

SENATE BILL NO. 215

BY SENATOR CARTER

1 AN ACT

2 To amend and reenact R.S. 26:920(B) and (C), relative to the office of alcohol and tobacco
3 control; to provide for the procedure for appeal of tobacco dealers; to provide for a
4 fine for frivolous appeals; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 26:920(B) and (C) are hereby amended and reenacted to read as
7 follows:

8 § 920. Appeal

9 * * *

10 B. Any party aggrieved by a decision of the commissioner to withhold,
11 suspend, or revoke a permit may, within ~~thirty~~ **ten** days of the notification of the
12 decision, take a devolutive or suspensive appeal to the district court having
13 jurisdiction of the applicant's or permittee's place of business, proposed or actual as
14 the case may be. Such appeals shall be filed in the district courts in the same manner
15 as original suits are instituted therein. The appeals shall be tried de novo. Either party
16 may amend and supplement his pleadings and additional witnesses may be called and
17 heard. When there has been a previous criminal prosecution for the same or a similar
18 act upon which the refusal, suspension, or revocation of a permit is being considered,
19 evidence of an acquittal, dismissal, or plea of nolo contendere in a court of
20 competent jurisdiction is admissible in the trial of the appeal.

21 C. Within ~~thirty~~ **ten** calendar days of the signing of the judgment by the
22 district court in any such appeal case, the commissioner or the applicant for a permit
23 or permittee, as the case may be, may file a devolutive or suspensive appeal of the
24 judgment to the appellate court of proper jurisdiction. These appeals shall be
25 perfected in the manner provided for in civil cases and shall be devolutive or
26 suspensive only. **A suspensive appeal granted pursuant to the provisions of this**

1 Section that does not result in the reversal of a decision of the commissioner to
2 withhold, suspend, or revoke a permit, may subject the appellant to a fine of up
3 to five thousand dollars upon a finding by the court that the appeal is frivolous.

4 If the district court determines that the decision of the commissioner in withholding,
5 suspending, or revoking the permit was in error, the decision of the commissioner
6 shall not be voided if the commissioner takes an appeal to the court of appeals in the
7 time provided for suspensive appeals.

8 * * *

9 Section 2. This Act shall become effective upon signature by the governor or, if not
10 signed by the governor, upon expiration of the time for bills to become law without signature
11 by the governor and subsequently approved by the legislature, this Act shall become
12 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____