

Regular Session, 2014

HOUSE BILL NO. 460

BY REPRESENTATIVE ARNOLD

ALCOHOLIC BEVERAGES: Provides relative to mailing of official correspondence by the office of alcohol and tobacco control

1 AN ACT

2 To amend and reenact R.S. 26:87(A)(2), 98, 284(B), 295, and 919(A), relative to the office  
3 of alcohol and tobacco control; to provide with respect to the delivery of official  
4 correspondence from the commissioner of alcohol and tobacco control; and to  
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 26:87(A)(2), 98, 284(B), 295, and 919(A) are hereby amended and  
8 reenacted to read as follows:

9 §87. Procedure for determination to issue or withhold permit

10 A. The right to determine what persons shall or shall not be licensed under  
11 this Chapter shall be exercised in the following manner:

12 \* \* \*

13 (2) The commissioner shall investigate all applications for state permits and  
14 shall withhold the issuance of the permit where that action is justified under the  
15 provisions of this Chapter. The decision to withhold the permit shall be made within  
16 thirty-five calendar days of the filing of the application. Within that period, the  
17 commissioner shall notify in writing the municipal authority or parish governing  
18 authority, as the case may be, where the applicant has his place of business, that it  
19 is withholding the permit and shall give his reasons therefor. Upon receipt of this  
20 notice, the governing authorities of the municipality or parish, as the case may be,

1 shall withhold the issuance of the local permit. Within five calendar days of the  
 2 decision to withhold the permit the commissioner shall notify the applicant in writing  
 3 of the withholding of the permit and shall assign the reasons therefor. Such notice  
 4 shall be either delivered to the applicant in person or sent to him by ~~registered~~  
 5 certified mail at the ~~business~~ mailing address given in his last application. When so  
 6 addressed and mailed, it shall be conclusively presumed to have been received by the  
 7 applicant.

\* \* \*

9 §98. Notice of hearing by commissioner

10 Whenever the commissioner is to hold a hearing pursuant to the provisions  
 11 of this Part, he shall issue a written summons or notice thereof to the applicant or  
 12 permittee, ~~as the case may be~~, directing him to show cause why his application  
 13 should not be refused or why his permit should not be suspended or revoked. The  
 14 notice or summons shall state the time, place, and hour of the hearing, which shall  
 15 be not less than ten nor more than thirty calendar days from the date of the notice.  
 16 The notice or summons shall enumerate the cause or causes alleged for refusing the  
 17 application or for suspending or revoking the permit. When a petition has been filed  
 18 opposing the issuance of the permit or asking for its suspension or revocation, a copy  
 19 of the petition shall accompany the notice or summons. All notices or summonses  
 20 shall be either delivered to the applicant or permittee in person or sent by certified  
 21 mail to the applicant or permittee and directed to him at the mailing address ~~of his~~  
 22 ~~place of business~~ as given in his last application for the permit. When so addressed  
 23 and mailed, notices or summonses shall be conclusively presumed to have been  
 24 received by the applicant or permittee.

\* \* \*

26 §284. Procedure for determination to issue or withhold permit

27 The right to determine what persons shall or shall not be licensed under this  
 28 Chapter shall be exercised in the following manner:

\* \* \*

1           B. The commissioner shall investigate all applications for state permits and  
2 shall withhold the issuance of a permit where that action is justified under the  
3 provisions of this Chapter. This action may be taken without a prior hearing except  
4 as provided in R.S. 26:80(F) and ~~R.S. 26:280(F)~~. The decision to withhold a state  
5 permit shall be made within thirty-five calendar days of the filing of an application.  
6 Within that period of time, the commissioner shall notify in writing the municipal  
7 authorities or parish governing authority, as the case may be, where the applicant has  
8 or was to have his place of business and shall specify the reasons for withholding the  
9 issuance of the state permit. Upon receipt of this notice, the municipal authorities  
10 or the parish governing authority shall withhold the issuance of the local permit.  
11 Within five calendar days of mailing the notice of withholding to the local  
12 authorities, the commissioner shall notify the applicant in writing of the withholding  
13 of the permit and shall assign reasons therefor. Such notice shall be either delivered  
14 to the applicant in person or sent to him by ~~registered~~ certified mail at the mailing  
15 address given in his last application for a state permit. When so addressed and  
16 mailed, it shall be conclusively presumed to have been received by the applicant.

\* \* \*

18 §295. Notice of hearing by commissioner

19           Whenever the commissioner is to hold a hearing pursuant to the provisions  
20 of this Part, he shall issue a written summons or notice thereof to the applicant or  
21 permittee, ~~as the case may be~~, directing him to show cause why his application  
22 should not be refused or why his permit should not be suspended or revoked. The  
23 notice or summons shall state the time, place, and hour of the hearing, which shall  
24 be not less than ten nor more than thirty calendar days from the date of the notice.  
25 The notice or summons shall enumerate the cause or causes alleged for refusing the  
26 application or for suspending or revoking the permit. When a petition has been filed  
27 opposing the issuance of the permit or asking for its suspension or revocation, a copy  
28 of the petition shall accompany the notice or summons. All notices or summonses  
29 shall be either delivered to the applicant or permittee in person or sent by certified

1 mail to the applicant or permittee and directed to him at the mailing address ~~of his~~  
2 ~~place of business~~ as given in his last application for the permit. When so addressed  
3 and mailed, notices or summonses shall be conclusively presumed to have been  
4 received by the applicant or permittee.

5 \* \* \*

6 §919. Administrative hearings

7 A. When the commissioner holds a hearing pursuant to this Chapter, he shall  
8 issue a written summons or notice to the applicant or permittee, ~~as the case may be,~~  
9 directing him to show cause why his application should not be refused or why he  
10 should not be assessed a penalty or why his permit should not be suspended or  
11 revoked. The notice or summons shall state the time, place, and hour of the hearing,  
12 which shall be not less than ten nor more than thirty calendar days from the day of  
13 the notice. The notice or summons shall enumerate the cause or causes alleged for  
14 refusing the application or for assessing the penalty or suspending or revoking the  
15 permit. If a petition has been filed opposing the issuance of the permit or asking for  
16 its suspension or revocation, a copy of the petition shall accompany the notice or  
17 summons. All notices or summonses shall be either delivered to the applicant or  
18 permittee in person or sent by certified mail to the applicant or permittee and  
19 directed to him at the mailing address ~~of his place of business~~ as given in his last  
20 application for the permit. When so addressed and mailed, notices or summonses  
21 shall be presumed to have been received by the applicant or permittee.

22 \* \* \*

23 Section 2. This Act shall become effective upon signature by the governor or, if not  
24 signed by the governor, upon expiration of the time for bills to become law without signature  
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
27 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Arnold

HB No. 460

**Abstract:** Provides that official correspondence from the commissioner of alcohol and tobacco control may be delivered in person or by certified mail.

Present law requires official correspondence sent by the office of alcohol and tobacco control to be delivered in person in some cases or by registered or certified mail to the applicant or permittee at his business address in other cases.

Proposed law authorizes the correspondence to be delivered in person or by certified mail.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 26:87(A)(2), 98, 284(B), 295, and 919(A))