



2023-2024 General Assembly

SENATE BILL 527: ABC Omnibus 2023-24, Sec. 13: Transition Period for ABC Permittee Ownership; Safe Harbor and Late Renewal Fees; Clarification Regarding Transfer of a Permitted Establishment to a Trust; and Temporary Permit Changes

Committee:	Date:	August 26, 2024
Introduced by:	Prepared by:	Chris Saunders
Analysis of:	Sec. 13 of S.L. 2024-41	Staff Attorney

OVERVIEW: *Section 13 of S.L. 2024-41 makes all of the following ABC permitting changes:*

- *Provides that after 90 days, a temporary permit is deemed to have been issued as a full permit.*
- *Establishes a safe harbor period lasting until June 1 of each year, during which applicants may renew their permits late for a late fee of 25% of the renewal application fee or registration and inspection fee. The ABC Commission must notify permittees whose renewal fees have not been paid no later than five business days after April 30.*
- *Provides that it does not constitute a change in ownership resulting in expiration of permits if a person transfers an ownership interest in a permitted establishment to a revocable or irrevocable trust established by the person and the person continues to operate the establishment following the transfer. If the person ceases to operate the establishment, this would constitute a change in ownership and the trustee would be required to notify the Commission within 30 days.*
- *Clarifies that the transition period after a change in ownership of a permitted establishment allows the new owner to purchase malt beverages, unfortified wine, or fortified wine to be resold for on premises or off premises consumption, or spirituous liquor for use in mixed beverages sold by the establishment, as applicable under the permit.*
- *Clarifies that Commission must not require any documentation besides the written or electronic notice to satisfy the notice requirement.*
- *Clarifies that the prior permittee is not liable for any acts or omissions of the new owner of the establishment during the transition period.*
- *Allows the new owner to submit an affidavit stating that the new owner has applied for local government approvals required for a permit application if the new owner has not received those approvals within the 60-day period allowed for the new owner to apply for permits.*
- *Clarifies that the new owner is authorized to operate to the same extent as the predecessor permittee until the Commission either issues or denies the new owner's permit application.*

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Director



Legislative Analysis
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- *Provides that withdrawal by the Commission of a pending application by a permittee possessing a temporary permit is effective upon service of notice of the withdrawal, or upon the expiration of five business days after notice of the withdrawal has been mailed to the permittee.*
- *Provides that revocation of a temporary permit is effective upon the expiration of five business days after notice of the revocation has been mailed to the permittee.*

This section became effective July 8, 2024.

CURRENT LAW: Under prior existing law, temporary permits are valid for 90 days, but many temporary permittees are not issued full permits within the 90-day period due to backlogs at the Commission. Additionally, revocation of a temporary permit is effective upon service of the notice of revocation or upon the expiration of three working days after the notice of revocation was mailed to the permittee.

ABC permits are valid for the one-year period running from May 1 to April 30. Failure to renew a permit results in revocation of the permit.

Generally, a change in ownership of an ABC-permitted establishment results in the immediate expiration of all permits for the establishment.

In 2022, the General Assembly enacted a transition period for changes in ownership of an ABC-permitted establishment, during which a person who becomes lawfully entitled to the use and control of the premises of a permitted establishment through contract, lease, management agreement, or change of ownership or transfer of business is allowed to continue to operate the establishment to the same extent as the prior permittee until the person receives a new permit.

BILL ANALYSIS: Section 13 of S.L. 2024-41 makes all of the following ABC permitting changes:

- Provides that after 90 days, a temporary permit is deemed to have been issued as a full permit.
- Establishes a safe harbor period lasting until June 1 of each year, during which applicants may renew their permits late for a late fee of 25% of the renewal application fee or registration and inspection fee. The ABC Commission must notify permittees whose renewal fees have not been paid no later than five business days after April 30.
- Provides that it does not constitute a change in ownership resulting in expiration of permits if a person transfers an ownership interest in a permitted establishment to a revocable or irrevocable trust established by the person and the person continues to operate the establishment following the transfer. If the person ceases to operate the establishment, this would constitute a change in ownership and the trustee would be required to notify the Commission within 30 days.
- Clarifies that the transition period after a change in ownership of a permitted establishment allows the new owner to purchase malt beverages, unfortified wine, or fortified wine to be resold for on premises or off premises consumption, or spirituous liquor for use in mixed beverages sold by the establishment, as applicable under the permit.
- Clarifies that Commission must not require any documentation besides the written or electronic notice to satisfy the notice requirement.

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- Clarifies that the prior permittee is not liable for any acts or omissions of the new owner of the establishment during the transition period.
- Allows the new owner to submit an affidavit stating that the new owner has applied for local government approvals required for a permit application if the new owner has not received those approvals within the 60-day period allowed for the new owner to apply for permits.
- Clarifies that the new owner is authorized to operate to the same extent as the predecessor permittee until the Commission either issues or denies the new owner's permit application.
- Provides that withdrawal by the Commission of a pending application by a permittee possessing a temporary permit is effective upon service of notice of the withdrawal, or upon the expiration of five business days after notice of the withdrawal has been mailed to the permittee.
- Provides that revocation of a temporary permit is effective upon the expiration of five business days after notice of the revocation has been mailed to the permittee.

EFFECTIVE DATE: This section became effective July 8, 2024.