

123.39 Suspension or revocation of license or permit — civil penalty.

1. *a.* The administrator or the local authority may suspend a license or permit issued pursuant to this chapter for a period not to exceed one year, revoke the license or permit, or impose a civil penalty not to exceed one thousand dollars per violation. Before suspension, revocation, or imposition of a civil penalty, the license or permit holder shall be given written notice and an opportunity for a hearing. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to conduct the hearing and issue a proposed decision. Upon the motion of a party to the hearing or upon the administrator's own motion, the administrator may review the proposed decision in accordance with chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A licensee or permittee aggrieved by a decision of the administrator may seek judicial review of the administrator's decision in accordance with chapter 17A.

b. A license or permit issued under this chapter may be suspended or revoked, or a civil penalty may be imposed on the license or permit holder by the local authority or the administrator for any of the following causes:

- (1) Misrepresentation of any material fact in the application for the license or permit.
- (2) Violation of any of the provisions of this chapter.
- (3) Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any wine or beer permit, which change was not previously reported to and approved by the local authority and the division.
- (4) An event which would have resulted in disqualification from receiving the license or permit when originally issued.
- (5) Any sale, hypothecation, or transfer of the license or permit.
- (6) The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under this chapter when due.

c. A criminal conviction is not a prerequisite to suspension, revocation, or imposition of a civil penalty pursuant to this section. A local authority which acts pursuant to this section or section 123.32 shall notify the division in writing of the action taken, and shall notify the licensee or permit holder of the right to appeal a suspension, revocation, or imposition of a civil penalty to the division. Civil penalties imposed and collected by the local authority under this section shall be retained by the local authority. Civil penalties imposed and collected by the division under this section shall be retained by the division.

2. Local authorities may suspend any retail wine or beer permit or liquor control license for a violation of any ordinance or regulation adopted by the local authority. Local authorities may adopt ordinances or regulations for the location of the premises of retail wine or beer and liquor control licensed establishments and local authorities may adopt ordinances, not in conflict with this chapter and that do not diminish the hours during which beer, wine, or alcoholic beverages may be sold or consumed at retail, governing any other activities or matters which may affect the retail sale and consumption of beer, wine, and alcoholic liquor and the health, welfare and morals of the community involved.

3. When a liquor license or wine or beer permit is suspended after a hearing as a result of violations of this chapter by the licensee, permittee or the licensee's or permittee's agents or employees, the premises which were licensed by the license or permit shall not be relicensed for a new applicant until the suspension has terminated or time of suspension has elapsed, or ninety days have elapsed since the commencement of the suspension, whichever occurs first. However, this section does not prohibit the premises from being relicensed to a new applicant before the suspension has terminated or before the time of suspension has elapsed or before ninety days have elapsed from the commencement of the suspension, if the premises prior to the time of the suspension had been purchased under contract, and the vendor under that contract had exercised the person's rights under chapter 656 and sold the property to a different person who is not related to the previous licensee or permittee by marriage or within the third degree of consanguinity or affinity and if the previous licensee or permittee does not have a financial interest in the business of the new applicant.

4. If the cause for suspension is a first offense violation of section 123.49, subsection 2, paragraph "h", the administrator or local authority shall impose a civil penalty in the amount

of five hundred dollars in lieu of suspension of the license or permit. Local authorities shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the local authority. The division shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the administrator of the division.

[C35, §1921-f32, 1921-f126; C39, §**1921.032, 1921.129**; C46, 50, 54, 58, 62, §123.32, 124.34; C66, 71, §123.32, 123.102, 124.34; C73, 75, 77, 79, 81, §123.39]

85 Acts, ch 32, §32; 88 Acts, ch 1241, §12; 93 Acts, ch 91, §16, 17; 94 Acts, ch 1017, §2; 2000 Acts, ch 1154, §12; 2002 Acts, ch 1119, §128

Referred to in §123.24, 123.41, 123.46A, 123.50, 123.187