
State of South Carolina
Department of Revenue
301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC REVENUE RULING #98-23

SUBJECT: Protesting a Beer and Wine Permit or an Alcoholic Liquors License (Minibottle or Retail Liquor Store License) (ABC)

EFFECTIVE DATE: Applies to protests for applications filed on or after June 11, 1998.

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCES: S. C. Code Ann. Section 61-4-525 (Enacted June, 1998)
S. C. Code Ann. Section 61-6-185 (Enacted June, 1998)
S. C. Code Ann. Section 61-6-1825 (Enacted June, 1998)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1997)
SC Revenue Procedure #97-8

SCOPE: A Revenue Ruling is the Department of Revenue's official advisory opinion of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

**HOW TO PROTEST A BEER OR WINE PERMIT
OR AN ALCOHOLIC LIQUOR LICENSE**

Code Sections 61-4-525, 61-6-185 and 61-6-1825 set forth the requirements a person must follow when protesting the issuance or renewal of a beer and wine permit, retail liquor store license and a minibottle license. See Act No. 363 of 1998.

The following will address these requirements:

1.Q. Who may protest the issuance or renewal of a beer and wine permit or an alcoholic liquor license?

A. Any person who:

1. resides in the county in which the permit or license is requested to be granted; or
2. resides within five miles of the location for which the permit or license is requested

may protest the issuance or renewal of a beer and wine permit or an alcoholic liquor license.

2. Q. Is the protest required to be in writing?

A. Yes.

3. Q. Where is the protest mailed?

A. All protests must be mailed to:

SC Department of Revenue
ABL Licensing Section - Protest
P.O. Box 125
Columbia, South Carolina 29214

A protest concerning the issuance of a new permit or license must be mailed to the department and postmarked on or before the date set forth in the "Notice of Application" published in the newspaper or the "Notice" posted at the site. **If a valid protest is received with respect to the issuance of a new permit or license, the new permit or license will not be issued until the protest is resolved and the determination is made that the permit or license must be issued.**

A protest concerning the renewal of an existing permit or license must be filed with the department sixty days prior to the expiration of the existing permit or license. **If a valid protest is received with respect to the renewal of a permit or license, the permittee or licensee may operate under the existing permit or license until the matter is finally adjudicated, plus thirty days.**

4. Q. What information must the protest contain?

A. A protest must contain the following information:

1. the name, address, and telephone number of the person filing the protest;
2. the name of the applicant for the permit or license and the address of the premises sought to be licensed, or the name and address of the permit or license holder if the application is for renewal;
3. the specific reasons why the application should be denied; and
4. a statement by the person protesting the application as to whether or not he or she wishes to attend a contested case hearing before the Administrative Law Judge Division. **Important: If the protest states that the protestant does not wish to attend a contested case hearing before the Administrative Law Judge Division, then the protest is invalid and the department must continue to process the application and must issue the permit or license if all other statutory requirements are met. See Question #6 below.**

Note: If the protestant does not reside in the same county in which the permit or license is requested, then the protestant must state that he or she lives within five miles of the location for which a permit or license is requested.

5. Q. If a protest does not contain all of the above information, is the protest a valid protest?

A. No. The protest is invalid and the department must continue to process the application and must issue the permit or license if all other statutory requirements are met.

6. Q. If the protest states that the protestant does not wish to attend a contested case hearing before the Administrative Law Judge Division, is the protest valid?

A. No. The protest is invalid and the department must continue to process the application and must issue the permit or license if all other statutory requirements are met.

7. Q. If the protest states that the protestant wishes to attend a contested case hearing before the Administrative Law Judge Division, is the protest valid?

A. Yes, provided the protest contains all the information listed in the answer to Question #4 and the department has determined, via letter, e-mail, fax or some other method, that the protestant does intend to attend the contested case hearing and offer testimony before the Administrative Law Judge Division.

8. Q. If the protestant advised the department of his or her intention to attend the contested case hearing before the Administrative Law Judge Division, but does not attend the hearing, what are the consequences for not attending the hearing?

A. A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed by the Administrative Law Judge Division a fine or penalty to include court costs.

9.Q. Does the department publish a form that can be used to protest the issuance or renewal of a permit or license?

A. Yes, attached to this revenue ruling is a form that can be used to protest the issuance or renewal of a permit or license. However, please note that this form is not required. Any letter containing the information required by the law, as discussed in this revenue ruling, is sufficient to constitute a valid protest provided the protestant affirms to the department a desire to attend the hearing before the Administrative Law Judge Division.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/
Burnet R. Maybank, III, Director

Columbia, South Carolina
December 16 , 1998

SOUTH CAROLINA DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE PROTEST FORM

PERSON FILING THE PROTEST:

Name: _____

Address: _____ City: _____

County: _____ Zip Code: _____ Phone No.: (____) _____

Fax No. (____) _____ E-Mail Address: _____

If you do not live within the same county as the location that is being protested, do you live within five (5) miles of the location being protested: Yes: _____ No: _____(Check One)

LOCATION BEING PROTESTED:

Name of Applicant or Permit/License Holder: _____

Location Being Protested:

Address: _____ City: _____

County: _____ Zip Code: _____

Type of Permit or License Being Protested (Check All Appropriate Spaces):

Beer and Wine Permit: _____ Liquor License: _____

New Location: _____ Renewal: _____

REASONS FOR PROTEST (Attached Additional Pages If Needed):

(REASONS CONTINUED)

I, _____, will ___ will not ___ (Check Only One) attend a contested case hearing before the Administrative Law Judge Division and offer testimony as to why I believe the location listed in this protest should not be issued a new beer and wine permit and/or liquor license or should not have its beer and wine permit and/or liquor license renewed.

Please note the following:

- (1) If the protest states that the protestant does not wish to attend a contested case hearing before the Administrative Law Judge Division, then the protest is invalid and the department, by law, must continue to process the application and must issue the permit or license if all other statutory requirements are met.
- (2) If the protest is valid and states that the protestant wishes to attend a contested case hearing before the Administrative Law Judge Division, then the department must determine, via letter, e-mail, fax or some other method, that the protestant does intend to attend the contested case hearing and offer testimony before the Administrative Law Judge Division.
- (3) If the protestant advised the department of his or her intention to attend the contested case hearing before the Administrative Law Judge Division, but does not attend the hearing, then such protestant may, by law, be assessed a fine or penalty to include court costs.
- (4) The protestant must either live in the same county as the location that is being protested or must live within five (5) miles of the location being protested.

Under penalties of perjury, the information contained in this protest form is true and correct to the best of my knowledge.

Signature of Person Protesting Permit/License