

AN ACT

To amend sections 301.28 and 4301.62 and to enact sections 5.2319, 5.2532, and 4303.186 of the Revised Code to create the D-9 liquor permit, which authorizes an establishment to sell beer, wine, and mixed beverages for on-premises consumption under specified circumstances, to allow a board of county commissioners to authorize a county department of probation to accept payments by credit card, and to make multiple designations.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 301.28 and 4301.62 be amended and sections 5.2319, 5.2532, and 4303.186 of the Revised Code be enacted to read as follows:

Sec. 5.2319. The eleventh day of January is designated as "Human Trafficking Awareness Day."

Sec. 5.2532. The twenty-third day of October is designated as "Aromatic L-Amino Acid Decarboxylase Deficiency Awareness Day."

Sec. 301.28. (A) As used in this section:

(1) "Financial transaction device" includes a credit card, debit card, charge card, or prepaid or stored value card, or automated clearinghouse network credit, debit, or e-check entry that includes, but is not limited to, accounts receivable and internet-initiated, point of purchase, and telephone-initiated applications or any other device or method for making an electronic payment or transfer of funds.

(2) "County expenses" includes fees, costs, taxes, assessments, fines, penalties, payments, or any other expense a person owes or otherwise pays to a county office under the authority of a county official, other than dog registration and kennel fees required to be paid under Chapter 955. of the Revised Code. "County expenses" includes payment to a county office of money confiscated during the commitment of an individual to a county jail, of bail, of money for a prisoner's inmate account, and of money for goods and services obtained by or for the use of an individual incarcerated by a county sheriff. "County expenses" includes online financial transaction device payments made through the official public sheriff sale web site pursuant to section 2329.153 of the Revised Code.

(3) "County official" includes the county auditor, county treasurer, county engineer, county recorder, county prosecuting attorney, county sheriff, county coroner, county park district and board of county commissioners, the clerk of the probate court, the clerk of the juvenile court, the clerks of court for all divisions of the courts of common pleas, and the clerk of the court of common pleas, the clerk of a county-operated municipal court, and the clerk of a county court.

The term "county expenses" includes county expenses owed to the board of health of the general health district or a combined health district in the county. If the board of county

commissioners authorizes county expenses to be paid by financial transaction devices under this section, then the board of health and the general health district and the combined health district may accept payments by financial transaction devices under this section as if the board were a "county official" and the district were a county office. However, in the case of a general health district formed by unification of general health districts under section 3709.10 of the Revised Code, this entitlement applies only if all the boards of county commissioners of all counties in the district have authorized payments to be accepted by financial transaction devices.

The term "county expenses" also includes fees for services and the receipt of gifts to the county law library resources fund authorized by rules adopted by the county law library resources board under division (D) of section 307.51 of the Revised Code. If the board of county commissioners authorizes county expenses to be paid by financial transaction devices under this section, then the county law library resources board may accept payments by financial transaction devices under this section as if the board were a "county official."

The term "county expenses" also includes fees, costs, assessments, fines, penalties, payments, or any other expense issued by a court of common pleas that a person owes or otherwise pays to a county department of probation established under section 2301.27 of the Revised Code. If the board of county commissioners authorizes county expenses to be paid by financial transaction devices under this section, then the county department of probation may accept payments by financial transaction devices under this section as if the chief probation officer or chief probation officer's designee was a "county official" and the department was a "county office." However, in the case of a multicounty department of probation, this entitlement applies only if all the boards of county commissioners of all counties in the multicounty department have authorized payments to be accepted by financial transaction devices. A clerk of the court of common pleas may continue accepting payments by financial transaction devices for a county department of probation as authorized under this section.

(B) Notwithstanding any other section of the Revised Code and except as provided in division (D) of this section, a board of county commissioners may adopt a resolution authorizing the acceptance of payments by financial transaction devices for county expenses. The resolution shall include the following:

(1) A specification of those county officials who, and of the county offices under those county officials that, are authorized to accept payments by financial transaction devices;

(2) A list of county expenses that may be paid for through the use of a financial transaction device;

(3) Specific identification of financial transaction devices that the board authorizes as acceptable means of payment for county expenses. Uniform acceptance of financial transaction devices among different types of county expenses is not required.

(4) The amount, if any, authorized as a surcharge or convenience fee under division (E) of this section for persons using a financial transaction device. Uniform application of surcharges or convenience fees among different types of county expenses is not required.

(5) A specific provision as provided in division (G) of this section requiring the payment of a penalty if a payment made by means of a financial transaction device is returned or dishonored for any reason.

The board's resolution shall also designate the county treasurer as an administrative agent to solicit proposals, within guidelines established by the board in the resolution and in compliance with the procedures provided in division (C) of this section, from financial institutions, issuers of financial transaction devices, and processors of financial transaction devices, to make recommendations about those proposals to the board, and to assist county offices in implementing the county's financial transaction devices program. The county treasurer may decline this responsibility within thirty days after receiving a copy of the board's resolution by notifying the board in writing within that period. If the treasurer so notifies the board, the board shall perform the duties of the administrative agent.

If the county treasurer is the administrative agent and fails to administer the county financial transaction devices program in accordance with the guidelines in the board's resolution, the board shall notify the treasurer in writing of the board's findings, explain the failures, and give the treasurer six months to correct the failures. If the treasurer fails to make the appropriate corrections within that six-month period, the board may pass a resolution declaring the board to be the administrative agent. The board may later rescind that resolution at its discretion.

(C) The county shall follow the procedures provided in this division whenever it plans to contract with financial institutions, issuers of financial transaction devices, or processors of financial transaction devices for the purposes of this section. The administrative agent shall request proposals from at least three financial institutions, issuers of financial transaction devices, or processors of financial transaction devices, as appropriate in accordance with the resolution adopted under division (B) of this section. Prior to sending any financial institution, issuer, or processor a copy of any such request, the county shall advertise its intent to request proposals in a newspaper of general circulation in the county once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall state that the county intends to request proposals; specify the purpose of the request; indicate the date, which shall be at least ten days after the second publication, on which the request for proposals will be mailed to financial institutions, issuers, or processors; and require that any financial institution, issuer, or processor, whichever is appropriate, interested in receiving the request for proposals submit written notice of this interest to the county not later than noon of the day on which the request for proposals will be mailed.

Upon receiving the proposals, the administrative agent shall review them and make a recommendation to the board of county commissioners on which proposals to accept. The board of county commissioners shall consider the agent's recommendation and review all proposals submitted, and then may choose to contract with any or all of the entities submitting proposals, as appropriate. The board shall provide any financial institution, issuer, or processor that submitted a proposal, but with which the board does not enter into a contract, notice that its proposal is rejected. The notice shall state the reasons for the rejection, indicate whose proposals were accepted, and provide a copy of the terms and conditions of the successful bids.

(D) A board of county commissioners adopting a resolution under this section shall send a copy of the resolution to each county official in the county who is authorized by the resolution to accept payments by financial transaction devices. After receiving the resolution and before accepting payments by financial transaction devices, a county official shall provide written notification to the board of county commissioners of the official's intent to implement the resolution within the official's office. Each county office subject to the board's resolution adopted under division (B) of this section

may use only the financial institutions, issuers of financial transaction devices, and processors of financial transaction devices with which the board of county commissioners contracts, and each such office is subject to the terms of those contracts.

If a county office under the authority of a county official is directly responsible for collecting one or more county expenses and the county official determines not to accept payments by financial transaction devices for one or more of those expenses, the office shall not be required to accept payments by financial transaction devices, notwithstanding the adoption of a resolution by the board of county commissioners under this section.

Any office of a clerk of the court of common pleas that accepts financial transaction devices on or before July 1, 1999, and any other county office that accepted such devices before January 1, 1998, may continue to accept such devices without being subject to any resolution passed by the board of county commissioners under division (B) of this section, or any other oversight by the board of the office's financial transaction devices program. Any such office may use surcharges or convenience fees in any manner the county official in charge of the office determines to be appropriate, and, if the county treasurer consents, may appoint the county treasurer to be the office's administrative agent for purposes of accepting financial transaction devices. In order not to be subject to the resolution of the board of county commissioners adopted under division (B) of this section, a county office shall notify the board in writing within thirty days after March 30, 1999, that it accepted financial transaction devices prior to January 1, 1998, or, in the case of the office of a clerk of the court of common pleas, the clerk has accepted or will accept such devices on or before July 1, 1999. Each such notification shall explain how processing costs associated with financial transaction devices are being paid and shall indicate whether surcharge or convenience fees are being passed on to consumers.

(E) A board of county commissioners may establish a surcharge or convenience fee that may be imposed upon a person making payment by a financial transaction device. The surcharge or convenience fee shall not be imposed unless authorized or otherwise permitted by the rules prescribed by an agreement governing the use and acceptance of the financial transaction device.

If a surcharge or convenience fee is imposed, every county office accepting payment by a financial transaction device, regardless of whether that office is subject to a resolution adopted by a board of county commissioners, shall clearly post a notice in that office and shall notify each person making a payment by such a device about the surcharge or fee. Notice to each person making a payment shall be provided regardless of the medium used to make the payment and in a manner appropriate to that medium. Each notice shall include all of the following:

(1) A statement that there is a surcharge or convenience fee for using a financial transaction device;

(2) The total amount of the charge or fee expressed in dollars and cents for each transaction, or the rate of the charge or fee expressed as a percentage of the total amount of the transaction, whichever is applicable;

(3) A clear statement that the surcharge or convenience fee is nonrefundable.

(F) If a person elects to make a payment to the county by a financial transaction device and a surcharge or convenience fee is imposed, the payment of the surcharge or fee shall be considered voluntary and the surcharge or fee is not refundable.

(G) If a person makes payment by financial transaction device and the payment is returned or dishonored for any reason, the person is liable to the county for payment of a penalty over and above the amount of the expense due. The board of county commissioners shall determine the amount of the penalty, which may be either a fee not to exceed twenty dollars or payment of the amount necessary to reimburse the county for banking charges, legal fees, or other expenses incurred by the county in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies provided by law.

(H) No person making any payment by financial transaction device to a county office shall be relieved from liability for the underlying obligation except to the extent that the county realizes final payment of the underlying obligation in cash or its equivalent. If final payment is not made by the financial transaction device issuer or other guarantor of payment in the transaction, the underlying obligation shall survive and the county shall retain all remedies for enforcement that would have applied if the transaction had not occurred.

(I) A county official or employee who accepts a financial transaction device payment in accordance with this section and any applicable state or local policies or rules is immune from personal liability for the final collection of such payments.

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) or (J) 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-2f, 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, D-9, 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, wine served as a tasting sample by an A-2, A-2f, S-1, or S-2 permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine

served for consumption on the premises by the holder of an F-4 or F-6 permit;

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

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

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

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

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

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

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

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

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

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

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

(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 the property of the facility.

(7)(a) A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under section 4301.82 of the Revised Code if the opened container of beer or intoxicating liquor was purchased from an A-1, A-1-A, A-1c, A-2, A-2f, D class, or F class permit holder to which both of the following apply:

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

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

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

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

(ii) Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the possession is otherwise authorized under division (D) or (E) of this section.

(c) As used in division (C)(7) of this section, "D class permit holder" does not include a D-6 or D-8 permit holder.

(8)(a) A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:

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

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

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

(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:

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

(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.

(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.

(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.

(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.

(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:

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

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

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

(d) It is used for commercial purposes.

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

(G) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.

As used in division (G) of this section, "market" means an establishment that:

(1) Leases space in the market to individual vendors, not less than fifty per cent of which are retail food establishments or food service operations licensed under Chapter 3717. of the Revised Code;

(2) Has an indoor sales floor area of not less than twenty-two thousand square feet;

(3) Hosts a farmer's market on each Saturday from April through December.

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

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

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

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

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

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

Sec. 4303.186. (A) As used in this section, "disposable container" means a receptacle that is disposable and that has a capacity to hold not more than either of the following:

(1) Sixteen ounces of beer;

(2) Twelve ounces of wine or mixed beverage.

"Disposable container" includes a bottle or can of beer, wine, or mixed beverage produced by the original manufacturer.

(B) The division of liquor control may issue a D-9 permit to an establishment to sell beer, wine, or mixed beverages in disposable containers at retail for on-premises consumption. The establishment shall make such sales for not more than one hundred five calendar days per year. The days need not be consecutive. The owner of the establishment shall do both of the following:

(1) Ensure that a mobile retail food establishment or a mobile food service operation licensed under Chapter 3717. of the Revised Code serves food on the premises of the D-9 permit holder during the same hours that beer, wine, or mixed beverages are sold by the D-9 permit holder;

(2) Sell beer, wine, or mixed beverages during the same hours as the holders of D-5 permits under this chapter or Chapter 4301. of the Revised Code or the rules of the liquor control commission.

(C) The division only may issue a D-9 permit if the premises for which the D-9 permit is sought is in compliance with all of the following:

(1) The premises is located on not less than ninety acres of land.

(2) The premises has a total fixed seating capacity for not less than two thousand people.

(3) The premises is located in a precinct, or at a particular location in a precinct, in which the

sale of beer, wine, and mixed beverages is otherwise permitted by law.

(4) The premises primarily hosts automobile sports, including drag racing.

(5) The premises is located in the unincorporated area of a township with a population of less than fifteen thousand and in a county with a population of less than one hundred thirty thousand. For purposes of division (C)(5) of this section, the population of a township and county is considered to be the population shown by the most recent regular federal decennial census.

(D) In addition, the premises of a D-9 permit holder need not:

(1) Have an adequate supply of hot and cold running water from a source satisfactory to the local board of health of the health district in which that premises is located;

(2) Have separate toilet facilities for men and women;

(3) Have water-flushed toilets. In place of water-flushed toilets, the D-9 permit holder shall install portable toilets on the premises. The portable toilets shall be installed in accordance with the local board of health of the health district in which the premises is located.

(4) Have a wash bowl with running water for each portable toilet. In place of a wash bowl with running water, the D-9 permit holder shall install hand sanitizer stations outside each portable toilet.

(E) The fee for the D-9 permit is five hundred dollars.

SECTION 2. That existing sections 301.28 and 4301.62 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 63

134th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____