



# Ohio Legislative Service Commission

## Bill Analysis

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### **Sub. H.B. 445\*** 128th General Assembly (As Reported by H. State Government)

**Reps.** Letson, Domenick, McGregor, Yuko, Bolon, Hagan

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#### **BILL SUMMARY**

- Permits persons located in municipal corporations or unincorporated areas of counties of specified populations to apply to establish a local entertainment district.
- Exempts the application for a D-1, D-2, and D-5 liquor permit for an establishment located in a local entertainment district from certain population quota restrictions.
- Creates the T-1 liquor permit to authorize certain colleges and universities and professional athletic teams to allow the consumption of beer and intoxicating liquor brought into a restricted area on property that they own or lease.

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#### **CONTENT AND OPERATION**

##### **Local entertainment districts**

(R.C. 4301.82)

##### **Definition of "local entertainment district"**

The bill defines a "local entertainment district" as a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these: hotels; restaurants; retail sales establishments; enclosed shopping centers; museums; performing arts theaters; motion picture theaters; night clubs; convention

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\* This analysis was prepared before the report of the House State Government Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

facilities; sports facilities; entertainment facilities or complexes; or any combination of the establishments described above that provide similar services to the community.

### **Application to seek designation of local entertainment district**

Any owner of property located in a municipal corporation<sup>1</sup> seeking to have that property, or that property and other surrounding property, designated as a local entertainment district must file an application seeking this designation with the mayor of the municipal corporation in which that property is located. Any property owner located in the unincorporated area of a county<sup>2</sup> seeking to have that property, or that property and other surrounding property, designated as a local entertainment district must file an application seeking this designation with the board of county commissioners of the county in whose unincorporated area that property is located. The application is a public record for purposes of Public Records Law upon its receipt by the mayor or board of county commissioners.

The bill requires an application to designate an area as a local entertainment district to contain all of the following:

- (1) The applicant's name and address;
- (2) A map or survey of the proposed local entertainment district in sufficient detail to identify the boundaries of the district and the property owned by the applicant;
- (3) A general statement of the nature and types of establishments described above that are or will be located within the proposed local entertainment district and any other establishments located in the proposed local entertainment district that are not described above;
- (4) If some or all of the establishments within the proposed local entertainment district have not yet been developed, the proposed time frame for completing the development of these establishments;
- (5) Evidence that the uses of land within the proposed local entertainment district are in accord with the municipal corporation's or county's master zoning plan or map; and

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<sup>1</sup> The bill defines "municipal corporation" as a municipal corporation with a population of less than 100,000.

<sup>2</sup> Under the bill, "county" means a county with a population of more than 125,000.

(6) A handling and processing fee to accompany the application, in an amount determined by the municipal corporation or county, payable to the municipal corporation or county.

### **Process for application for area located in municipal corporation**

The bill requires an application relating to an area located in a municipal corporation to be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within 30 days after receiving the application, must submit the application with the mayor's recommendation to the legislative authority of the municipal corporation.

Within 30 days after it receives the application and the mayor's recommendations relating to the application, the legislative authority of the municipal corporation, by notice published once a week for two consecutive weeks in at least one newspaper of general circulation in the municipal corporation, must notify the public that the application is on file in the office of the clerk of the municipal corporation and is available for inspection by the public during regular business hours. The notice must also indicate the date and time of any public hearing by the municipal legislative authority on the application.

Within 75 days after the date the application is filed with the mayor of a municipal corporation, the legislative authority of the municipal corporation by ordinance or resolution must approve or disapprove the application based on whether the proposed local entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The bill requires the community considered at a minimum to include the municipal corporation in which the community is located. Any approval of an application must be by an affirmative majority vote of the legislative authority. The bill specifies that not more than one local entertainment district can be designated within the municipal corporation.

### **Process for application for area located in county**

An application relating to an area located in the unincorporated area of a county must be addressed and submitted to the board of county commissioners of the county in whose unincorporated area the area described in the application is located.

Within 30 days after it receives the application, the board of county commissioners, by notice published once a week for two consecutive weeks in at least one newspaper of general circulation in the county, must notify the public that the application is on file in the office of the county auditor and is available for inspection by

the public during regular business hours. The notice must also indicate the date and time of any public hearing by the board of county commissioners on the application.

Within 75 days after the date the application is filed with a board of county commissioners, the board by resolution must approve or disapprove the application based on whether the proposed local entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The bill requires the community considered at a minimum to include at least a portion of the county in which the community is located. Any approval of an application must be by an affirmative majority vote of the board of county commissioners. The bill prohibits more than one local entertainment district from being designated within the unincorporated area of the county.

### **Approval or disapproval of application**

If the municipal legislative authority or board of county commissioners disapproves the application, the applicant can make changes in the application to secure its approval by the legislative authority or board of county commissioners. Any area approved by the legislative authority or board of county commissioners constitutes a local entertainment district.

### **Losing designation as local entertainment district**

All or part of an area designated as a local entertainment district can lose this designation. The legislative authority of a municipal corporation in which a local entertainment district is located, or the board of county commissioners of the county in whose unincorporated area a local entertainment district is located, after giving notice of its proposed action by publication once a week for two consecutive weeks in at least one newspaper of general circulation in the municipal corporation or county, can determine by ordinance or resolution in the case of the legislative authority of a municipal corporation, or by resolution in the case of a board of county commissioners of a county, that all or part of the area fails to meet the standards for designation of an area as a local entertainment district. If the legislative authority or board so determines, the area designated in the ordinance or resolution no longer constitutes a local entertainment district.

### **Liquor permits for local entertainment district**

(R.C. 4303.29(B)(8))

Continuing law generally limits the number of each type of D liquor permit (various beer and intoxicating liquor retail sales) that can be issued to any one person, firm, or corporation in a county based upon the population of that county. Likewise,

continuing law generally limits the total number of D-1 permits (beer sales for on-premises or off-premises consumption), D-2 permits (wine and mixed beverages sales for on-premises or off-premises consumption), and D-5 permits (beer and intoxicating liquor for on-premises or off-premises consumption--restaurants and night clubs) that can be issued in each municipal corporation and in the unincorporated area of each township, based upon the population of that municipal corporation or unincorporated area of the township. However, continuing law provides that these population quota restrictions as well as any contained in Liquor Control Commission rules do not restrict the issuance of a D permit to authorized applicants for such a permit for certain municipally owned airports; a municipal corporation, township, or county soldiers' memorial; a municipal corporation-, township-, county-, metropolitan park district-, or state-owned golf course; the State Fairgrounds; Capitol Square; Ohio Judicial Center; or certain zoological parks. Thus, an application for a D permit for any of these locations is exempt from those population quota restrictions.

The bill expands the list of exempt applicants by providing that the statutory population quota restrictions as well as any population quota restrictions contained in any Liquor Control Commission rule do not restrict the issuance of a D-1, D-2, or D-5 permit<sup>3</sup> for a premises located in a local entertainment district, provided that all of the following apply:

(1) The applicant for the permit is the owner or operator of a retail food establishment or a licensed food service operation.

(2) The applicant for the permit has not been issued a D-1, D-2, or D-5 permit in the six months before filing the application for a D-1, D-2, or D-5 permit for a premises located in a local entertainment district.

(3) The premises for which a permit is proposed to be issued has gross annual receipts from the sale of food and meals for consumption on the premises that constitute not less than 75% of its total gross annual receipts.

Under the bill, such a D-1, D-2, or D-5 permit must not be transferred out of the local entertainment district. Additionally, the bill prohibits more than one D-1, D-2, or D-5 permit to be issued within a local entertainment district for each five acres of land located within the district. Finally, not more than ten D-1, D-2, or D-5 permits, or any combination of those permits, can be issued within a single local entertainment district.

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<sup>3</sup> The permit fee for a D-1 permit is \$376. The permit fee for a D-2 permit is \$564. The permit fee for a D-5 permit is \$2,344.

## **Creation of the T-1 permit**

The bill creates the T-1 permit and authorizes it to be issued to any college or university or to any professional athletic team to authorize the college, university, or team to allow its guests to bring beer and intoxicating liquor in its original package, flask, or other container into an area on property that the college, university, or team owns or leases, for consumption in that area, if (1) a fence or similar barrier encloses the area, and (2) security personnel are stationed at each exit from the area to prevent any person from leaving the area with an opened flask or other container of beer or intoxicating liquor (R.C. 4303.235(B)). The bill amends the Opened Container Law to remove the consumption of beer or intoxicating liquor on the premises of a T-1 permit holder from the general prohibition against persons having in their possession in a public place an opened container of beer or intoxicating liquor (R.C. 4301.62(C)(1)(c)).

The bill defines "college or university" as a state institution of higher education, or a private institution of higher education, with an FTE (full-time equivalent) student enrollment of less than 15,000 and "professional athletic team" as a professional baseball, basketball, football, hockey, or soccer team that owns or leases a stadium or arena that has a seating capacity of at least 4,000. "State institution of higher education" means each of the four-year state universities, the Northeastern Ohio Universities College of Medicine, and each community college, state community college, university branch, or technical college. (R.C. 4303.232(A), in part by reference to R.C. 3345.011, not in the bill.)

## **Characteristics of the T-1 permit**

The Division of Liquor Control in the Department of Commerce must prepare and make available application forms for the T-1 permit and may require applicants to furnish the information the Division determines is necessary for the bill's administration. The Division must specify on each T-1 permit its effective period, which must not exceed three days. The fee for the T-1 permit is \$50. (R.C. 4303.232(C).)

## **Prohibition and penalty**

The bill prohibits any holder of a T-1 permit from providing or selling beer or intoxicating liquor by the drink or in its original package, flask, or other container in connection with the use of an area under the T-1 permit (R.C. 4303.235(D)). A violation of the prohibition is punishable by a fine of not less than \$25 and not more than \$50 (R.C. 4303.37 and 4303.99(C), not in the bill).

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## HISTORY

### ACTION

### DATE

Introduced  
Reported, H. State Government

02-08-10  
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