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**SYLLABUS:**

1. A club which is the holder of a D-4 permit may be issued an additional class C or D permit at the same location, provided that it meets all the requirements independently for each permit.

2. A club which is the holder of a D-4 permit may be issued an additional class C or D permit at a different location, provided that it meets all the requirements for each permit independently at each location.

Columbus, Ohio, March 27, 1963

Honorable Donald D. Cook  
Director  
Department of Liquor Control  
33 North Third Street  
Columbus 15, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"This department has recently received the application of a branch of a fraternal organization located in the City of Cleveland, Ohio, for the issuance of a D-5 liquor permit.

"The records of this department disclose that the applicant is currently the holder of a D-4 liquor permit, the privileges of which are being exercised in that same city.

"The provisions of the liquor control act, relating to the issuance of permits generally and to the nature of and requirements to be met by 'clubs' and 'night clubs', do not readily disclose the propriety of issuing the sought after D-5 permit under these circumstances.

"I therefore respectfully request that you furnish me with your opinion relating to the current status of Ohio law governing the following situations:

"1. May a 'club' which is the holder of a D-4 permit be issued an additional class C or D permit at the same location?

"2. May a 'club' which is the holder of a D-4 permit be issued an additional class C or D permit at a different location?"

Section 4301.01 (14), Revised Code, defines a "club" as that term is to be used in connection with the Liquor Control Law. Section 4303.17, Revised Code, provides generally that a D-4 permit may be issued to a bona fide club which has been in existence for three years or more and this same section contains certain limitations on the exercise of alcoholic beverage dispensing privileges under a D-4 permit. The important limitation in this section, insofar as it affects the question you raised is that beer and intoxicating liquor may be sold to members of the club only for consumption on the premises where sold. It is because of this limitation that the problem arises, since the organization involved desires to extend its privileges by being able to sell to other customers, sell until 2:30 A.M., or sell for off-premises consumption. Of course, all the latter activities would require a different class permit. The question is, then:

"Who is entitled to hold a liquor permit encompassing these activities?"

Sections 4303.11 to 4303.18, inclusive of the Revised Code specify to whom a C or D permit may be issued. C permits may be issued to the owner or operator of a retail store. D-1, D-2 and D-3 permits may be issued to the owner or operator of a licensed hotel or restaurant, or of a club, etc. A D-5 permit may be issued to the owner or operator of a night club. There is no restriction as to the identity of an owner or operator; therefore, it might be an individual, a partnership, an association, or a corporation. Your query does not include the requirements necessary to be the owner or operator of a hotel, restaurant, night club, or retail store; therefore, we make no attempt to pass on these requirements except to say that we see no reason why a club cannot fulfill them the same as any other entity. This is especially true since the statutes specifically state that a club may be issued a D-1, D-2 or D-3 permit, so long as the other qualifications are met. A club could certainly operate a retail store or a night club. There is no restriction as to the number of C or D permits a person, including a club, may qualify for at a single location; however, the holding of a D-4 permit by a club after it has qualified for and obtained as much as a D-3 permit would be pointless. Likewise, I find nothing in the law that would restrict the number of locations at which the

same person may hold permits. Each location must be qualified according to the requirements for granting the type permit for which application is made. Actually, the restrictions imposed on a club are more specific for granting it a D-4 permit than for the other type permits. The advantages stem from a difference in the permit fees and in the quotas.

We turn now to Section 4303.29, Revised Code, which spells out various restrictions on the issuance of permits. A perusal of the section reveals that there are no restrictions on a club different from any other entity, except in paragraph 4 of that section which provides as follows:

“No D-3 permit shall be issued to any club unless such club has been continuously engaged in the activity specified in Section 4303.15 of the Revised Code, as a qualification for such class of permit, for two years at the time such permit is issued.”

This restriction, however, has no bearing on the questions raised.

The propriety of issuing a D-5 permit to the holder of a D-4 permit can hardly be challenged if the club meets the requirements of the statute. This must be coupled with the great discretionary latitude which is afforded the department of liquor control under Section 4301.10, Revised Code. The department is given this broad power because of the heavy responsibility falling to it to regulate **an industry which could create many social ills unless properly controlled.**

Accordingly, it is my opinion and you are advised:

1. A club which is the holder of a D-4 permit may be issued an additional class C or D permit at the same location, provided that it meets all the requirements independently for each permit.
2. A club which is the holder of a D-4 permit may be issued an additional class C or D permit at a different location, provided that it meets all the requirements for each permit independently at each location.

Respectfully,  
WILLIAM B. SAXBE  
Attorney General