WEST VIRGINIA CODE: §60-7-13A

§60-7-13a. Hearing on sanctioning of license; notice; review of action of commissioner; clerk of court to furnish commissioner copy of order or judgment of conviction of licensee; assessment of costs; procedure for appealing any final order of the commissioner which revokes, suspends, sanctions or denies the issuance or renewal of any license issued under this article.

(a) The commissioner may not revoke or suspend a license issued pursuant to this article or impose civil penalties authorized under this article unless and until a hearing is held after at least ten days' notice to the licensee of the time and place of the hearing, which notice shall contain a statement or specification of the charges, grounds or reasons for the proposed contemplated action, and which is served upon the licensee as notices under the West Virginia Rules of Civil Procedure or by certified mail, return receipt requested, to the address for which license was issued. At the time and place, designated in the notice, the licensee has the right to appear and produce evidence in his or her behalf, and to be represented by counsel: Provided, That the commissioner may forthwith suspend the license when the commissioner believes the public safety will be adversely affected by the licensee's continued operation.

(b) The commissioner may summon witnesses in the hearing before him or her, and fees of witnesses summoned on behalf of the state in proceedings to sanction licenses shall be treated as a part of the expenses of administration and enforcement. The fees shall be the same as those in similar hearings in the circuit courts of this state. The commissioner may, upon a finding of violation, assess a licensee a sum, not to exceed $150 per violation, to reimburse the commissioner for expenditures of witness fees, court reporter fees and travel costs incurred in holding the hearing. Moneys so assessed shall be transferred to the Alcohol Beverage Control Enforcement Fund created by section thirteen of this article.

(c) If, at the request of the licensee or on his or her motion, the hearing is continued and does not take place on the day fixed by the commissioner in the notice of hearing, then the licensee's license may be suspended until the hearing and decision of the commissioner, and in the event of revocation or suspension of the license, upon hearing before the commissioner, the licensee is not permitted to sell alcoholic liquor or nonintoxicating beer pending an appeal as provided by this article. Any person continuing to sell alcoholic liquor or nonintoxicating beer after his or her license has been suspended or revoked, as provided in this section, is guilty of a misdemeanor and, shall be punished as provided in section twelve of this article.

(d) Notwithstanding the provisions of subsection (b), section four, article five, chapter twenty-nine-a of this code, the action of the commissioner in revoking, suspending, sanctioning or refusing a license is subject to review by the circuit court of Kanawha County or the circuit court in the county where the proposed or licensed premises is located and will or does conduct sales: Provided, That in all other respects, such review shall be conducted in

WVLegislature

the manner provided in chapter twenty-nine-a of this code. The petition for review must be filed with the circuit court within thirty days following entry of the final order of revocation, suspension, sanction or refusal issued by the commissioner. A licensee obtaining an order for the review is required to pay the costs and fees incident to transcribing, certifying and transmitting the records pertaining to the matter to the circuit court. An application to the Supreme Court of Appeals of West Virginia for a writ of error from any final order of the circuit court in the matter shall be made within thirty days from and after the entry of the final circuit court order.

(e) All such hearings, upon notice to show cause why license should be revoked, suspended, sanctioned or refused, before the commissioner shall be held in the offices of the commissioner in Charleston, Kanawha County, unless otherwise provided by the commissioner in the notice of hearing. When the hearing is held elsewhere than in the commissioner's office, the licensee may be required to make deposits of the estimated costs of the hearing.

(f) Whenever any licensee has been convicted of an offense constituting a violation of the laws of this state or of the United States relating to alcoholic liquor, or nonintoxicating beer, and the conviction has become final, the clerk of the court in which the licensee has been convicted shall forward to the commissioner a certified copy of the order or judgment of conviction if the clerk has knowledge that the person convicted is a licensee, together with the certification of the clerk that the conviction is final. The commissioner shall report violations of any of the provisions of section twelve or twelve-a of this article to the prosecuting attorney of the county in which the licensed premises is located.

WV Legislature