



Jeff Grim

## *Bill Analysis*

*Legislative Service Commission*

### **Am. H.B. 209**

126th General Assembly  
(As Passed by the House)

**Reps. Combs, Carano, Chandler, C. Evans, Harwood, Martin, Perry, Trakas, Daniels, Fende, Yuko, Wolpert, Allen, Barrett, Blessing, Bocchieri, Brown, Distel, Domenick, D. Evans, Flowers, Hughes, Kearns, Key, Otterman, Reidelbach, Schneider, Seaver, Seitz, Webster, Yates**

---

### **BILL SUMMARY**

- Qualifies the owner or operator of a community arts center for issuance of a D-5h liquor permit.
- Creates an additional qualification under which a D-5j permit may be issued within a community entertainment district.

---

### **CONTENT AND OPERATION**

#### ***D-5h permit for a nonprofit organization that operates a fine arts museum or community arts center***

Current law allows the D-5h liquor permit to be issued to any nonprofit organization that: (1) is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code, (2) owns or operates a fine arts museum, and (3) has not less than 5,000 bona fide members possessing full membership privileges. The holder of a D-5h permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, but the permit holder cannot so sell beer or intoxicating liquor after 1 a.m. A D-5h permit cannot be transferred to another location, and no quota restrictions may be placed on the number of D-5h permits that can be issued. The fee for the D-5h permit is \$1,875. (Sec. 4303.181(H).)

Under the bill, a D-5h permit also may be issued to any nonprofit organization that: (1) is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code, and (2) owns or operates a community arts center. The bill defines "community arts center" as a facility that provides arts programming to the community in more than one arts discipline, including, but not

limited to, exhibits of works of art and performances by both professional and amateur artists. (Sec. 4303.181(H)(2).)

**D-5j permit for retail food establishments or food service operations within community entertainment districts**

Existing law authorizes a D-5j permit to be issued to the owner or operator of a retail food establishment or a food service operation that is licensed under the Retail Food Establishments and Food Service Operations Law to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by holders of D-1 (sales of beer for on-premises consumption) and D-2 (sales of wine or mixed beverages for on-premises consumption) permits. The holder of a D-5j permit may exercise the same privileges, and must observe the same hours of operation, as the holder of a D-5 permit (sales of beer or intoxicating liquor for on-premises consumption at restaurants or night clubs). The D-5j permit must be issued only within a community entertainment district that is designated under current law and that meets any one of three qualifications.

The bill establishes another qualification that specifies that a community entertainment district may be located in a municipal corporation with a population of at least 10,000, if not less than \$70 million will be invested in development and construction in the community entertainment district's area located in the municipal corporation. (Sec. 4303.181(J)(2).)

---

**COMMENT**

Subsection 501(c)(3) of the Internal Revenue Code concerns corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or education purposes, or to foster national or international amateur sports competition (with a caveat), or for the prevention of cruelty to children or animals--no part of the net earnings of which entity inures to the benefit of any private shareholder or individual; no substantial part of the activities of which entity is carrying on propaganda, or otherwise attempting, to influence legislation (with a caveat); and which entity does not participate in, or intervene in (including statement publication or distribution), any political campaign on behalf of or in opposition to any candidate for public office.

---

## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-20-05	p. 678
Reported, H. Local & Municipal Gov't & Urban Revitalization	06-14-05	p. 950
Passed House (99-0)	06-21-05	pp. 1378-1380

h0209-ph-126.doc/kl

