Ohio Legislative Service Commission

Bill Analysis

Jeff Grim

S.B. 62

128th General Assembly
(As Introduced)

Sens. Turner, R. Miller, Morano

BILL SUMMARY

- Prohibits the Division of Liquor Control from issuing a retail liquor permit or entering into an agency contract if the permit location or liquor agency store is proposed to be located within 500 feet from a school, church, library, public playground, or township park, and revises current law accordingly.

CONTENT AND OPERATION

Under current law, an application for a liquor permit must be filed with the Division of Liquor Control in the Department of Commerce. Current law establishes requirements under which notice must be sent, and an opportunity for a hearing on the permit must be provided, to applicable local officials when the location of a business or event that is the subject of an application for a new retail liquor permit or transfer of ownership or location of an existing retail liquor permit is or is to be located within the corporate limits of a municipal corporation or outside the limits of a municipal corporation.

Current law also establishes such requirements if the business or event specified in an application, except an F-2 permit application, is, or is to be operated, within 500 feet from the boundaries of a parcel of real estate having situated on it a school, church, library, public playground, or township park. In such a situation, a permit cannot be issued, nor can the location or the ownership of a permit be transferred, by the Division until written notice of the filing of the application with the Division is served, by certified mail, return receipt requested, or by personal service, on the authorities in control of the school, church, library, public playground, or township park and an opportunity is provided them for a complete hearing on the advisability of the issuance, transfer of ownership, or transfer of location of the permit. A request for a hearing must be made no later than 30 days from the date on which the Division mails notice to or, by personal service, serves notice on the institution. In the hearing, an objection to

the issuance, transfer of ownership, or transfer of location of the permit cannot be based on the noncompliance of the proposed permit premises with local zoning regulations that prohibit the sale of beer or intoxicating liquor, in an area zoned for commercial or industrial uses, for a permit premises that would otherwise qualify for a proper permit issued by the Division. Upon the written request of any of those authorities, the hearing must be held in the county seat of the county where the applicant's business is or is to be conducted. (R.C. 4303.26(A).)

The bill first eliminates the above notification procedures and hearing requirements regarding the authorities in control of an affected school, church, library, public playground, or township park (R.C. 4303.26(A)). It then requires the Division to refuse to issue or transfer the ownership or location of a retail liquor permit issued under the Liquor Permits Law if the premises or event specified in the application is, or is to be operated, within 500 feet from the boundaries of a parcel of real estate having situated on it a school, church, library, public playground, or township park (R.C. 4303.292(G)).

Existing law also authorizes the Division to enter into an agency contract, consent to the assignment of an existing contract, consent to the relocation of an existing agency, or consent to the relocation and assignment of an existing agency.[1] Similar to the above provisions governing retail liquor permits, existing law establishes requirements under which notice must be sent, and an opportunity for a hearing must be provided, to applicable local officials when an existing agency proposes to relocate or when an existing agency is relocated and assigned within the corporation limits of a municipal corporation or outside the limits of a municipal corporation.

Existing law also establishes such requirements if the proposed agency store, the assignment of an agency contract, or the relocation of an agency store would be located within 500 feet of a school, church, library, public playground, or township park. In such a situation, the Division cannot enter into an agency contract until it has provided notice of the proposed contract to the authorities in control of the school, church, library, public playground, or township park and has provided those authorities with an opportunity for a complete hearing on the advisability of entering into the contract. If an agency store so located is operating under an agency contract, the Division may consent to relocation of the agency store or to the assignment of that contract to operate an agency store at the same location. The Division also may consent to the assignment of an existing agency contract simultaneously with the relocation of the agency store. In any such assignment or relocation, the assignee and the location are subject to the same

[1] An agency contract is entered into between the Division and a person to engage in a mercantile business to act as the agent for the Division for the sale of spirituous liquor for a fixed commission for those sales.

requirements that the existing location met at the time that the contract was first entered into as well as any additional requirements imposed by the Division in rules adopted by the Superintendent of Liquor Control. Current law prohibits the Division from consenting to an assignment or relocation of an agency store until it has notified the authorities in control of the school, church, library, public playground, or township park and has provided those authorities with an opportunity for a complete hearing on the advisability of consenting to the assignment or relocation. The hearing must be held in the Central Office of the Division, except that upon written request of the authorities in control of the school, church, library, public playground, or township park, the hearing must be held in the county seat of the county where the proposed agency store is to be located.

The bill first eliminates the above notification procedures and hearing requirements regarding the authorities in control of an affected school, church, library, public playground, or township park. It then prohibits the Division from entering into an agency contract, consenting to the assignment of an existing contract, consenting to the relocation of an existing agency, or consenting to the relocation and assignment of an existing agency if the proposed agency store, the assignment of an agency contract, the relocation of an existing agency store, or the relocation and assignment of an existing agency store would be located within 500 feet of a school, church, library, public playground, or township park. In conjunction with that prohibition, the bill allows the Division, if an agency store is located within 500 feet of a school, church, library, public playground, or township park and is operating under an agency contract, to consent to relocation of the agency store or to the assignment of that contract to operate an agency store at a location that is not within 500 feet of a school, church, library, public playground, or township park. (R.C. 4301.17(B) and (C).)

HISTORY

ACTION	DATE
Introduced	03-03-09

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