

As Passed by the House

**124th General Assembly
Regular Session
2001-2002**

Sub. H. B. No. 330

REPRESENTATIVE Peterson

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 to eliminate the
restriction against the same person operating or
having an interest in more than sixteen agency
stores in the state or more than eight 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) Subject to local option as provided in
sections 4301.32 to 4301.40 of the Revised Code, five state liquor
stores or agencies may be established in each county. One
additional store may be established in any county for each ~~thirty~~
twenty-five thousand of population of that county or major
fraction thereof in excess of the first forty thousand, according

to the last preceding federal decennial census or according to the 21
population estimates certified by the department of development 22
between decennial censuses. A person engaged in a mercantile 23
business may act as the agent for the division of liquor control 24
for the sale of spirituous liquor in a municipal corporation, in 25
the unincorporated area of a township ~~of not less than two~~ 26
~~thousand population,~~ or in an area designated and approved as a 27
resort area under section 4303.262 of the Revised Code, ~~provided~~ 28
~~that not more than one agency contract shall be awarded in the~~ 29
~~unincorporated area of a county for each fifty thousand population~~ 30
~~of the county.~~ The division shall fix the compensation for such an 31
agent in the manner it considers best, but the compensation shall 32
not exceed seven per cent of the gross sales made by the agent in 33
any one year. 34

Except as otherwise provided in this section, no mercantile 35
business that sells beer or intoxicating liquor for consumption on 36
the premises under a permit issued by the division shall operate 37
an agency store at the premises or at any adjacent premises. An 38
agency to which a D-1 permit has been issued may offer for sale 39
tasting samples of beer, an agency to which a D-2 permit has been 40
issued may offer for sale tasting samples of wine and mixed 41
beverages, and an agency to which a D-5 permit has been issued may 42
offer for sale tasting samples of beer, wine, and mixed beverages, 43
but not spirituous liquor. A tasting sample shall not be sold for 44
the purpose of general consumption. As used in this section, 45
"tasting sample" means a small amount of beer, wine, or mixed 46
beverages that is provided in not more than four servings of not 47
more than two ounces each to an authorized purchaser and that 48
allows the purchaser to determine, by tasting only, the quality 49
and character of the beverage. 50

(B) When an agency contract is proposed or when an existing 51
agency contract is assigned, before entering into any contract or 52

consenting to any assignment, the division shall notify the
legislative authority of the municipal corporation in which the
agency store is to be located, or the board of county
commissioners and the board of township trustees of the county and
the township in which the agency store is to be located if the
agency store is to be located outside the corporate limits of a
municipal corporation, of the proposed contract or assignment, and
an opportunity shall be provided officials or employees of the
municipal corporation or county and township for a complete
hearing upon the advisability of entering into the contract or
consenting to the assignment. When the division sends notice to
the legislative authority of the political subdivision, the
department shall notify, by certified mail or by personal service,
the chief peace officer of the political subdivision, who may
appear and testify, either in person or through a representative,
at any hearing held on the advisability of entering into the
contract or consenting to the assignment.

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 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, 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 those authorities with an opportunity for a complete
hearing upon the advisability of consenting to the assignment.

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Any hearing provided for in this division shall be held in 85
the central office of the division, except that upon written 86
request of the legislative authority of the municipal corporation, 87
the board of county commissioners, or the board of township 88
trustees, or the authorities in control of the school, church, 89
library, public playground, or township park, the hearing shall be 90
held in the county seat of the county where the proposed agency 91
store is to be located. 92

(C) All agency contracts entered into by the division 93
pursuant to this section shall be in writing and shall contain a 94
clause providing for the termination of the contract at will by 95
the division upon its giving ninety days' notice in writing to the 96
agent of its intention to do so. Any agency contract may include a 97
clause requiring the agent to report to the appropriate law 98
enforcement agency the name and address of any individual under 99
twenty-one years of age who attempts to make an illegal purchase. 100
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An agent may engage in the selling of beer, mixed beverages, 102
and wine pursuant to permits issued to the agent under Chapter 103
4303. of the Revised Code. 104

The division shall issue a C-1 and C-2 permit to each agent 105
who prior to November 1, 1994, had not been issued both of these 106
permits, notwithstanding the population quota restrictions 107
contained in section 4303.29 of the Revised Code or in any rule of 108
the liquor control commission and notwithstanding the requirements 109
of section 4303.31 of the Revised Code. The location of a C-1 or 110
C-2 permit issued to such an agent shall not be transferred. The 111
division shall revoke any C-1 or C-2 permit issued to an agent 112
under this paragraph if the agent no longer operates an agency 113
store. 114

~~No person shall operate, or have any interest, directly or 115
indirectly, in more than eight state agencies in any one county or 116~~

~~more than sixteen state agencies in the state for the sale of
spirituous liquor. For purposes of this section, a person has an
interest in a state agency if the person is a partner, member,
officer, or director of, or a shareholder owning ten per cent or
more of the capital stock of, any legal entity with which the
department has entered into an agency contract.~~

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

(D) If the division closes a state liquor store and replaces
that store with an agency store, any employees of the division
employed at that state liquor store who lose their jobs at that
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 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 agent to give bond with 149
surety to the satisfaction of the division, in the amount the 150
division fixes, conditioned for the faithful performance of the 151
agent's duties as prescribed by the division. 152

Section 2. That existing section 4301.17 of the Revised Code 153
is hereby repealed. 154