



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5180

Introduced 2/9/2024, by Rep. Kam Buckner

#### SYNOPSIS AS INTRODUCED:

|                 |                       |
|-----------------|-----------------------|
| 235 ILCS 5/7-9  | from Ch. 43, par. 153 |
| 235 ILCS 5/7-10 | from Ch. 43, par. 154 |

Amends the Liquor Control Act of 1934. Deletes language providing that, in any case where a licensee appeals to the Illinois Liquor Control Commission from an order or action of the local liquor control commission having the effect of refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Commission. Provides that an immediate suspension issued by a local liquor control commissioner under a specified provision does not constitute a first or second suspension within the preceding 12-month period. Provides that an Illinois circuit court with jurisdiction over the matter shall have exclusive jurisdiction to review an appeal of an immediate suspension by a local liquor control commissioner. Deletes language requiring the State Commission to render a decision affirming, reversing, or modifying an order or action within 30 days after the appeal was heard. Provides that, if a rehearing is granted by the State Commission, the State Commission shall hold the rehearing and render a decision within a reasonable time from the petition filing date (instead of 20 days from the filing of the application for rehearing with the secretary of the commission). Makes other changes.

LRB103 39437 RPS 69628 b

1 AN ACT concerning liquor.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Liquor Control Act of 1934 is amended by  
5 changing Sections 7-9 and 7-10 as follows:

6 (235 ILCS 5/7-9) (from Ch. 43, par. 153)

7 Sec. 7-9. Appeals.

8 (a) Except as provided in this Section, any order or  
9 action of a local liquor control commissioner levying a fine  
10 or refusing to levy a fine on a licensee, granting or refusing  
11 to grant a license, revoking or suspending or refusing to  
12 revoke or suspend a license or refusing for more than 30 days  
13 to grant a hearing upon a complaint to revoke or suspend a  
14 license may, within 20 days after notice of such order or  
15 action, be appealed by any resident of the political  
16 subdivision under the jurisdiction of the local liquor control  
17 commissioner or any person interested, to the State  
18 Commission.

19 (b) In any case where a licensee appeals to the State  
20 Commission from an order or action of the local liquor control  
21 commission having the effect of suspending or revoking a  
22 license or denying a renewal application, ~~or refusing to~~  
23 ~~grant a license,~~ the licensee shall resume the operation of

1 the licensed business pending the decision of the State  
2 Commission and the expiration of the time allowed for an  
3 application for rehearing. If an application for rehearing is  
4 filed, the licensee shall continue the operation of the  
5 licensed business until the denial of the application or, if  
6 the rehearing is granted, until the decision on rehearing.

7 (c) In any case in which a licensee appeals to the State  
8 Commission a suspension or revocation by a local liquor  
9 control commissioner that is the second or subsequent such  
10 suspension or revocation placed on that licensee within the  
11 preceding 12-month ~~12-month~~ period, the licensee shall  
12 consider the suspension or revocation to be in effect until a  
13 reversal of the local liquor control commissioner's action has  
14 been issued by the State Commission and shall cease all  
15 activity otherwise authorized by the license. The State  
16 Commission shall expedite, to the greatest extent possible,  
17 its consideration of any appeal that is an appeal of a second  
18 or subsequent suspension or revocation within the past 12  
19 month period. For purposes of this Section, an immediate  
20 suspension issued by a local liquor control commissioner  
21 pursuant to Section 7-5 does not constitute a first or second  
22 suspension within the preceding 12-month period. An Illinois  
23 circuit court with jurisdiction over the matter shall have  
24 exclusive jurisdiction to review appeals of immediate  
25 suspensions issued pursuant to Section 7-5.

26 (d) The appeal shall be limited to a review of the official

1 record of the proceedings of such local liquor control  
2 commissioner if the county board, city council or board of  
3 trustees, as the case may be, has adopted a resolution  
4 requiring that such review be on the record. If such  
5 resolution is adopted, a certified official record of the  
6 proceedings taken and prepared by a certified court reporter  
7 or certified shorthand reporter shall be filed by the local  
8 liquor control commissioner within 5 days after notice of the  
9 filing of such appeal, if the appellant licensee pays for the  
10 cost of the transcript. The State Commission shall review the  
11 propriety of the order or action of the local liquor control  
12 commissioner and shall consider the following questions:

13 (1) ~~(a)~~ whether the local liquor control commissioner  
14 has proceeded in the manner provided by law;

15 (2) ~~(b)~~ whether the order is supported by the  
16 findings;

17 (3) ~~(c)~~ whether the findings are supported by  
18 substantial evidence in the light of the whole record.

19 (e) The only evidence which may be considered in the  
20 review, shall be the evidence found in the certified official  
21 record of the proceedings of the local liquor control  
22 commissioner. No new or additional evidence shall be admitted  
23 or considered. The State Commission shall render a decision  
24 affirming, reversing, or modifying the order or action  
25 ~~reviewed within 30 days after the appeal was heard.~~

26 (f) In the event such appeal is from an order of a local

1 liquor control commissioner of a city, village or incorporated  
2 town of 500,000 or more inhabitants, granting or refusing to  
3 grant a license or refusing for more than 30 days to grant a  
4 hearing upon a complaint to revoke or suspend a license, the  
5 matter of the propriety of such order or action shall be tried  
6 de novo by the license appeal commission as expeditiously as  
7 circumstances permit.

8 (g) In the event such appeal is from an order or action of  
9 a local liquor control commissioner of a city, village or  
10 incorporated town of 500,000 or more inhabitants, imposing a  
11 fine or refusing to impose a fine on a licensee, revoking or  
12 suspending or refusing to revoke or suspend a license, the  
13 license appeal commission shall determine the appeal by a  
14 review of the official record of the proceedings of such local  
15 liquor control commissioner. A certified record of the  
16 proceedings shall be promptly filed with the license appeal  
17 commission by such local liquor control commissioner after  
18 notice of the filing of such appeal if the appellant licensee  
19 pays for the cost of the transcript and promptly delivers the  
20 transcript to the local liquor control commission or its  
21 attorney. The review by the license appeal commission shall be  
22 limited to the questions:

23 (1) ~~(a)~~ whether the local liquor control commissioner  
24 has proceeded in the manner provided by law;

25 (2) ~~(b)~~ whether the order is supported by the  
26 findings;

1           (3) ~~(e)~~ whether the findings are supported by  
2           substantial evidence in the light of the whole record.

3           No new or additional evidence in support of or in opposition to  
4           such order or action under appeal shall be received other than  
5           that contained in such record of the proceedings. Within 30  
6           days after such appeal was heard, the license appeal  
7           commission shall render its decision in accordance with the  
8           provisions of Section 7-5.

9           (h) In cities, villages and incorporated towns having a  
10          population of 500,000 or more inhabitants, appeals from any  
11          order or action shall lie to the license appeal commission of  
12          such city, village or incorporated town. All of the provisions  
13          of this Section and Section 7-10 relative to proceedings upon  
14          appeals before the State Commission and relative to appeals  
15          from the decisions of the State Commission shall apply also to  
16          proceedings upon appeals before any license appeal commission  
17          and appeals from the decisions of license appeal commission.

18          (i) In any trial de novo hearing before the State  
19          Commission or license appeal commission, the local liquor  
20          control commissioner shall be entitled to 10 days notice and  
21          to be heard. All such trial de novo hearings shall be open to  
22          the public and the Illinois Liquor Control Commission and the  
23          license appeal commission shall reduce all evidence offered  
24          thereto to writing.

25          (j) If after trial de novo hearing or review as provided  
26          herein, the State Commission or the license appeal commission

1 (as the case may be) shall decide that the license has been  
2 improperly issued, denied, revoked, suspended or refused to be  
3 revoked or suspended or a hearing to revoke or suspend has been  
4 improperly refused or that the licensee has been improperly  
5 fined or not fined, it shall enter an order in conformity with  
6 such findings, which order shall be in writing.

7 (k) A certified copy of the order shall be transmitted to  
8 the particular local liquor control commissioner and it shall  
9 be the duty of the local liquor control commissioner to take  
10 such action as may be necessary to conform with the order.

11 (l) In any trial de novo hearing before the State  
12 Commission or the license appeal commission, the licensee  
13 shall submit to examination and produce books and records  
14 material to the business conducted under the license in like  
15 manner as before the local liquor control commissioner, and  
16 the failure of the licensee to submit to such an examination or  
17 to produce such books and records, or to appear at the hearing  
18 on such appeal, shall constitute an admission that he has  
19 violated the provisions of this Act. In the event the appeal is  
20 from an order of the local liquor control commissioner denying  
21 a renewal application, the licensee shall have on deposit with  
22 the local liquor control commissioner an amount sufficient to  
23 cover the license fee for the renewal period and any bond that  
24 may be required.

25 (Source: P.A. 88-613, eff. 1-1-95.)

1 (235 ILCS 5/7-10) (from Ch. 43, par. 154)

2 Sec. 7-10. Service. A copy of the rule, regulation, order  
3 or decision of the State commission or the license appeal  
4 commission, in any proceeding before it, certified under the  
5 seal of said commission, shall be served upon each party of  
6 record to the proceeding before the commission and service  
7 upon any attorney of record for any such party shall be deemed  
8 service upon such party. Each party appearing before said  
9 commission shall enter an ~~his~~ appearance and indicate to the  
10 commission a physical or electronic ~~his~~ address for the  
11 service of a copy of any rule, regulation, order, decision or  
12 notice and the mailing of a copy of any rule, regulation or  
13 order of said commission or of any notice by said commission,  
14 in said proceeding, to said party at such address shall be  
15 deemed service thereof upon such party.

16 Within 20 days after the service of any rule, regulation,  
17 order or decision of said commission upon any party to the  
18 proceeding, such party may apply for a rehearing in respect to  
19 any matters determined by said commission. If a rehearing is  
20 granted, the commission shall hold the rehearing and render a  
21 decision within a reasonable time from the petition filing  
22 date ~~20 days from the filing of the application for rehearing~~  
23 ~~with the secretary of the commission. The time for holding~~  
24 ~~such rehearing and rendering a decision may be extended for a~~  
25 ~~period not to exceed 30 days, for good cause shown, and by~~  
26 ~~notice in writing to all parties of interest.~~ No action for the



1 judicial review of any decision of said commission shall be  
2 allowed unless the party commencing such action has first  
3 filed an application for a rehearing and the commission has  
4 acted upon said application. Only one rehearing may be granted  
5 by the commission on application of any one party.

6 (Source: P.A. 82-783.)