

As Introduced

131st General Assembly

Regular Session

2015-2016

S. B. No. 153

Senator Manning

Cosponsors: Senators Seitz, Beagle, Jones, Cafaro, Schiavoni

A BILL

To amend sections 3717.22 and 4301.62 and to enact
section 4303.2010 of the Revised Code to
establish the F-10 liquor permit to authorize
certain A-2 permit holders to sell Ohio wines at
farmers markets.

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

Section 1. That sections 3717.22 and 4301.62 be amended
and section 4303.2010 of the Revised Code be enacted to read as
follows:

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Sec. 3717.22. (A) The following are not retail food
establishments:

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(1) A food service operation licensed under this chapter,
including a food service operation that provides the services of
a retail food establishment pursuant to an endorsement issued
under section 3717.44 of the Revised Code;

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(2) An entity exempt under divisions (B) (1) to (9) or (11)
to (13) of section 3717.42 of the Revised Code from the
requirement to be licensed as a food service operation and an
entity exempt under division (B) (10) of that section if the

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entity is regulated by the department of agriculture as a food 19
processing establishment under section 3715.021 of the Revised 20
Code; 21

(3) A business or that portion of a business that is 22
regulated by the federal government or the department of 23
agriculture as a food manufacturing or food processing business, 24
including a business or that portion of a business regulated by 25
the department of agriculture under Chapter 911., 913., 915., 26
917., 918., or 925. of the Revised Code. 27

(B) All of the following are exempt from the requirement 28
to be licensed as a retail food establishment: 29

(1) An establishment with commercially prepackaged foods 30
that are not potentially hazardous and contained in displays, 31
the total space of which equals less than two hundred cubic 32
feet; 33

(2) A person at a farmers market that is registered with 34
the director of agriculture pursuant to section 3717.221 of the 35
Revised Code that offers for sale only one or more of the 36
following: 37

(a) Fresh unprocessed fruits or vegetables; 38

(b) Products of a cottage food production operation; 39

(c) Maple syrup, sorghum, or honey that is produced by a 40
maple syrup or sorghum producer or beekeeper described in 41
division (A) of section 3715.021 of the Revised Code; 42

(d) Wine as authorized under section 4303.2010 of the 43
Revised Code; 44

(e) Commercially prepackaged food that is not potentially 45
hazardous, on the condition that the food is contained in 46

displays, the total space of which equals less than one hundred 47
cubic feet on the premises where the person conducts business at 48
the farmers market. 49

(3) A person who offers for sale at a roadside stand only 50
fresh fruits and fresh vegetables that are unprocessed; 51

(4) A nonprofit organization exempt from federal income 52
taxation under section 501(c)(3) of the "Internal Revenue Code 53
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, that raises 54
funds by selling foods and that, if required to be licensed, 55
would be classified as risk level one in accordance with rules 56
establishing licensing categories for retail food establishments 57
adopted under section 3717.33 of the Revised Code, if the sales 58
occur inside a building and are for not more than seven 59
consecutive days or more than fifty-two separate days during a 60
licensing period. This exemption extends to any individual or 61
group raising all of its funds during the time periods specified 62
in division (B)(4) of this section for the benefit of the 63
nonprofit organization by selling foods under the same 64
conditions. 65

(5) An establishment that offers food contained in 66
displays of less than five hundred square feet, and if required 67
to be licensed would be classified as risk level one pursuant to 68
rules establishing licensing categories for retail food 69
establishments adopted under section 3717.33 of the Revised 70
Code, on the condition that the establishment offers the food 71
for sale at retail not more than six months in each calendar 72
year; 73

(6) A cottage food production operation, on the condition 74
that the operation offers its products directly to the consumer 75
from the site where the products are produced; 76

(7) A maple syrup and sorghum processor and beekeeper 77
described in division (A) of section 3715.021 of the Revised 78
Code, on the condition that the processor or beekeeper offers 79
only maple syrup, sorghum, or honey directly to the consumer 80
from the site where those products are processed; 81

(8) A person who annually maintains five hundred or fewer 82
birds, on the condition that the person offers the eggs from 83
those birds directly to the consumer from the location where the 84
eggs are produced or at a farm product auction to which division 85
(B) (11) of this section applies; 86

(9) A person who annually raises and slaughters one 87
thousand or fewer chickens, on the condition that the person 88
offers dressed chickens directly to the consumer from the 89
location where the chickens are raised and slaughtered or at a 90
farm product auction to which division (B) (11) of this section 91
applies; 92

(10) A person who raises, slaughters, and processes the 93
meat of nonamenable species described in divisions (A) and (B) 94
of section 918.12 of the Revised Code, on the condition that the 95
person offers the meat directly to the consumer from the 96
location where the meat is processed or at a farm product 97
auction to which division (B) (11) of this section applies; 98

(11) A farm product auction, on the condition that it is 99
registered with the director pursuant to section 3717.221 of the 100
Revised Code that offers for sale at the farm product auction 101
only one or more of the following: 102

(a) The products described in divisions (B) (8) to (10) of 103
this section that are produced, raised, slaughtered, or 104
processed, as appropriate, by persons described in divisions (B) 105

(8) to (10) of this section;	106
(b) Fresh unprocessed fruits or vegetables;	107
(c) Products of a cottage food production operation;	108
(d) Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper described in division (A) of section 3715.021 of the Revised Code.	109 110 111
(12) An establishment that, with respect to offering food for sale, offers only alcoholic beverages or prepackaged beverages that are not potentially hazardous;	112 113 114
(13) An establishment that, with respect to offering food for sale, offers only alcoholic beverages, prepackaged beverages that are not potentially hazardous, or commercially prepackaged food that is not potentially hazardous, on the condition that the commercially prepackaged food is contained in displays, the total space of which equals less than two hundred cubic feet on the premises of the establishment;	115 116 117 118 119 120 121
(14) An establishment that, with respect to offering food for sale, offers only fountain beverages that are not potentially hazardous;	122 123 124
(15) A person who offers for sale only one or more of the following foods at a festival or celebration, on the condition that the festival or celebration is organized by a political subdivision of the state and lasts for a period not longer than seven consecutive days:	125 126 127 128 129
(a) Fresh unprocessed fruits or vegetables;	130
(b) Products of a cottage food production operation;	131
(c) Maple syrup, sorghum, or honey if produced by a maple	132

syrup or sorghum processor or beekeeper as described in division 133
(A) of section 3715.021 of the Revised Code; 134

(d) Commercially prepackaged food that is not potentially 135
hazardous, on the condition that the food is contained in 136
displays, the total space of which equals less than one hundred 137
cubic feet; 138

(e) Fruit butter produced at the festival or celebration 139
and sold from the production site. 140

(16) A farm market on the condition that it is registered 141
with the director pursuant to section 3717.221 of the Revised 142
Code that offers for sale at the farm market only one or more of 143
the following: 144

(a) Fresh unprocessed fruits or vegetables; 145

(b) Products of a cottage food production operation; 146

(c) Maple syrup, sorghum, or honey that is produced by a 147
maple syrup or sorghum producer or beekeeper described in 148
division (A) of section 3715.021 of the Revised Code; 149

(d) Commercially prepackaged food that is not potentially 150
hazardous, on the condition that the food is contained in 151
displays, the total space of which equals less than one hundred 152
cubic feet on the premises where the person conducts business at 153
the farm market; 154

(e) Cider and other juices manufactured on site at the 155
farm market; 156

(f) The products or items described in divisions (B) (8) to 157
(10) of this section, on the condition that those products or 158
items were produced by the person offering to sell them, and 159
further conditioned that, with respect to eggs offered, the 160

person offering to sell them annually maintains five hundred or 161
fewer birds, and with respect to dressed chickens offered, the 162
person annually raises and slaughters one thousand or fewer 163
chickens. 164

Sec. 4301.62. (A) As used in this section: 165

(1) "Chauffeured limousine" means a vehicle registered 166
under section 4503.24 of the Revised Code. 167

(2) "Street," "highway," and "motor vehicle" have the same 168
meanings as in section 4511.01 of the Revised Code. 169

(B) No person shall have in the person's possession an 170
opened container of beer or intoxicating liquor in any of the 171
following circumstances: 172

(1) Except as provided in division (C) (1) (e) of this 173
section, in an agency store; 174

(2) Except as provided in division (C) of this section, on 175
the premises of the holder of any permit issued by the division 176
of liquor control; 177

(3) In any other public place; 178

(4) Except as provided in division (D) or (E) of this 179
section, while operating or being a passenger in or on a motor 180
vehicle on any street, highway, or other public or private 181
property open to the public for purposes of vehicular travel or 182
parking; 183

(5) Except as provided in division (D) or (E) of this 184
section, while being in or on a stationary motor vehicle on any 185
street, highway, or other public or private property open to the 186
public for purposes of vehicular travel or parking. 187

(C) (1) A person may have in the person's possession an 188
opened container of any of the following: 189

(a) Beer or intoxicating liquor that has been lawfully 190
purchased for consumption on the premises where bought from the 191
holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, 192
D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, 193
D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or 194
F-8 permit; 195

(b) Beer, wine, or mixed beverages served for consumption 196
on the premises by the holder of an F-3 permit or wine served 197
for consumption on the premises by the holder of an F-4, ~~or F-6,~~ 198
or F-10 permit; 199

(c) Beer or intoxicating liquor consumed on the premises 200
of a convention facility as provided in section 4303.201 of the 201
Revised Code; 202

(d) Beer or intoxicating liquor to be consumed during 203
tastings and samplings approved by rule of the liquor control 204
commission; 205

(e) Spirituous liquor to be consumed for purposes of a 206
tasting sample, as defined in section 4301.171 of the Revised 207
Code. 208

(2) A person may have in the person's possession on an F 209
liquor permit premises an opened container of beer or 210
intoxicating liquor that was not purchased from the holder of 211
the F permit if the premises for which the F permit is issued is 212
a music festival and the holder of the F permit grants 213
permission for that possession on the premises during the period 214
for which the F permit is issued. As used in this division, 215
"music festival" means a series of outdoor live musical 216

performances, extending for a period of at least three 217
consecutive days and located on an area of land of at least 218
forty acres. 219

(3) (a) A person may have in the person's possession on a 220
D-2 liquor permit premises an opened or unopened container of 221
wine that was not purchased from the holder of the D-2 permit if 222
the premises for which the D-2 permit is issued is an outdoor 223
performing arts center, the person is attending an orchestral 224
performance, and the holder of the D-2 permit grants permission 225
for the possession and consumption of wine in certain 226
predesignated areas of the premises during the period for which 227
the D-2 permit is issued. 228

(b) As used in division (C) (3) (a) of this section: 229

(i) "Orchestral performance" means a concert comprised of 230
a group of not fewer than forty musicians playing various 231
musical instruments. 232

(ii) "Outdoor performing arts center" means an outdoor 233
performing arts center that is located on not less than one 234
hundred fifty acres of land and that is open for performances 235
from the first day of April to the last day of October of each 236
year. 237

(4) A person may have in the person's possession an opened 238
or unopened container of beer or intoxicating liquor at an 239
outdoor location at which the person is attending an orchestral 240
performance as defined in division (C) (3) (b) (i) of this section 241
if the person with supervision and control over the performance 242
grants permission for the possession and consumption of beer or 243
intoxicating liquor in certain predesignated areas of that 244
outdoor location. 245

(5) A person may have in the person's possession on an F-9 246
liquor permit premises an opened or unopened container of beer 247
or intoxicating liquor that was not purchased from the holder of 248
the F-9 permit if the person is attending an orchestral 249
performance and the holder of the F-9 permit grants permission 250
for the possession and consumption of beer or intoxicating 251
liquor in certain predesignated areas of the premises during the 252
period for which the F-9 permit is issued. 253

As used in division (C) (5) of this section, "orchestral 254
performance" has the same meaning as in division (C) (3) (b) of 255
this section. 256

(6) (a) A person may have in the person's possession on the 257
property of an outdoor motorsports facility an opened or 258
unopened container of beer or intoxicating liquor that was not 259
purchased from the owner of the facility if both of the 260
following apply: 261

(i) The person is attending a racing event at the 262
facility; and 263

(ii) The owner of the facility grants permission for the 264
possession and consumption of beer or intoxicating liquor on the 265
property of the facility. 266

(b) As used in division (C) (6) (a) of this section: 267

(i) "Racing event" means a motor vehicle racing event 268
sanctioned by one or more motor racing sanctioning 269
organizations. 270

(ii) "Outdoor motorsports facility" means an outdoor 271
racetrack to which all of the following apply: 272

(I) It is two and four-tenths miles or more in length. 273

(II) It is located on two hundred acres or more of land. 274

(III) The primary business of the owner of the facility is 275
the hosting and promoting of racing events. 276

(IV) The holder of a D-1, D-2, or D-3 permit is located on 277
the property of the facility. 278

(D) This section does not apply to a person who pays all 279
or a portion of the fee imposed for the use of a chauffeured 280
limousine pursuant to a prearranged contract, or the guest of 281
the person, when all of the following apply: 282

(1) The person or guest is a passenger in the limousine. 283

(2) The person or guest is located in the limousine, but 284
is not occupying a seat in the front compartment of the 285
limousine where the operator of the limousine is located. 286

(3) The limousine is located on any street, highway, or 287
other public or private property open to the public for purposes 288
of vehicular travel or parking. 289

(E) An opened bottle of wine that was purchased from the 290
holder of a permit that authorizes the sale of wine for 291
consumption on the premises where sold is not an opened 292
container for the purposes of this section if both of the 293
following apply: 294

(1) The opened bottle of wine is securely resealed by the 295
permit holder or an employee of the permit holder before the 296
bottle is removed from the premises. The bottle shall be secured 297
in such a manner that it is visibly apparent if the bottle has 298
been subsequently opened or tampered with. 299

(2) The opened bottle of wine that is resealed in 300
accordance with division (E) (1) of this section is stored in the 301

trunk of a motor vehicle or, if the motor vehicle does not have 302
a trunk, behind the last upright seat or in an area not normally 303
occupied by the driver or passengers and not easily accessible 304
by the driver. 305

Sec. 4303.2010. (A) As used in this section, "farmers 306
market" means a farmers market registered with the director of 307
agriculture pursuant to section 3717.221 of the Revised Code. 308

(B) The division of liquor control may issue an F-10 309
permit to an A-2 permit holder to do either of the following: 310

(1) Sell at farmers markets tasting samples of wine 311
manufactured by the A-2 permit holder for consumption on the 312
premises where the farmers market is located; 313

(2) Sell wine manufactured by the A-2 permit holder in 314
sealed containers for consumption off the premises where the 315
farmers market is located. 316

(C) An F-10 permit holder, in accordance with the permit, 317
shall sell only wine to which both of the following apply: 318

(1) At least fifty-one per cent of the fruit used to 319
produce the wine is grown in this state. 320

(2) The wine label identifies an appellation of origin, in 321
accordance with 27 C.F.R. 4.25, that includes all or a portion 322
of this state. 323

(D) No F-10 permit holder shall sell a tasting sample in 324
an amount that exceeds two ounces and no F-10 permit holder 325
shall sell more than one sample of each wine offered for sale to 326
any one person. 327

(E) An F-10 permit holder shall obtain written permission 328
from the person who organizes the farmers market to sell wine as 329

authorized under this section and shall comply with any 330
requirements established by that person for involvement in the 331
farmers market, including payment of a vendor fee. 332

(F) The F-10 permit is effective for one year and may be 333
used at any farmers market in this state, so long as the holder 334
complies with the requirements of this section. The fee for the 335
F-10 permit is one hundred dollars. 336

Section 2. That existing sections 3717.22 and 4301.62 of 337
the Revised Code are hereby repealed. 338