

CHAPTER 92: INTOXICATING LIQUORS

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Cross-reference:

Driving while intoxicated or drugged, implied consent, see §§ 73.01, 73.02, 96.12 and 96.13

Statutory reference:

Liquor permits, see R.C. Chapter 4303
Local option elections, see R.C. §§ 4301.32 et seq.
Use of license to violate liquor laws; suspension; procedures, see R.C. § 4510.33

§ 92.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOL. Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. The term does not include denatured alcohol and wood alcohol.

AT RETAIL. For use or consumption by the purchaser and not for resale.

BEER. Includes all beverages brewed or fermented wholly or in part from malt products and containing 0.5% or more, but not more than 12%, of alcohol by volume.

CIDER. All liquids that are fit to use for beverage purposes that contain 0.5% of alcohol by volume, but not more than 6% of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.

CLUB. A corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for such purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.

COMMUNITY FACILITY. Means either of the following:

(1) Any convention, sports or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a

convention facilities authority created pursuant to R.C. § 351.02;

(2) An area designated as a community entertainment district pursuant to R.C. § 4301.80.

CONTROLLED ACCESS ALCOHOL AND BEVERAGE CABINET. A closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device that requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages, or food may be sold.

HOTEL. The same meaning as in R.C. § 3731.01, subject to the exceptions mentioned in R.C. § 3731.03.

INTOXICATING LIQUOR and LIQUOR. All liquids and compounds, other than beer, containing 0.5% or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. The terms include wine even if it contains less than 4% of alcohol by volume, mixed beverages even if they contain less than 4% of alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol.

LOW-ALCOHOL BEVERAGE. Any brewed or fermented malt product or any product made from the fermented juices of grapes, fruits, or other agricultural products that contains either no alcohol or less than 0.5% of alcohol by volume. The beverages described in this definition do not include a soft drink such as root beer, birch beer, or ginger beer.

MANUFACTURE. All processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.

MANUFACTURER. Any person engaged in the business of manufacturing beer or intoxicating liquor.

MIXED BEVERAGES. Bottled and prepared cordials, cocktails, and highballs, produced by mixing any type of whiskey, neutral spirits, brandy, gin or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than 0.5% of alcohol by volume and not more than 21% of alcohol by volume.

NIGHTCLUB. A place habitually operated for profit, where food is served for consumption on the premises, and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons.

PERSON. Includes firms and corporations.

PHARMACY. An establishment as defined in R.C. § 4729.01, that is under the management or control of a licensed pharmacist in accordance with R.C. § 4729.27.

RESTAURANT. A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. The term does not include pharmacies, confectionery stores, lunch stands, nightclubs, and filling stations.

SALE and SELL. The exchange, barter, gift, offer for sale, sale, distribution, and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to R.C. § 4301.21. Such terms do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the Division of Liquor Control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any orders until the solicitor has been registered with the Division pursuant to R.C. § 4303.25.

SALES AREA OR TERRITORY. An exclusive geographic area or territory that is assigned to a particular A or B permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. The term does not include, however, any particular retail location in an exclusive geographic area or territory that had been assigned to another A or B permit holder before April 9, 2001.

SEALED CONTAINER. Any container having a capacity of not more than 128 fluid ounces, the opening of which is closed to prevent the entrance of air.

SPIRITUOUS LIQUOR. All intoxicating liquors containing more than 21% of alcohol by volume.

VEHICLE. All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.

WHOLESALE DISTRIBUTOR and DISTRIBUTOR. A person engaged in the business of selling to retail dealers for purposes of resale.

WINE. All liquids fit to use for beverage purposes containing not less than 0.5% of alcohol by volume and not more than 21% of alcohol by volume, which is made from the fermented juices of grapes, fruits, or other agricultural products. Except as provided in R.C. § 4301.01(B)(3), the term does not include cider.
(R.C. § 4301.01) (Rev. 2007)

§ 92.02 EXEMPTIONS FROM CHAPTER.

The provisions of this chapter do not prevent the following:

(A) The storage of intoxicating liquor in bonded warehouses, established in accordance with the Acts of Congress and under the regulation of the United States, located in the municipality, or the transportation of intoxicating liquor to or from bonded warehouses of the United States wherever located.

(B) A bona fide resident of this state who is the owner of a warehouse receipt from obtaining or transporting to the resident's residence for the resident's own consumption and not for resale spirituous liquor stored in a government bonded warehouse in this state or in another state prior to December 1933, subject to such terms as are prescribed by the Division of Liquor Control.

(C) The manufacture of cider from fruit for the purpose of making vinegar, and nonintoxicating cider and fruit juices for use and sale.

(D) A licensed physician or dentist from administering or dispensing intoxicating liquor or alcohol to a patient in good faith in the actual course of the practice of the physician's or dentist's profession.

(E) The sale of alcohol to physicians, dentists, druggists, veterinary surgeons, manufacturers, hospitals, infirmaries, or medical or educational institutions using the alcohol for medicinal, mechanical, chemical or scientific purposes.

(F) The sale, gift, or keeping for sale by druggists and others of any of the medicinal preparations manufactured in accordance with the formulas prescribed by the United States Pharmacopoeia and National Formulary, patent or proprietary preparations, and other bona fide medicinal and technical preparations, which contain no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, which are manufactured and sold as medicines and not as beverages, are unfit for use for beverage purposes, and the sale of which does not require the payment of a United States liquor dealer's tax.

(G) The manufacture and sale of tinctures or of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages, and which are unfit for beverage purposes, if upon the outside of each bottle, box, or package of which there is printed in English, conspicuously and legibly, the quantity by volume of alcohol in the preparation or solution.

(H) The manufacture and keeping for sale of the food products known as flavoring extracts when manufactured and sold for cooking, culinary or flavoring purposes, and which are unfit for use for beverage purposes.

(I) The lawful sale of wood alcohol or of ethyl alcohol for external use when combined with other substances as to make it unfit for internal use.

(J) The manufacture, sale, and transport of ethanol or ethyl alcohol for use as fuel. As used in this division, *ETHANOL* has the same meaning as in R.C. § 5733.46.

(K) The purchase and importation into the municipality or the purchase at wholesale from A or B permit holders in this state of beer and intoxicating liquor for use in manufacturing processes of nonbeverage food products under terms prescribed by the Division, provided that the terms prescribed by the Division shall not increase the cost of the beer or intoxicating liquor to any person, firm or corporation purchasing and importing it into this municipality or purchasing it from an A or B permit holder for that use.

(L) Any resident of this state or any member of the armed forces of the United States who has attained the age of 21 years from bringing into this municipality for personal use and not for resale not more than one liter of spirituous liquor, 4.5 liters of wine, or 288 ounces of beer in any 30-day period, and the same is free of any tax consent fee when the resident or member of the armed forces physically possesses and accompanies the spirituous liquor, wine or beer on returning from a foreign country, another state, or an insular possession of the United States.

(M) Persons at least 21 years of age who collect ceramic commemorative bottles containing spirituous liquor that have unbroken federal tax stamps on them from selling or trading the bottles to other collectors. The bottles shall originally have been purchased at retail from the Division, legally imported under division (L) of this section, or legally imported pursuant to a supplier registration issued by the Division. The sales shall be for the purpose of exchanging a ceramic commemorative bottle between private collectors and shall not be for the purpose of selling the spirituous liquor for personal consumption. The sale or exchange authorized by this division shall not occur on the premises of any permit holder, shall not be made in connection with the business of any permit holder, and shall not be made in connection with any mercantile business.

(N) The sale of beer or intoxicating liquor without a liquor permit at a private residence, not more than five times per calendar year at a residence address, at an event that has the following characteristics:

(1) The event is for a charitable, benevolent, or political purpose, but shall not include any event the proceeds of which are for the profit or gain of any individual;

(2) The event has in attendance not more than 50 people;

(3) The event shall be for a period not to exceed 12 hours;

(4) The sale of beer and intoxicating liquor at the event shall not take place between 2:30 a.m. and 5:30 a.m.;

(5) No person under 21 years of age shall purchase or consume beer or intoxicating liquor at the event and no beer or intoxicating liquor shall be sold to any person under 21 years of age at the event; and

(6) No person at the event shall sell or furnish beer or intoxicating liquor to an intoxicated person.
(R.C. § 4301.20) (Rev. 2012)

§ 92.03 RESTRICTIONS APPLICABLE TO SALE OF BEER AND INTOXICATING LIQUOR FOR CONSUMPTION ON THE PREMISES.

(A) The sale of beer or intoxicating liquor for consumption on the premises is subject to the following restrictions, in addition to those imposed by the rules and orders of the Division of Liquor Control:

(1) Except as otherwise provided in this chapter or in R.C. Chapter 4301, beer or intoxicating liquor may be served to a person not seated at a table unless there is reason to believe that the beer or intoxicating liquor so served will be consumed by a person under 21 years of age.

(2) Beer or intoxicating liquor may be served by a hotel in the room of a bona fide guest, and may be sold by a hotel holding a D-5a permit, or a hotel holding a D-3 or D-5 permit that otherwise meets all of the requirements for holding a D-5a permit, by means of a controlled access alcohol and beverage cabinet that shall be located only in the hotel room of a registered guest. A hotel may sell beer or intoxicating liquor as authorized by its permit to a registered guest by means of a controlled access alcohol and beverage cabinet in accordance with the following requirements:

(a) Only a person 21 years of age or older who is a guest registered to stay in a guestroom shall be provided a key, magnetic card, or other similar device necessary to obtain access to the contents of a controlled access alcohol and beverage cabinet in that guestroom.

(b) The hotel shall comply with R.C. § 4301.22, or a substantially equivalent municipal ordinance, in connection with the handling, restocking, and replenishing of the beer and intoxicating liquor in the controlled access alcohol and beverage cabinet.

(c) The hotel shall replenish or restock beer and intoxicating liquor in any controlled access alcohol and beverage cabinet only during the hours during which the hotel may serve or sell beer and intoxicating liquor.

(d) The registered guest shall verify in writing that the guest has read and understands the language that shall be posted on the controlled access alcohol and beverage cabinet as required by division (A)(2)(e) of this section.

(e) A hotel authorized to sell beer and intoxicating liquor pursuant to division (A)(2) of this section shall post on the controlled access alcohol and beverage cabinet, in conspicuous language, the following notice:

The alcoholic beverages contained in this cabinet shall not be removed from the premises.

(f) The hotel shall maintain a record of each sale of beer or intoxicating liquor made by the hotel by means of a controlled access alcohol and beverage cabinet for any period in which the permit holder is authorized to hold the permit pursuant to R.C. §§ 4303.26 and 4303.27 and any additional period during which an applicant exercises its right to appeal a rejection by the Division of Liquor Control to renew a permit pursuant to R.C. § 4303.271. The records maintained by the hotel shall comply with both of the following:

1. Include the name, address, age, and signature of each hotel guest who is provided access by the hotel to a controlled access alcohol and beverage cabinet pursuant to division (A)(2)(a) of this section;

2. Be made available during business hours to authorized agents of the Division of Liquor Control pursuant to R.C. § 4301.10(A)(6) or to enforcement agents of the Department of Public Safety pursuant to R.C. §§ 5502.13 through 5502.19.

(g) The hotel shall observe all other applicable rules adopted by the Division of Liquor Control and the Liquor Control Commission.

(3) The seller shall not require the purchase of food with the purchase of beer or intoxicating liquor; nor shall the seller of beer or intoxicating liquor give away food of any kind in connection with the sale of beer or intoxicating liquor, except as authorized by rule of the state Liquor Control Commission.

(4) The seller shall not permit the purchaser to remove beer or intoxicating liquor so sold from the premises.

(5) A hotel authorized to sell beer and intoxicating liquor pursuant to division (A)(2) of this section shall provide a registered guest with the opportunity to refuse to accept a key, magnetic card, or other similar device necessary to obtain access to the contents of a controlled access alcohol and beverage cabinet in that guest room. If a registered guest refuses to accept such key, magnetic card, or other similar device, the hotel shall not

assess any charges on the registered guest for use of the controlled access alcohol and beverage cabinet in that guest room.

(R.C. § 4301.21) (Rev. 2000)

(B) Whoever violates division (A)(4) of this section is guilty of a misdemeanor of the first degree.

(R.C. § 4301.99(C))

§ 92.04 RESTRICTIONS ON SALE OF BEER AND LIQUOR.

(A) *Restrictions on sales.* Sales of beer and intoxicating liquor under all classes of permits and from liquor stores are subject to the following restrictions, in addition to those imposed by the rules or orders of the state Division of Liquor Control.

(1) (a) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no beer or intoxicating liquor shall be sold to any person under 21 years of age.

(b) No low-alcohol beverage shall be sold to any person under 18 years of age. No permit issued by the Division shall be suspended, revoked, or cancelled because of a violation of this division (A)(1)(b).

(c) No intoxicating liquor shall be handled by any person under 21 years of age, except that a person 18 years of age or older employed by a permit holder may handle or sell beer or intoxicating liquor in sealed containers in connection with wholesale or retail sales, and any person 19 years of age or older employed by a permit holder may handle intoxicating liquor in open containers when acting in the capacity of a server in a hotel, restaurant, club, or night club, as defined in R.C. § 4301.01, or in the premises of a D-7 permit holder. This section does not authorize persons under 21 years of age to sell intoxicating liquor across a bar. Any person employed by a permit holder may handle beer or intoxicating liquor in sealed containers in connection with manufacturing, storage, warehousing, placement, stocking, bagging, loading, or unloading, and may handle beer or intoxicating liquor in open containers in connection with cleaning tables or handling empty bottles or glasses.

(2) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person.

(3) (a) No sales of intoxicating liquor shall be made after 2:30 a.m. on Sunday, except under either of the following circumstances:

1. Intoxicating liquor may be sold on Sunday under authority of a permit that authorizes Sunday sale.

2. Spiritous liquor may be sold on Sunday by any person awarded an agency contract under R.C. § 4301.17 if the sale of spiritous liquor is authorized

in the applicable precinct as the result of an election on question (B)(1) or (B)(2) of R.C. § 4301.351 and if the agency contract authorizes the sale of spiritous liquor on Sunday.

(b) This section does not prevent the municipality from adopting a closing hour for the sale of intoxicating liquor earlier than 2:30 a.m. on Sunday or to provide that no intoxicating liquor may be sold prior to that hour on Sunday.

(4) No holder of a permit shall give away any beer or intoxicating liquor of any kind at any time in connection with the permit holder's business.

(5) Except as otherwise provided in this division, no retail permit holder shall display or permit the display on the outside of any licensed retail premises, on any lot of ground on which the licensed premises are situated, or on the exterior of any building of which the licensed premises are a part, any sign, illustration, or advertisement bearing the name, brand name, trade name, trademark, designation, or other emblem of, or indicating the manufacturer, producer, distributor, place of manufacture, production, or distribution of, any beer or intoxicating liquor. Signs, illustrations, or advertisements bearing the name, brand name, trade name, trademark, designation, or other emblem of or indicating the manufacturer, producer, distributor, place of manufacture, production, or distribution of beer or intoxicating liquor may be displayed and permitted to be displayed on the interior or in the show windows of any licensed premises, if the particular brand or type of product so advertised is actually available for sale on the premises at the time of that display. The Liquor Control Commission shall determine by rule the size and character of those signs, illustrations, or advertisements.

(6) No retail permit holder shall possess on the licensed premises any barrel or other container from which beer is drawn, unless there is attached to the spigot or other dispensing apparatus the name of the manufacturer of the product contained in the barrel or other container, provided that, if the beer is served at a bar, the manufacturer's name or brand shall appear in full view of the purchaser. The Commission shall regulate the size and character of the devices provided for in this section.

(7) Except as otherwise provided in this division, no sale of any gift certificate shall be permitted whereby beer or intoxicating liquor of any kind is to be exchanged for the certificate, unless the gift certificate can be exchanged only for food, and beer or intoxicating liquor, for on-premises consumption and the value of the beer or intoxicating liquor does not exceed more than 30% of the total value of the gift certificate. The sale of gift certificates for the purchase of beer, wine, or mixed beverages shall be permitted for the purchase of beer, wine, or mixed beverages for off-premises consumption. Limitations on the use of a gift certificate for the purchase of beer, wine, or mixed beverages for off-premises consumption may be expressed by clearly stamping or typing on the face of the

certificate that the certificate may not be used for the purchase of beer, wine, or mixed beverages for on-premises consumption.

(R.C. § 4301.22) (Rev. 2005)

(B) *Division (A)(1) not modified or affected.* The provisions of R.C. §§ 4301.633 through 4301.637, or substantially equivalent municipal ordinances, shall not be deemed to modify or affect division (A)(1) of this section or R.C. § 4301.22(A).

(R.C. § 4301.638) (Rev. 2003)

(C) *Penalties.*

(1) Whoever violates divisions (A)(1)(b) or (A)(3) of this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 4301.99(B))

(2) Whoever violates divisions (A)(1)(a), (A)(1)(c) or (A)(2) of this section is guilty of a misdemeanor of the third degree.

(R.C. § 4301.99(D), (H)) (Rev. 2005)

Statutory reference:

Suspension of beer and liquor sales during emergency, see R.C. § 4301.251

§ 92.05 PERMIT REQUIRED; ACTIVITIES PROHIBITED WITHOUT PERMIT.

(A) *Permit required.*

(1) No person personally or by the person's clerk, agent, or employee, shall manufacture, manufacture for sale, offer, keep, or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this state, or transport, import, or cause to be transported or imported any beer, intoxicating liquor, or alcohol in or into this municipality for delivery, use or sale, unless the person has fully complied with R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time.

(2) No manufacturer, supplier, wholesale distributor, broker, or retailer of beer or intoxicating liquor, or other person shall employ, retain, or otherwise utilize any person in this state to act as an employee, agent, solicitor, or salesperson, or act in any other representative capacity to sell, solicit, take orders, or receive offers to purchase or expressions of interest to purchase beer or intoxicating liquor from any person, at any location other than a liquor permit premises, except as specifically authorized by R.C. Chapter 4301 or R.C. Chapter 4303 or rules adopted thereunder. No function, event, or party shall take place at any location other than a liquor permit premises where any person acts in any manner to sell, solicit, take orders, or receive offers to purchase or expressions of intent to purchase beer or intoxicating liquor to or from any person, except as specifically authorized by

R.C. Chapter 4301 or R.C. Chapter 4303 or rules adopted thereunder.

(R.C. § 4303.25) (Rev. 2009)

(B) *Activities prohibited without permit.*

(1) No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A permit issued by the Division of Liquor Control, in force at the time, and authorizing the manufacture of beer or intoxicating liquor, or who is not an agent or employee of the Department authorized to manufacture beer or intoxicating liquor, shall manufacture any beer or intoxicating liquor for sale, or shall manufacture spirituous liquor.

(2) No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A, B, C, D, E, F, G, I, or S permit issued by the Department, in force at the time, and authorizing the sale of beer, intoxicating liquor, or alcohol, or who is not an agent or employee of the Department or the Tax Commissioner authorized to sell beer, intoxicating liquor, or alcohol, shall sell, keep, or possess beer, intoxicating liquor, or alcohol for sale to any persons other than those authorized by this chapter and R.C. Chapters 4301 and 4303 to purchase any beer or intoxicating liquor, or sell any alcohol at retail. This division does not apply to or affect the sale or possession for sale of any low-alcohol beverage.

(3) No person, personally or by the person's clerk, agent, or employee, who is the holder of a permit issued by the Department, shall sell, keep, or possess for sale any intoxicating liquor not purchased from the Department or from the holder of a permit issued by the Department authorizing the sale of intoxicating liquor, unless the same has been purchased with the special consent of the Department. The Department shall revoke the permit of any person convicted of a violation of this division.

(R.C. § 4301.58) (Rev. 2009)

(C) *Penalty.* Whoever violates division (B) of this section is guilty of a misdemeanor of the first degree.

(R.C. § 4301.99(C)) (Rev. 1999)

§ 92.06 ILLEGAL TRANSPORTATION PROHIBITED.

(A) No person, who is not the holder of an H permit shall transport beer, intoxicating liquor, or alcohol in this municipality. This section does not apply to the transportation and delivery of beer, alcohol, or intoxicating liquor purchased or to be purchased from the holder of a permit issued by the Division of Liquor Control, in force at the time, and authorizing the sale and delivery of the beer, alcohol, or intoxicating liquor so transported, or to the transportation and delivery of beer, intoxicating liquor, or alcohol purchased from the Department or the Tax Commissioner, or purchased by the holder of an A or B

permit outside this state, and transported within this municipality by them in their own trucks for the purpose of sale under their permits.
(R.C. § 4301.60)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(C))

**§ 92.07 OPEN CONTAINER PROHIBITED;
EXCEPTION.**

(A) As used in this section:

CHAUFFEURED LIMOUSINE. Means a vehicle registered under R.C. § 4503.24.

HIGHWAY. Has the same meaning as in R.C. § 4511.01.

MOTOR VEHICLE. Has the same meaning as in R.C. § 4511.01.

STREET. Has the same meaning as in R.C. § 4511.01.

(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) In a state liquor store;

(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;

(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-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;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit 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 R.C. § 4303.201;

(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.

(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 (C)(2), **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 40 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:

ORCHESTRAL PERFORMANCE. Means a concert comprised of a group of not fewer than 40 musicians playing various musical instruments.

OUTDOOR PERFORMING ARTS CENTER. Means an outdoor performing arts center that is located on not less than 150 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) 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.

(D) This section does not apply to a person who pays all or a portion of the fee imposed for 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.

(R.C. § 4301.62) (Rev. 2012)

(F) Whoever violates this section is guilty of a minor misdemeanor.

(R.C. § 4301.99(A))

§ 92.08 UNDERAGE PERSON SHALL NOT PURCHASE INTOXICATING LIQUOR OR BEER.

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person under the age of 21 years shall purchase beer or intoxicating liquor.
(R.C. § 4301.63)

(B) Whoever violates this section shall be fined not less than \$25 nor more than \$100. The court imposing a fine for a violation of this section may order that the fine be paid by the performance of public work at a reasonable hour rate established by the court. The court shall designate the time within which the public work shall be completed.
(R.C. § 4301.99(E))

§ 92.09 PROHIBITIONS; MINORS UNDER 18 YEARS; LOW-ALCOHOL BEVERAGES.

(A) As used in this section, *UNDERAGE PERSON* means a person under 18 years of age.

(B) No underage person shall purchase any low-alcohol beverage.

(C) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.

(D) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.

(E) No underage person shall knowingly show or give false information concerning his or her name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this municipality.

(F) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his or her practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

(G) (1) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.

(2) An owner of a public or private place is not liable for acts or omissions in violation of division (G)(1) that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(H) No permit issued by the Division of Liquor Control shall be suspended, revoked, or cancelled because of a violation of either division (F) or (G).

(I) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless he or she is accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of his or her practice or given for established religious purposes.

(J) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section.
(R.C. § 4301.631)

(K) (1) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.
(R.C. § 4301.99(B))

(2) Whoever violates division (B) of this section shall be fined not less than \$25 nor more than \$100. The court imposing a fine for a violation of division (B) of this section may order that the fine be paid by the performance of public work at a reasonable hour rate established by the court. The court shall designate the time within which the public work shall be completed.
(R.C. § 4301.99(E))

§ 92.10 ALCOHOL VAPORIZING DEVICES PROHIBITED.

(A) As used in this section, *ALCOHOL VAPORIZING DEVICE* means a machine or other device that mixes beer or intoxicating liquor with pure oxygen or any other gas to produce a vaporized product for the purpose of consumption by inhalation.

(B) No person shall sell or offer for sale an alcohol vaporizing device.

(C) No person shall purchase or use an alcohol vaporizing device.
(R.C. § 4301.65)

(D) (1) Whoever violates division (B) of this section is guilty of misdemeanor of the third degree. For a second or subsequent violation occurring within a period of five consecutive years after the first violation, a person is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(J))

(2) Whoever violates division (C) of this section is guilty of a minor misdemeanor.
(R.C. § 4301.99(A)) (Rev. 2007)

§ 92.11 MISREPRESENTATION TO OBTAIN ALCOHOLIC BEVERAGE FOR A MINOR PROHIBITED.

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age, or other identification of any person under 21 years of age, for the purpose of obtaining, or with the intent to obtain, beer or intoxicating liquor for a person under 21 years of age, by purchase, or as a gift.
(R.C. § 4301.633)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(C))

§ 92.12 MISREPRESENTATION BY A MINOR UNDER 21 YEARS.

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person under the age of 21 years shall knowingly show or give false information concerning his or her name, age, or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place in this municipality where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control, or sold by the Division of Liquor Control.
(R.C. § 4301.634)

(B) (1) Whoever violates division (A) of this section is guilty of a misdemeanor of the first degree. If, in committing a first violation of division (A), the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$250 and not more than \$1,000, and may be sentenced to a term of imprisonment of not more than six months.

(2) On a second violation in which, for the second time, the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$500 nor more than \$1,000, and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operation privilege from the range specified in R.C. § 4510.02(A)(7).

(3) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$500 nor more than \$1,000, and may be sentenced to a term of imprisonment of not more than six months. The court also shall impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of 21 years. The court also may

order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.
(R.C. § 4301.99(F)) (Rev. 2004)

§ 92.13 SALE TO UNDERAGE PERSONS PROHIBITED.

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, shall buy beer or intoxicating liquor for an underage person, or shall furnish it to an underage person unless given by a physician in the regular line of the physician's practice or given for established religious purposes or unless the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian. In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this division shall be charged, for the same offense, with a violation of R.C. § 4301.22(A)(1) or a substantially equivalent municipal ordinance.

(B) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian and the parent, spouse who is not an underage person, or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor. An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(C) No person shall engage or use accommodations at a hotel, inn, cabin, campground, or restaurant when the person knows or has reason to know either of the following:

(1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and who is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person.

(2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a licensed health professionals authorized to prescribe drugs and has the drug of abuse in

the original container in which it was dispensed to the person.

(D) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin, or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person, or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.

(2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin, or campground by presenting identification that falsely indicates that the underage person is 21 years of age or older for the purpose of violating this section.

(E) (1) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this division against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(2) (a) If a person is charged with violating division (E)(1) of this section in a complaint filed under R.C. § 2151.27, the court may order the child into a diversion program specified by the court and hold the complaint in abeyance pending successful completion of the diversion program. A child is ineligible to enter into a diversion program under this division if the child previously has been diverted pursuant to this division. If the child completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the child's record in the case sealed under R.C. §§ 2151.356 through 2151.358. If the child fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(b) If a person is charged in a criminal complaint with violating division (E)(1) of this section, R.C. § 2935.36 shall apply to the offense, except that a person is ineligible for diversion under that section if the person previously has been diverted pursuant to divisions (E)(2)(a) or (E)(2)(b) of this section. If the person completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the record in the case sealed under R.C. § 2953.52. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(F) No parent, spouse who is not an underage person, or legal guardian of a minor shall knowingly permit the minor to violate this section or R.C. § 4301.63, 4301.633, or 4301.634, or any substantially equivalent municipal ordinance.

(G) The operator of any hotel, inn, cabin, or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin, or campground.

(H) As used in this section:

DRUG OF ABUSE. Has the same meaning as in R.C. § 3719.011.

HOTEL. Has the same meaning as in R.C. § 3731.01.

LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS. Has the same meaning as in R.C. § 4729.01.

MINOR. Means a person under the age of 18 years.

PRESCRIPTION. Has the same meaning as in R.C. § 4729.01.

UNDERAGE PERSON. Means a person under the age of 21 years.
(R.C. § 4301.69) (Rev. 2007)

(I) The provisions of R.C. §§ 4301.633 through 4301.637, or substantially equivalent municipal ordinances, shall not be deemed to modify or affect divisions (A) through (H) of this section or R.C. § 4301.69.
(R.C. § 4301.638) (Rev. 2003)

(J) (1) Except as provided in division (J)(2) of this section, whoever violates this section is guilty of a misdemeanor of the first degree. If an offender who violates division (E)(1) of this section was under the age of 18 years at the time of the offense and the offense occurred while the offender was the operator of or a passenger in a motor vehicle, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit or probationary driver's license for a period of six months. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of 15 years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.
(R.C. § 4301.99(C)) (Rev. 2003)

(2) Whoever violates division (A) of this section is guilty of a misdemeanor, shall be fined not less than \$500

nor more than \$1,000, and in addition to the fine, may be imprisoned for a definite term of not more than six months.
(R.C. § 4301.99(I)) (Rev. 1999)

Statutory reference:

Changes to law if federal uniform drinking age repealed or declared unconstitutional, see R.C. § 4301.691

§ 92.14 POSTING OF CARD.

(A) (1) Except as otherwise provided in R.C. § 4301.691, every place in this municipality where beer, intoxicating liquor, or any low-alcohol beverage is sold for beverage purposes shall display at all times, in a prominent place on the premises thereof, a printed card, which shall be furnished by the Division of Liquor Control and which shall read substantially as follows:

WARNING TO PERSONS UNDER AGE

If you are under the age of 21
Under the statutes of the state of Ohio, if you order, pay for, share the cost of, or attempt to purchase, or possess or consume beer or intoxicating liquor in any public place, or furnish false information as to name, age, or other identification, you are subject to a fine of up to \$1,000, or imprisonment up to 6 months, or both.

If you are under the age of 18
Under the statutes of the state of Ohio, if you order, pay for, share the cost of, or attempt to purchase, or possess or consume, any type of beer or wine that contains either no alcohol or less than one-half of one per cent of alcohol by volume in any public place, or furnish false information as to the name, age, or other identification, you are subject to a fine of up to \$250 or to imprisonment up to 30 days, or both.

(2) No person shall be subject to any criminal prosecution or any proceedings before the Department or the Liquor Control Commission for failing to display this card. No permit issued by the Department shall be suspended, revoked, or canceled because of the failure of the permit holder to display this card.

(B) (1) Every place in this municipality for which a D permit has been issued under R.C. Chapter 4303 shall be issued a printed card by the Division of Liquor Control that shall read substantially as follows:

WARNING

If you are carrying a firearm
Under the statutes of Ohio, if you possess a firearm in any room in which liquor is being dispensed in premises for which a D permit has been issued under Chapter 4303 of the Revised Code, you may be guilty of a felony and may be subjected to a prison term of up to one year.

(2) No person shall be subject to any criminal prosecution or any proceedings before the Division of Liquor Control or the Liquor Control Commission for failing to display this card. No permit issued by the Department shall be suspended, revoked, or canceled because of the failure of the permit holder to display this card.

(R.C. § 4301.637) Penalty, see § 92.99

Statutory reference:

Carrying concealed weapon, felony, see R.C. § 2923.12

Possessing firearm in liquor permit premises, exceptions, defenses, see R.C. § 2923.121

§ 92.15 GOOD FAITH ACCEPTANCES OF SPURIOUS IDENTIFICATION.

(A) No permit holder, agent or employee of a permit holder, or any other person may be found guilty of a violation of any section of this chapter in which age is any element of the offense, if any court of record finds all of the following:

(1) That the person buying, at the time of so doing, exhibited to the permit holder, the agent or employee of the permit holder, or the other person a driver's or commercial driver's license or an identification card issued under R.C. §§ 4507.50 through 4507.52, or a military identification card issued by the United States Department of Defense, that displays a picture of the individual for whom the license or card was issued and shows that the person buying was then at least 21 years of age if the person was buying beer as defined in R.C. § 4301.01 or intoxicating liquor, or that the person was then at least 18 years of age if the person was buying any low-alcohol beverage;

(2) That the permit holder, the agent or employee of the permit holder, or the other person made a bona fide effort to ascertain the true age of the person buying by checking the identification presented at the time of the purchase to ascertain that the description on the identification compared with the appearance of the buyer and that the identification presented had not been altered in any way.

(3) That the permit holder, the agent or employee of the permit holder, or the other person had reason to believe that the person buying was of legal age.

(B) The defense provided by division (A) of this section is in addition to the affirmative defense provided by § 92.29.

(R.C. § 4301.639(A), (C)) (Rev. 2009)

§ 92.16 CONSUMPTION IN MOTOR VEHICLE PROHIBITED.

(A) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in R.C. § 4301.62(D) or a substantially equivalent municipal ordinance.

(R.C. § 4301.64) (Rev. 1999)

(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If an offender who violates this section was under the age of 18 years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license or driver's license for a period of not less than six months and not more than one year. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of 15 years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.

(R.C. § 4301.99(B)) (Rev. 2004)

§ 92.17 HOURS OF SALE OR CONSUMPTION.

(A) This section shall apply to the retail sale of beer, wine, mixed beverages, or spirituous liquor.

(B) (1) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5G, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, G, or I permit holder from Monday to Saturday between the hours of 1:00 a.m. and 5:30 a.m. and on Sunday between the hours of 1:00 a.m. and Sunday midnight, unless statutorily authorized otherwise.

(2) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.

(C) (1) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1A, D-3 when issued with a D-3A, D-4A, D-5, D-5A, D-5B, D-5C, D-5D, D-5E, D-5F, D-5I, D-5J, or D-7 permit holder from Monday to Saturday between the hours of 2:30 a.m. and 5:30 a.m. and on Sunday between the hours of 2:30 a.m. and Sunday midnight, unless statutorily authorized otherwise.

(2) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the

above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.

(D) Permit holders authorized to sell beer, wine, mixed beverages, or spirituous liquor at retail who are not specifically identified in divisions (B) or (C) above shall be subject to the provisions of division (B), unless statutorily authorized otherwise.

(E) The hours on Sunday during which sales, delivery, or consumption of alcoholic beverages may take place are established by statute, but in no event shall they begin prior to 5:30 a.m.
(O.A.C. § 4301:1-1-49) (Rev. 2007)

(F) No association, corporation, local unit of an association or corporation, or D permit holder who holds an F-2 permit shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of such permit and on any officer, agent or employee of such permit holder.
(R.C. § 4303.202(B))

(G) No F-8 permit holder shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of an F-8 permit and on any officer, agent or employee of that permit holder.
(R.C. § 4303.208(C)) (Rev. 2008)

(H) Whoever violates divisions (F) or (G) of this section is guilty of a misdemeanor of the fourth degree.
(R.C. § 4303.99(D)) (Rev. 2008) Penalty, see § 92.99

§ 92.18 OBSTRUCTING SEARCH OF PREMISES PROHIBITED.

(A) No person shall hinder or obstruct any agent or employee of the Division of Liquor Control, any enforcement agent of the Department of Public Safety or any officer of the law from making an inspection or search of any place, other than a bona fide private residence, where beer or intoxicating liquor is possessed, kept, sold, or given away.
(R.C. § 4301.66) (Rev. 2000)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(C))

(C) It is a defense to prosecution under this section that the hindrance, obstruction, resistance, or interference alleged consisted of constitutionally protected speech only.

§ 92.19 ILLEGAL POSSESSION OF INTOXICATING LIQUOR PROHIBITED.

(A) No person shall have possession of any spirituous liquor, in excess of one liter, in one or more containers, which was not purchased at wholesale or retail from the Division of Liquor Control or otherwise lawfully acquired pursuant to this chapter, R.C. Chapters 4301 and 4303, or any other intoxicating liquor or beer, in one or more containers, which was not lawfully acquired pursuant to those chapters.
(R.C. § 4301.67)

(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(R.C. § 4301.99(B))

§ 92.20 SALE OR POSSESSION OF DILUTED LIQUOR AND REFILLED CONTAINERS PROHIBITED.

(A) No person shall sell, offer for sale, or possess with the intent to sell intoxicating liquor in any original container which has been diluted, refilled, or partly refilled.
(R.C. § 4301.68)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(C))

§ 92.21 KEEPING PLACE WHERE BEER OR INTOXICATING LIQUORS ARE SOLD IN VIOLATION OF LAW.

(A) No person shall keep a place where beer or intoxicating liquors are sold, furnished, or given away in violation of law. The court, on conviction for a subsequent violation of this section, shall order the place where the beer or intoxicating liquor is sold, furnished, or given away to be abated as a nuisance or shall order the person so convicted to give bond payable to the state in the sum of \$1,000, with sureties to the acceptance of the court, that the person will not sell, furnish, or give away beer or intoxicating liquor in violation of law and will pay all fines, costs, and damages assessed against the person for that subsequent violation of this section. The giving away of beer or intoxicating liquors, or any other device to evade this section, constitutes unlawful selling.

(B) As used in this section, *BEER* has the same meaning as in R.C. § 4301.01.

(C) Division (A) of this section does not apply to any premises for which a permit has been issued under R.C. Chapter 4303 while that permit is in effect.
(R.C. § 4399.09) (Rev. 2003)

(D) Whoever violates this section shall be fined not less than \$100 nor more than \$500 on a first offense and

shall be fined not less than \$200 nor more than \$500 on each subsequent offense.

(R.C. § 4399.99(B)) (Rev. 1999)

§ 92.22 INTOXICATING LIQUORS SHALL NOT BE SOLD IN BROTHELS.

(A) No person shall sell, exchange, or give away intoxicating liquor in a brothel.

(R.C. § 4399.10)

(B) Whoever violates this section shall be fined not less than \$100 nor more than \$500 and imprisoned not less than one nor more than six months.

(R.C. § 4399.99(C)) (Rev. 1999)

§ 92.23 USE OF INTOXICATING LIQUOR IN A PUBLIC DANCE HALL PROHIBITED; EXCEPTIONS.

(A) (1) Except as otherwise provided in division (A)(2) of this section, no person who is the proprietor of, or who conducts, manages, or is in charge of any public dance hall shall allow the use of any intoxicating liquor or the presence of intoxicated persons in the public dance hall or on the premises on which it is located.

(2) The prohibition against the use of any intoxicating liquor contained in division (A)(1) of this section does not apply to establishments that are holders of a D-1, D-2, D-3, D-4, or D-5 permit whose principal business consists of conducting a hotel, a restaurant, a club, or a nightclub, all as defined in R.C. § 4301.01.

(R.C. § 4399.14) (Rev. 2007)

(B) Whoever violates this section shall be fined not less than \$25 nor more than \$500, imprisoned not more than six months, or both.

(R.C. § 4399.99(D)) (Rev. 1999)

§ 92.24 POISONOUSLY ADULTERATED LIQUORS.

(A) No person, for the purpose of sale, shall adulterate spirituous liquor, alcoholic liquor, or beer used or intended for drink or medicinal or mechanical purposes, with *cocculus indicus*, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, logwood, brazilwood, cochineal, sugar of lead, aloes, glucose, tannic acid, or any other substance that is poisonous or injurious to health, or with a substance not a necessary ingredient in the manufacture of the spiritous liquor, alcoholic liquor, or beer, or sell, offer, or keep for sale spiritous liquor, alcoholic liquor, or beer that is so adulterated.

(B) In addition to the penalties provided in division (C) of this section, a person convicted of violating this

section shall pay all necessary costs and expenses incurred in inspecting and analyzing spiritous liquor, alcoholic liquor, or beer that is so adulterated, sold, kept, or offered for sale. (R.C. § 4399.15) (Rev. 2003)

(C) Whoever violates this section shall be fined not less than \$20 nor more than \$100, imprisoned not less than 20 nor more than 60 days, or both.

(R.C. § 4399.99(E)) (Rev. 1999)

§ 92.25 TAVERN KEEPER PERMITTING RIOTING OR DRUNKENNESS.

(A) No tavern keeper shall permit rioting, intoxication, or drunkenness in or on his or her premises.

(R.C. § 4399.16)

(B) Whoever violates this section shall be fined not less than \$5 nor more than \$100.

(R.C. § 4399.99(A)) (Rev. 1999)

§ 92.26 NOTICE OF ACTION TO PROHIBIT LIQUOR BUSINESS.

Any party bringing an action to prohibit the operation of a business under a liquor permit issued pursuant to R.C. Chapter 4303 shall, upon filing the complaint in the action, notify the Division of Liquor Control of the filing of the complaint.

(R.C. § 4303.40) (Rev. 1999)

§ 92.27 PROCEDURE WHEN INJUNCTION VIOLATED.

(A) Any person subject to an injunction, temporary or permanent, granted pursuant to R.C. § 3767.05(D) or (E) involving a condition described in division (3) of the definition of “nuisance” in R.C. § 3767.01, or a substantially equivalent municipal ordinance, shall obey the injunction. If the person violates the injunction, the court, or in vacation a judge thereof, may summarily try and punish the violator. The proceedings for punishment for contempt shall be commenced by filing with the Clerk of the Court from which the injunction issued, information under oath setting out the alleged facts constituting the violation, whereupon the court shall cause a warrant to issue under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses.

(R.C. § 4301.74)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.

(R.C. § 4301.99(C)) (Rev. 1999)

§ 92.28 LIQUOR TRANSACTION SCANS.

(A) As used in this section and § 92.29:

CARD HOLDER. Means any person who presents a driver's or commercial driver's license or an identification card to a permit holder, or an agent or employee of a permit holder, for either of the purposes listed in under divisions (a) or (b) of the definition for "transaction scan" in this section.

IDENTIFICATION CARD. Means an identification card issued under R.C. §§ 4507.50 through 4507.52.

PERMIT HOLDER. Means the holder of a permit issued under R.C. Chapter 4303.

TRANSACTION SCAN. Means the process by which a permit holder or an agent or employee of a permit holder checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for doing either of the following:

(a) Purchasing any beer, intoxicating liquor, or low-alcohol beverage;

(b) Gaining admission to a premises that has been issued a liquor permit authorizing the sale of beer or intoxicating liquor for consumption on the premises where sold, and where admission is restricted to persons 21 years of age or older.

TRANSACTION SCAN DEVICE. Means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.

(B) (1) A permit holder or an agent or employee of a permit holder may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder for either of the purposes listed in divisions (a) or (b) of the definition for "transaction scan" in this section.

(2) If the information deciphered by the transaction scan performed under division (B)(1) of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the permit holder nor any agent or employee of the permit holder shall sell any beer, intoxicating liquor, or low-alcohol beverage to the card holder.

(3) Division (B)(1) of this section does not preclude a permit holder or an agent or employee of a permit holder from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition of a sale beer, intoxicating liquor, or a low-alcohol beverage or of granting admission to a premises described in the definition for "transaction scan" in this section.

(C) The Registrar of Motor Vehicles, with the approval of the Liquor Control Commission, shall adopt, and may amend or rescind, rules in accordance with R.C. Chapter 119 that do both of the following:

(1) Govern the recording and maintenance of information described in R.C. § 4301.61(D)(1)(a) and (D)(1)(b), R.C. § 2925.57(D)(1)(a) and (D)(1)(b), and R.C. § 2927.021(D)(1)(a) and (D)(1)(b);

(2) Ensure quality control in the use of transaction scan devices under R.C. §§ 2925.57, 2925.58, 2927.021, 2927.022, 4301.61, and 4301.611.

(D) (1) No permit holder or agent or employee of a permit holder shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:

(a) The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by the card holder;

(b) The expiration date and identification number of the driver's or commercial driver's license or identification card presented by the card holder.

(2) No permit holder or agent or employee of a permit holder shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under division (D)(1) of this section, except for purposes of R.C. § 4301.611, or a substantially equivalent municipal ordinance.

(3) No permit holder or agent or employee of a permit holder shall use a transaction scan device for a purpose other than a purpose listed in divisions (a) or (b) of the definition for "transaction scan" in this section.

(4) No permit holder or agent or employee of a permit holder shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising, or promotional activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by R.C. § 4301.611, or a substantially equivalent municipal ordinance, or another section of this code or the Ohio Revised Code.

(E) Nothing in this section or R.C. § 4301.611, or a substantially equivalent municipal ordinance, relieves a permit holder or an agent or employee of a permit holder of any responsibility to comply with any other applicable local, state or federal laws or rules governing the sale of beer, intoxicating liquor, or low-alcohol beverages.

(F) Whoever violates division (B)(2) or (D) of this section is guilty of an illegal liquor transaction scan, and the court may impose upon the offender a civil penalty of up to \$1,000 for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.
(R.C. § 4301.61) (Rev. 2007)

§ 92.29 AFFIRMATIVE DEFENSES.

(A) A permit holder or an agent or employee of a permit holder may not be found guilty of a charge of a violation of this chapter or any rule of the Liquor Control Commission in which the age of the purchaser of any beer, intoxicating liquor, or low-alcohol beverage is an element of the alleged violation, if the permit holder, agent, or employee raises and proves as an affirmative defense that all of the following occurred:

(1) A card holder attempting to purchase any beer, intoxicating liquor, or low-alcohol beverage presented a driver's or commercial driver's license or an identification card.

(2) A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.

(3) The beer, intoxicating liquor, or low-alcohol beverage was sold to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.

(B) In determining whether a permit holder or an agent or employee of a permit holder has proven the affirmative defense provided by division (A) of this section, the Liquor Control Commission or the trier of fact in a court of record shall consider any written policy that the permit holder has adopted and implemented and that is intended to prevent violations of R.C. §§ 4301.22(A)(1) or (A)(2), 4301.63 through 4301.636, 4301.69, and 4301.691, or any substantially equivalent municipal ordinances. For purposes of division (A)(3) of this section, the Commission or trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a permit holder or an agent or employee of a permit holder to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a permit holder or an agent or employee of a permit holder from exercising reasonable diligence to determine, the following:

(1) Whether a person to whom the permit holder or agent or employee of a permit holder sells any beer or intoxicating liquor is 21 years of age or older or sells low-alcohol beverage is 18 years of age or older;

(2) Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.

(C) The affirmative defense provided by division (A) of this section is in addition to the defense provided by R.C. § 4301.639, or any substantially equivalent municipal ordinance.

(D) In any hearing before the Liquor Control Commission and in any criminal action in which the affirmative defense provided by division (A) of this section is raised, the Registrar of Motor Vehicles or a deputy registrar who issued an identification card under R.C. §§ 4507.50 through 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the hearing or action.
(R.C. § 4301.611) (Rev. 2001)

§ 92.99 PENALTY.

Whoever violates any provision of this chapter for which no other penalty has been provided is guilty of a minor misdemeanor.

(R.C. §§ 4301.70, 4301.99(A))

Statutory reference:

Liquor Director to be notified of court decision regarding permit holder, employee or agent, see R.C. § 4301.991