

As Reported by the Senate State and Local Government Committee

131st General Assembly

Regular Session

2015-2016

Sub. S. B. No. 95

Senators Seitz, Thomas

**Cosponsors: Senators Yuko, Brown, Uecker, Patton, Schiavoni, Eklund, Tavares,
Bacon, Cafaro, Gentile**

A BILL

To amend sections 4301.62 and 4303.208 and to enact
section 4301.82 of the Revised Code to allow
specified municipal corporations and townships
to create outdoor refreshment areas, to exempt
persons within an outdoor refreshment area from
the open container law, to exempt persons who
are passengers on a commercial quadricycle from
that law, to revise the law governing F-8 liquor
permits, and to declare an emergency.

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

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

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

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

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

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

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

(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;

(3) In any other public place;

(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;

(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.

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

(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, 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;

(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 46
permit; 47

(c) Beer or intoxicating liquor consumed on the premises 48
of a convention facility as provided in section 4303.201 of the 49
Revised Code; 50

(d) Beer or intoxicating liquor to be consumed during 51
tastings and samplings approved by rule of the liquor control 52
commission; 53

(e) Spirituous liquor to be consumed for purposes of a 54
tasting sample, as defined in section 4301.171 of the Revised 55
Code. 56

(2) A person may have in the person's possession on an F 57
liquor permit premises an opened container of beer or 58
intoxicating liquor that was not purchased from the holder of 59
the F permit if the premises for which the F permit is issued is 60
a music festival and the holder of the F permit grants 61
permission for that possession on the premises during the period 62
for which the F permit is issued. As used in this division, 63
"music festival" means a series of outdoor live musical 64
performances, extending for a period of at least three 65
consecutive days and located on an area of land of at least 66
forty acres. 67

(3) (a) A person may have in the person's possession on a 68
D-2 liquor permit premises an opened or unopened container of 69
wine that was not purchased from the holder of the D-2 permit if 70
the premises for which the D-2 permit is issued is an outdoor 71
performing arts center, the person is attending an orchestral 72
performance, and the holder of the D-2 permit grants permission 73
for the possession and consumption of wine in certain 74

predesignated areas of the premises during the period for which	75
the D-2 permit is issued.	76
(b) As used in division (C) (3) (a) of this section:	77
(i) "Orchestral performance" means a concert comprised of	78
a group of not fewer than forty musicians playing various	79
musical instruments.	80
(ii) "Outdoor performing arts center" means an outdoor	81
performing arts center that is located on not less than one	82
hundred fifty acres of land and that is open for performances	83
from the first day of April to the last day of October of each	84
year.	85
(4) A person may have in the person's possession an opened	86
or unopened container of beer or intoxicating liquor at an	87
outdoor location at which the person is attending an orchestral	88
performance as defined in division (C) (3) (b) (i) of this section	89
if the person with supervision and control over the performance	90
grants permission for the possession and consumption of beer or	91
intoxicating liquor in certain predesignated areas of that	92
outdoor location.	93
(5) A person may have in the person's possession on an F-9	94
liquor permit premises an opened or unopened container of beer	95
or intoxicating liquor that was not purchased from the holder of	96
the F-9 permit if the person is attending an orchestral	97
performance and the holder of the F-9 permit grants permission	98
for the possession and consumption of beer or intoxicating	99
liquor in certain predesignated areas of the premises during the	100
period for which the F-9 permit is issued.	101
As used in division (C) (5) of this section, "orchestral	102
performance" has the same meaning as in division (C) (3) (b) of	103

this section.	104
(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:	105 106 107 108 109
(i) The person is attending a racing event at the facility; and	110 111
(ii) The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility.	112 113 114
(b) As used in division (C) (6) (a) of this section:	115
(i) "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.	116 117 118
(ii) "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:	119 120
(I) It is two and four-tenths miles or more in length.	121
(II) It is located on two hundred acres or more of land.	122
(III) The primary business of the owner of the facility is the hosting and promoting of racing events.	123 124
(IV) The holder of a D-1, D-2, or D-3 permit is located on the property of the facility.	125 126
<u>(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 section 4301.82 of the Revised Code if the opened container of</u>	127 128 129 130

beer or intoxicating liquor was purchased from a qualified 131
permit holder to which both of the following apply: 132

(i) The permit holder's premises is located within the 133
outdoor refreshment area. 134

(ii) The permit held by the permit holder has an outdoor 135
refreshment area designation. 136

(b) Division (C)(7) of this section does not authorize a 137
person to do either of the following: 138

(i) Enter the premises of an establishment within an 139
outdoor refreshment area while possessing an opened container of 140
beer or intoxicating liquor acquired elsewhere; 141

(ii) Possess an opened container of beer or intoxicating 142
liquor while being in or on a motor vehicle within an outdoor 143
refreshment area, unless the motor vehicle is stationary and is 144
not being operated in a lane of vehicular travel or unless the 145
possession is otherwise authorized under division (D) or (E) of 146
this section. 147

(D) This section does not apply to a person who pays all 148
or a portion of the fee imposed for the use of a chauffeured 149
limousine pursuant to a prearranged contract, or the guest of 150
the person, when all of the following apply: 151

(1) The person or guest is a passenger in the limousine. 152

(2) The person or guest is located in the limousine, but 153
is not occupying a seat in the front compartment of the 154
limousine where the operator of the limousine is located. 155

(3) The limousine is located on any street, highway, or 156
other public or private property open to the public for purposes 157
of vehicular travel or parking. 158

(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:

(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 been subsequently opened or tampered with.

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

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

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

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

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

(d) The person has in their possession on the commercial quadricycle not more than either thirty-six ounces of beer or eighteen ounces of wine. 188
189
190

(2) The legislative authority of a municipal corporation or township may enact an ordinance or adopt a resolution, as applicable, that prohibits a passenger riding on a commercial quadricycle from possessing an opened container of beer or wine. 191
192
193
194

(3) 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: 195
196
197
198

(a) It has four wheels and is operated in a manner similar to a bicycle. 199
200

(b) It has at least five seats for passengers. 201

(c) It is designed to be powered by the pedaling of the operator and the passengers. 202
203

(d) It is used for commercial purposes. 204

(e) It is operated by the vehicle owner or an employee of the owner. 205
206

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. 207
208
209

(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 210
211
212
213
214
215

property within the municipal corporation or township. The 216
executive officer or fiscal officer shall ensure that the 217
application contains all of the following: 218

(1) A map or survey of the proposed outdoor refreshment 219
area in sufficient detail to identify the boundaries of the 220
area, which shall not exceed either of the following, as 221
applicable: 222

(a) Three hundred twenty contiguous acres or one-half 223
square mile if the municipal corporation or township has a 224
population of more than thirty-five thousand as specified in 225
division (D) of this section; 226

(b) One hundred fifty contiguous acres if the municipal 227
corporation or township has a population of thirty-five thousand 228
or less as specified in division (D) of this section. 229

(2) A general statement of the nature and types of 230
establishments that will be located within the proposed outdoor 231
refreshment area; 232

(3) A statement that the proposed outdoor refreshment area 233
will encompass not fewer than four qualified permit holders; 234

(4) Evidence that the uses of land within the proposed 235
outdoor refreshment area are in accord with the master zoning 236
plan or map of the municipal corporation or township; 237

(5) Proposed requirements for the purpose of ensuring 238
public health and safety within the proposed outdoor refreshment 239
area. 240

(C) Within forty-five days after the date the application 241
is filed with the legislative authority of a municipal 242
corporation or township, the legislative authority shall publish 243

public notice of the application once a week for two consecutive 244
weeks in one newspaper of general circulation in the municipal 245
corporation or township or as provided in section 7.16 of the 246
Revised Code. The legislative authority shall ensure that the 247
notice states that the application is on file in the office of 248
the clerk of the municipal corporation or township and is 249
available for inspection by the public during regular business 250
hours. The legislative authority also shall indicate in the 251
notice the date and time of any public hearing to be held 252
regarding the application by the legislative authority. 253

Not earlier than thirty but not later than sixty days 254
after the initial publication of notice, the legislative 255
authority shall approve or disapprove the application by either 256
ordinance or resolution, as applicable. Approval of an 257
application requires an affirmative vote of a majority of the 258
legislative authority. Upon approval of the application by the 259
legislative authority, the territory described in the 260
application constitutes an outdoor refreshment area. The 261
legislative authority shall provide to the division of liquor 262
control and the investigative unit of the department of public 263
safety notice of the approval of the application and a 264
description of the area specified in the application. If the 265
legislative authority disapproves the application, the executive 266
officer of a municipal corporation or fiscal officer of a 267
township may make changes in the application to secure its 268
approval by the legislative authority. 269

(D) The creation of outdoor refreshment areas is limited 270
as follows: 271

(1) A municipal corporation or township with a population 272
of more than fifty thousand shall not create more than two 273

outdoor refreshment areas. 274

(2) A municipal corporation or township with a population 275
of more than thirty-five thousand but less than or equal to 276
fifty thousand shall not create more than one outdoor 277
refreshment area. 278

(3) (a) Except as provided in division (D) (3) (b) of this 279
section, a municipal corporation or township with a population 280
of thirty-five thousand or less shall not create an outdoor 281
refreshment area. 282

(b) A municipal corporation or township with a population 283
of thirty-five thousand or less may create one outdoor 284
refreshment area if the proposed area will include at least four 285
qualified permit holders and be composed of one hundred fifty or 286
fewer contiguous acres. 287

For purposes of this section, the population of a 288
municipal corporation or township is deemed to be the population 289
shown by the most recent regular federal decennial census. 290

(E) As soon as possible after receiving notice that an 291
outdoor refreshment area has been approved, the division of 292
liquor control, for purposes of section 4301.62 of the Revised 293
Code, shall issue an outdoor refreshment area designation to 294
each qualified permit holder located within the refreshment area 295
that is in compliance with all applicable requirements under 296
Chapters 4301. and 4303. of the Revised Code. The division shall 297
not charge any fee for the issuance of the designation. Any 298
permit holder that receives such a designation shall comply with 299
all laws, rules, and regulations that govern its license type, 300
and the applicable public health and safety requirements 301
established for the area under division (F) of this section. 302

(F) (1) At the time of the creation of an outdoor 303
refreshment area, the legislative authority of a municipal 304
corporation or township in which such an area is located shall 305
adopt an ordinance or resolution, as applicable, that 306
establishes requirements the legislative authority determines 307
necessary to ensure public health and safety within the area. 308
The legislative authority shall include in the ordinance or 309
resolution all of the following: 310

(a) The specific boundaries of the area, including street 311
addresses; 312

(b) The number, spacing, and type of signage designating 313
the area; 314

(c) The hours of operation for the area; 315

(d) The number of personnel needed to ensure public safety 316
in the area; 317

(e) A sanitation plan that will help maintain the 318
appearance and public health of the area; 319

(f) The number of personnel needed to execute the 320
sanitation plan; 321

(g) A requirement that beer and intoxicating liquor be 322
served solely in plastic bottles or other plastic containers in 323
the area. 324

The legislative authority may, but is not required to, 325
include in the ordinance or resolution any public health and 326
safety requirements proposed in an application under division 327
(B) of this section to designate or expand the outdoor 328
refreshment area. The legislative authority may subsequently 329
modify the public health and safety requirements as determined 330

necessary by the legislative authority. 331

(2) Prior to adopting an ordinance or resolution under 332
this division, the legislative authority shall give notice of 333
its proposed action by publication once a week for two 334
consecutive weeks in one newspaper of general circulation in the 335
municipal corporation or township or as provided in section 7.16 336
of the Revised Code. 337

(3) The legislative authority shall provide to the 338
division of liquor control and the investigative unit of the 339
department of public safety notice of the public health and 340
safety requirements established or modified under this division. 341

(G) Section 4399.18 of the Revised Code applies to a 342
liquor permit holder located within an outdoor refreshment area 343
in the same manner as if the liquor permit holder were not 344
located in an outdoor refreshment area. 345

(H) (1) Five years after the date of creation of an outdoor 346
refreshment area, the legislative authority of the municipal 347
corporation or township that created the area under this section 348
shall review the operation of the area and shall, by ordinance 349
or resolution, either approve the continued operation of the 350
area or dissolve the area. Prior to adopting the ordinance or 351
resolution, the legislative authority shall give notice of its 352
proposed action by publication once a week for two consecutive 353
weeks in one newspaper of general circulation in the municipal 354
corporation or township or as provided in section 7.16 of the 355
Revised Code. 356

If the legislative authority dissolves the outdoor 357
refreshment area, the outdoor refreshment area ceases to exist. 358
The legislative authority then shall provide notice of its 359

action to the division of liquor control and the investigative 360
unit of the department of public safety. Upon receipt of the 361
notice, the division shall revoke all outdoor refreshment area 362
designations issued to qualified permit holders within the 363
dissolved area. If the legislative authority approves the 364
continued operation of the outdoor refreshment area, the area 365
continues in operation. 366

(2) Five years after the approval of the continued 367
operation of an outdoor refreshment area under division (H) (1) 368
of this section, the legislative authority shall conduct a 369
review in the same manner as provided in division (H) (1) of this 370
section. The legislative authority also shall conduct such a 371
review five years after any subsequent approval of continued 372
operation under division (H) (2) of this section. 373

(I) At any time, the legislative authority of a municipal 374
corporation or township in which an outdoor refreshment area is 375
located may, by ordinance or resolution, dissolve all or a part 376
of the outdoor refreshment area. Prior to adopting the 377
resolution or ordinance, the legislative authority shall give 378
notice of its proposed action by publication once a week for two 379
consecutive weeks in one newspaper of general circulation in the 380
municipal corporation or township or as provided in section 7.16 381
of the Revised Code. If the legislative authority dissolves all 382
or part of an outdoor refreshment area, the area designated in 383
the ordinance or resolution no longer constitutes an outdoor 384
refreshment area. The legislative authority shall provide notice 385
of its actions to the division of liquor control and the 386
investigative unit of the department of public safety. Upon 387
receipt of the notice, the division shall revoke all outdoor 388
refreshment area designations issued to qualified permit holders 389
within the dissolved area or portion of the area. 390

Sec. 4303.208. (A) (1) The division of liquor control may 391
issue an F-8 permit to a not-for-profit organization that 392
manages, for the benefit of the public and by contract with a 393
political subdivision of this state, publicly owned property to 394
sell beer or intoxicating liquor by the individual drink at 395
specific events conducted on the publicly owned property and 396
appurtenant streets, but only if, and then only at times at 397
which, the sale of beer and intoxicating liquor on the premises 398
is otherwise permitted by law. Additionally, an F-8 permit may 399
be issued only if the publicly owned property is located in a 400
county that has a population of between seven hundred fifty 401
thousand and nine hundred thousand on July 10, 2007. 402

(2) The premises on which an F-8 permit will be used shall 403
be clearly defined and sufficiently restricted to allow proper 404
supervision of the permit's use by state and local law 405
enforcement officers. Sales under an F-8 permit shall be 406
confined to the same hours permitted to the holder of a D-3 407
permit. 408

(3) The fee for an F-8 permit is one thousand seven 409
hundred dollars. An F-8 permit is effective for a period not to 410
exceed nine months as specified in the permit. An F-8 permit is 411
not transferable or renewable. However, the holder of an F-8 412
permit may apply for a new F-8 permit at any time. An F-8 permit 413
is not effective until any F-8 permit currently held expires. 414
The holder of an F-8 permit shall make sales only at those 415
specific events about which the permit holder has notified in 416
advance the division of liquor control, the department of public 417
safety, and the chief, sheriff, or other principal peace officer 418
of the local law enforcement agencies having jurisdiction over 419
the premises. 420

(B) (1) An application for the issuance of an F-8 permit is 421
subject to the notice and hearing requirements established in 422
division (A) of section 4303.26 of the Revised Code. 423

(2) The liquor control commission shall adopt under 424
Chapter 119. of the Revised Code rules necessary to administer 425
this section. 426

(C) No F-8 permit holder shall sell beer or intoxicating 427
liquor beyond the hours of sale allowed by the permit. This 428
division imposes strict liability on the holder of an F-8 permit 429
and on any officer, agent, or employee of that permit holder. 430

(D) Nothing in this section prohibits the division from 431
issuing an F-2, or F-6 permit for a specific event not 432
conducted by the holder of an F-8 permit provided that the 433
holder of the F-8 permit certifies to the division that it will 434
not exercise its permit privileges during that specific event. 435

Section 2. That existing section 4301.62 and 4303.208 of 436
the Revised Code are hereby repealed. 437

Section 3. Division (D) (3) (b) of section 4301.82 of the 438
Revised Code, as enacted by this act, takes effect two years 439
after the effective date of this section. 440

Section 4. This act is hereby declared to be an emergency 441
measure necessary for the immediate preservation of the public 442
peace, health, and safety. The reason for such necessity is that 443
local authorities across the state need to engage in long range 444
planning for upcoming sporting, entertainment, and cultural 445
events that may be enhanced by the existence of outdoor 446
refreshment areas and by other changes to the law made by this 447
act. Therefore, this act shall go into immediate effect. 448