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Bill Analysis

Legislative Service Commission

Sub. H.B. 330*
124th General Assembly
(As Reported by S. Agriculture)

Rep. Peterson

BILL 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 existing 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.

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

- 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 may be issued in each county.

CONTENT AND OPERATION

Liquor agency stores

Changes in population quota restrictions for liquor agency stores

Under current law, 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, but not more than one agency contract can be awarded in the unincorporated area of a county for each 50,000 population of the county. The bill removes both of the following: (1) 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, and (2) the prohibition against more than one agency store contract being awarded in the unincorporated area of a county for each 50,000 population of that county. (Sec. 4301.17(A).)

Current law also provides that, subject to local option election, five agency stores may be established in each county, with one additional store being 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 bill 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 bill 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

Current 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 or at any adjacent premises. The bill eliminates the restriction against such a business operating an agency store at any adjacent premises. (Sec. 4301.17(A)(3).)

Restriction on the number of agency stores the same person may operate

Under current law, no person can 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 has an interest in an agency store if the person is 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 has entered into an agency contract.¹ The bill eliminates these restrictions. (Sec. 4301.17(C).)

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

Current law 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.

Under current 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 bill also

¹ The statute says "Department," but the Division of Liquor Control apparently is intended.

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 current law, 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 bill 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, current law prohibits more than one D-5d permit from being issued in each county. The bill removes this prohibition. (Sec. 4303.181(D).)

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 | --- | --- |

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