



SPONSOR: Rep. Ulbrich & Sen. DeLuca

HOUSE OF REPRESENTATIVES

141st GENERAL ASSEMBLY

HOUSE BILL NO. 588

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO REQUIREMENTS GOVERNING THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER'S ACTION ON APPLICATIONS FOR LICENSURE AND ON HEARINGS TO CONSIDER APPLICATIONS.

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

1 Section 1. Amend §541 of Title 4 of the Delaware Code by deleting subsection (b) in its entirety and substituting
2 in lieu thereof the following:

3 "(b) If ten (10) or more persons who reside or own property within 1 mile of the premises where the
4 license is to operate or in any incorporated areas located within 1 mile of the premises where the license is to operate file a
5 protest against the issuance of the license with the Commissioner within thirty (30) days from the filing of the application,
6 then a hearing must be held to consider the application and protest, and, specifically, the concerns of the members of the
7 community within which the license is to operate. The Commissioner may hold a hearing in the absence of a protest. The
8 Commissioner shall cause notice of the time and location of the hearing to be published in two consecutive issues of the
9 same newspapers within which the applicant published notice of the applicant's application for the license. The
10 Commissioner shall send notice of the time and location of the hearing to the applicant and to each of the persons who
11 signed the protest and provided a legible name and address; provided, however, that it is sufficient for the Commissioner
12 to send notice to the attorney of a person who is represented by legal counsel. The Commissioner shall conduct the
13 hearing, and shall make and keep a record of the hearing. The record must include the evidence, the Commissioner's
14 findings of fact, the Commissioner's decision, and a brief statement of the reasons therefor. The Commissioner's decision
15 must show the manner in which the Commissioner construed the law and applied it to the facts, must recite any objections
16 presented by the community, and must show how and the extent to which the Commissioner took community concerns
17 into account and gave them due consideration when making the decision."

SYNOPSIS

This bill brings §541 of Title 4 into harmony with other parts of the title. The bill allows persons to protest against the issuance of a license to purchase and resell or dispense alcoholic liquor within thirty days from the filing of an application for a license with the Commissioner. The bill also makes clear that both residents and property owners are entitled to protest an application, and that the Commissioner may hold a hearing even when no protest is filed.