

SENATE BILL NO. 215

BY SENATOR CARTER

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AN ACT

To amend and reenact R.S. 26:920(B) and (C), relative to the office of alcohol and tobacco control; to provide for the procedure for appeal of tobacco dealers; to provide for a fine for frivolous appeals; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:920(B) and (C) are hereby amended and reenacted to read as follows:

§ 920. Appeal

* * *

B. Any party aggrieved by a decision of the commissioner to withhold, suspend, or revoke a permit may, within ~~thirty~~ ten days of the notification of the decision, take a devolutive or suspensive appeal to the district court having jurisdiction of the applicant's or permittee's place of business, proposed or actual as the case may be. Such appeals shall be filed in the district courts in the same manner as original suits are instituted therein. The appeals shall be tried de novo. Either party may amend and supplement his pleadings and additional witnesses may be called and heard. When there has been a previous criminal prosecution for the same or a similar act upon which the refusal, suspension, or revocation of a permit is being considered, evidence of an acquittal, dismissal, or plea of nolo contendere in a court of competent jurisdiction is admissible in the trial of the appeal.

C. Within ~~thirty~~ ten calendar days of the signing of the judgment by the district court in any such appeal case, the commissioner or the applicant for a permit or permittee, as the case may be, may file a devolutive or suspensive appeal of the judgment to the appellate court of proper jurisdiction. These appeals shall be perfected in the manner provided for in civil cases and shall be devolutive or suspensive only. A suspensive appeal granted pursuant to the provisions of this

1 Section that does not result in the reversal of a decision of the commissioner to
 2 withhold, suspend, or revoke a permit, may subject the appellant to a fine of up
 3 to five thousand dollars upon a finding by the court that the appeal is frivolous.

4 If the district court determines that the decision of the commissioner in withholding,
 5 suspending, or revoking the permit was in error, the decision of the commissioner
 6 shall not be voided if the commissioner takes an appeal to the court of appeals in the
 7 time provided for suspensive appeals.

8 * * *

9 Section 2. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor and subsequently approved by the legislature, this Act shall become
 12 effective on the day following such approval.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____