

As Introduced

**128th General Assembly
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H. B. No. 137

Representative Weddington

**Cosponsors: Representatives Williams, B., Luckie, Williams, S., Domenick,
Heard**

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A BILL

To amend sections 4301.17, 4303.26, and 4303.292 of 1
the Revised Code to prohibit the Division of 2
Liquor Control from issuing a retail liquor permit 3
or entering into an agency liquor contract if the 4
permit location or liquor agency store is proposed 5
to be located within one thousand feet from a 6
school, church, library, public playground, or 7
township park. 8

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

Section 1. That sections 4301.17, 4303.26, and 4303.292 of 9
the Revised Code be amended to read as follows: 10

Sec. 4301.17. (A)(1) Subject to local option as provided in 11
sections 4301.32 to 4301.40 of the Revised Code, five state liquor 12
stores or agencies may be established in each county. One 13
additional store may be established in any county for each twenty 14
thousand of population of that county or major fraction thereof in 15
excess of the first forty thousand, according to the last 16
preceding federal decennial census or according to the population 17
estimates certified by the department of development between 18

decennial censuses. A person engaged in a mercantile business may act as the agent for the division of liquor control for the sale of spirituous liquor in a municipal corporation, in the unincorporated area of a township, or in an area designated and approved as a resort area under section 4303.262 of the Revised Code. The division shall fix the compensation for such an agent in the manner it considers best, but the compensation shall not exceed seven per cent of the gross sales made by the agent in any one year.

(2) The division shall adopt rules in accordance with Chapter 119. of the Revised Code governing the allocation and equitable distribution of agency store contracts. The division shall comply with the rules when awarding a contract under division (A)(1) of this section.

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

(B) When an agency contract is proposed, when an existing agency contract is assigned, when an existing agency proposes to

relocate, or when an existing agency is relocated and assigned, 51
before entering into any contract, consenting to any assignment, 52
or consenting to any relocation, the division shall notify the 53
legislative authority of the municipal corporation in which the 54
agency store is to be located, or the board of county 55
commissioners and the board of township trustees of the county and 56
the township in which the agency store is to be located if the 57
agency store is to be located outside the corporate limits of a 58
municipal corporation, of the proposed contract, assignment, or 59
relocation, and an opportunity shall be provided officials or 60
employees of the municipal corporation or county and township for 61
a complete hearing upon the advisability of entering into the 62
contract or consenting to the assignment or relocation. When the 63
division sends notice to the legislative authority of the 64
political subdivision, the division shall notify, by certified 65
mail or by personal service, the chief peace officer of the 66
political subdivision, who may appear and testify, either in 67
person or through a representative, at any hearing held on the 68
advisability of entering into the contract or consenting to the 69
assignment or relocation. 70

~~If the proposed agency store, the assignment of an agency 71
contract, or the relocation of an agency store would be located 72
within five hundred feet of a school, church, library, public 73
playground, or township park, the division shall not enter into an 74
agency contract until it has provided notice of the proposed 75
contract to the authorities in control of the school, church, 76
library, public playground, or township park and has provided 77
those authorities with an opportunity for a complete hearing upon 78
the advisability of entering into the contract. If an agency store 79
is located within one thousand feet of a school, church, 80
library, public playground, or township park and is operating 81
under an agency contract, the division may consent to relocation 82
of the agency store or to the assignment of that contract to 83~~

operate an agency store at ~~the same~~ a location that is not within 84
one thousand feet of a school, church, library, public playground, 85
or township park. The division may also consent to the assignment 86
of an existing agency contract simultaneously with the relocation 87
of ~~the~~ that agency store. In any such assignment or relocation, 88
the assignee and the location shall be subject to the same 89
requirements that the existing location met at the time that the 90
contract was first entered into as well as any additional 91
requirements imposed by the division in rules adopted by the 92
superintendent of liquor control. ~~The division shall not consent~~ 93
~~to an assignment or relocation of an agency store until it has~~ 94
~~notified the authorities in control of the school, church,~~ 95
~~library, public playground, or township park and has provided~~ 96
~~those authorities with an opportunity for a complete hearing upon~~ 97
~~the advisability of consenting to the assignment or relocation.~~ 98

Any hearing provided for in this division shall be held in 99
the central office of the division, except that upon written 100
request of the legislative authority of the municipal corporation, 101
the board of county commissioners, or the board of township 102
trustees, ~~or the authorities in control of the school, church,~~ 103
~~library, public playground, or township park,~~ the hearing shall be 104
held in the county seat of the county where the proposed agency 105
store is to be located. 106

(C) The division shall not enter into an agency contract, 107
consent to the assignment of an existing contract, consent to the 108
relocation of an existing agency, or consent to the relocation and 109
assignment of an existing agency if the proposed agency store, the 110
assignment of an agency contract, the relocation of an existing 111
agency store, or the relocation and assignment of an existing 112
agency store would be located within one thousand feet of a 113
school, church, library, public playground, or township park. 114

(D) All agency contracts entered into by the division 115

pursuant to this section shall be in writing and shall contain a 116
clause providing for the termination of the contract at will by 117
the division upon its giving ninety days' notice in writing to the 118
agent of its intention to do so. Any agency contract may include a 119
clause requiring the agent to report to the appropriate law 120
enforcement agency the name and address of any individual under 121
twenty-one years of age who attempts to make an illegal purchase. 122

An agent may engage in the selling of beer, mixed beverages, 123
and wine pursuant to permits issued to the agent under Chapter 124
4303. of the Revised Code. 125

The division shall issue a C-1 and C-2 permit to each agent 126
who prior to November 1, 1994, had not been issued both of these 127
permits, notwithstanding the population quota restrictions 128
contained in section 4303.29 of the Revised Code or in any rule of 129
the liquor control commission and notwithstanding the requirements 130
of section 4303.31 of the Revised Code. The location of a C-1 or 131
C-2 permit issued to such an agent shall not be transferred. The 132
division shall revoke any C-1 or C-2 permit issued to an agent 133
under this paragraph if the agent no longer operates an agency 134
store. 135

The division may enter into agreements with the department of 136
development to implement a minority loan program to provide 137
low-interest loans to minority business enterprises, as defined in 138
section 122.71 of the Revised Code, that are awarded liquor agency 139
contracts or assignments. 140

~~(D)~~(E) If the division closes a state liquor store and 141
replaces that store with an agency store, any employees of the 142
division employed at that state liquor store who lose their jobs 143
at that store as a result shall be given preference by the agent 144
who operates the agency store in filling any vacancies that occur 145
among the agent's employees, if that preference does not conflict 146
with the agent's obligations pursuant to a collective bargaining 147

agreement. 148

If the division closes a state liquor store and replaces the 149
store with an agency store, any employees of the division employed 150
at the state liquor store who lose their jobs at that store as a 151
result may displace other employees as provided in sections 152
124.321 to 124.328 of the Revised Code. If an employee cannot 153
displace other employees and is laid off, the employee shall be 154
reinstated in another job as provided in sections 124.321 to 155
124.328 of the Revised Code, except that the employee's rights of 156
reinstatement in a job at a state liquor store shall continue for 157
a period of two years after the date of the employee's layoff and 158
shall apply to jobs at state liquor stores located in the 159
employee's layoff jurisdiction and any layoff jurisdiction 160
adjacent to the employee's layoff jurisdiction. 161

~~(E)~~(F) The division shall require every agent to give bond 162
with surety to the satisfaction of the division, in the amount the 163
division fixes, conditioned for the faithful performance of the 164
agent's duties as prescribed by the division. 165

Sec. 4303.26. (A) Applications for regular permits authorized 166
by sections 4303.02 to 4303.23 of the Revised Code may be filed 167
with the division of liquor control. No permit shall be issued by 168
the division until fifteen days after the application for it is 169
filed. An applicant for the issuance of a new permit shall pay a 170
processing fee of one hundred dollars when filing application for 171
the permit, if the permit is then available, or shall pay the 172
processing fee when a permit becomes available, if it is not 173
available when the applicant initially files the application. When 174
an application for a new class C or D permit is filed, when class 175
C or D permits become available, or when an application for 176
transfer of ownership of a class C or D permit or transfer of a 177
location of a class C or D permit is filed, no permit shall be 178

issued, nor shall the location or the ownership of a permit be 179
transferred, by the division until the division notifies the 180
legislative authority of the municipal corporation, if the 181
business or event is or is to be located within the corporate 182
limits of a municipal corporation, or the clerk of the board of 183
county commissioners and the fiscal officer of the board of 184
township trustees in the county in which the business or event is 185
or is to be conducted, if the business is or is to be located 186
outside the corporate limits of a municipal corporation, and an 187
opportunity is provided officials or employees of the municipal 188
corporation or county and township, who shall be designated by the 189
legislative authority of the municipal corporation or the board of 190
county commissioners or board of township trustees, for a complete 191
hearing upon the advisability of the issuance, transfer of 192
ownership, or transfer of location of the permit. In this hearing, 193
no objection to the issuance, transfer of ownership, or transfer 194
of location of the permit shall be based upon noncompliance of the 195
proposed permit premises with local zoning regulations which 196
prohibit the sale of beer or intoxicating liquor, in an area zoned 197
for commercial or industrial uses, for a permit premises that 198
would otherwise qualify for a proper permit issued by the 199
division. 200

When the division sends notice to the legislative or 201
executive authority of the political subdivision, as required by 202
this section, the division shall also so notify, by certified 203
mail, return receipt requested, or by personal service, the chief 204
peace officer of the political subdivision. Upon the request of 205
the chief peace officer, the division shall send the chief peace 206
officer a copy of the application for the issuance or the transfer 207
of ownership or location of the permit and all other documents or 208
materials filed by the applicant or applicants in relation to the 209
application. The chief peace officer may appear and testify, 210
either in person or through a representative, at any hearing held 211

on the advisability of the issuance, transfer of ownership, or 212
transfer of location of the permit. The hearing shall be held in 213
the central office of the division, except that upon written 214
request of the legislative authority of the municipal corporation 215
or the board of county commissioners or board of township 216
trustees, the hearing shall be held in the county seat of the 217
county where the applicant's business is or is to be conducted. 218

~~If the business or event specified in an application for the 219
issuance, transfer of ownership, or transfer of location of any 220
regular permit authorized by sections 4303.02 to 4303.23 of the 221
Revised Code, except for an F-2 permit, is, or is to be operated, 222
within five hundred feet from the boundaries of a parcel of real 223
estate having situated on it a school, church, library, public 224
playground, or township park, no permit shall be issued, nor shall 225
the location or the ownership of a permit be transferred, by the 226
division until written notice of the filing of the application 227
with the division is served, by certified mail, return receipt 228
requested, or by personal service, upon the authorities in control 229
of the school, church, library, public playground, or township 230
park and an opportunity is provided them for a complete hearing 231
upon the advisability of the issuance, transfer of ownership, or 232
transfer of location of the permit. In this hearing, no objection 233
to the issuance, transfer of ownership, or transfer of location of 234
the permit shall be based upon the noncompliance of the proposed 235
permit premises with local zoning regulations which prohibit the 236
sale of beer or intoxicating liquor, in an area zoned for 237
commercial or industrial uses, for a permit premises that would 238
otherwise qualify for a proper permit issued by the division. Upon 239
the written request of any of these authorities, the hearing shall 240
be held in the county seat of the county where the applicant's 241
business is or is to be conducted. 242~~

A request for any hearing authorized by this section shall be 243

made no later than thirty days from the time of notification by 244
the division. This thirty-day period begins on the date the 245
division mails notice to the legislative authority ~~or the date on~~ 246
~~which the division mails notice to or, by personal service, serves~~ 247
~~notice upon, the institution.~~ The division shall conduct a hearing 248
if the request for the hearing is postmarked by the deadline date. 249
The division may allow, upon cause shown by the requesting 250
legislative authority or board, an extension of thirty additional 251
days for the legislative authority of the municipal corporation, 252
board of township trustees of the township, or board of county 253
commissioners of the county in which a permit premises is or is to 254
be located to object to the issuance, transfer of ownership, or 255
transfer of location of a permit. The request for the extension 256
shall be made by the legislative authority or board to the 257
division no later than thirty days after the time of notification 258
by the division. 259

(B)(1) When an application for transfer of ownership of a 260
permit is filed with the division, the division shall give notice 261
of the application to the department of taxation. Within twenty 262
days after receiving this notification, the department of taxation 263
shall notify the division of liquor control and the proposed 264
transferee of the permit if the permit holder owes to this state 265
any delinquent sales taxes or income taxes withheld from employee 266
compensation or has failed to file any sales tax returns or 267
employee income tax withholding returns, to the extent that the 268
delinquent taxes and delinquent returns are known to the 269
department of taxation at that time. The division shall not 270
transfer ownership of the permit until returns known to be 271
delinquent are filed and until the tax or withholding delinquency 272
is resolved. As used in this division, "resolved" means that the 273
tax or withholding delinquency has been paid or an amount 274
sufficient to satisfy the delinquency is in escrow for the benefit 275
of the state. The department of taxation shall notify the division 276

of the resolution. After the division has received the 277
notification from the department of taxation, the division may 278
proceed to transfer ownership of the permit. Nothing in this 279
division shall be construed to affect or limit the 280
responsibilities or liabilities of the transferor or the 281
transferee imposed by Chapter 5739. or 5747. of the Revised Code. 282

(2) Notwithstanding section 5703.21 of the Revised Code, 283
nothing prohibits the department of taxation from disclosing to 284
the division or to the proposed transferee or the proposed 285
transferee's designated agent any information pursuant to division 286
(B)(1) of this section. 287

(C) No F or F-2 permit shall be issued for an event until the 288
applicant has, by means of a form that the division shall provide 289
to the applicant, notified the chief peace officer of the 290
political subdivision in which the event will be conducted of the 291
date, time, place, and duration of the event. 292

(D) The division of liquor control shall notify an applicant 293
for a permit authorized by sections 4303.02 to 4303.23 of the 294
Revised Code of an action pending or judgment entered against a 295
liquor permit premises, of which the division has knowledge, 296
pursuant to section 3767.03 or 3767.05 of the Revised Code if the 297
applicant is applying for a permit at the location of the premises 298
that is the subject of the action under section 3767.03 or 299
judgment under section 3767.05 of the Revised Code. 300

Sec. 4303.292. (A) The division of liquor control may refuse 301
to issue, transfer the ownership of, or renew, and shall refuse to 302
transfer the location of, any retail permit issued under this 303
chapter if it finds either of the following: 304

(1) That the applicant, or any partner, member, officer, 305
director, or manager of the applicant, or, if the applicant is a 306
corporation or limited liability company, any shareholder owning 307

five per cent or more of the applicant's capital stock in the 308
corporation or any member owning five per cent or more of either 309
the voting interests or membership interests in the limited 310
liability company: 311

(a) Has been convicted at any time of a crime that relates to 312
fitness to operate a liquor establishment; 313

(b) Has operated liquor permit businesses in a manner that 314
demonstrates a disregard for the laws, regulations, or local 315
ordinances of this state or any other state; 316

(c) Has misrepresented a material fact in applying to the 317
division for a permit; or 318

(d) Is in the habit of using alcoholic beverages or dangerous 319
drugs to excess, or is addicted to the use of narcotics. 320

(2) That the place for which the permit is sought: 321

(a) Does not conform to the building, safety, or health 322
requirements of the governing body of the county or municipal 323
corporation in which the place is located. As used in division 324
(A)(2)(a) of this section, "building, safety, or health 325
requirements" does not include local zoning ordinances. The 326
validity of local zoning regulations shall not be affected by this 327
section. 328

(b) Is so constructed or arranged that law enforcement 329
officers and duly authorized agents of the division are prevented 330
from reasonable access to rooms within which beer or intoxicating 331
liquor is to be sold or consumed; 332

(c) Is so located with respect to the neighborhood that 333
substantial interference with public decency, sobriety, peace, or 334
good order would result from the issuance, renewal, transfer of 335
location, or transfer of ownership of the permit and operation 336
under it by the applicant; or 337

(d) Has been declared a nuisance pursuant to Chapter 3767. of 338
the Revised Code since the time of the most recent issuance, 339
renewal, or transfer of ownership or location of the liquor 340
permit. 341

(B) The division of liquor control may refuse to issue or 342
transfer the ownership of, and shall refuse to transfer the 343
location of, any retail permit issued under this chapter if it 344
finds either of the following: 345

(1) That the place for which the permit is sought is so 346
situated with respect to any school, church, library, public 347
playground, or hospital that the operation of the liquor 348
establishment will substantially and adversely affect or interfere 349
with the normal, orderly conduct of the affairs of those 350
facilities or institutions; 351

(2) That the number of permits already existent in the 352
neighborhood is such that the issuance or transfer of location of 353
a permit would be detrimental to and substantially interfere with 354
the morals, safety, or welfare of the public. In reaching a 355
conclusion in this respect, the division shall consider, in light 356
of the purposes of this chapter and Chapters 4301. and 4399. of 357
the Revised Code, the character and population of the 358
neighborhood, the number and location of similar permits in the 359
neighborhood, the number and location of all other permits in the 360
neighborhood, and the effect the issuance or transfer of location 361
of a permit would have on the neighborhood. 362

(C) The division of liquor control shall not transfer the 363
location or transfer the ownership and location of a permit under 364
division (B)(2)(b) of section 4303.29 of the Revised Code unless 365
the permit is transferred to an economic development project. 366

(D) The division of liquor control shall refuse to issue, 367
renew, transfer the ownership of, or transfer the location of a 368

retail permit under this chapter if the applicant is or has been 369
convicted of a violation of division (C)(1) of section 2913.46 of 370
the Revised Code. 371

(E) The division of liquor control shall refuse to transfer 372
the ownership of or transfer the location of a retail permit under 373
this chapter while criminal proceedings are pending against the 374
holder of the permit for a violation of division (C)(1) of section 375
2913.46 of the Revised Code. The department of public safety shall 376
notify the division whenever criminal proceedings have commenced 377
for a violation of division (C)(1) of section 2913.46 of the 378
Revised Code. 379

(F) The division of liquor control shall refuse to issue, 380
renew, or transfer the ownership or location of a retail permit 381
under this chapter if the applicant has been found to be 382
maintaining a nuisance under section 3767.05 of the Revised Code 383
at the premises for which the issuance, renewal, or transfer of 384
ownership or location of the retail permit is sought. 385

(G) The division shall refuse to issue or transfer the 386
ownership or location of a retail permit issued under this chapter 387
if the premises or event specified in the application is, or is to 388
be operated, within one thousand feet from the boundaries of a 389
parcel of real estate having situated on it a school, church, 390
library, public playground, or township park. 391

Section 2. That existing sections 4301.17, 4303.26, and 392
4303.292 of the Revised Code are hereby repealed. 393