

As Reported by the Senate Agriculture and Natural Resources Committee

134th General Assembly

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S. B. No. 102

Senator Roegner

Cosponsors: Senators Huffman, S., Schaffer, Fedor



A BILL

To amend sections 4301.24 and 4301.62 and to enact 1
section 4301.201 of the Revised Code to exempt 2
homebrewers of beer or home fermenters of wine 3
from specified liquor control laws. 4

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

Section 1. That sections 4301.24 and 4301.62 be amended 5
and section 4301.201 of the Revised Code be enacted to read as 6
follows: 7

Sec. 4301.201. (A) As used in this section: 8

(1) "Event" means a demonstration or competition at which 9
tasting samples of homemade beer or wine are served. 10

(2) "Fraternal organization" means any society, order, or 11
association within this state, except a college or high school 12
fraternity, to which all of the following apply: 13

(a) It is not organized for profit. 14

(b) It is a branch, lodge, or chapter of a national or 15
state organization. 16

<u>(c) It exists exclusively for the common business or sodality of its members.</u>	17 18
<u>(3) "Homebrewer" means a person who brews or ferments homemade beer or wine.</u>	19 20
<u>(4) "Homemade beer or wine" means beer that is brewed or wine that is fermented by an individual's own efforts and not for commercial purposes.</u>	21 22 23
<u>(5) "Sell" does not include giving away homemade beer or wine free of charge.</u>	24 25
<u>(6) "Tasting sample" means an amount of beer or wine not to exceed two ounces.</u>	26 27
<u>(B) A homebrewer may brew or ferment homemade beer or wine without a permit issued under Chapter 4303. of the Revised Code if all of the following apply:</u>	28 29 30
<u>(1) The homebrewer does not sell homemade beer or wine or offer homemade beer or wine for sale.</u>	31 32
<u>(2) The homebrewer does not receive compensation for participating in any event. Both of the following are not considered compensation:</u>	33 34 35
<u>(a) Any prize that is cash or a cash equivalent awarded at an event;</u>	36 37
<u>(b) A free or discounted admission to an event.</u>	38
<u>(3) The homebrewer annually brews or ferments homemade beer or wine in either of the following amounts:</u>	39 40
<u>(a) Not more than one hundred gallons if the homebrewer's household has only one person who is twenty-one years of age or older; or</u>	41 42 43

(b) Not more than two hundred gallons if the homebrewer's household has two or more persons who are twenty-one years of age or older. 44
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(C) A homebrewer may serve homemade beer or wine the homebrewer brews or ferments without a permit issued under Chapter 4303. of the Revised Code as follows: 47
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(1) To the homebrewer's family, neighbors, and friends on private property. 50
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(2) At an event, if the event is held on private property, the premises of a fraternal organization, or on the premises for which an A-1c, A-2, A-2f, A-3a, or D-4 permit is issued. 52
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(D) A homebrewer or the homebrewer's designated representative may transport homemade beer or wine brewed or fermented by the homebrewer without a permit issued under Chapter 4303. of the Revised Code. 55
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(E) A person may conduct, sponsor, or host an event if the person: 59
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(1) Is a homebrewer or fraternal organization that does not hold a permit issued under Chapter 4303. of the Revised Code and conducts, sponsors, or hosts the event on private property or the premises of a fraternal organization; or 61
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(2) Holds an A-1c, A-2, A-2f, A-3a, or D-4 permit and the person conducts, sponsors, or hosts the event on the permitted premises. 65
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(F) A person described under division (E) of this section who is hosting an event shall not do any of the following: 68
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(1) Sell any homemade beer or wine. 70

(2) Unless the person is the homebrewer of the homemade beer or wine, acquire an ownership interest in any homemade beer or wine served at the event. 71
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(3) Charge a fee for the consumption of the homemade beer or wine at the event. Division (F)(3) of this section does not apply to a registration fee charged to attend an event. 74
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(4) If the person is a permit holder and conducts, sponsors, or hosts the event on the permit holder's permitted premises, fail to store the homemade beer or wine on the premises so that it is clearly identified and kept separate from any beer or intoxicating liquor that is intended for sale by the permit holder under the authority of the applicable permit. 77
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Sec. 4301.24. (A) Except as provided in sections 4301.242 and 4301.246 of the Revised Code, no manufacturer shall aid or assist the holder of any permit for sale at wholesale, and no manufacturer or wholesale distributor shall aid or assist the holder of any permit for sale at retail, by gift or loan of any money or property of any description or other valuable thing, or by giving premiums or rebates. Except as provided in sections 4301.242 and 4301.246 of the Revised Code, no holder of any such permit shall accept the same, provided that the manufacturer or wholesale distributor may furnish to a retail permittee the inside signs or advertising and the tap signs or devices authorized by divisions (E) and (F) of section 4301.22 of the Revised Code. 83
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(B) No manufacturer shall have any financial interest, directly or indirectly, by stock ownership, or through interlocking directors in a corporation, or otherwise, in the establishment, maintenance, or promotion in the business of any wholesale distributor. No retail permit holder shall have any 96
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interest, directly or indirectly, in the operation of, or any 101
ownership in, the business of any wholesale distributor or 102
manufacturer. 103

(C) (1) No manufacturer shall, except as authorized by 104
section 4303.021 of the Revised Code, have any financial 105
interest, directly or indirectly, by stock ownership, or through 106
interlocking directors in a corporation, or otherwise, in the 107
establishment, maintenance, or promotion of the business of any 108
retail dealer. No wholesale distributor or employee of a 109
wholesale distributor shall have any financial interest, 110
directly or indirectly, by stock ownership, interlocking 111
directors in a corporation, or otherwise, in the establishment, 112
maintenance, or promotion of the business of any retail dealer. 113
No manufacturer or wholesale distributor or any stockholder of a 114
manufacturer or wholesale distributor shall acquire, by 115
ownership in fee, leasehold, mortgage, or otherwise, directly or 116
indirectly, any interest in the premises on which the business 117
of any other person engaged in the business of trafficking in 118
beer or intoxicating liquor is conducted. 119

(2) All contracts, covenants, conditions, and limitations 120
whereby any person engaged or proposing to engage in the sale of 121
beer or intoxicating liquors promises to confine the person's 122
sales of a particular kind or quality of beer or intoxicating 123
liquor to one or more products, or the products of a specified 124
manufacturer or wholesale distributor, or to give preference to 125
those products, shall to the extent of that promise be void. The 126
making of a promise in any such form shall be cause for the 127
revocation or suspension of any permit issued to any party. 128

(D) No manufacturer shall sell or offer to sell to any 129
wholesale distributor or retail permit holder, no wholesale 130

distributor shall sell or offer to sell to any retail permit holder, and no wholesale distributor or retail permit holder shall purchase or receive from any manufacturer or wholesale distributor, any beer, brewed beverages, or wine manufactured in the United States except for cash. No right of action shall exist to collect any claims for credit extended contrary to this section.

This section does not prohibit a licensee from crediting to a purchaser the actual prices charged for packages or containers returned by the original purchaser as a credit on any sale or from refunding to any purchaser the amount paid by that purchaser for containers or as a deposit on containers when title is retained by the vendor, if those containers or packages have been returned to the manufacturer or distributor. This section does not prohibit a manufacturer from extending usual and customary credit for beer, brewed beverages, or wine manufactured in the United States and sold to customers who live or maintain places of business outside this state when the beverages so sold are actually transported and delivered to points outside this state.

No wholesale or retail permit shall be issued to an applicant unless the applicant has paid in full all accounts for beer or wine, manufactured in the United States, outstanding as of September 6, 1939. No beer or wine manufactured in the United States shall be imported into the state unless the beer or wine has been paid for in cash, and no supplier registration for any such beer or wine manufactured in the United States shall be issued by the division of liquor control until the A-2, A-2f, B-1, or B-5 permit holder establishes to the satisfaction of the division that the beer or wine has been paid for in cash.

(E) This section does not prohibit any of the following:	161
(1) A manufacturer from securing and holding any financial interest, directly or indirectly, by stock ownership or through interlocking directors in a corporation, or otherwise, in the establishment, maintenance, or promotion of the business or premises of any C or D permit holder, provided that the following conditions are met:	162 163 164 165 166 167
(a) Either the manufacturer or one of its parent companies is listed on a national securities exchange.	168 169
(b) All purchases of alcoholic beverages by the C or D permit holder are made from wholesale distributors in this state or agency stores licensed by the division of liquor control.	170 171 172
(c) If the C or D permit holder sells brands of alcoholic beverages that are produced or distributed by the manufacturer that holds the financial interest, the C or D permit holder also sells other competing brands of alcoholic beverages produced by other manufacturers, no preference is given to the products of the manufacturer, and there is no exclusion, in whole or in part, of products sold or offered for sale by other manufacturers, suppliers, or importers of alcoholic beverages that constitutes a substantial impairment of commerce.	173 174 175 176 177 178 179 180 181
(d) The primary purpose of the C or D permit premises is a purpose other than to sell alcoholic beverages, and the sale of other goods and services exceeds fifty per cent of the total gross receipts of the C or D permit holder at its premises.	182 183 184 185
(2) A manufacturer from giving financial assistance to the holder of a B permit for the purpose of the holder purchasing an ownership interest in the business, existing inventory and equipment, or property of another B permit holder, including,	186 187 188 189

but not limited to, participation in a limited liability 190
partnership, limited liability company, or any other legal 191
entity authorized to do business in this state. However, this 192
section does not permit a manufacturer to give financial 193
assistance to the holder of a B permit to purchase inventory or 194
equipment used in the daily operation of a B permit holder. 195

(3) A manufacturer or subsidiary of a manufacturer from 196
continuing to operate a wholesale distribution franchise or 197
distribute beer or wine within a designated territory if prior 198
to July 30, 2013, the manufacturer either acquired the 199
distribution franchise or territory, or awarded the franchise or 200
territory to itself or a subsidiary. 201

(4) A manufacturer from securing and holding an A-1c or B- 202
2a permit or permits and operating as a wholesale distributor 203
pursuant to such permits. 204

(5) A manufacturer from renting or leasing property to the 205
holder of an F class permit for purposes of an event for which 206
the F class permit has been issued. 207

(6) A permit holder that sells beer or intoxicating liquor 208
at retail from conducting, sponsoring, or hosting an event for 209
homemade brewers in accordance with section 4301.201 of the 210
Revised Code. 211

Sec. 4301.62. (A) As used in this section: 212

(1) "Chauffeured limousine" means a vehicle registered 213
under section 4503.24 of the Revised Code. 214

(2) "Street," "highway," and "motor vehicle" have the same 215
meanings as in section 4511.01 of the Revised Code. 216

(B) No person shall have in the person's possession an 217

opened container of beer or intoxicating liquor in any of the	218
following circumstances:	219
(1) Except as provided in division (C) (1) (e) of this	220
section, in an agency store;	221
(2) Except as provided in division (C) <u>or (J)</u> of this	222
section, on the premises of the holder of any permit issued by	223
the division of liquor control;	224
(3) In any other public place;	225
(4) Except as provided in division (D) or (E) of this	226
section, while operating or being a passenger in or on a motor	227
vehicle on any street, highway, or other public or private	228
property open to the public for purposes of vehicular travel or	229
parking;	230
(5) Except as provided in division (D) or (E) of this	231
section, while being in or on a stationary motor vehicle on any	232
street, highway, or other public or private property open to the	233
public for purposes of vehicular travel or parking.	234
(C) (1) A person may have in the person's possession an	235
opened container of any of the following:	236
(a) Beer or intoxicating liquor that has been lawfully	237
purchased for consumption on the premises where bought from the	238
holder of an A-1-A, A-2, A-2f, A-3a, D-1, D-2, D-3, D-3a, D-4,	239
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i,	240
D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-	241
7, or F-8 permit;	242
(b) Beer, wine, or mixed beverages served for consumption	243
on the premises by the holder of an F-3 permit, wine served as a	244
tasting sample by an A-2 permit holder or S permit holder for	245

consumption on the premises of a farmers market for which an F- 246
10 permit has been issued, or wine served for consumption on the 247
premises by the holder of an F-4 or F-6 permit; 248

(c) Beer or intoxicating liquor consumed on the premises 249
of a convention facility as provided in section 4303.201 of the 250
Revised Code; 251

(d) Beer or intoxicating liquor to be consumed during 252
tastings and samplings approved by rule of the liquor control 253
commission; 254

(e) Spirituous liquor to be consumed for purposes of a 255
tasting sample, as defined in section 4301.171 of the Revised 256
Code. 257

(2) A person may have in the person's possession on an F 258
liquor permit premises an opened container of beer or 259
intoxicating liquor that was not purchased from the holder of 260
the F permit if the premises for which the F permit is issued is 261
a music festival and the holder of the F permit grants 262
permission for that possession on the premises during the period 263
for which the F permit is issued. As used in this division, 264
"music festival" means a series of outdoor live musical 265
performances, extending for a period of at least three 266
consecutive days and located on an area of land of at least 267
forty acres. 268

(3) (a) A person may have in the person's possession on a 269
D-2 liquor permit premises an opened or unopened container of 270
wine that was not purchased from the holder of the D-2 permit if 271
the premises for which the D-2 permit is issued is an outdoor 272
performing arts center, the person is attending an orchestral 273
performance, and the holder of the D-2 permit grants permission 274

for the possession and consumption of wine in certain 275
predesignated areas of the premises during the period for which 276
the D-2 permit is issued. 277

(b) As used in division (C) (3) (a) of this section: 278

(i) "Orchestral performance" means a concert comprised of 279
a group of not fewer than forty musicians playing various 280
musical instruments. 281

(ii) "Outdoor performing arts center" means an outdoor 282
performing arts center that is located on not less than one 283
hundred fifty acres of land and that is open for performances 284
from the first day of April to the last day of October of each 285
year. 286

(4) A person may have in the person's possession an opened 287
or unopened container of beer or intoxicating liquor at an 288
outdoor location at which the person is attending an orchestral 289
performance as defined in division (C) (3) (b) (i) of this section 290
if the person with supervision and control over the performance 291
grants permission for the possession and consumption of beer or 292
intoxicating liquor in certain predesignated areas of that 293
outdoor location. 294

(5) A person may have in the person's possession on an F-9 295
liquor permit premises an opened or unopened container of beer 296
or intoxicating liquor that was not purchased from the holder of 297
the F-9 permit if the person is attending either of the 298
following: 299

(a) An orchestral performance and the F-9 permit holder 300
grants permission for the possession and consumption of beer or 301
intoxicating liquor in certain predesignated areas of the 302
premises during the period for which the F-9 permit is issued; 303

(b) An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.

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	331
the property of the facility.	332
(7) (a) A person may have in the person's possession an	333
opened container of beer or intoxicating liquor at an outdoor	334
location within an outdoor refreshment area created under	335
section 4301.82 of the Revised Code if the opened container of	336
beer or intoxicating liquor was purchased from an A-1, A-1-A, A-	337
1c, A-2, A-2f, D class, or F class permit holder to which both	338
of the following apply:	339
(i) The permit holder's premises is located within the	340
outdoor refreshment area.	341
(ii) The permit held by the permit holder has an outdoor	342
refreshment area designation.	343
(b) Division (C) (7) of this section does not authorize a	344
person to do either of the following:	345
(i) Enter the premises of an establishment within an	346
outdoor refreshment area while possessing an opened container of	347
beer or intoxicating liquor acquired elsewhere;	348
(ii) Possess an opened container of beer or intoxicating	349
liquor while being in or on a motor vehicle within an outdoor	350
refreshment area, unless the possession is otherwise authorized	351
under division (D) or (E) of this section.	352
(c) As used in division (C) (7) of this section, "D class	353
permit holder" does not include a D-6 or D-8 permit holder.	354
(8) (a) A person may have in the person's possession on the	355
property of a market, within a defined F-8 permit premises, an	356
opened container of beer or intoxicating liquor that was	357
purchased from a D permit premises that is located immediately	358

adjacent to the market if both of the following apply: 359

(i) The market grants permission for the possession and 360
consumption of beer and intoxicating liquor within the defined 361
F-8 permit premises; 362

(ii) The market is hosting an event pursuant to an F-8 363
permit and the market has notified the division of liquor 364
control about the event in accordance with division (A) (3) of 365
section 4303.208 of the Revised Code. 366

(b) As used in division (C) (8) of this section, "market" 367
means a market, for which an F-8 permit is held, that has been 368
in operation since 1860. 369

(D) This section does not apply to a person who pays all 370
or a portion of the fee imposed for the use of a chauffeured 371
limousine pursuant to a prearranged contract, or the guest of 372
the person, when all of the following apply: 373

(1) The person or guest is a passenger in the limousine. 374

(2) The person or guest is located in the limousine, but 375
is not occupying a seat in the front compartment of the 376
limousine where the operator of the limousine is located. 377

(3) The limousine is located on any street, highway, or 378
other public or private property open to the public for purposes 379
of vehicular travel or parking. 380

(E) An opened bottle of wine that was purchased from the 381
holder of a permit that authorizes the sale of wine for 382
consumption on the premises where sold is not an opened 383
container for the purposes of this section if both of the 384
following apply: 385

(1) The opened bottle of wine is securely resealed by the 386

permit holder or an employee of the permit holder before the 387
bottle is removed from the premises. The bottle shall be secured 388
in such a manner that it is visibly apparent if the bottle has 389
been subsequently opened or tampered with. 390

(2) The opened bottle of wine that is resealed in 391
accordance with division (E) (1) of this section is stored in the 392
trunk of a motor vehicle or, if the motor vehicle does not have 393
a trunk, behind the last upright seat or in an area not normally 394
occupied by the driver or passengers and not easily accessible 395
by the driver. 396

(F) (1) Except if an ordinance or resolution is enacted or 397
adopted under division (F) (2) of this section, this section does 398
not apply to a person who, pursuant to a prearranged contract, 399
is a passenger riding on a commercial quadricycle when all of 400
the following apply: 401

(a) The person is not occupying a seat in the front of the 402
commercial quadricycle where the operator is steering or 403
braking. 404

(b) The commercial quadricycle is being operated on a 405
street, highway, or other public or private property open to the 406
public for purposes of vehicular travel or parking. 407

(c) The person has in their possession on the commercial 408
quadricycle an opened container of beer or wine. 409

(d) The person has in their possession on the commercial 410
quadricycle not more than either thirty-six ounces of beer or 411
eighteen ounces of wine. 412

(2) The legislative authority of a municipal corporation 413
or township may enact an ordinance or adopt a resolution, as 414
applicable, that prohibits a passenger riding on a commercial 415

quadricycle from possessing an opened container of beer or wine.	416
(3) As used in this section, "commercial quadricycle"	417
means a vehicle that has fully-operative pedals for propulsion	418
entirely by human power and that meets all of the following	419
requirements:	420
(a) It has four wheels and is operated in a manner similar	421
to a bicycle.	422
(b) It has at least five seats for passengers.	423
(c) It is designed to be powered by the pedaling of the	424
operator and the passengers.	425
(d) It is used for commercial purposes.	426
(e) It is operated by the vehicle owner or an employee of	427
the owner.	428
(G) This section does not apply to a person that has in	429
the person's possession an opened container of beer or	430
intoxicating liquor on the premises of a market if the beer or	431
intoxicating liquor has been purchased from a D liquor permit	432
holder that is located in the market.	433
As used in division (G) of this section, "market" means an	434
establishment that:	435
(1) Leases space in the market to individual vendors, not	436
less than fifty per cent of which are retail food establishments	437
or food service operations licensed under Chapter 3717. of the	438
Revised Code;	439
(2) Has an indoor sales floor area of not less than	440
twenty-two thousand square feet;	441
(3) Hosts a farmer's market on each Saturday from April	442

through December. 443

(H) (1) As used in this section, "alcoholic beverage" has 444
the same meaning as in section 4303.185 of the Revised Code. 445

(2) An alcoholic beverage in a closed container being 446
transported under section 4303.185 of the Revised Code to its 447
final destination is not an opened container for the purposes of 448
this section if the closed container is securely sealed in such 449
a manner that it is visibly apparent if the closed container has 450
been subsequently opened or tampered with after sealing. 451

(I) This section does not apply to a person who has in the 452
person's possession an opened container of beer or intoxicating 453
liquor in a public-use airport, as described in division (D) (2) 454
(a) (iii) of section 4303.181 of the Revised Code, when both of 455
the following apply: 456

(1) Consumption of the opened container of beer or 457
intoxicating liquor occurs in the area of the airport terminal 458
that is restricted to persons taking flights to and from the 459
airport; and 460

(2) The consumption is authorized under division (D) (2) (a) 461
of section 4303.181 of the Revised Code. 462

(J) This section does not apply to a person that has in 463
the person's possession an opened container of homemade beer or 464
wine that is served in accordance with division (E) of section 465
4301.201 of the Revised Code. 466

Section 2. That existing sections 4301.24 and 4301.62 of 467
the Revised Code are hereby repealed. 468