

2016 Regular Session

SENATE BILL NO. 215

BY SENATOR CARTER

ADMINISTRATIVE PROCEDURE. Provides relative to appeals by tobacco permit holders. (gov sig)

1 AN ACT

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

5 Be it enacted by the Legislature of Louisiana:

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

8 § 920. Appeal

9 * * *

10 B. Any party aggrieved by a decision of the commissioner to withhold,
11 suspend, or revoke a permit may, within ~~thirty~~ **ten** days of the notification of the
12 decision, take a devolutive ~~or suspensive~~ appeal to the district court having
13 jurisdiction of the applicant's or permittee's place of business, proposed or actual as
14 the case may be. Such appeals shall be filed in the district courts in the same manner
15 as original suits are instituted therein. The appeals shall be tried de novo. Either party
16 may amend and supplement his pleadings and additional witnesses may be called and
17 heard. When there has been a previous criminal prosecution for the same or a similar

1 act upon which the refusal, suspension, or revocation of a permit is being considered,
 2 evidence of an acquittal, dismissal, or plea of nolo contendere in a court of
 3 competent jurisdiction is admissible in the trial of the appeal.

4 C. Within ~~thirty~~ **ten** calendar days of the signing of the judgment by the
 5 district court in any such appeal case, the commissioner or the applicant for a permit
 6 or permittee, as the case may be, may ~~file a devolutive or suspensive~~ **devolutively**
 7 appeal ~~of~~ the judgment to the appellate court of proper jurisdiction. These appeals
 8 shall be perfected in the manner provided for in civil cases and shall be devolutive
 9 ~~or suspensive~~ only. If the district court determines that the decision of the
 10 commissioner in withholding, suspending, or revoking the permit was in error, the
 11 decision of the commissioner shall not be voided if the commissioner takes an appeal
 12 to the court of appeals in the time provided for suspensive appeals.

13 * * *

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

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Heyward Jeffers.

DIGEST

SB 215 Reengrossed

2016 Regular Session

Carter

Present law provides that any party aggrieved by a decision of the commissioner to withhold, suspend, or revoke a permit may, within 30 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 law reduces the time from 30 days to 10 days after proper notification of the commissioner's decision for an applicant's appeal to a district court having jurisdiction of the applicant's place of business.

Proposed law removes an applicant's right to a suspensive appeal of the commissioner's decision and leaves only a devolutive appeal as a remedy.

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

(Amends R.S. 26:920(B) and (C))