7-201 Requirements for Protesting Beer and Wine Permits or Alcoholic Liquor Licenses

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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 liquor by the drink license.

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:

resides in the county in which the permit or license is requested to be granted; or
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.

Since renewal notices are mailed to permittees and licensees sixty days before the existing license or permit expires, a protest concerning the renewal of an existing permit or license must be filed with the Department at least sixty days prior to the expiration of the existing permit or

license. However, an exception will be made and a protest will be considered timely if the protest is received by the ABL Licensing Section after the renewal notice has been mailed but before the renewal permit or license has been issued. If a valid and timely protest is received by the Department with respect to the renewal of a permit or license and the permittee or licensee made a timely and sufficient application for the renewal, the existing permit or license of the permittee or licensee does not expire until the application has been finally determined by the Department, and, in case the application is denied, until the last day for seeking review of the Department's final agency determination or a later date fixed by order of the reviewing court. (See Code Section 1-23-370(b).)

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 Court. Important: If the protest states that the protestant does not wish to attend a contested case hearing before the Administrative Law Court, 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 Court, 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 Court, 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 Court.

8. Q. If the protestant advised the Department of his or her intention to attend the contested case hearing before the Administrative Law Court, 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 Court 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, Form ABL-20 can be used to protest the issuance or renewal of a permit or license and can be obtained at the offices of the Department or at the Department's website (www.sctax.org). However, please note that this form is not required. Any letter containing the information required by the law, as discussed in this regulation, is sufficient to constitute a valid protest provided the protestant affirms to the Department a desire to attend the hearing before the Administrative Law Court.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003. Amended by State Register Volume 31, Issue No. 7, eff July 27, 2007.