



Ohio Revised Code

Section 4301.28 Appeals to liquor control commission.

Effective: April 9, 2001

Legislation: Senate Bill 262 - 123rd General Assembly

(A)(1) Any person aggrieved may appeal to the liquor control commission from the action of the division of liquor control in refusing to issue a permit.

(2) The commission shall not hear or consider any appeal involving any agency contract entered into under section 4301.17 of the Revised Code.

(B) If the legislative authority of a municipal corporation, a board of township trustees, or the board of county commissioners participated in a hearing conducted under section 4303.26 of the Revised Code for the transfer of location of a class C or D permit, transfer of a class C or D permit, or issuance of a class C or D permit or under division (B) of section 4303.271 of the Revised Code for the renewal of a class C or D permit, the legislative authority or board may appeal to the liquor control commission from the order of the division of liquor control issuing, transferring, or renewing a permit, or transferring a location, or participate or be joined as a party in an appeal from an order of the division denying the issuance, transfer, or renewal of a permit or the transfer of a location.

In an appeal on the issuance or the transfer of a location of a permit, only the reasons for refusal contained in section 4303.292 of the Revised Code shall be considered. In an appeal on the transfer of ownership of a permit, only the reasons for refusal contained in divisions (A) and (B)(1) of section 4303.292 of the Revised Code shall be considered. In an appeal on the renewal of a permit, only the objections considered at the hearing under section 4303.271 of the Revised Code shall be considered.

The commission shall send notice of an appeal by a political subdivision by certified mail to the applicant for a new permit or to the permit holder at the permit holder's usual place of business, to the superintendent of liquor control, and to the office of the attorney general. The commission shall also send notice by certified mail of an appeal by a permit holder from an order denying the transfer or renewal of a permit, or the transfer of a location, or of an appeal by an applicant for a new permit from an order denying the issuance of a permit to the legislative authority or board of the political subdivision that participated in the hearing on the issuance, renewal, or transfer, to the



superintendent and to the office of the attorney general.

If a legislative authority or board is a party under this division to an appeal before the commission, the legislative authority or board may appeal under section 119.12 of the Revised Code from an order of the commission affirming the issuance, transfer, or renewal of a permit, or the transfer of a location, or participate or be joined as a party in an appeal under that section from an order of the commission denying the issuance, transfer, or renewal of a permit, or transfer of a location. If a court determines that there was not reasonable cause for an appeal by a political subdivision, it shall require the political subdivision to pay reasonable expenses of the appellee, including attorney fees and costs.

The prosecuting attorney of the county shall represent the county or any township located within the county, unless the township has adopted a limited home rule government under Chapter 504. of the Revised Code, in which case the township law director shall represent the township, in any hearing or appeal under this section or section 119.12, 4303.26, or 4303.271 of the Revised Code in which the county or township is a party. The village solicitor or city law director of the municipal corporation shall represent the municipal corporation in any hearing or appeal under this section or section 119.12, 4303.26, or 4303.271 of the Revised Code in which the municipal corporation is a party.

If a permit holder appeals under section 119.12 of the Revised Code from an order of the commission denying the transfer or renewal of a permit, or the transfer of a location, or if an applicant for a new permit appeals from an order of the commission denying the issuance of a permit, the commission shall send notice of the appeal by certified mail to the legislative authority or board of the political subdivision that was a party to an appeal before the commission.

(C) At least twenty-one days before the date by which a permit holder must pay any forfeiture pursuant to an order issued under section 4301.252 of the Revised Code, and at least twenty-one days before the effective date of an order issued by the liquor control commission, revoking, or suspending a liquor permit, except for a suspension imposed under division (A)(3) of section 4301.252 of the Revised Code, the commission shall send a copy of the order by certified mail to the holder, addressed to the holder at the premises named in the permit, and shall also send by certified mail copies of the order to the chief of police, marshal, or chief police officer of the municipal



corporation in which the premises for which the permit was issued are situated, or to the sheriff of the county or constable of the township, in case the permit was issued for premises situated outside any municipal corporation. A copy of an order revoking or canceling a permit or allowing the payment of a forfeiture under section 4301.252 of the Revised Code shall be sent to such officer at the same time as a copy is sent to the permit holder; a copy of an order suspending a permit shall be sent to such officer when the commission determines under section 4301.252 of the Revised Code that the suspension is to become effective. The order shall contain a statement of the number of the permit, the name of the holder, the location of the premises for which the permit was issued, and the date when the revocation or cancellation is to be effective, or, in case of suspension, the beginning and ending dates of the suspension period and such other information in the notice to the permit holder as is required by section 4301.252 of the Revised Code. The holder of such a revoked or cancelled permit shall, on the effective date of the order of revocation or cancellation, immediately surrender the permit by mailing or delivering it to the superintendent of liquor control by certified mail. If the revoked or canceled permit is not surrendered, the superintendent shall issue a written demand for its surrender and deliver the demand to the chief of police, marshal, or other chief police officer of the municipal corporation or to the sheriff of the county, or to the constable of the township, in which the premises for which the permit is issued are located, or to any designated agent of the division of liquor control, and the chief of police, marshal, or other chief police officer of the municipal corporation, sheriff, constable, or agent shall immediately demand and secure possession of the revoked or cancelled permit and return it by certified mail to the superintendent.

When a permit has been so suspended by order of the liquor control commission, the permit holder shall not sell any alcoholic beverages at such permit premises during the effective period stated in the order of a suspension, and shall cover the permit by posting a copy of the suspension order over the permit, and the order of suspension shall remain so posted on the permit premises until termination of the suspension period. Upon termination of the suspension period, the permit holder may remove the copy of the suspension order from the permit and may resume the sale of alcoholic beverages as authorized by the permit and in compliance with Chapters 4301. and 4303. of the Revised Code.

The foregoing paragraph of this section is inapplicable while a stay order is in effect as a result of an appeal taken by a permit holder from an order of revocation, cancellation, or suspension or from an order that allows the payment of a forfeiture under section 4301.252 of the Revised Code, pursuant



to section 119.12 of the Revised Code. A copy of the stay order shall be posted on the premises of the permit holder and shall be furnished by the division to the appropriate officer, as the case may be, such as the chief of police, marshal, constable, or sheriff.

A permit holder desiring to file a notice of appeal under section 119.12 of the Revised Code with respect to any order of the commission as described in this division shall do so within twenty-one days after the mailing of the notice of the commission's order as provided in section 119.12 of the Revised Code.