



Jeff Grim

## *Final Analysis*

*Legislative Service Commission*

### **Sub. H.B. 330**

124th General Assembly  
(As Passed by the General Assembly)

**Rep. Peterson**

**Effective date:** \*

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### **ACT SUMMARY**

- Allows the Division of Liquor Control to base the population quota restrictions that govern the number of liquor agency stores either on the federal decennial census or on state population estimates determined by the Department of Development between censuses, and changes these population quota restrictions.
- Requires the Division to adopt rules governing the allocation and equitable distribution of agency contract stores, and requires the Division to comply with the rules when awarding a contract.
- Allows permit holders that sell beer or intoxicating liquor for consumption on the premises to operate an agency store adjacent to the premises.
- Eliminates the restriction against the same person operating or having an interest in more than 16 agency stores in the state or more than eight agency stores in the same county.
- Allows specified entities, in addition to the political subdivisions that are so authorized under continuing law, to request the Division to hold a hearing concerning the location of a proposed agency store or the assignment of an existing store in the applicable county seat rather than in the Division's central office.

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Allows a D-5d permit to be issued to the owner or operator of a restaurant that is located at an airport operated by a port authority.
- Eliminates the restriction under which only one D-5d permit could be issued in each county.

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## CONTENT AND OPERATION

### Liquor agency stores

#### Changes in population quota restrictions for liquor agency stores

Under law retained in part by the act, a person engaged in a mercantile business may act as an agent for the Division of Liquor Control to sell spirituous liquor (intoxicating liquor containing more than 21% of alcohol by volume) in a municipal corporation, the unincorporated area of a township with a population of not less than 2,000, or an area designated and approved as a resort area under the Liquor Control Law. The act removes the requirement that a township have a population of not less than 2,000 in order to qualify to have an agency store located within it. Formerly, not more than one agency contract could be awarded in the unincorporated area of a county for each 50,000 population of the county. The act removes that limitation. (Sec. 4301.17(A).)

Continuing law also provides that, subject to local option election, five agency stores may be established in each county. Under prior law, one additional store also was allowed for each 30,000 of a county's population (or major fraction of that number) in excess of the first 40,000 of its population, according to the last preceding federal census. The act changes this quota so that one additional agency store may be established in each county for *each 25,000 of its population* (or major fraction of that number) in excess of the first 40,000 of its population, according to the last preceding federal decennial census *or according to the population estimates certified by the Department of Development between decennial censuses*. (Sec. 4301.17(A).)

#### Rules governing the allocation and equitable distribution of agency stores

The act requires the Division to adopt rules in accordance with the Administrative Procedure Act governing the allocation and equitable distribution of agency contract stores. The Division must comply with the rules when awarding a contract. (Sec. 4301.17(A)(2).)

**Operation of an agency store by a permit holder at adjacent premises**

Continuing law generally prohibits a mercantile business that sells beer or intoxicating liquor for consumption on the premises under a permit issued by the Division from operating an agency store at the premises. Under former law, such a business also was prohibited from operating an agency store at any adjacent premises. The act eliminates the restriction against such a business operating an agency store at any adjacent premises. (Sec. 4301.17(A)(3).)

**Restrictions on the number of agency stores the same person could operate**

Under former law, no person could operate, or have any direct or indirect interest in, more than eight agency stores in any one county or more than 16 agency stores in the entire state for the sale of spirituous liquor. A person had an interest in an agency store if the person was a partner, member, officer, or director of, or a shareholder owning 10% or more of the capital stock of, any legal entity with which the Department had entered into an agency contract.<sup>1</sup> The act eliminates these restrictions. (Sec. 4301.17(C).)

**Hearing concerning the location of a proposed agency store or assignment of an existing store**

Law unchanged by the act provides that when an agency store contract is proposed or when an existing agency store contract is assigned to a new agent, before entering into the contract or consenting to the assignment, the Division of Liquor Control must notify the legislative authority of the municipal corporation in which the agency store will 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 will be located if the store will be located outside the corporate limits of a municipal corporation, of the proposed contract or assignment. The Division also must provide an opportunity to officials or employees of the municipal corporation or county and township for a complete hearing on the advisability of entering into the contract or consenting to the assignment. If the proposed agency store would be located, or if the agency store that is the subject of a proposed assignment is located, within 500 feet of a school, church, library, public playground, or township park, the Division must so notify the applicable authorities.

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<sup>1</sup> The statute said "Department," but the Division of Liquor Control apparently was intended.

Under continuing law, the hearing must be held in the central office of the Division. However, upon written request of the legislative authority of the municipal corporation, board of county commissioners, or board of township trustees, the Division must hold the hearing in the county seat. The act also requires the Division to hold the hearing in the county seat if the authorities in control of a school, church, library, public playground, or township park located within 500 feet of the proposed agency store or the agency store that is the subject of a proposed assignment so request. (Sec. 4301.17(B).)

**Airport restaurant liquor permits**

Under law unchanged by the act, a D-5d permit may be issued to the owner or operator of a retail food establishment or a food service operation licensed under the Retail Food Establishments and Food Service Operations Law that operates as a restaurant for purposes of the Liquor Permits Law and that is located at an airport operated by a board of county commissioners or by a regional airport authority. The act adds a restaurant that is located at an airport operated by a port authority to the restaurants that may be issued a D-5d permit. (Sec. 4303.181(D).)

Additionally, prior law prohibited more than one D-5d permit from being issued in each county. The act removes this prohibition. (Sec. 4303.181(D).)

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	07-24-01	p. 806
Reported, H. State Gov't	01-22-02	p. 1280
Passed House (74-23)	02-26-02	pp. 1450-1451
Reported, S. Agriculture	06-18-02	pp. 1906-1907
Passed Senate (29-4)	06-18-02	pp. 1911-1912
House concurred in Senate amendments (78-16)	06-19-02	pp. 1920-1921

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