



Ohio Revised Code

Section 4303.271 Permit renewal - political subdivision objection.

Effective: September 1, 2008

Legislation: Senate Bill 150 - 127th General Assembly

(A) Except as provided in divisions (B) and (D) of this section, the holder of a permit issued under sections 4303.02 to 4303.232 of the Revised Code, who files an application for the renewal of the same class of permit for the same premises, shall be entitled to the renewal of the permit. The division of liquor control shall renew the permit unless the division rejects for good cause any renewal application, subject to the right of the applicant to appeal the rejection to the liquor control commission.

(B) The legislative authority of the municipal corporation, the board of township trustees, or the board of county commissioners of the county in which a permit premises is located may object to the renewal of a permit issued under sections 4303.11 to 4303.183 of the Revised Code for any of the reasons contained in division (A) of section 4303.292 of the Revised Code. Any objection shall be made no later than thirty days prior to the expiration of the permit, and the division shall accept the objection if it is postmarked no later than thirty days prior to the expiration of the permit. The objection shall be made by a resolution specifying the reasons for objecting to the renewal and requesting a hearing, but no objection shall be based upon noncompliance of the permit premises with local zoning regulations that prohibit the sale of beer or intoxicating liquor in an area zoned for commercial or industrial uses, for a permit premises that would otherwise qualify for a proper permit issued by the division. The resolution shall be accompanied by a statement by the chief legal officer of the political subdivision that, in the chief legal officer's opinion, the objection is based upon substantial legal grounds within the meaning and intent of division (A) of section 4303.292 of the Revised Code.

Upon receipt of a resolution of a legislative authority or board objecting to the renewal of a permit and a statement from the chief legal officer, the division shall set a time for the hearing and send by certified mail to the permit holder, at the permit holder's usual place of business, a copy of the resolution and notice of the hearing. The division shall then hold a hearing in the central office of the division, except that, upon written request of the legislative authority or board, the hearing shall be held in the county seat of the county in which the permit premises is located, to determine



whether the renewal shall be denied for any of the reasons contained in division (A) of section 4303.292 of the Revised Code. Only the reasons for refusal contained in division (A) of section 4303.292 of the Revised Code and specified in the resolution of objection shall be considered at the hearing.

The permit holder and the objecting legislative authority or board shall be parties to the proceedings under this section and shall have the right to be present, to be represented by counsel, to offer evidence, to require the attendance of witnesses, and to cross-examine witnesses at the hearing.

(C) An application for renewal of a permit shall be filed with the division at least fifteen days prior to the expiration of an existing permit, and the existing permit shall continue in effect as provided in section 119.06 of the Revised Code until the application is approved or rejected by the division. Any holder of a permit, which has expired through failure to be renewed as provided in this section, shall obtain a renewal of the permit, upon filing an application for renewal with the division, at any time within thirty days from the date of the expired permit. A penalty of ten per cent of the permit fee shall be paid by the permit holder if the application for renewal is not filed at least fifteen days prior to the expiration of the permit.

(D)(1) Annually, the tax commissioner shall cause the sales and withholding tax records in the department of taxation for each holder of a permit issued under sections 4303.02 to 4303.232 of the Revised Code to be examined to determine if the permit holder is delinquent in filing any sales or withholding tax returns or has any outstanding liability for sales or withholding tax, penalties, or interest imposed pursuant to Chapter 5739. or sections 5747.06 and 5747.07 of the Revised Code. If any delinquency or liability exists, the commissioner shall send a notice of that fact by certified mail, return receipt requested, to the permit holder at the mailing address shown in the records of the department. The notice shall specify, in as much detail as is possible, the periods for which returns have not been filed and the nature and amount of unpaid assessments and other liabilities and shall be sent on or before the first day of the third month preceding the month in which the permit expires. The commissioner also shall notify the division of liquor control of the delinquency or liability, identifying the permit holder by name and permit number.

(2)(a) Except as provided in division (D)(4) of this section, the division of liquor control shall not renew the permit of any permit holder the tax commissioner has identified as being delinquent in



filing any sales or withholding tax returns or as being liable for outstanding sales or withholding tax, penalties, or interest as of the first day of the sixth month preceding the month in which the permit expires, or of any permit holder the commissioner has identified as having been assessed by the department on or before the first day of the third month preceding the month in which the permit expires, until the division is notified by the tax commissioner that the delinquency, liability, or assessment has been resolved.

(b)(i) Within ninety days after the date on which the permit expires, any permit holder whose permit is not renewed under this division may file an appeal with the liquor control commission. The commission shall notify the tax commissioner regarding the filing of any such appeal. During the period in which the appeal is pending, the permit shall not be renewed by the division. The permit shall be reinstated if the permit holder and the tax commissioner or the attorney general demonstrate to the liquor control commission that the commissioner's notification of a delinquency or assessment was in error or that the issue of the delinquency or assessment has been resolved.

(ii) A permit holder who has filed an appeal under division (D)(2)(b)(i) of this section may file a motion to withdraw the appeal. The division of liquor control may renew a permit holder's permit if the permit holder has withdrawn such an appeal and the division receives written certification from the tax commissioner that the permit holder's delinquency or assessment has been resolved.

(3) A permit holder notified of delinquency or liability under this section may protest the notification to the tax commissioner on the basis that no returns are delinquent and no tax, penalties, or interest is outstanding. The commissioner shall expeditiously consider any evidence submitted by the permit holder and, if it is determined that the notification was in error, immediately shall inform the division of liquor control that the renewal application may be granted. The renewal shall not be denied if the delinquency or unreported liability is the subject of a bona fide dispute pursuant to section 5717.02, 5717.04, 5739.13, or 5747.13 of the Revised Code.

(4) If the commissioner concludes that under the circumstances the permit holder's delinquency or liability has been conditionally resolved, the commissioner shall allow the permit to be renewed, conditioned upon the permit holder's continuing performance in satisfying the delinquency and liability. The conditional nature of the renewal shall be specified in the notification given to the division of liquor control under division (D)(1) of this section. Upon receipt of notice of the



resolution, the division shall issue a conditional renewal. If the taxpayer defaults on any agreement to pay the delinquency or liability or fails to keep subsequent tax payments current, the liquor control commission, upon request and proof of the default or failure to keep subsequent tax payments current, shall indefinitely suspend the permit holder's permit until all taxes and interest due are paid.

(5) The commissioner may adopt rules to assist in administering the duties imposed by this section.