



# Ohio Legislative Service Commission

## Final Analysis

Jeff Grim

### Sub. S.B. 298

129th General Assembly  
(As Passed by the General Assembly)

**Sens.** Cafaro, Brown, Seitz, Kearney, Beagle, Hughes, Hite, Turner, Bacon, Balderson, Burke, Gentile, Lehner, Oelslager, Patton, Sawyer, Schaffer, Schiavoni, Smith, Tavares, Wagoner

**Reps.** Barnes, Boyce, Driehaus, Hackett, Letson, McGregor, Milkovich, Murray, O'Brien, Reece, Terhar, Thompson, Young

**Effective date:** March 22, 2013

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## ACT SUMMARY

- Allows a D-5L liquor permit (applicable to revitalization districts) to be issued to the owner or operator of a retail food establishment or food service operation that is located in a municipal corporation that (1) is wholly located in a county, and (2) has the largest population in that county when the county has a population between 140,000 and 141,000 or between 215,000 and 225,000.
- Revises the law governing the issuance of F-2 liquor permits, including prohibiting:
  - a permit from being effective for more than four consecutive days rather than 48 consecutive hours as was allowed under prior law; and
  - more than one permit from being issued in a 30-day period rather than two permits in a calendar year as was authorized under prior law.
- Allows an F-2 liquor permit to be issued for the same location that an F-8 liquor permit is issued provided that certain criteria apply.

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## CONTENT AND OPERATION

### Issuance of D-5L liquor permits in revitalization districts

The act revises the law governing the issuance of D-5L liquor permits (sale of beer and intoxicating liquor for on- and off-premises consumption) which are issued in

revitalization districts (see below). Under law generally retained by the act, the D-5L permit may be issued only to the owner or operator of a retail food establishment or a food service operation that is licensed under the Retail Food Establishment and Food Service Operation Law and that:

(1) Has gross annual receipts from the sale of food and meals that constitute not less than 75% of its total annual gross receipts;

(2) Is located within a revitalization district that is designated under continuing law;

(3) Is located in a municipal corporation or township in which the number of D-5 liquor permits (sale of beer and intoxicating liquor for on- and off-premises consumption at restaurants or night clubs) issued equals or exceeds the number of those permits that may be issued in that municipal corporation or township under ongoing law; and

(4) Is located in a county with a population of 125,000 or less according to the population estimates certified by the Development Services Agency for calendar year 2006.

The act adds that a D-5L permit also may be issued to a retail food establishment or food service operation to which (1) through (3) above apply and that is located in the municipal corporation that has the largest population in a county when the county has a population between 140,000 and 141,000 or a population between 215,000 and 225,000. The population of the county must be based on estimates certified by the Development Services Agency for calendar year 2006. This provision applies only to a municipal corporation that is wholly located in such a county.<sup>1</sup>

Under law unchanged by the act, revitalization districts may be created for bounded areas located in municipal corporations or unincorporated areas of townships with a population of less than 100,000. The bounded areas may include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to certain establishments such as restaurants, sports facilities, and convention facilities. Continuing law establishes procedures by which a municipality or township may approve or disapprove an application to designate an area as a revitalization district.<sup>2</sup>

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<sup>1</sup> R.C. 4303.181(L)(1), (2), and (3).

<sup>2</sup> R.C. 4301.81, not in the act.

## **F-2 liquor permits**

The act revises the law governing the issuance of F-2 liquor permits, which authorize the sale of beer and intoxicating liquor by the individual drink for on-premises consumption during an event sponsored by a specified association or corporation. The act does all of the following with regard to the issuance of an F-2 permit:

(1) Specifies that an F-2 permit may be issued if an association or corporation or a recognized subordinate lodge, chapter, or other local unit of an association or corporation is operated for a political purpose. Law generally retained by the act requires an association or corporation to be operated only for charitable, cultural, educational, or fraternal purposes.

(2) Prohibits an F-2 permit from being effective for more than four consecutive days rather than 48 consecutive hours as under former law;

(3) Prohibits the Division of Liquor Control from issuing more than one F-2 permit in a 30-day period to the same association, corporation, or local unit of an association or corporation rather than two permits in a calendar year as under prior law;

(4) Expands the list of existing liquor permit holders that may conduct the sale of beer or intoxicating liquor on behalf of an F-2 permit holder at an event sponsored by the F-2 permit holder to include D-1 through D-5o liquor permit holders rather than only D-3, D-4, or D-5 liquor permit holders as was specified under former law (see **APPENDIX A**);

(5) Clarifies that Sunday sales under an F-2 permit are not affected by whether the Sunday sales of beer and intoxicating liquor for consumption on the premises where sold are allowed to be made by persons holding another type of liquor permit in the election precinct or at the particular location where the event is to be held, provided that the F-2 permit is issued for other days of the week in addition to Sunday; and

(6) Reorganizes the statute governing the issuance of the F-2 permit and makes other conforming changes.<sup>3</sup>

### **Issuance with regard to an F-8 liquor permit**

The act states that nothing in its provisions governing the issuance of the F-8 liquor permit prohibits the Division from issuing an F-2 liquor permit for a specific

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<sup>3</sup> R.C. 4303.202 and 4303.99.

event not conducted by an F-8 permit holder provided that the F-8 permit holder certifies to the Division that it will not exercise its permit privileges during that specific event. Generally, the F-8 permit authorizes a nonprofit organization that manages publicly owned property to sell beer and intoxicating liquor by the individual drink at specific events conducted on the publicly owned property at certain times. The nonprofit organization must manage the public property for the benefit of the public and by contract with a political subdivision of Ohio. The F-8 permit is effective for a period not to exceed nine months as specified in the permit.<sup>4</sup>

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## HISTORY

ACTION	DATE
Introduced	02-14-12
Reported, S. Insurance, Commerce & Labor	11-28-12
Passed Senate (33-0)	11-28-12
Reported, H. Commerce, Labor & Technology	12-06-12
Passed House (89-2)	12-12-12
Senator concurred in House amendments (33-0)	12-13-12

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<sup>4</sup> R.C. 4303.208.



## APPENDIX A

### ESTABLISHMENTS THAT HOLD D LIQUOR PERMITS

The D liquor permit is generally issued to establishments to sell at retail beer, wine, mixed beverages, intoxicating liquor, or spirituous liquor by the individual glass or in containers for consumption on or off the premises.<sup>5</sup> The following table summarizes all of the types of D liquor permits that may be issued, the statutory authority for the issuance of the permit, the primary activity allowed under the permit, type of alcohol allowed to be sold under the permit, and to whom the permit may be issued.

Type of permit	Statutory authority	Primary activity allowed	Type of alcohol allowed to be sold	To whom permit may be issued
D-1	R.C. 4303.13	Retail sale by individual glass or in containers for consumption on or off premises	Beer	Hotel, restaurant, <sup>6</sup> club, amusement park, drugstore, lunch stand, boat, and vessel
D-2	R.C. 4303.14	Retail sale by individual glass or in containers for consumption on or off premises	Wine and mixed beverages	Hotel, restaurant, club, boat, and vessel
D-2x	R.C. 4303.141	Retail sale by individual glass or in containers for consumption on or off premises	Beer	D-2 permit holder not previously holding a D-1 permit
D-3	R.C. 4303.15	Retail sale until 1 a.m. by consumption on premises	Spirituous liquor	Hotel, restaurant, club, boat, and vessel
D-3x	R.C. 4303.151	Retail sale by individual drink for consumption on premises	Wine	D-3 permit holder

<sup>5</sup> "Wine" generally is intoxicating liquor made from fermented grapes, fruit, or other agricultural products and contains .5% to 21% of alcohol by volume. "Mixed beverages" are products that contain whiskey, neutral spirits, brandy, gin, or other distilled spirits containing .5% to 21% of alcohol by volume. "Intoxicating liquor" includes all liquids and compounds, other than beer, containing .5% or more of alcohol by volume. "Spirituous liquor" includes all intoxicating liquors containing more than 21% of alcohol by volume. R.C. 4301.01.

<sup>6</sup> For the purposes of this appendix, restaurants are retail food establishments or food service operations licensed under R.C. Chapter 3717.



Type of permit	Statutory authority	Primary activity allowed	Type of alcohol allowed to be sold	To whom permit may be issued
D-3a	R.C. 4303.16	Retail sale after 1 a.m.	Spirituos liquor for D-3 permit holders; beer for D-1 permit holders; and wine and mixed beverages for D-2 permit holders	D-3 permit holders; D-3 permit holders that have D-1 or D-2 permits
D-4	R.C. 4303.17	Sale in glass or container to club members only for consumption on premises	Beer and intoxicating liquor	Club in existence for three years
D-4a	R.C. 4303.171	Sale to private airline club members only for consumption on premises	Beer and intoxicating liquor	Airline company
D-5	R.C. 4303.18	Retail sale by individual glass or in containers for consumption on (beer and intoxicating liquor) or off (beer and mixed beverages) premises	Beer and intoxicating liquor	Restaurant or a nightclub licensed to sell food <sup>7</sup>
D-5a	R.C. 4303.181	Retail sale by individual glass or in containers for consumption on (beer and intoxicating liquor) or off (beer and mixed beverages) premises	Beer and intoxicating liquor	Hotel or motel of 50 rooms or more with a restaurant on the premises
D-5b	R.C. 4303.181	Retail sale by individual glass or in containers for consumption on (beer and intoxicating liquor) or off (beer and mixed beverages) premises	Beer and intoxicating liquor	Enclosed shopping center

<sup>7</sup> For purposes of the D-5 permit, a nightclub must be licensed as a retail food establishment or food service operation licensed under R.C. Chapter 3717.

Type of permit	Statutory authority	Primary activity allowed	Type of alcohol allowed to be sold	To whom permit may be issued
D-5c	R.C. 4303.181	Retail sale by individual glass or in containers for consumption on or off premises	Beer and intoxicating liquor	Restaurant that meets certain requirements, such as operating not less than 24 consecutive months
D-5d	R.C. 4303.181	Retail sale by individual glass or in containers for consumption on or off premises	Beer and intoxicating liquor	Airport restaurant
D-5e	R.C. 4303.181	Retail sale by individual glass or in containers for consumption on premises	Beer and intoxicating liquor	Nonprofit or charitable organization that owns a riverboat
D-5f	R.C. 4303.181	Retail sale by individual glass or in containers for consumption on premises	Beer and intoxicating liquor	Restaurant on shoreline of navigable river that meets certain requirements, such as not less than 2,500 sq. feet of floor space
D-5g	R.C. 4303.181	Retail sale until 1 a.m. by individual glass or in containers for consumption on premises	Beer and intoxicating liquor	Nonprofit corporation owner or operator of national professional sports museum
D-5h	R.C. 4303.181	Retail sale until 1 a.m. by individual glass or in containers for consumption on premises	Beer and intoxicating liquor	Nonprofit organization exempt from federal taxation that owns and operates a fine arts museum, community arts center, or community theater
D-5i	R.C. 4303.181	Retail sale until 2:30 a.m. by individual glass or in containers for consumption on or off premises	Beer and intoxicating liquor	Restaurant that meets certain requirements, such as serving full-course meals
D-5j	R.C. 4303.181	Retail sale by individual glass and from the container, for consumption on the premises and in the same manner and amounts not for consumption on the	Beer and intoxicating liquor	Retail food establishment or food service operation licensed under R.C. Chapter 3717. that is located within a community entertainment district

Type of permit	Statutory authority	Primary activity allowed	Type of alcohol allowed to be sold	To whom permit may be issued
		premises as may be sold by D-1 and D-2 permit holders		
D-5k	R.C. 4303.181	Retail by individual glass or in containers for consumption on premises	Beer and intoxicating liquor	Nonprofit organization owning or operating a botanical garden
D-5l	R.C. 4303.181	Retail by individual glass or in containers for consumption on premises	Beer and intoxicating liquor	Retail food establishment or food service operation licensed under R.C. Chapter 3717. that meets certain requirements, such as being located in a revitalization district
D-5m	R.C. 4303.181	Retail by individual glass or in containers for consumption on premises	Beer and intoxicating liquor	Restaurant that is affiliated with a center for preservation of wild animals
D-5n	R.C. 4303.181	Retail sale by individual glass and from the container for consumption on premises, and for sale of the same products in the same manner and amounts not for consumption on premises as may be sold by the D-1 and D-2 permit holders	Beer and intoxicating liquor	Casino operator or casino management company licensed under R.C. Chapter 3772. that operates a casino facility
D-5o	R.C. 4303.181	Retail sale by individual glass and from the container for consumption on premises, and for sale of the same products in the same manner and amounts not for consumption on premises as may be sold by the D-1 and D-2 permit holders	Beer and intoxicating liquor	Restaurant that is located in a casino facility for which a D-5n permit has been issued

