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Committee**

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**Sub. H. B. No. 178**

**Representative Manning**

**Cosponsors: Representatives Sweeney, LaTourette, Brenner, Thompson, Becker,  
Young, Blessing, Henne, Duffey, Cera, Roegner, Boyd, Maag, Buchy**

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**A BILL**

To amend sections 3717.22 and 4301.62 and to enact 1  
section 4303.2010 of the Revised Code to 2  
establish the F-10 liquor permit to authorize 3  
the sale of wine by certain wine manufacturers 4  
at specified farmers markets. 5

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

**Section 1.** That sections 3717.22 and 4301.62 be amended 6  
and section 4303.2010 of the Revised Code be enacted to read as 7  
follows: 8

**Sec. 3717.22.** (A) The following are not retail food 9  
establishments: 10

(1) A food service operation licensed under this chapter, 11  
including a food service operation that provides the services of 12  
a retail food establishment pursuant to an endorsement issued 13  
under section 3717.44 of the Revised Code; 14

(2) An entity exempt under divisions (B) (1) to (9) or (11) 15  
to (13) of section 3717.42 of the Revised Code from the 16

requirement to be licensed as a food service operation and an 17  
entity exempt under division (B) (10) of that section if the 18  
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 hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet on the premises where the person conducts business at the farmers market.

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

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

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

(6) A cottage food production operation, on the condition

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	109
maple syrup or sorghum producer or beekeeper described in	110
division (A) of section 3715.021 of the Revised Code.	111
(12) An establishment that, with respect to offering food	112
for sale, offers only alcoholic beverages or prepackaged	113
beverages that are not potentially hazardous;	114
(13) An establishment that, with respect to offering food	115
for sale, offers only alcoholic beverages, prepackaged beverages	116
that are not potentially hazardous, or commercially prepackaged	117
food that is not potentially hazardous, on the condition that	118
the commercially prepackaged food is contained in displays, the	119
total space of which equals less than two hundred cubic feet on	120
the premises of the establishment;	121
(14) An establishment that, with respect to offering food	122
for sale, offers only fountain beverages that are not	123
potentially hazardous;	124
(15) A person who offers for sale only one or more of the	125
following foods at a festival or celebration, on the condition	126
that the festival or celebration is organized by a political	127
subdivision of the state and lasts for a period not longer than	128
seven consecutive days:	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 syrup or sorghum processor or beekeeper as described in division (A) of section 3715.021 of the Revised Code;	132 133 134
(d) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet;	135 136 137 138
(e) Fruit butter produced at the festival or celebration and sold from the production site.	139 140
(16) A farm market on the condition that it is registered with the director pursuant to section 3717.221 of the Revised Code that offers for sale at the farm market only one or more of the following:	141 142 143 144
(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 maple syrup or sorghum producer or beekeeper described in division (A) of section 3715.021 of the Revised Code;	147 148 149
(d) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet on the premises where the person conducts business at the farm market;	150 151 152 153 154
(e) Cider and other juices manufactured on site at the farm market;	155 156
(f) The products or items described in divisions (B) (8) to (10) of this section, on the condition that those products or items were produced by the person offering to sell them, and	157 158 159

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, <u>wine served as a</u>	197
<u>tasting sample by an A-2 permit holder or S permit holder for</u>	198
<u>consumption on the premises of a farmers market for which an F-</u>	199
<u>10 permit has been issued,</u> or wine served for consumption on the	200
premises by the holder of an F-4 or F-6 permit;	201
(c) Beer or intoxicating liquor consumed on the premises	202
of a convention facility as provided in section 4303.201 of the	203
Revised Code;	204
(d) Beer or intoxicating liquor to be consumed during	205
tastings and samplings approved by rule of the liquor control	206
commission;	207
(e) Spirituous liquor to be consumed for purposes of a	208
tasting sample, as defined in section 4301.171 of the Revised	209
Code.	210
(2) A person may have in the person's possession on an F	211
liquor permit premises an opened container of beer or	212
intoxicating liquor that was not purchased from the holder of	213
the F permit if the premises for which the F permit is issued is	214
a music festival and the holder of the F permit grants	215
permission for that possession on the premises during the period	216



for which the F permit is issued. As used in this division, 217  
"music festival" means a series of outdoor live musical 218  
performances, extending for a period of at least three 219  
consecutive days and located on an area of land of at least 220  
forty acres. 221

(3) (a) A person may have in the person's possession on a 222  
D-2 liquor permit premises an opened or unopened container of 223  
wine that was not purchased from the holder of the D-2 permit if 224  
the premises for which the D-2 permit is issued is an outdoor 225  
performing arts center, the person is attending an orchestral 226  
performance, and the holder of the D-2 permit grants permission 227  
for the possession and consumption of wine in certain 228  
predesignated areas of the premises during the period for which 229  
the D-2 permit is issued. 230

(b) As used in division (C) (3) (a) of this section: 231

(i) "Orchestral performance" means a concert comprised of 232  
a group of not fewer than forty musicians playing various 233  
musical instruments. 234

(ii) "Outdoor performing arts center" means an outdoor 235  
performing arts center that is located on not less than one 236  
hundred fifty acres of land and that is open for performances 237  
from the first day of April to the last day of October of each 238  
year. 239

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

intoxicating liquor in certain predesignated areas of that 246  
outdoor location. 247

(5) A person may have in the person's possession on an F-9 248  
liquor permit premises an opened or unopened container of beer 249  
or intoxicating liquor that was not purchased from the holder of 250  
the F-9 permit if the person is attending an orchestral 251  
performance and the holder of the F-9 permit grants permission 252  
for the possession and consumption of beer or intoxicating 253  
liquor in certain predesignated areas of the premises during the 254  
period for which the F-9 permit is issued. 255

As used in division (C) (5) of this section, "orchestral 256  
performance" has the same meaning as in division (C) (3) (b) of 257  
this section. 258

(6) (a) A person may have in the person's possession on the 259  
property of an outdoor motorsports facility an opened or 260  
unopened container of beer or intoxicating liquor that was not 261  
purchased from the owner of the facility if both of the 262  
following apply: 263

(i) The person is attending a racing event at the 264  
facility; and 265

(ii) The owner of the facility grants permission for the 266  
possession and consumption of beer or intoxicating liquor on the 267  
property of the facility. 268

(b) As used in division (C) (6) (a) of this section: 269

(i) "Racing event" means a motor vehicle racing event 270  
sanctioned by one or more motor racing sanctioning 271  
organizations. 272

(ii) "Outdoor motorsports facility" means an outdoor 273

racetrack to which all of the following apply:	274
(I) It is two and four-tenths miles or more in length.	275
(II) It is located on two hundred acres or more of land.	276
(III) The primary business of the owner of the facility is the hosting and promoting of racing events.	277 278
(IV) The holder of a D-1, D-2, or D-3 permit is located on the property of the facility.	279 280
(D) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply:	281 282 283 284
(1) The person or guest is a passenger in the limousine.	285
(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.	286 287 288
(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.	289 290 291
(E) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:	292 293 294 295 296
(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has	297 298 299 300

been subsequently opened or tampered with. 301

(2) The opened bottle of wine that is resealed in 302  
accordance with division (E)(1) of this section is stored in the 303  
trunk of a motor vehicle or, if the motor vehicle does not have 304  
a trunk, behind the last upright seat or in an area not normally 305  
occupied by the driver or passengers and not easily accessible 306  
by the driver. 307

Sec. 4303.2010. (A) As used in this section: 308

(1) "Farmers market" means a farmers market registered 309  
with the director of agriculture under section 3717.221 of the 310  
Revised Code. "Farmers market" does not include a for-profit 311  
farmers market, a farmers market located at a rest area within 312  
the limits of the right-of-way of an interstate highway, a 313  
farmers market located at a service facility as defined in 314  
Chapter 5537. of the Revised Code that is along the Ohio 315  
turnpike, or a farmers market with fewer than five farmers 316  
market participants. 317

(2) "A-2 permit holder" means an A-2 permit holder that 318  
produces less than two hundred and fifty thousand gallons of 319  
wine per year. 320

(B) The division of liquor control may issue an F-10 321  
permit to a person who organizes a farmers market. Pursuant to 322  
the permit, the F-10 permit holder may allow a farmers market 323  
participant that is an A-2 permit holder or S permit holder to 324  
do the following at the location of the farmers market: 325

(1) Sell tasting samples of wine manufactured by the A-2 326  
permit holder or S permit holder for consumption on the premises 327  
where the farmers market is located; 328

(2) Sell wine manufactured by the A-2 permit holder or S 329

permit holder in sealed containers for consumption off the 330  
premises where the farmers market is located. 331

(C) An applicant for an F-10 permit shall submit an 332  
application for the permit to the division of liquor control. 333  
The application shall include the location of the farmers market 334  
that is the subject of the application. 335

(D) The premises of the farmers market for which the F-10 336  
permit is issued shall be clearly defined and sufficiently 337  
restricted to allow proper enforcement of the permit by state 338  
and local law enforcement officers. If an F-10 permit is issued 339  
for all or a portion of the same premises for which another 340  
class of permit is issued, the division of liquor control shall 341  
suspend that permit holder's privileges in that portion of the 342  
premises in which the F-10 permit is in effect. 343

(E) No A-2 permit holder or S permit holder shall do any 344  
of the following at a farmers market for which an F-10 permit 345  
has been issued: 346

(1) Sell a tasting sample in an amount that exceeds one 347  
ounce; 348

(2) Sell more than one sample of each wine offered for 349  
sale to any one person; 350

(3) Sell more than five varieties of wine as tasting 351  
samples per day; 352

(4) Sell a variety of wine that is offered for 353  
distribution by a wholesale distributor in any state. Division 354

(E) (4) of this section does not apply to a variety of wine 355  
solely distributed by the A-2 permit holder or S permit holder. 356

(5) Sell more than four and one-half liters of wine per 357

household for off-premises consumption under division (B) (2) of 358  
this section; 359

(6) Allow any person other than the A-2 permit holder or S 360  
permit holder, a member of the applicable permit holder's 361  
family, or an employee of the applicable permit holder to sell 362  
wine. 363

(F) The F-10 permit is effective for nine months. The 364  
permit is not renewable. However, a person who organizes a 365  
farmers market may re-apply for a new permit. The fee for the F- 366  
10 permit is one hundred dollars. 367

(G) An A-2 permit holder or S permit holder shall not 368  
conduct the activities described in division (B) of this section 369  
unless the sale of wine for consumption on the premises and the 370  
sale of wine for consumption off the premises is authorized in 371  
the election precinct in which the farmers market that is the 372  
subject of the F-10 permit is located. 373

(H) No F-10 permit holder shall allow more than four A-2 374  
permit holders, four S permit holders, or a combination of four 375  
A-2 permit holders and S permit holders per day to conduct the 376  
activities described in division (B) of this section on the 377  
premises of the applicable farmers market. 378

**Section 2.** That existing sections 3717.22 and 4301.62 of 379  
the Revised Code are hereby repealed. 380