



Ohio Revised Code

Section 4301.252 Option of paying forfeiture rather than suspending operations.

Effective: February 17, 2006

Legislation: House Bill 140 - 126th General Assembly

(A)(1) Except as provided in divisions (A)(2)(d), (B), and (C) of this section, when the liquor control commission determines that the permit of any permit holder is to be suspended under Title XLIII of the Revised Code or any rule of the commission, the commission may issue an order allowing a permit holder to elect to pay a forfeiture for each day of the suspension in accordance with division (A)(2) of this section, rather than to suspend operations under the permit holder's permit issued for the premises at which the violation occurred.

(2)(a) If the permit holder has not violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission during the preceding two years, the amount of the forfeiture for each day for the suspension shall be from one hundred to two hundred dollars.

(b) If the permit holder has violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission for which the permit holder has been disciplined by the commission not more than one other time during the preceding two years, the amount of the forfeiture for each day of the suspension shall be from two hundred to four hundred dollars.

(c) Except as provided under division (A)(2)(e) of this section, if the permit holder has violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission for which the permit holder has been disciplined by the commission more than once, but not more than twice, during the preceding two years, the commission shall establish the amount of the forfeiture for each day of the suspension, but the amount shall be not less than three hundred dollars for each day of suspension.

(d) If the permit holder has violated, at the premises for which the permit holder's permit was issued, any provision of Title XLIII of the Revised Code or rule of the commission for which the permit holder has been disciplined by the commission more than twice during the preceding two years, the



commission may suspend or revoke the permit issued for the premises at which the violation occurred, or the commission shall establish the amount of the forfeiture for each day of a suspension, but the amount shall not be less than five hundred dollars for each day of suspension. The commission, and not the permit holder, shall determine whether the permit holder shall pay the forfeiture so established for a suspension instead of having the permit holder's permit suspended or revoked.

(e) If the permit holder has committed, at the premises for which the permit holder's permit was issued, a gambling offense as defined in section 2915.01, a drug abuse offense as defined in section 2925.01, or an offense described in section 2907.07, 2907.21, 2907.22, 2907.23, 2907.24, or 2907.25, division (A) or (B) of section 4301.22, or section 4301.69 of the Revised Code or a municipal ordinance substantially equivalent to any offense defined or described in a section or division listed in division (A)(2)(e) of this section for which the permit holder has been disciplined by the commission more than once, but not more than twice, during the preceding two years, the commission may suspend or revoke the permit issued for the premises at which the violation occurred. A person does not have to plead guilty to or be convicted of an offense defined or described in a section or division listed in division (A)(2)(e) of this section in order for this division to apply.

(3) When the commission issues an order allowing a permit holder the option of paying a forfeiture rather than suspending operations under the permit holder's permit issued for the premises at which the violation occurred, the order shall notify the permit holder of the option of paying a forfeiture. The order shall state the number of days for which the permit may be suspended, that the permit holder has twenty-one days after the date on which the order is sent to pay the full amount of the forfeiture by bank check, certified check, or money order, and that, if the permit holder does not do so, the permit holder's permit issued for the premises at which the violation occurred shall be suspended for the period stated in the order. If the permit holder fails to pay the full amount of the forfeiture by bank check, certified check, or money order within twenty-one days after the date on which the order is sent, the commission shall issue an order suspending the permit holder's permit issued for the premises at which the violation occurred for the period stated in the order allowing payment of a forfeiture. The suspension shall be effective on the twenty-eighth day after the date on which the order allowing the payment of a forfeiture is sent. Even a permit holder who pays a forfeiture may file an appeal under section 119.12 of the Revised Code. A permit holder shall be



considered to have paid a forfeiture when the permit holder's bank check, certified check, or money order is received by the commission in Columbus. Upon receipt of a permit holder's bank check, certified check, or money order under this division, the commission shall promptly notify the division of liquor control of its receipt.

(B) No permit holder shall be permitted to pay a forfeiture instead of having the permit holder's permit issued for the premises at which the violation occurred suspended if the suspension is ordered for the reasons stated in division (A)(6) of section 4301.25 of the Revised Code.

(C) When the evidence and the nature of any violation of Title XLIII of the Revised Code show that continued operation of the permit premises presents a clear and present danger to public health and safety, or if the commission finds, upon reliable, probative, and substantial evidence, that the statutory elements of a felony committed in connection with the operation of the permit premises are present in the action for which the permit holder is being disciplined, the commission may suspend the permit issued for the premises at which the violation occurred and shall not allow the permit holder to pay a forfeiture instead of suspending the permit holder's permit operations.

(D) Except as provided in this division, when the commission determines that the permit of any permit holder is to be revoked under Title XLIII of the Revised Code or any rule of the commission, the commission may issue an order allowing a permit holder to elect to pay a forfeiture rather than to revoke the permit holder's permit issued for the premises at which the violation occurred.

When the commission issues an order allowing a permit holder the option of paying a forfeiture rather than revoking the permit holder's permit, the order shall notify the permit holder of the option of paying a forfeiture. The order shall state the effective date of the revocation of the permit holder's permit as twenty-eight days after the date on which the order is sent, that the permit holder has twenty-one days after the date on which the order is sent to pay the full amount of the forfeiture by bank check, certified check, or money order, and that, if the permit holder does not do so, the permit holder's permit issued for the premises at which the violation occurred shall be revoked on the effective date stated in the order. If the permit holder fails to pay the full amount of the forfeiture by bank check, certified check, or money order within twenty-one days after the date on which the order is sent, the commission shall issue an order revoking the permit holder's permit issued for the premises at which the violation occurred. The revocation shall be effective on the twenty-eighth day



after the date on which the order allowing the payment of a forfeiture is sent. A permit holder shall be considered to have paid a forfeiture when the permit holder's bank check, certified check, or money order is received by the commission in Columbus. Upon receipt of a permit holder's bank check, certified check, or money order, the commission shall promptly notify the division of liquor control of its receipt.

When the evidence and the nature of any violation of Title XLIII of the Revised Code show that continued operation of the permit premises presents a clear and present danger to public health and safety, or if the commission finds, upon reliable, probative, and substantial evidence, that the statutory elements of a felony committed in connection with the operation of the permit premises are present in the action for which the permit holder is being disciplined, the commission may revoke the permit issued for the premises at which the violation occurred and shall not allow the permit holder to pay a forfeiture instead of revoking the permit holder's permit.

No permit holder shall be permitted to pay a forfeiture instead of having the permit holder's permit issued for the premises at which the violation occurred revoked if the revocation is ordered for the reasons stated in division (A)(6) or (B) of section 4301.25 of the Revised Code.