CHAPTER 33

REVOCATION AND SUSPENSION

§801. Jurisdiction of District Court

1. Jurisdiction. The District Court, as designated in Title 5, chapter 375, shall conduct hearings on all matters concerning violations by licensees and their agents or employees of any federal or state law or regulation relating to liquor or violations of any rule adopted by the bureau. Notwithstanding Title 5, chapter 375, subchapter 6, the District Court has exclusive jurisdiction over all violations of this Title by licensees and their agents or employees when no criminal penalty is provided.
[PL 2021, c. 658, §115 (AMD).]

2. Powers. The District Court may suspend or revoke licenses and certificates of approval of licensees and levy fines or civil forfeitures against licensees and their agents or employees.
[PL 2021, c. 658, §115 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1989, c. 526, §§5,28 (AMD). PL 1997, c. 373, §73 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2021, c. 658, §115 (AMD).

§802. Causes for revocation and suspension of licenses and certificates of approval

The District Court may revoke or suspend licenses and certificates of approval for the following causes: [PL 2021, c. 658, §116 (AMD).]

1. Violation of law or infraction of rule. Violation of a federal or state law, rule or regulation relating to liquor or substantial infraction of a rule adopted by the bureau.

A. This subsection does not require the District Court to hold licensees that sold liquor to minors who furnished fraudulent proof of age liable administratively; [PL 2021, c. 658, §116 (AMD).]
[PL 2021, c. 658, §116 (AMD).]

2. False material statement. Knowingly making a false material statement of fact in the application for the license or certificate of approval; and
[PL 2021, c. 658, §116 (AMD).]

3. Failure to maintain requirements. Failure to have and maintain throughout the entire license or certificate of approval period all of the requirements of definitions, laws and rules necessary to qualify for a license or certificate of approval.

A. For this offense the District Court may suspend licenses or certificates of approval for an indefinite period of time until the District Court is satisfied that the licensee has conformed to all applicable qualifications. [PL 2021, c. 658, §116 (AMD).]
[PL 2021, c. 658, §116 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1997, c. 373, §§74,75 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2021, c. 658, §116 (AMD).

§803. Revocation or suspension procedure

1. Violation of law or rule. Upon discovering a violation of federal or state law, rule or regulation relating to liquor or an infraction of a rule adopted by the bureau, the director of the bureau, or the director's designee, shall:

A. Report the violation to the District Court in a signed complaint; or [PL 2021, c. 658, §117 (AMD).]

B. Issue warnings to the licensees involved. [PL 1987, c. 45, Pt. A, §4 (NEW).]
[PL 2021, c. 658, §117 (AMD).]

2. Notice and hearing. Except as provided under subsection 6, upon receipt of a signed complaint prepared under subsection 1, paragraph A, notice must be provided and a hearing must be held according to the following procedures.

A. The director of the bureau or the director's designee shall notify the licensee or the licensee's agent or employee by serving on the licensee or the licensee's agent or employee a copy of the complaint and a notice stating the time and place of the hearing and that the licensee or the licensee's agent or employee may appear in person or by counsel at the hearing. Service of the complaint and hearing notice upon the licensee is sufficient when served in hand by the director's designee or when sent by registered or certified mail at least 7 days before the date of the hearing to the address given by the licensee at the time of the licensee's application for a license or certificate of approval. Service of the complaint and hearing notice upon a licensee's agent or employee is sufficient when served in hand by the director's designee or when sent by registered or certified mail at least 7 days before the date of the hearing to the address given by the agent or employee at the time the agent or employee was initially notified by the bureau of the violation. The director or the director's designee shall file proof of service with the District Court. [PL 2021, c. 658, §117 (AMD).]

B. The District Court shall conduct a hearing limited to the facts, the law and the rules of the bureau, as specified in the complaint. [PL 2021, c. 658, §117 (AMD).]

C. The District Court shall conduct the hearing in the following manner.

(1) The District Court may administer oaths to witnesses and issue subpoenas at the request of any party, including subpoenas to compel the attendance of parents and legal guardians of unemancipated minors.

(a) The bureau shall pay to the witnesses the legal fees for travel and attendance, except that, notwithstanding Title 16, section 253, the bureau is not required to pay the fees before the travel and attendance occur.

(2) Hearsay testimony is not admissible during the hearing. The licensees, agents or employees named in the complaint have the right to have all witnesses testify in person at the hearing.

(3) The District Court shall conduct hearings in one or more designated places that are the most convenient and economical for all parties concerned in the hearing. [PL 2009, c. 199, §7 (AMD).]

D. The District Court shall render a decision in each case, based upon the facts, the law and the rules of the bureau. The findings must specify the facts found and the law or rules found to be violated. [PL 2009, c. 199, §7 (AMD).]
[PL 2021, c. 658, §117 (AMD).]

2-A. Suspension or revocation decision.
[PL 2011, c. 559, Pt. A, §31 (RP).]

3. Suspension of penalty; place case on file. After hearing, the District Court may:

A. Suspend a penalty; or [PL 1987, c. 45, Pt. A, §4 (NEW).]

B. Place a case on file instead of imposing a penalty. [PL 2021, c. 658, §117 (AMD).]
[PL 2021, c. 658, §117 (AMD).]

4. Application of suspension or revocation. A suspension or revocation applies to premises and persons in the following manner.

A. If a licensee is directly or indirectly interested in more than one license or certificate of approval, suspensions apply only to the premises where the violation occurs. [PL 2021, c. 658, §117 (AMD).]

B. If a licensee is interested directly or indirectly in more than one license or certificate of approval, the District Court may order that a revocation apply to any of those premises. [PL 2021, c. 658, §117 (AMD).]

C. If the licensee is a corporation, the District Court shall treat the officers, directors and substantial stockholders as individuals. [PL 2021, c. 658, §117 (AMD).]

[PL 2021, c. 658, §117 (AMD).]

5. Term of suspension or revocation. Except as provided by section 802, subsection 3, suspensions must be for a definite period of time. If the District Court revokes a license or certificate of approval, the District Court shall specify that the bureau may not issue a license or certificate of approval to the person whose license or certificate of approval is revoked for a period of not less than one year nor more than 5 years from the date of revocation.

[PL 2021, c. 658, §117 (AMD).]

6. Warnings. Upon the written recommendation of the director of the bureau, or the director's designee, the District Court, instead of notifying a licensee against which a complaint is pending to appear for hearing, may send the licensee a warning. Warnings must be sent by registered or certified mail and contain a copy of the complaint. A licensee to which a warning is sent may demand a hearing by notifying the District Court by registered or certified mail within 10 days from the date the warning was mailed.

[PL 2021, c. 658, §117 (AMD).]

7. License or certificate of approval subsequent to violation. If a violation by a licensee remains undiscovered during the one-year period of the license or certificate of approval or continues after the licensee's license or certificate of approval has been renewed, the license or certificate of approval issued for a new year subsequent to the violation may be suspended or revoked by the District Court.

[PL 2021, c. 658, §117 (AMD).]

8. Fines. Notwithstanding any provision of this Title to the contrary, the District Court may impose a fine of a specific sum on a licensee or the licensee's agent or employee, of not less than $50 nor more than $1,500, for any one offense. Such a fine may be imposed instead of or in addition to any suspension or revocation of a license or certificate of approval by the court.

A. The District Court shall maintain a record of all fines received by the court and shall pay the fines into the General Fund by the 15th day of each month. [PL 2021, c. 658, §117 (AMD).]

[PL 2021, c. 658, §117 (AMD).]

9. Offer in compromise. Notwithstanding any provision of this Title to the contrary, the District Court may accept from a wholesale licensee or certificate of approval holder under this Title an offer in compromise in lieu of suspension of a wholesale license or certificate of approval suspended by the District Court.

A. A wholesale licensee or certificate of approval holder may petition the District Court to accept an offer in compromise within 10 days following receipt of notice of the suspension. [PL 2021, c. 658, §117 (AMD).]

B. The fine in lieu of suspension, when an offer in compromise is accepted by the District Court, must be 50% of the daily gross profit multiplied by the number of days of license suspension, except that the fine may not be less than $75 for each day of license suspension or more than $1,500 for any one offense. For purposes of this paragraph, "daily gross profit" means 1/30 of the total gross receipts from the sale of liquor during the 30 business days immediately before the date of receipt of the notice of the license suspension, less the invoice cost of the liquor sold by the

wholesale licensee or certificate of approval holder during those 30 business days. [PL 2021, c. 658, §117 (AMD).]

C. The wholesale licensee or certificate of approval holder shall pay the fine to the District Court within 5 days from the date of the acceptance of the offer in compromise. The District Court shall then pay the fine into the General Fund. [PL 2021, c. 658, §117 (AMD).]

D. If a wholesale licensee or certificate of approval holder fails to pay the fine in full within the time period allowed in this subsection, the suspension of license or certificate of approval begins on the following day. [PL 1987, c. 45, Pt. A, §4 (NEW).]

E. [PL 1987, c. 342, §55 (RP).]

[PL 2021, c. 658, §117 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §§51-55 (AMD). PL 1997, c. 373, §§76-79 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 451, §§T12,13 (AMD). PL 2009, c. 199, §§7, 8 (AMD). PL 2011, c. 559, Pt. A, §31 (AMD). PL 2013, c. 476, Pt. A, §§22-24 (AMD). PL 2021, c. 658, §117 (AMD).

§804. Record of proceedings and transcript

The District Court shall keep a full and complete record of all proceedings on the revocation and suspension of a license or certificate of approval issued by the bureau. The District Court is not required to have a transcript of the testimony prepared unless required for rehearing or appeal. [PL 2021, c. 658, §118 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1997, c. 373, §80 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2021, c. 658, §118 (AMD).

§805. Appeal from decision of District Court or bureau

1. Aggrieved person may appeal within 30 days. A person aggrieved by the decision of the District Court in revoking or suspending any license or certificate of approval issued by the bureau or by refusal of the bureau to issue a license or certificate of approval may, within 30 days of the decision or refusal, appeal to the Superior Court by filing a complaint.

A. The 30-day period for appeal begins on:

(1) In the case of a suspension or revocation, the effective date of the suspension or revocation; or

(2) In the case of refusal by the bureau to issue a license or certificate of approval, on the day when the bureau sends by registered or certified mail notice to the applicant at the address of the applicant's business given in the applicant's application for a license or certificate of approval. [PL 2021, c. 658, §119 (AMD).]

B. Filing the complaint in the Superior Court stops the running of the limitation period. [PL 1987, c. 45, Pt. A, §4 (NEW).]

[PL 2021, c. 658, §119 (AMD).]

2. Suspension or revocation suspended pending appeal. The operation of a suspension or revocation of a license or certificate of approval imposed by the District Court must be suspended, pending judgment of the Superior Court, if the licensee files an appeal in the Superior Court and notifies the District Court that the appeal has been filed, within 7 days of the mailing of the decision of the District Court by certified mail to the address given by the licensee at the time of the application for the license or certificate of approval.

[PL 2021, c. 658, §119 (AMD).]

3. Superior Court hearing.
[PL 2011, c. 559, Pt. A, §32 (RP).]

4. Superior Court decision. After the hearing, the Superior Court may affirm, modify or reverse the decision of the District Court.
[PL 2021, c. 658, §119 (AMD).]

5. Further appeal. An aggrieved person may appeal the Superior Court decision to the Supreme Judicial Court. Upon appeal, the Supreme Judicial Court may, after consideration, reverse or modify any decree made by the Superior Court based upon an erroneous ruling or finding of law.
[PL 2021, c. 658, §119 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1997, c. 373, §§81,82 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2011, c. 559, Pt. A, §32 (AMD). PL 2021, c. 658, §119 (AMD).

§806. Records

1. Limitation on maintenance of records. Except as provided in subsection 2, the bureau shall maintain a record of each violation, revocation or suspension for not more than 5 years.
[PL 1997, c. 373, §83 (AMD).]

2. Records of Class A, B and C convictions. The bureau shall maintain records of convictions for Class A, B and C crimes for at least 5 years, and may maintain them longer according to the policy of the bureau.
[PL 1997, c. 373, §83 (AMD).]

3. Notice of violators. The District Court clerk shall provide the bureau with the names and dates of final adjudication of all persons found in violation of this Title or the rules of the bureau.
[PL 1997, c. 373, §83 (AMD); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1989, c. 526, §§6,28 (AMD). PL 1997, c. 373, §83 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF).

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