



# Ohio Legislative Service Commission

## Bill Analysis

Amber Hardesty

### H.B. 417

128th General Assembly  
(As Introduced)

**Reps.** Driehaus, Murray, Fende, Stautberg, Foley, Ujvagi, Hagan

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## BILL SUMMARY

- Revises the appeal procedures for the refusal to issue, renew, or transfer a retail liquor permit.
- Increases the time in which a request for a hearing regarding a liquor permit must be made.
- Requires permit holders that violate the Liquor Control Laws to file the names and addresses of their employees with the Division of Liquor Control.

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## CONTENT AND OPERATION

### Appeal procedures for refusal to issue, renew, or transfer liquor permit

(R.C. 4301.04 and 4303.292)

Under current law, the Division of Liquor Control can refuse to issue, transfer the ownership of, or renew, and must refuse to transfer the location of, any retail permit issued under the Liquor Control Law if it finds certain conditions or realities exist. The Liquor Control Commission has the power to suspend, revoke, and cancel liquor permits and to consider, hear, and determine all appeals authorized by the Liquor Control Law and all complaints for the revocation of permits. The Commission must accord a hearing to any person appealing or complained against, at which the person has the right to be present, to be represented by counsel, to offer evidence, and to require the attendance of witnesses. Under the bill, any person appealing or complained against also has the right to provide for the submission of briefs (R.C. 4301.04(A)(2)).

Under the bill, in a proceeding for the refusal to issue, renew, transfer the ownership of, or transfer the location of any retail permit under the Liquor Control Law, the Division must prepare, keep, and maintain a complete record of the proceedings. If an applicant for issuance, renewal, transfer of ownership, or transfer of the location of a retail permit appeals the Division's decision, the Division, within 30 days of notice of receipt of the applicant's appeal, must prepare and certify a complete record of the proceedings to the Commission. (R.C. 4303.292(G).) For a hearing of an appeal from the Division's decision on the issuance, renewal, or transfer of a permit, the Commission is confined to the record as certified to it by the Division. However, unless otherwise provided by law, the Commission can grant a request for the admission of additional evidence when it is satisfied that the additional evidence is newly discovered and could not have been ascertained with reasonable diligence before the hearing before the Division. (R.C. 4301.04(A)(2).)

After such a hearing under the bill, the Commission can affirm the Division's decision, determination, or order if it finds, upon consideration of the entire record and any additional evidence, that the decision, determination, or order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, the Commission can reverse, vacate, or modify the decision, determination, or order or make another ruling that is supported by reliable, probative, and substantial evidence and is in accordance with law. (R.C. 4301.04(A)(2).)

### **Notice and request for hearing**

(R.C. 4303.26)

Under present law, applications for regular liquor permits can be filed with the Division of Liquor Control. When an application for a new class C or D permit is filed, when such a permit becomes available, or when an application for transfer of ownership or location of such a permit is filed, the Division must not issue or transfer the permit until the Division notifies the legislative authority of the municipal corporation (if the premises is within a municipal corporation) or the clerk of the board of county commissioners and the fiscal officer of the board of township trustees in the county in which the premises is located (if the premises is located outside a municipal corporation). The Division must also notify by mail or personal service the chief peace officer of the political subdivision. Under most circumstances, if the premises are to be operated within 500 feet from the boundaries of real estate having situated on it a school, church, library, public playground, or township park, the Division must send notice by mail or personal service of the filing of the application to the authorities in control of the school, church, library, public playground, or township park. These entities must have the opportunity to request a hearing regarding the issuance of the liquor permit. Under current law, a request for any hearing must be made no later than

30 days from the time of notification by the Division. This 30-day period begins on the date the Division mails or serves notice. The Division must conduct a hearing if the request for the hearing is postmarked by the deadline date.

The bill increases the time in which a request for a hearing must be made. Under the bill, a request for any hearing must be made no later than 60 days from the time of notification by the Division. This 60-day period begins on the date the Division mails or serves notice. (R.C. 4303.26.)

## **Roster of names and addresses**

(R.C. 4303.294 and 4303.99)

The bill requires a person that has been issued a permit under the Liquor Control Law or rules adopted by the Liquor Control Commission to file with the Division of Liquor Control a roster of the names and addresses of the permit holder's current employees. If a name or address on the roster changes, the permit holder must notify the Division not later than five days after the change. If the permit holder is a corporation, firm, association, or partnership, an officer of the corporation, firm, association, or partnership has the responsibility for notifying the Division. Every person that has been issued a permit under the Liquor Control Law must comply with this provision. (R.C. 4303.294.) A violation of this requirement is a first-degree misdemeanor (R.C. 4303.99(E)).

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	01-25-10

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