

As Passed by the Senate

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 178

Representative Manning

Cosponsors: Representatives Sweeney, LaTourette, Brenner, Thompson, Becker, Young, Blessing, Henne, Duffey, Cera, Roegner, Boyd, Maag, Buchy, Anielski, Antonio, Arndt, Baker, Brown, Celebrezze, Dovilla, Fedor, Grossman, Hackett, Hambley, Howse, Huffman, Lepore-Hagan, O'Brien, M., O'Brien, S., Patterson, Perales, Phillips, Ramos, Retherford, Rogers, Ruhl, Ryan, Schuring, Sears, Sheehy, Strahorn

Senators Uecker, Balderson, Burke, Coley, Eklund, Hite, Hottinger, Hughes, Jones, Jordan, Lehner, Manning, Obhof, Patton, Peterson, Schiavoni, Seitz, Tavares, Thomas, Yuko

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 45
hazardous, on the condition that the food is contained in 46
displays, the total space of which equals less than one hundred 47
cubic feet on the premises where the person conducts business at 48
the farmers market. 49

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

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

(5) An establishment that offers food contained in 66
displays of less than five hundred square feet, and if required 67
to be licensed would be classified as risk level one pursuant to 68
rules establishing licensing categories for retail food 69

establishments adopted under section 3717.33 of the Revised 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 from the site where the products are produced;

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

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

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

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

(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	132
syrup or sorghum processor or beekeeper as described in division	133
(A) of section 3715.021 of the Revised Code;	134
(d) Commercially prepackaged food that is not potentially	135
hazardous, on the condition that the food is contained in	136
displays, the total space of which equals less than one hundred	137
cubic feet;	138
(e) Fruit butter produced at the festival or celebration	139
and sold from the production site.	140
(16) A farm market on the condition that it is registered	141
with the director pursuant to section 3717.221 of the Revised	142
Code that offers for sale at the farm market only one or more of	143
the following:	144
(a) Fresh unprocessed fruits or vegetables;	145
(b) Products of a cottage food production operation;	146
(c) Maple syrup, sorghum, or honey that is produced by a	147
maple syrup or sorghum producer or beekeeper described in	148
division (A) of section 3715.021 of the Revised Code;	149
(d) Commercially prepackaged food that is not potentially	150
hazardous, on the condition that the food is contained in	151
displays, the total space of which equals less than one hundred	152
cubic feet on the premises where the person conducts business at	153

the farm market;	154
(e) Cider and other juices manufactured on site at the	155
farm market;	156
(f) The products or items described in divisions (B) (8) to	157
(10) of this section, on the condition that those products or	158
items were produced by the person offering to sell them, and	159
further conditioned that, with respect to eggs offered, the	160
person offering to sell them annually maintains five hundred or	161
fewer birds, and with respect to dressed chickens offered, the	162
person annually raises and slaughters one thousand or fewer	163
chickens.	164
Sec. 4301.62. (A) As used in this section:	165
(1) "Chauffeured limousine" means a vehicle registered	166
under section 4503.24 of the Revised Code.	167
(2) "Street," "highway," and "motor vehicle" have the same	168
meanings as in section 4511.01 of the Revised Code.	169
(B) No person shall have in the person's possession an	170
opened container of beer or intoxicating liquor in any of the	171
following circumstances:	172
(1) Except as provided in division (C) (1) (e) of this	173
section, in an agency store;	174
(2) Except as provided in division (C) of this section, on	175
the premises of the holder of any permit issued by the division	176
of liquor control;	177
(3) In any other public place;	178
(4) Except as provided in division (D) or (E) of this	179
section, while operating or being a passenger in or on a motor	180

vehicle on any street, highway, or other public or private 181
property open to the public for purposes of vehicular travel or 182
parking; 183

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

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

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

(b) Beer, wine, or mixed beverages served for consumption 196
on the premises by the holder of an F-3 permit, wine served as a 197
tasting sample by an A-2 permit holder or S permit holder for 198
consumption on the premises of a farmers market for which an F- 199
10 permit has been issued, 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	277
the hosting and promoting of racing events.	278
(IV) The holder of a D-1, D-2, or D-3 permit is located on	279
the property of the facility.	280
(D) This section does not apply to a person who pays all	281
or a portion of the fee imposed for the use of a chauffeured	282
limousine pursuant to a prearranged contract, or the guest of	283
the person, when all of the following apply:	284
(1) The person or guest is a passenger in the limousine.	285
(2) The person or guest is located in the limousine, but	286
is not occupying a seat in the front compartment of the	287
limousine where the operator of the limousine is located.	288
(3) The limousine is located on any street, highway, or	289
other public or private property open to the public for purposes	290
of vehicular travel or parking.	291
(E) An opened bottle of wine that was purchased from the	292
holder of a permit that authorizes the sale of wine for	293
consumption on the premises where sold is not an opened	294

container for the purposes of this section if both of the 295
following apply: 296

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