

**As Reported by the House Government Accountability and Oversight
Committee**

131st General Assembly

**Regular Session
2015-2016**

Sub. H. B. No. 47

**Representatives Blessing, Driehaus
Cosponsors: Representatives Ramos, Retherford, Becker, Conditt, Maag, Kuhns,
Antani, Reece, Slesnick, Young, Dever, Kraus, O'Brien, M., Lepore-Hagan**

A BILL

To amend section 4301.62 and 4303.208 and to enact 1
section 4301.82 of the Revised Code to allow 2
municipal corporations and townships with a 3
population of more than 35,000 to create outdoor 4
refreshment areas, to create the Outdoor 5
Refreshment Area Study Committee, to exempt 6
persons within an outdoor refreshment area from 7
the open container law, to exempt persons who 8
are passengers on a commercial quadricycle from 9
that law, to revise the law governing F-8 liquor 10
permits, and to declare an emergency. 11

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

Section 1. That sections 4301.62 and 4303.208 be amended 12
and section 4301.82 of the Revised Code be enacted to read as 13
follows: 14

Sec. 4301.62. (A) As used in this section: 15

(1) "Chauffeured limousine" means a vehicle registered 16
under section 4503.24 of the Revised Code. 17

(2) "Street," "highway," and "motor vehicle" have the same meanings as in section 4511.01 of the Revised Code.	18 19
(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:	20 21 22
(1) Except as provided in division (C) (1) (e) of this section, in an agency store;	23 24
(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;	25 26 27
(3) In any other public place;	28
(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;	29 30 31 32 33
(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.	34 35 36 37
(C) (1) A person may have in the person's possession an opened container of any of the following:	38 39
(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;	40 41 42 43 44 45

(b) Beer, wine, or mixed beverages served for consumption 46
on the premises by the holder of an F-3 permit or wine served 47
for consumption on the premises by the holder of an F-4 or F-6 48
permit; 49

(c) Beer or intoxicating liquor consumed on the premises 50
of a convention facility as provided in section 4303.201 of the 51
Revised Code; 52

(d) Beer or intoxicating liquor to be consumed during 53
tastings and samplings approved by rule of the liquor control 54
commission; 55

(e) Spirituous liquor to be consumed for purposes of a 56
tasting sample, as defined in section 4301.171 of the Revised 57
Code. 58

(2) A person may have in the person's possession on an F 59
liquor permit premises an opened container of beer or 60
intoxicating liquor that was not purchased from the holder of 61
the F permit if the premises for which the F permit is issued is 62
a music festival and the holder of the F permit grants 63
permission for that possession on the premises during the period 64
for which the F permit is issued. As used in this division, 65
"music festival" means a series of outdoor live musical 66
performances, extending for a period of at least three 67
consecutive days and located on an area of land of at least 68
forty acres. 69

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

performance, and the holder of the D-2 permit grants permission 75
for the possession and consumption of wine in certain 76
predesignated areas of the premises during the period for which 77
the D-2 permit is issued. 78

(b) As used in division (C) (3) (a) of this section: 79

(i) "Orchestral performance" means a concert comprised of 80
a group of not fewer than forty musicians playing various 81
musical instruments. 82

(ii) "Outdoor performing arts center" means an outdoor 83
performing arts center that is located on not less than one 84
hundred fifty acres of land and that is open for performances 85
from the first day of April to the last day of October of each 86
year. 87

(4) A person may have in the person's possession an opened 88
or unopened container of beer or intoxicating liquor at an 89
outdoor location at which the person is attending an orchestral 90
performance as defined in division (C) (3) (b) (i) of this section 91
if the person with supervision and control over the performance 92
grants permission for the possession and consumption of beer or 93
intoxicating liquor in certain predesignated areas of that 94
outdoor location. 95

(5) A person may have in the person's possession on an F-9 96
liquor permit premises an opened or unopened container of beer 97
or intoxicating liquor that was not purchased from the holder of 98
the F-9 permit if the person is attending an orchestral 99
performance and the holder of the F-9 permit grants permission 100
for the possession and consumption of beer or intoxicating 101
liquor in certain predesignated areas of the premises during the 102
period for which the F-9 permit is issued. 103

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 131
section 4301.82 of the Revised Code if the opened container of 132
beer or intoxicating liquor was purchased from a qualified 133
permit holder to which both of the following apply: 134

(i) The permit holder's premises is located within the 135
outdoor refreshment area. 136

(ii) The permit held by the permit holder has an outdoor 137
refreshment area designation. 138

(b) Division (C) (7) of this section does not authorize a 139
person to do either of the following: 140

(i) Enter the premises of an establishment within an 141
outdoor refreshment area while possessing an opened container of 142
beer or intoxicating liquor acquired elsewhere; 143

(ii) Possess an opened container of beer or intoxicating 144
liquor while being in or on a motor vehicle within an outdoor 145
refreshment area, unless the motor vehicle is stationary and is 146
not being operated in a lane of vehicular travel or unless the 147
possession is otherwise authorized under division (D) or (E) of 148
this section. 149

(D) This section does not apply to a person who pays all 150
or a portion of the fee imposed for the use of a chauffeured 151
limousine pursuant to a prearranged contract, or the guest of 152
the person, when all of the following apply: 153

(1) The person or guest is a passenger in the limousine. 154

(2) The person or guest is located in the limousine, but 155
is not occupying a seat in the front compartment of the 156
limousine where the operator of the limousine is located. 157

(3) The limousine is located on any street, highway, or 158

other public or private property open to the public for purposes 159
of vehicular travel or parking. 160

(E) An opened bottle of wine that was purchased from the 161
holder of a permit that authorizes the sale of wine for 162
consumption on the premises where sold is not an opened 163
container for the purposes of this section if both of the 164
following apply: 165

(1) The opened bottle of wine is securely resealed by the 166
permit holder or an employee of the permit holder before the 167
bottle is removed from the premises. The bottle shall be secured 168
in such a manner that it is visibly apparent if the bottle has 169
been subsequently opened or tampered with. 170

(2) The opened bottle of wine that is resealed in 171
accordance with division (E)(1) of this section is stored in the 172
trunk of a motor vehicle or, if the motor vehicle does not have 173
a trunk, behind the last upright seat or in an area not normally 174
occupied by the driver or passengers and not easily accessible 175
by the driver. 176

(F)(1) Except if an ordinance or resolution is enacted or 177
adopted under division (F)(2) of this section, this section does 178
not apply to a person who, pursuant to a prearranged contract, 179
is a passenger riding on a commercial quadricycle when all of 180
the following apply: 181

(a) The person is not occupying a seat in the front of the 182
commercial quadricycle where the operator is steering or 183
braking. 184

(b) The commercial quadricycle is being operated on a 185
street, highway, or other public or private property open to the 186
public for purposes of vehicular travel or parking. 187

(c) The person has in their possession on the commercial 188
quadricycle an opened container of beer or wine. 189

(d) The person has in their possession on the commercial 190
quadricycle not more than either thirty-six ounces of beer or 191
eighteen ounces of wine. 192

(2) The legislative authority of a municipal corporation 193
or township may enact an ordinance or adopt a resolution, as 194
applicable, that prohibits a passenger riding on a commercial 195
quadricycle from possessing an opened container of beer or wine. 196

(3) As used in this section, "commercial quadricycle" 197
means a vehicle that has fully-operative pedals for propulsion 198
entirely by human power and that meets all of the following 199
requirements: 200

(a) It has four wheels and is operated in a manner similar 201
to a bicycle. 202

(b) It has at least five seats for passengers. 203

(c) It is designed to be powered by the pedaling of the 204
operator and the passengers. 205

(d) It is used for commercial purposes. 206

(e) It is operated by the vehicle owner or an employee of 207
the owner. 208

Sec. 4301.82. (A) As used in this section, "qualified 209
permit holder" means the holder of an A-1, A-1-A, A-1c, A-2, or 210
D permit issued under Chapter 4303. of the Revised Code. 211

(B) The executive officer of a municipal corporation or 212
the fiscal officer of a township may file an application with 213
the legislative authority of the municipal corporation or 214

township to have property within the municipal corporation or 215
township designated as an outdoor refreshment area or to expand 216
an existing outdoor refreshment area to include additional 217
property within the municipal corporation or township. The 218
executive officer or fiscal officer shall ensure that the 219
application contains all of the following: 220

(1) A map or survey of the proposed outdoor refreshment 221
area, which shall not exceed three hundred twenty contiguous 222
acres or one-half square mile, in sufficient detail to identify 223
the boundaries of the area; 224

(2) A general statement of the nature and types of 225
establishments that will be located within the proposed outdoor 226
refreshment area; 227

(3) A statement that the proposed outdoor refreshment area 228
will encompass not fewer than four qualified permit holders; 229

(4) Evidence that the uses of land within the proposed 230
outdoor refreshment area are in accord with the master zoning 231
plan or map of the municipal corporation or township; 232

(5) Proposed requirements for the purpose of ensuring 233
public health and safety within the proposed outdoor refreshment 234
area. 235

(C) Within forty-five days after the date the application 236
is filed with the legislative authority of a municipal 237
corporation or township, the legislative authority shall publish 238
public notice of the application once a week for two consecutive 239
weeks in one newspaper of general circulation in the municipal 240
corporation or township or as provided in section 7.16 of the 241
Revised Code. The legislative authority shall ensure that the 242
notice states that the application is on file in the office of 243

the clerk of the municipal corporation or township and is 244
available for inspection by the public during regular business 245
hours. The legislative authority also shall indicate in the 246
notice the date and time of any public hearing to be held 247
regarding the application by the legislative authority. 248

Not earlier than thirty but not later than sixty days 249
after the initial publication of notice, the legislative 250
authority shall approve or disapprove the application by either 251
ordinance or resolution, as applicable. Approval of an 252
application requires an affirmative vote of a majority of the 253
legislative authority. Upon approval of the application by the 254
legislative authority, the territory described in the 255
application constitutes an outdoor refreshment area. The 256
legislative authority shall provide to the division of liquor 257
control and the investigative unit of the department of public 258
safety notice of the approval of the application and a 259
description of the area specified in the application. If the 260
legislative authority disapproves the application, the executive 261
officer of a municipal corporation or fiscal officer of a 262
township may make changes in the application to secure its 263
approval by the legislative authority. 264

(D) The creation of outdoor refreshment areas is limited 265
as follows: 266

(1) A municipal corporation or township with a population 267
of more than fifty thousand shall not create more than two 268
outdoor refreshment areas. 269

(2) A municipal corporation or township with a population 270
of more than thirty-five thousand but less than or equal to 271
fifty thousand shall not create more than one outdoor 272
refreshment area. 273

(3) A municipal corporation or township with a population of thirty-five thousand or less shall not create an outdoor refreshment area. 274
275
276

For purposes of this section, the population of a municipal corporation or township is deemed to be the population shown by the most recent regular federal decennial census. 277
278
279

(E) As soon as possible after receiving notice that an outdoor refreshment area has been approved, the division of liquor control, for purposes of section 4301.62 of the Revised Code, shall issue an outdoor refreshment area designation to each qualified permit holder located within the refreshment area that is in compliance with all applicable requirements under Chapters 4301. and 4303. of the Revised Code. The division shall not charge any fee for the issuance of the designation. Any permit holder that receives such a designation shall comply with all laws, rules, and regulations that govern its license type, and the applicable public health and safety requirements established for the area under division (F) of this section. 280
281
282
283
284
285
286
287
288
289
291

(F) (1) At the time of the creation of an outdoor refreshment area, the legislative authority of a municipal corporation or township in which such an area is located shall adopt an ordinance or resolution, as applicable, that establishes requirements the legislative authority determines necessary to ensure public health and safety within the area. The legislative authority shall include in the ordinance or resolution all of the following: 292
293
294
295
296
297
298
299

(a) The specific boundaries of the area, including street addresses; 300
301

(b) The number, spacing, and type of signage designating 302

<u>the area;</u>	303
<u>(c) The hours of operation for the area;</u>	304
<u>(d) The number of personnel needed to ensure public safety</u> <u>in the area;</u>	305 306
<u>(e) A sanitation plan that will help maintain the</u> <u>appearance and public health of the area;</u>	307 308
<u>(f) The number of personnel needed to execute the</u> <u>sanitation plan;</u>	309 310
<u>(g) A requirement that beer and intoxicating liquor be</u> <u>served solely in plastic bottles or other plastic containers in</u> <u>the area.</u>	311 312 313
<u>The legislative authority may, but is not required to,</u> <u>include in the ordinance or resolution any public health and</u> <u>safety requirements proposed in an application under division</u> <u>(B) of this section to designate or expand the outdoor</u> <u>refreshment area. The legislative authority may subsequently</u> <u>modify the public health and safety requirements as determined</u> <u>necessary by the legislative authority.</u>	314 315 316 317 318 319 320
<u>(2) Prior to adopting an ordinance or resolution under</u> <u>this division, the legislative authority shall give notice of</u> <u>its proposed action by publication once a week for two</u> <u>consecutive weeks in one newspaper of general circulation in the</u> <u>municipal corporation or township or as provided in section 7.16</u> <u>of the Revised Code.</u>	321 322 323 324 325 326
<u>(3) The legislative authority shall provide to the</u> <u>division of liquor control and the investigative unit of the</u> <u>department of public safety notice of the public health and</u> <u>safety requirements established or modified under this division.</u>	327 328 329 330

(G) Section 4399.18 of the Revised Code applies to a 331
liquor permit holder located within an outdoor refreshment area 332
in the same manner as if the liquor permit holder were not 333
located in an outdoor refreshment area. 334

(H) (1) Five years after the date of creation of an outdoor 335
refreshment area, the legislative authority of the municipal 336
corporation or township that created the area under this section 337
shall review the operation of the area and shall, by ordinance 338
or resolution, either approve the continued operation of the 339
area or dissolve the area. Prior to adopting the ordinance or 340
resolution, the legislative authority shall give notice of its 341
proposed action by publication once a week for two consecutive 342
weeks in one newspaper of general circulation in the municipal 343
corporation or township or as provided in section 7.16 of the 344
Revised Code. 345

If the legislative authority dissolves the outdoor 346
refreshment area, the outdoor refreshment area ceases to exist. 347
The legislative authority then shall provide notice of its 348
action to the division of liquor control and the investigative 349
unit of the department of public safety. Upon receipt of the 350
notice, the division shall revoke all outdoor refreshment area 351
designations issued to qualified permit holders within the 352
dissolved area. If the legislative authority approves the 353
continued operation of the outdoor refreshment area, the area 354
continues in operation. 355

(2) Five years after the approval of the continued 356
operation of an outdoor refreshment area under division (H) (1) 357
of this section, the legislative authority shall conduct a 358
review in the same manner as provided in division (H) (1) of this 359
section. The legislative authority also shall conduct such a 360

review five years after any subsequent approval of continued 361
operation under division (H) (2) of this section. 362

(I) At any time, the legislative authority of a municipal 363
corporation or township in which an outdoor refreshment area is 364
located may, by ordinance or resolution, dissolve all or a part 365
of the outdoor refreshment area. Prior to adopting the 366
resolution or ordinance, the legislative authority shall give 367
notice of its proposed action by publication once a week for two 368
consecutive weeks in one newspaper of general circulation in the 369
municipal corporation or township or as provided in section 7.16 370
of the Revised Code. If the legislative authority dissolves all 371
or part of an outdoor refreshment area, the area designated in 372
the ordinance or resolution no longer constitutes an outdoor 373
refreshment area. The legislative authority shall provide notice 374
of its actions to the division of liquor control and the 375
investigative unit of the department of public safety. Upon 376
receipt of the notice, the division shall revoke all outdoor 377
refreshment area designations issued to qualified permit holders 378
within the dissolved area or portion of the area. 379

Sec. 4303.208. (A) (1) The division of liquor control may 380
issue an F-8 permit to a not-for-profit organization that 381
manages, for the benefit of the public and by contract with a 382
political subdivision of this state, publicly owned property to 383
sell beer or intoxicating liquor by the individual drink at 384
specific events conducted on the publicly owned property and 385
appurtenant streets, but only if, and then only at times at 386
which, the sale of beer and intoxicating liquor on the premises 387
is otherwise permitted by law. Additionally, an F-8 permit may 388
be issued only if the publicly owned property is located in a 389
county that has a population of between seven hundred fifty 390
thousand and nine hundred thousand on July 10, 2007. 391

(2) The premises on which an F-8 permit will be used shall 392
be clearly defined and sufficiently restricted to allow proper 393
supervision of the permit's use by state and local law 394
enforcement officers. Sales under an F-8 permit shall be 395
confined to the same hours permitted to the holder of a D-3 396
permit. 397

(3) The fee for an F-8 permit is one thousand seven 398
hundred dollars. An F-8 permit is effective for a period not to 399
exceed nine months as specified in the permit. An F-8 permit is 400
not transferable or renewable. However, the holder of an F-8 401
permit may apply for a new F-8 permit at any time. An F-8 permit 402
is not effective until any F-8 permit currently held expires. 403
The holder of an F-8 permit shall make sales only at those 404
specific events about which the permit holder has notified in 405
advance the division of liquor control, the department of public 406
safety, and the chief, sheriff, or other principal peace officer 407
of the local law enforcement agencies having jurisdiction over 408
the premises. 409

(B) (1) An application for the issuance of an F-8 permit is 410
subject to the notice and hearing requirements established in 411
division (A) of section 4303.26 of the Revised Code. 412

(2) The liquor control commission shall adopt under 413
Chapter 119. of the Revised Code rules necessary to administer 414
this section. 415

(C) No F-8 permit holder shall sell beer or intoxicating 416
liquor beyond the hours of sale allowed by the permit. This 417
division imposes strict liability on the holder of an F-8 permit 418
and on any officer, agent, or employee of that permit holder. 419

(D) Nothing in this section prohibits the division from 420

issuing an F-2, or F-6 permit for a specific event not 421
conducted by the holder of an F-8 permit provided that the 422
holder of the F-8 permit certifies to the division that it will 423
not exercise its permit privileges during that specific event. 424

Section 2. That existing section 4301.62 and 4303.208 of 425
the Revised Code are hereby repealed. 426

Section 3. (A) There is hereby created the Outdoor 427
Refreshment Area Study Committee. The Committee shall consist of 428
the following seven members who shall be appointed not later 429
than five days after the effective date of this section: 430

(1) Two members of the Senate, one of whom shall be a 431
member of the majority party and one of whom shall be a member 432
of the minority party, both appointed by the President of the 433
Senate; 434

(2) Two members of the House of Representatives, one of 435
whom shall be a member of the majority party and one of whom 436
shall be a member of the minority party, both appointed by the 437
Speaker of the House of Representatives; 438

(3) One county commissioner, appointed by the President of 439
the Senate; 440

(4) One representative of a municipal corporation, or 441
township, with a population of thirty-five thousand or less, 442
appointed by the Speaker of the House of Representatives; 443

(5) One representative of the Division of Liquor Control, 444
appointed by the Governor. 445

(B) The Committee first shall meet not later than thirty 446
days after the effective date of this section. At the first 447
meeting, the Committee shall select a chairperson and vice- 448

chairperson from among its members. Thereafter, the Committee 449
shall meet at the call of its chairperson as necessary to carry 450
out its duties. Members of the Committee are not entitled to 451
compensation for serving on the Committee, but may continue to 452
receive the compensation and benefits accruing from their 453
regular offices or employments. 454

(C) The Committee shall study the utility and viability of 455
allowing municipal corporations or townships that have a 456
population of thirty-five thousand or less to create an outdoor 457
refreshment area under section 4301.82 of the Revised Code, as 458
enacted by this act. Not later than December 1, 2015, the Study 459
Committee shall issue a report of its findings and 460
recommendations to the President of the Senate, the Minority 461
Leader of the Senate, the Speaker of the House of 462
Representatives, and the Minority Leader of the House of 463
Representatives. After submitting the report, the Study 464
Committee shall cease to exist. 465

Section 4. This act is hereby declared to be an emergency 466
measure necessary for the immediate preservation of the public 467
peace, health, and safety. The reason for such necessity is that 468
local authorities across the state need to engage in long range 469
planning for upcoming sporting, entertainment, and cultural 470
events that may be enhanced by the existence of outdoor 471
refreshment areas and by other changes to the law made by this 472
act. Therefore, this act shall go into immediate effect. 473