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H.B. 127
134th General Assembly

Bill Analysis

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Version: As Reported by House State and Local Government

Primary Sponsor: Rep. Merrin

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SUMMARY

- Vacates violations or sanctions imposed against a business under certain COVID-related orders or rules.
- Returns to businesses money collected by a state agency or board of health in civil or administrative penalties for a violation.
- Requires state agencies and boards of health to expunge any record of a violation.
- Requires state agencies and boards of health to treat any finding of a violation as a nullity.
- Requires state agencies and boards of health to restore rights and privileges of a business lost as a result of a violation.
- Requires state agencies and boards of health to cease any disciplinary action against a business for violations occurring before the bill's effective date.
- Allows a business to bring an action to enforce the bill's provisions in the county where the business is located.
- Makes an appropriation, in an amount to be determined by state agencies, that the Director of Budget and Management will use to reimburse businesses.

DETAILED ANALYSIS

COVID-related business violations

The bill contains various provisions applicable to businesses¹ that have violated any order, rule, or directive related to COVID-19 that is issued by an elected state officer, a state agency, or a board of health.² The bill specifically does not prohibit the enforcement of non-COVID-related matters.³

Vacate and expunge violations; restore rights and privileges

First, the bill vacates any violation (and any sanctions imposed in response to a violation) that occurred between March 14, 2020, and the bill's effective date. Any record of a violation must be expunged not later than 30 days after the bill takes effect. Elected state officers, state agencies, and boards of health must treat any finding of a violation as a nullity and take the steps within their power to restore, within 30 days, any rights or privileges lost as a result of a finding of violation; the bill specifically includes reinstatement of a revoked license and other right or privilege to do business.⁴

Cease disciplinary action

Second, the bill requires elected state officers, state agencies, and boards of health to cease any disciplinary action against a business for violations occurring before the bill's effective date.⁵

Refund civil and administrative fines

Third, the bill generally requires elected state officers, state agencies, and local boards of health to refund any money collected in a civil or administrative penalty for a violation. Not later than 30 days after the bill takes effect, these amounts must be determined and refunded to businesses. A board of health refunds the money directly to each business. Elected state officers and state agencies must certify a list of businesses and amounts to the Director of Budget and Management, who then must issue the refunds to each business. The bill makes an appropriation for the certified amounts. If a business no longer exists, the Director of Budget

¹ Defined to mean a corporation, association, partnership, limited liability company, sole proprietorship, joint venture, or other business entity composed of one or more individuals, whether or not the entity is operated for profit.

² The bill specifically includes executive orders (or an order related to an executive order); state or local orders issued under Revised Code Chapter 3701; emergency rules under the Administrative Procedure Act (R.C. 119.03(G)), but also generally applies to any order, rule, or directive of elected state officers, state agencies, and boards of health. See definitions in Section 1(A).

³ Section 1.

⁴ Section 1.

⁵ Section 1.

and Management or the board of health must make a reasonable effort to locate, and issue the refund to, the owner of the business.⁶

The bill makes an exception in the case of a violation of one of these three rules:

- O.A.C. Rule 4301:1-1-13 (Emergency suspension of sales of beer, wine, mixed beverages, and spirituous liquor for on-premises consumption);⁷
- O.A.C. Rule 4301:1-1-80 (Limitation on hours for on-premises sales or consumption and expansion of sales of beer, wine, mixed beverages, and spirituous liquor for off-premises consumption);⁸
- O.A.C. Rule 4301:1-1-52(B)(1) (Prohibited activity-engaging in disorderly activities), if enforced regarding COVID-19.

If a business violates one of these three rules, the business's fine is not refunded if a non-COVID-related conviction also was assessed at the time of adjudication.

Also regarding these three rules, the Liquor Control Commission must notify businesses that their violations were expunged and must report to the General Assembly about the expungements and the refunds, not later than 30 days after those actions are complete.⁹

Venue for enforcement

Finally, the bill allows a business to bring an action to enforce the bill's provisions in the county where the business is located.¹⁰

HISTORY

Action	Date
Introduced	02-16-21
Reported, H. State & Local Gov't	04-22-21

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⁶ Sections 1 and 2.

⁷ This rule was in effect from April 7, 2020, to August 6, 2020.

⁸ This rule was in effect from July 13, 2020, to November 29, 2020.

⁹ Section 1.

¹⁰ Section 3.