WEST VIRGINIA CODE: §60-8-18

§60-8-18. Revocation, suspension, and other sanctions which may be imposed by the commissioner upon the licensee; 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 on his or her own motion, or shall on the sworn complaint of any person, conduct an investigation to determine if any provisions of this article or any rule promulgated or any order issued by the commissioner has been violated by any licensee. After investigation, the commissioner may impose penalties and sanctions as set forth in this section.

(1) If the commissioner finds that the licensee has violated any provision of this article or any rule promulgated or order issued by the commissioner, or if the commissioner finds the existence of any ground on which a license could have been refused, if the licensee were then applying for a license, the commissioner may:

(A) Revoke the licensee's license;

(B) Suspend the licensee's license for a period determined by the commissioner not to exceed 12 months;

(C) Place the licensee on probation for a period not to exceed 12 months; or

(D) Impose a monetary penalty not to exceed $1,000 for each violation where revocation is not imposed.

(2) If the commissioner finds that a licensee has willfully violated any provision of this article or any rule promulgated or any order issued by the commissioner, the commissioner shall revoke the licensee's license.

(b) Whenever the commissioner refuses to issue a license, or suspends or revokes a license, places a licensee on probation, or imposes a monetary penalty, he or she shall enter an order to that effect and cause a copy of the order to be served in person or by certified mail, return receipt requested, on the licensee or applicant.

(c) An applicant or licensee, as the case may be, adversely affected by the order has a right to a hearing before the commissioner if a written demand for hearing is served upon the commissioner within 10 days following the receipt of the commissioner's order by the applicant or licensee. Timely service of a demand for a hearing upon the commissioner operates to suspend the execution of the order with respect to which a hearing has been demanded, except an order suspending a license under the provisions of §60-8-29 of this code. The person demanding a hearing shall give security for the cost of the hearing in a

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form and amount required by the commissioner. If the person demanding the hearing does not substantially prevail in the hearing or upon judicial review thereof as provided in subsections (f) and (g) of this section, then the costs of the hearing shall be assessed against him or her by the commissioner and may be collected by an action at law or other proper remedy.

(d) Upon receipt of a timely served written demand for a hearing, the commissioner shall immediately set a date for the hearing and notify the person demanding the hearing of the date, time, and place of the hearing, which shall be held within 30 days after receipt of the demand. At the hearing, the commissioner shall hear evidence and thereafter enter an order supporting by findings of facts, affirming, modifying, or vacating the order. Any such order is final unless vacated or modified upon judicial review.

(e) The hearing and the administrative procedure prior to, during, and following the hearing shall be governed by and in accordance with the provisions of §29A-5-1 *et seq.* of this code.

(f) Notwithstanding the provisions of §29A-5-4(b) of this code, an applicant or licensee adversely affected by a final order entered following a hearing has the right to judicial review of the order code in 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, the review shall be conducted in the manner provided in Chapter 29A of this code. The applicant or licensee shall file the petition for the review with the circuit court within 30 days following entry of the final order issued by the commissioner. An applicant or licensee obtaining judicial review is required to pay the costs and fees incident to transcribing, certifying, and transmitting the records pertaining to the matter to circuit court.

(g) The judgment of the circuit court reviewing the order of the commissioner is final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals in accordance with the provisions of §29A-6-1 of this code.

(h) Legal counsel and services for the commissioner in all proceedings in any circuit court and the Supreme Court of Appeals shall be provided by the Attorney General or his or her assistants and in any proceedings in any circuit court by the prosecuting attorney of that county as well, all without additional compensation.

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