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ADULT ENTERTAINMENT BUSINESSES: ESTABLISH LICENSE APPEAL PROCESS

House Bill 5469

Sponsor: Rep. Dale Sheltrown

Committee: Constitutional Law and Ethics

Complete to 3-14-00

A SUMMARY OF HOUSE BILL 5469 AS INTRODUCED 2-29-00

The bill would amend Article 5 of the Occupational Code, entitled "Complaints, Hearings, Petitions", to establish an appeal process for judicial review in the case of a denial of an application or the suspension, revocation, or limitation of a license for adult entertainment businesses regulated under Article 17A. Article 17A would be created by the bill package on adult entertainment and would regulate adult entertainment businesses. The bill would specify that a petition for judicial review regarding an order or final decision of the Department of Consumer and Industry Services or of a board would have to be in compliance with Chapter Six of the Administrative Procedures Act (MCL 24.301 to 24.306), except as specified in the bill.

Under House Bill 5469, if a license application were denied, or a license were suspended, revoked, or restricted, a party would have to petition the circuit court for judicial review within 21 days after the date of mailing of a notice of the final decision or order of the department. Filing a petition for judicial review would not act as a stay of enforcement of the department's action, though the department could grant, or the court could order, a stay upon appropriate terms.

A hearing would have to be scheduled within 25 days of the petition's filing. The department would have to make the original or a certified copy of the entire record of proceedings available to the applicant or licensee within five days after the service of the petition, and also transmit the original or certified copy of the record to the court no later than ten days before the hearing. Hearings would be conducted without a jury and the review would be confined to the record. The court would have to hear oral arguments and receive written briefs upon request. A decision would have to be issued not later than 20 days after the hearing date or not less than 50 days after the date the petition for judicial review had been filed, whichever was later. The bill would allow parties to the action to jointly waive the time limits prescribed by the bill.

MCL 339.523

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