

# As Introduced

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H. B. No. 330

REPRESENTATIVE Peterson

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## A B I L L

To amend section 4301.17 of the Revised Code to allow  
the Division of Liquor Control to base the  
population quota restrictions for agency stores  
that sell spirituous liquor on the Division's  
behalf on state population estimates determined by  
the Department of Development between federal  
decennial censuses; to change these population  
quota restrictions and the compensation paid to  
operators of agency stores; to allow the Division  
to enter into additional contracts for agency  
stores with certain class C permit holders  
notwithstanding these population quota or other  
restrictions; and to eliminate the restriction  
against the same person operating or having an  
interest in more than eight agency stores in the  
state or more than four agency stores in the same  
county.

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

**Section 1.** That section 4301.17 of the Revised Code be  
amended to read as follows:

**Sec. 4301.17.** (A)(1) Subject to local option as provided in

sections 4301.32 to 4301.40 of the Revised Code and except as 21  
otherwise provided in division (A)(2) of this section, five state 22  
liquor stores or agencies may be established in each county. ~~One~~ 23  
Except as otherwise provided in division (A)(2) of this section, 24  
one additional store may be established in any county for each 25  
~~thirty~~ twenty-five thousand of population of ~~such that~~ county or 26  
major fraction thereof in excess of the first forty thousand, 27  
according to the last preceding federal decennial census or 28  
according to the population estimates certified by the department 29  
of development between decennial censuses. ~~A~~ Except as otherwise 30  
provided in division (A)(2) of this section, a person engaged in a 31  
mercantile business may act as the agent for the division of 32  
liquor control for the sale of spirituous liquor in a municipal 33  
corporation, in the unincorporated area of a township ~~of not less~~ 34  
~~than two thousand population,~~ or in an area designated and 35  
approved as a resort area under section 4303.262 of the Revised 36  
Code, ~~provided that not more than one agency contract shall be~~ 37  
~~awarded in the unincorporated area of a county for each fifty~~ 38  
~~thousand population of the county.~~ The division shall fix the 39  
compensation for such an agent in ~~such the~~ manner ~~as~~ it ~~deems~~ 40  
considers best, but ~~such the~~ compensation shall not be less than 41  
six and one-half per cent of, ~~nor~~ exceed seven and one-half per 42  
cent of, the gross sales made by ~~such the~~ agent in any one year. 43

Except as otherwise provided in this section, no mercantile 44  
business that sells beer or intoxicating liquor for consumption on 45  
the premises under a permit issued by the division shall operate 46  
an agency store at ~~such the~~ premises or at any adjacent premises. 47  
An agency to which a D-1 permit has been issued may offer for sale 48  
tasting samples of beer, an agency to which a D-2 permit has been 49  
issued may offer for sale tasting samples of wine and mixed 50  
beverages, and an agency to which a D-5 permit has been issued may 51  
offer for sale tasting samples of beer, wine, and mixed beverages, 52  
but not spirituous liquor. A tasting sample shall not be sold for 53

the purpose of general consumption. As used in this section, 54  
"tasting sample" means a small amount of beer, wine, or mixed 55  
beverages that is provided in not more than four servings of not 56  
more than two ounces each to an authorized purchaser and that 57  
allows the purchaser to determine, by tasting only, the quality 58  
and character of the beverage. 59

(2) Notwithstanding the population quota or other 60  
restrictions contained in division (A)(1) of this section on the 61  
number of liquor stores or agencies that the division may 62  
establish in counties, the division may establish additional 63  
liquor stores or agencies in counties at any premises for which 64  
the division has issued both a C-1 permit and a C-2 permit and 65  
that has not less than thirty thousand square feet of retail 66  
space. 67

(B) When an agency contract is proposed or when an existing 68  
agency contract is assigned, before entering into any ~~such~~ 69  
contract or consenting to any assignment, the division shall 70  
notify the legislative authority of the municipal corporation in 71  
which the agency store is to be located, or the board of county 72  
commissioners and the board of township trustees of the county and 73  
the township in which the agency store is to be located if the 74  
agency store is to be located outside the corporate limits of a 75  
municipal corporation, of the proposed contract or assignment, and 76  
an opportunity shall be provided officials or employees of the 77  
municipal corporation or county and township for a complete 78  
hearing upon the advisability of entering into the ~~agency~~ contract 79  
or consenting to the assignment. When the division sends notice to 80  
the legislative authority of the political subdivision, the 81  
department shall notify, by certified mail or by personal service, 82  
the chief peace officer of the political subdivision, who may 83  
appear and testify, either in person or through a representative, 84  
at any hearing held on the advisability of entering into the 85

agency contract or consenting to the assignment.

~~On or after July 21, 1986, if~~ If the proposed agency store would be located within five hundred feet of a school, church, library, public playground, or township park, the division shall not enter into an agency contract until it has provided notice of the proposed contract to the authorities in control of the school, church, library, public playground, or township park and has provided ~~such officials~~ those authorities with an opportunity for a complete hearing upon the advisability of entering into the contract. If an agency store so located is operating under an agency contract, the division may consent to the assignment of that contract to operate an agency store at the same location, ~~provided that~~ but the division shall not consent to an assignment until it has notified the authorities in control of the school, church, library, public playground, or township park and has provided ~~such officials~~ those authorities with an opportunity for a complete hearing upon the advisability of consenting to the assignment.

Any hearing provided for in this division shall be held in the central office of the division, except that upon written request of the legislative authority of the municipal corporation, the board of county commissioners, or board of township trustees, or the authorities in control of the school, church, library, public playground, or township park, the hearing shall be held in the county seat of the county where the proposed agency store is to be located.

(C) All agency contracts entered into by the division pursuant to this section shall be in writing and shall contain a clause providing for the termination of the contract at will by the division upon its giving ninety days' notice in writing to ~~such~~ the agent of its intention to do so. Any agency contract may include a clause requiring the agent to report to the appropriate

law enforcement agency the name and address of any individual 118  
under twenty-one years of age who attempts to make an illegal 119  
purchase. 120

An agent may engage in the selling of beer, mixed beverages, 121  
and wine pursuant to permits issued to the agent under Chapter 122  
4303. of the Revised Code. 123

The division shall issue a C-1 and C-2 permit to each agent 124  
who prior to November 1, 1994, had not been issued both of these 125  
permits, notwithstanding the population quota restrictions 126  
contained in section 4303.29 of the Revised Code or in any rule of 127  
the liquor control commission and notwithstanding the requirements 128  
of section 4303.31 of the Revised Code. The location of a C-1 or 129  
C-2 permit issued to such an agent shall not be transferred. The 130  
division shall revoke any C-1 or C-2 permit issued to an agent 131  
under this paragraph if the agent no longer operates an agency 132  
store. 133

~~No person shall operate, or have any interest, directly or 134  
indirectly, in more than four state agencies in any one county or 135  
more than eight state agencies in the state for the sale of 136  
spirituous liquor. For purposes of this section, a person has an 137  
interest in a state agency if the person is a partner, member, 138  
officer, or director of, or a shareholder owning ten per cent or 139  
more of the capital stock of, any legal entity with which the 140  
department has entered into an agency contract. 141~~

The division may enter into agreements with the department of 142  
development to implement a minority loan program to provide 143  
low-interest loans to minority business enterprises, as defined in 144  
section 122.71 of the Revised Code, that are awarded liquor agency 145  
contracts or assignments. 146

(D) If the division closes a state liquor store and replaces 147  
that store with an agency store, any employees of the division 148  
employed at that state liquor store who lose their jobs at that 149

store as a result shall be given preference by the agent who  
operates the agency store in filling any vacancies that occur  
among the agent's employees, if ~~such~~ that preference does not  
conflict with the agent's obligations pursuant to a collective  
bargaining agreement.

If the division closes a state liquor store and replaces the  
store with an agency store, any employees of the division employed  
at the state liquor store who lose their jobs at that store as a  
result may displace other employees as provided in sections  
124.321 to 124.328 of the Revised Code. If an employee cannot  
displace other employees and is laid off, the employee shall be  
reinstated in another job as provided in sections 124.321 to  
124.328 of the Revised Code, except that the employee's rights of  
reinstatement in a job at a state liquor store shall continue for  
a period of two years after the date of the employee's layoff and  
shall apply to jobs at state liquor stores located in the  
employee's layoff jurisdiction and any layoff jurisdiction  
adjacent to the employee's layoff jurisdiction.

(E) The division shall require every ~~such~~ agent to give bond  
with surety to the satisfaction of the division, in ~~such~~ the  
amount ~~as~~ the division fixes, conditioned for the faithful  
performance of the agent's duties as prescribed by the division.

**Section 2.** That existing section 4301.17 of the Revised Code  
is hereby repealed.