

O.C.G.A. § 3-2-3

Current through Act 6 of the 2025 Regular Session of the General Assembly but not including corrections and changes made by the Office of Legislative Counsel.

- [Official Code of Georgia Annotated](#)
- [TITLE 3 Alcoholic Beverages \(Chs. 1 — 15\)](#)
- [CHAPTER 2 State Administration and Enforcement \(Arts. 1 — 2\)](#)
- [Article 1 Administration \(§§ 3-2-1 — 3-2-15\)](#)

3-2-3. Powers and duties of commissioner as to denial, suspension, or cancellation of licenses or permits generally; promulgation of rules and regulations as to conversion of standards of measurement and labeling of distilled spirits.

In addition to his or her other duties and responsibilities to administer this title, the commissioner may:

(1) Deny, suspend, or cancel any license or permit required under this title if:

(A) The license application is not filed in good faith or is filed by some person as a subterfuge for any other person;

(B) Any applicant for a license or permit or any licensee or permit holder under this title willfully fails to comply with any provisions of this title or with rules and regulations adopted by the commissioner; or

(C) Any person to whom a license or permit has been issued is no longer engaged in the dealing of alcoholic beverages or no longer qualifies as a licensee or permit holder under this title.

Before any denial, suspension, or cancellation of a license or permit granted pursuant to this title, the applicant, licensee, or permit holder shall be afforded a hearing in the manner and subject to the conditions and procedures established by this chapter and the commissioner.

The commissioner shall notify an applicant, licensee, or permit holder in writing of the denial, suspension, or cancellation by registered or certified mail or statutory overnight delivery to the last known address of the applicant, licensee, or permit holder appearing in the commissioner's files or by personal service upon the applicant, licensee, or permit holder by an authorized agent of the commissioner.

Upon cancellation of a license or permit for cause under this paragraph, there shall be no renewal or reissuance of the canceled license or permit for a period of two years from the date of cancellation;

(2) In the event that the license of any person is canceled by the commissioner under the authority of this title, hold the bonds of the person for a period of three years against any liabilities accruing as a result of the business of the person whose license is canceled. In no event shall the surrender of any bond release any liability;

(3) Enter into agreements with appropriate authorities of other states who enforce the alcoholic beverage laws thereof, to exchange information relative to the manufacture, receipt, sale, use, or transportation of alcoholic beverages;

(4) Promulgate rules and regulations which he or she deems necessary for the conversion from the metric system of measurement to the equivalent English measurement in United States gallons and subdivisions of gallons and shall compute all tax rates at the equivalent English measurement; and

(5) Promulgate rules and regulations, not inconsistent with federal laws or regulations, requiring informative labeling of all distilled spirits offered for sale in this state.

History

Code 1933, § 5A-303, enacted by Ga. L. 1980, p. 1573, § 1; Ga. L. 1981, p. 1269, § 5; Ga. L. 1982, p. 1463, §§ 1, 8; Ga. L. 1984, p. 22, § 3; Ga. L. 2000, p. 1589, § 3; Ga. L. 2015, p. 317, § 2/SB 63.

Annotations

Notes

Editor's notes.

Ga. L. 2000, p. 1589, § 16, not codified by the General Assembly, provides that the amendment to this Code section is applicable with respect to notices delivered on or after July 1, 2000.

In light of the similarity of the statutory provisions, annotations decided under former Ga. L. 1937-38, Ex. Sess., p. 103 are included in the annotations for this Code section.

JUDICIAL DECISIONS

Municipal ordinance which provides for automatic loss of a liquor license upon cessation of business is not inconsistent with this title because it permits cancellation without notice and hearing, allegedly required by paragraph (1) of O.C.G.A. § 3-2-3, because no hearing is required where revocation of license is expressly required by ordinance. *City Council v. Crump*, 251 Ga. 594, 308 S.E.2d 180, 1983 Ga. LEXIS 931 (1983) (decided prior to 1982 amendment).

Constitutionality of revocation procedures. —

Liquor license revocation procedures which provide for a hearing, preceded by advance notice setting forth charge forming basis for revocation, are sufficient to comport adequately with due process mandates. *Page v. Jackson*, 398 F. Supp. 263, 1975 U.S. Dist. LEXIS 11228 (N.D. Ga. 1975) (decided under former Ga. L. 1937-38, Ex. Sess., p. 103).

Due process required for revocation of license. —

Liquor license holder has sufficient property interest in holding license to date of its automatic termination that revocation of license must be accompanied by rudimentary due process protections. Liquor licenses may not be revoked during the period of their effectiveness without such protections. *Page v. Jackson*, 398 F. Supp. 263, 1975 U.S. Dist. LEXIS 11228 (N.D. Ga. 1975) (decided under former Ga. L. 1937-38, Ex. Sess., p. 103).

The primary right to revoke a license lies with the commissioner, and this right may be used only for cause and after hearing. *Crummey v. State*, 83 Ga. App. 459, 64 S.E.2d 380, 1951 Ga. App. LEXIS 887 (1951) (decided under former Ga. L. 1937-38, Ex. Sess., p. 103).

Limitation on regulation by authorizing statutes. —

Even though the commissioner is given authority to make reasonable rules and regulations for the enforcement and administration of former Code 1933, Ch. 58-10 (see now O.C.G.A. § 3-2-3), the commissioner could not, by regulation, make penal and punish therefor as a misdemeanor something which is not made penal under the law itself, but could only enforce regulation by suspension or cancellation of license of offending party or parties. *Columbus Wine Co. v. Sheffield*, 83 Ga. App. 593, 64 S.E.2d 356, 1951 Ga. App. LEXIS 919 (1951) (decided under former Ga. L. 1937-38, Ex. Sess., p. 103).

Denial and cancellation of liquor licenses are actions of public official subject to court review. —

In the absence of some remedial review prescribed by law, equity is available to review alleged abuses of discretion by administrative licensing authority. *Blackmon v. Alexander*, 233 Ga. 832, 213 S.E.2d 842, 1975 Ga. LEXIS 1458 (1975) (decided under former Ga. L. 1937-38, Ex. Sess., p. 103).

Research References & Practice Aids

Law reviews.

For comment, "Retail Liquor Licenses and Due Process: The Creation of Property Through Regulation," see 32 Emory L.J. 1199 (1983).

RESEARCH REFERENCES

Am. Jur. 2d.

3 Am. Jur. 2d, Advertising, §§ 8, 15 et seq. 45 Am. Jur. 2d, Intoxicating Liquors, §§ 15 et seq. 26 et seq., 196 et seq.

Am. Jur. Pleading and Practice Forms.

14C Am. Jur. Pleading and Practice Forms, Intoxicating Liquors, §§ 15 et seq., 44 et seq., 74 et seq.

C.J.S.

48 C.J.S., Intoxicating Liquors, §§ 45 et seq., 138 et seq., 190 et seq., 436 et seq.

ALR.

Power to limit the number of intoxicating liquor licenses, 124 A.L.R. 825; 163 A.L.R. 581.

Revocation of liquor license of one person as ground for refusal of license to another, 153 A.L.R. 836.

Right to hearing before revocation or suspension of liquor license, 35 A.L.R.2d 1067.

Right to withdraw application to procure or to transfer liquor license, 73 A.L.R.2d 1223.

Revocation or suspension of liquor license because of drinking or drunkenness on part of licensee or business associates, 36 A.L.R.3d 1301.

Sale or use of narcotics or dangerous drugs on licensed premises as ground for revocation or suspension of liquor license, 51 A.L.R.3d 1130.

Hierarchy Notes:

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