



SPONSOR: Rep. Michael Smith & Sen. Pettyjohn

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 222

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO DUTIES AND POWERS OF THE DELAWARE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 304, Title 4 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 304. Duties and powers of the Commissioner.

4 (a) The Commissioner, in accordance with the Delaware Administrative Procedures Act, shall:

5 (4) Grant, refuse or cancel licenses required by this title for the manufacture or sale of alcoholic liquor, or
6 other licenses required by this title in regard thereto, and to transfer any license granted;

7 ~~(5) On petition signed by at least 10 individuals who are residents of the neighborhood, hear complaints in~~
8 ~~regard to the appointments of, or the conduct of business in, any establishment where alcoholic liquor is licensed to be~~
9 ~~sold. Upon receiving a petition signed by at least 25 individuals who have certified, by affidavit, that they reside within~~
10 1 mile of an establishment where alcoholic liquor is licensed to be sold, that the licensed establishment has failed to
11 comply with statutory or regulatory requirements that impact the neighborhood's quality of life, direct the petition to
12 the Division of Alcohol and Tobacco Enforcement for investigation. For the purposes of the investigation, the
13 Division has the power to issue subpoenas, administer oaths, interview potential witnesses, take testimony, and compel
14 the production of pertinent books, payrolls, accounts, papers, records, and documents. If, as the result of such
15 investigation it is determined that probable cause exists that a violation has occurred, a hearing will be deemed
16 necessary. Ten days' notice of such hearings, together with a recital of the complaint, shall be sent by registered mail
17 by the Commissioner's office to the address of the holder of the license for the establishment and like notice shall be
18 delivered at the establishment by affixing the notice addressed to the holder of the license to the outside of an entrance
19 door to the establishment. Ten days' notice of such hearing shall be sent to each of the petition's signatories by
20 registered mail so that they are able to provide an impact statement at the hearing. The hearings shall be conducted by
21 the Commissioner and shall be public. The Commissioner shall for the purpose of such hearings have power to issue
22 subpoenas, compel the attendance of witnesses, administer oaths, take testimony and compel the production of

23 pertinent books, payrolls, accounts, papers, records and documents. In case any person summoned to testify or to
24 produce any such written or printed evidence shall refuse, without reasonable cause, to be examined or to answer a
25 legal and pertinent question or to produce any such written or printed evidence, the Commissioner conducting the
26 hearing may certify the fact of any such refusal to the Superior Court of the county in which such hearing is held and
27 the court may proceed against the person so refusing as for a contempt and punish such person in the same manner as
28 persons are punished for contempt of court;

SYNOPSIS

This Act requires the Commissioner, after 25 complaints from residents who reside within one mile of a licensed establishment that sells alcohol regarding a violation of statutory or regulatory requirements, to direct an investigation to the Division of Alcohol and Tobacco Enforcement for an independent investigation. If an investigation finds the complaint credible, and a hearing is necessary, the signatories of the petition will also be provided notice of the hearing and given an opportunity to appear and provide an impact statement.