. 273

(3) A municipal corporation or township with a population 274  
of thirty-five thousand or less shall not create an outdoor 275  
refreshment area. 276

For purposes of this section, the population of a 277  
municipal corporation or township is deemed to be the population 278  
shown by the most recent regular federal decennial census. 279

(E) As soon as possible after receiving notice that an 280  
outdoor refreshment area has been approved, the division of 281  
liquor control, for purposes of section 4301.62 of the Revised 282  
Code, shall issue an outdoor refreshment area designation to 283  
each qualified permit holder located within the refreshment area 284  
that is in compliance with all applicable requirements under 285  
Chapters 4301. and 4303. of the Revised Code. The division shall 286  
not charge any fee for the issuance of the designation. Any 287  
permit holder that receives such a designation shall comply with 288  
all laws, rules, and regulations that govern its license type, 289  
and the applicable public health and safety requirements 290  
established for the area under division (F) of this section. 291

(F) (1) At the time of the creation of an outdoor 292  
refreshment area, the legislative authority of a municipal 293  
corporation or township in which such an area is located shall 294  
adopt an ordinance or resolution, as applicable, that 295  
establishes requirements the legislative authority determines 296  
necessary to ensure public health and safety within the area. 297  
The legislative authority shall include in the ordinance or 298  
resolution all of the following: 299

(a) The specific boundaries of the area, including street 300  
addresses; 301

(b) The number, spacing, and type of signage designating 302

|   |   |
|---|---|
| <u>the area;</u>  | 303   |
| <u>(c) The hours of operation for the area;</u>   | 304   |
| <u>(d) The number of personnel needed to ensure public safety</u><br><u>in the area;</u>  | 305<br>306                                    |
| <u>(e) A sanitation plan that will help maintain the</u><br><u>appearance and public health of the area;</u>  | 307<br>308                                    |
| <u>(f) The number of personnel needed to execute the</u><br><u>sanitation plan;</u>   | 309<br>310                                    |
| <u>(g) A requirement that beer and intoxicating liquor be</u><br><u>served solely in plastic bottles or other plastic containers in</u><br><u>the area.</u>   | 311<br>312<br>313                             |
| <u>The legislative authority may, but is not required to,</u><br><u>include in the ordinance or resolution any public health and</u><br><u>safety requirements proposed in an application under division</u><br><u>(B) of this section to designate or expand the outdoor</u><br><u>refreshment area. The legislative authority may subsequently</u><br><u>modify the public health and safety requirements as determined</u><br><u>necessary by the legislative authority.</u> | 314<br>315<br>316<br>317<br>318<br>319<br>320 |
| <u>(2) Prior to adopting an ordinance or resolution under</u><br><u>this division, the legislative authority shall give notice of</u><br><u>its proposed action by publication once a week for two</u><br><u>consecutive weeks in one newspaper of general circulation in the</u><br><u>municipal corporation or township or as provided in section 7.16</u><br><u>of the Revised Code.</u>   | 321<br>322<br>323<br>324<br>325<br>326        |
| <u>(3) The legislative authority shall provide to the</u><br><u>division of liquor control and the investigative unit of the</u><br><u>department of public safety notice of the public health and</u><br><u>safety requirements established or modified under this division.</u>   | 327<br>328<br>329<br>330                      |

(G) Section 4399.18 of the Revised Code applies to a 331  
liquor permit holder located within an outdoor refreshment area 332  
in the same manner as if the liquor permit holder were not 333  
located in an outdoor refreshment area. 334

(H) (1) Five years after the date of creation of an outdoor 335  
refreshment area, the legislative authority of the municipal 336  
corporation or township that created the area under this section 337  
shall review the operation of the area and shall, by ordinance 338  
or resolution, either approve the continued operation of the 339  
area or dissolve the area. Prior to adopting the ordinance or 340  
resolution, the legislative authority shall give notice of its 341  
proposed action by publication once a week for two consecutive 342  
weeks in one newspaper of general circulation in the municipal 343  
corporation or township or as provided in section 7.16 of the 344  
Revised Code. 345

If the legislative authority dissolves the outdoor 346  
refreshment area, the outdoor refreshment area ceases to exist. 347  
The legislative authority then shall provide notice of its 348  
action to the division of liquor control and the investigative 349  
unit of the department of public safety. Upon receipt of the 350  
notice, the division shall revoke all outdoor refreshment area 351  
designations issued to qualified permit holders within the 352  
dissolved area. If the legislative authority approves the 353  
continued operation of the outdoor refreshment area, the area 354  
continues in operation. 355

(2) Five years after the approval of the continued 356  
operation of an outdoor refreshment area under division (H) (1) 357  
of this section, the legislative authority shall conduct a 358  
review in the same manner as provided in division (H) (1) of this 359  
section. The legislative authority also shall conduct such a 360

review five years after any subsequent approval of continued 361  
operation under division (H) (2) of this section. 362

(I) At any time, the legislative authority of a municipal 363  
corporation or township in which an outdoor refreshment area is 364  
located may, by ordinance or resolution, dissolve all or a part 365  
of the outdoor refreshment area. Prior to adopting the 366  
resolution or ordinance, the legislative authority shall give 367  
notice of its proposed action by publication once a week for two 368  
consecutive weeks in one newspaper of general circulation in the 369  
municipal corporation or township or as provided in section 7.16 370  
of the Revised Code. If the legislative authority dissolves all 371  
or part of an outdoor refreshment area, the area designated in 372  
the ordinance or resolution no longer constitutes an outdoor 373  
refreshment area. The legislative authority shall provide notice 374  
of its actions to the division of liquor control and the 375  
investigative unit of the department of public safety. Upon 376  
receipt of the notice, the division shall revoke all outdoor 377  
refreshment area designations issued to qualified permit holders 378  
within the dissolved area or portion of the area. 379

**Sec. 4303.208.** (A) (1) The division of liquor control may 380  
issue an F-8 permit to a not-for-profit organization that 381  
manages, for the benefit of the public and by contract with a 382  
political subdivision of this state, publicly owned property to 383  
sell beer or intoxicating liquor by the individual drink at 384  
specific events conducted on the publicly owned property and 385  
appurtenant streets, but only if, and then only at times at 386  
which, the sale of beer and intoxicating liquor on the premises 387  
is otherwise permitted by law. Additionally, an F-8 permit may 388  
be issued only if the publicly owned property is located in a 389  
county that has a population of between seven hundred fifty 390  
thousand and nine hundred thousand on July 10, 2007. 391

(2) The premises on which an F-8 permit will be used shall 392  
be clearly defined and sufficiently restricted to allow proper 393  
supervision of the permit's use by state and local law 394  
enforcement officers. Sales under an F-8 permit shall be 395  
confined to the same hours permitted to the holder of a D-3 396  
permit. 397

(3) The fee for an F-8 permit is one thousand seven 398  
hundred dollars. An F-8 permit is effective for a period not to 399  
exceed nine months as specified in the permit. An F-8 permit is 400  
not transferable or renewable. However, the holder of an F-8 401  
permit may apply for a new F-8 permit at any time. An F-8 permit 402  
is not effective until any F-8 permit currently held expires. 403  
The holder of an F-8 permit shall make sales only at those 404  
specific events about which the permit holder has notified in 405  
advance the division of liquor control, the department of public 406  
safety, and the chief, sheriff, or other principal peace officer 407  
of the local law enforcement agencies having jurisdiction over 408  
the premises. 409

(B) (1) An application for the issuance of an F-8 permit is 410  
subject to the notice and hearing requirements established in 411  
division (A) of section 4303.26 of the Revised Code. 412

(2) The liquor control commission shall adopt under 413  
Chapter 119. of the Revised Code rules necessary to administer 414  
this section. 415

(C) No F-8 permit holder shall sell beer or intoxicating 416  
liquor beyond the hours of sale allowed by the permit. This 417  
division imposes strict liability on the holder of an F-8 permit 418  
and on any officer, agent, or employee of that permit holder. 419

(D) Nothing in this section prohibits the division from 420

issuing an F, F-2, or F-6 permit for a specific event not 421  
conducted by the holder of an F-8 permit provided that the 422  
holder of the F-8 permit certifies to the division that it will 423  
not exercise its permit privileges during that specific event. 424

**Section 2.** That existing section 4301.62 and 4303.208 of 425  
the Revised Code are hereby repealed. 426

**Section 3.** (A) There is hereby created the Outdoor 427  
Refreshment Area Study Committee. The Committee shall consist of 428  
the following seven members who shall be appointed not later 429  
than five days after the effective date of this section: 430

(1) Two members of the Senate, one of whom shall be a 431  
member of the majority party and one of whom shall be a member 432  
of the minority party, both appointed by the President of the 433  
Senate; 434

(2) Two members of the House of Representatives, one of 435  
whom shall be a member of the majority party and one of whom 436  
shall be a member of the minority party, both appointed by the 437  
Speaker of the House of Representatives; 438

(3) One county commissioner, appointed by the President of 439  
the Senate; 440

(4) One representative of a municipal corporation, or 441  
township, with a population of thirty-five thousand or less, 442  
appointed by the Speaker of the House of Representatives; 443

(5) One representative of the Division of Liquor Control, 444  
appointed by the Governor. 445

(B) The Committee first shall meet not later than thirty 446  
days after the effective date of this section. At the first 447  
meeting, the Committee shall select a chairperson and vice- 448



chairperson from among its members. Thereafter, the Committee 449  
shall meet at the call of its chairperson as necessary to carry 450  
out its duties. Members of the Committee are not entitled to 451  
compensation for serving on the Committee, but may continue to 452  
receive the compensation and benefits accruing from their 453  
regular offices or employments. 454

(C) The Committee shall study the utility and viability of 455  
allowing municipal corporations or townships that have a 456  
population of thirty-five thousand or less to create an outdoor 457  
refreshment area under section 4301.82 of the Revised Code, as 458  
enacted by this act. Not later than December 1, 2015, the Study 459  
Committee shall issue a report of its findings and 460  
recommendations to the President of the Senate, the Minority 461  
Leader of the Senate, the Speaker of the House of 462  
Representatives, and the Minority Leader of the House of 463  
Representatives. After submitting the report, the Study 464  
Committee shall cease to exist. 465

**Section 4.** This act is hereby declared to be an emergency 466  
measure necessary for the immediate preservation of the public 467  
peace, health, and safety. The reason for such necessity is that 468  
local authorities across the state need to engage in long range 469  
planning for upcoming sporting, entertainment, and cultural 470  
events that may be enhanced by the existence of outdoor 471  
refreshment areas and by other changes to the law made by this 472  
act. Therefore, this act shall go into immediate effect. 473