

Wyoming Administrative Rules

Equalization, Board of

General Agency, Board or Commission Rules

Chapter 8: Rules of Practice and Procedure for Appeals from the Department of Revenue, Liquor Division's Revocation or Suspension of a Liquor License

Effective Date: 02/02/2021 to Current

Rule Type: Current Rules & Regulations

Reference Number: 211.0001.8.02022021

Chapter 8

RULES OF PRACTICE AND PROCEDURE FOR APPEALS FROM THE DEPARTMENT OF REVENUE, LIQUOR DIVISION'S REVOCATION OR SUSPENSION OF A LIQUOR LICENSE

Section 1. Authority and Scope. These rules are promulgated by authority of Wyoming Statutes 12-7-201(d). These rules provide a process for contested case appeal proceedings before the State Board of Equalization upon Department of Revenue (Department), Liquor Division's (Division) revocation or suspension of a Wyoming liquor license.

Section 2. Incorporation by Reference.

(a) The rules below are incorporated by reference and can be found at:

<http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=48>

(i) Rule 12(b)(6), Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017, except the Board shall not treat any proceeding as one for summary judgment;

(ii) Rule 24, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017;

(iii) Rule 45, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017; and

(iv) Rule 52, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on March 1, 2017.

(b) No later amendments to a rule listed in subsection (a) of this Section are incorporated by reference.

(c) Contested case proceedings shall be conducted in accordance with Chapter 2 of the State Board's Rules, §§ 5, 7 through 14, 17, 19 through 25, 28 through 33, and 36.

Section 3. Liquor Licensee Appeals following the Division's Suspension or Revocation.

(a) In accordance with W.S. 12-7-201(d), licensees subject to the Division's revocation or suspension of a liquor license may file an appeal with the Board not more than 30 days following the date on which the license is to be suspended or revoked as stated in the final notice of suspension or revocation. The Board shall docket appeals and schedule contested case proceedings as soon as feasible.

(b) The Board shall review the Division's suspension or revocation for compliance with statutory and regulatory law, and the Board shall either affirm or reverse the Division's action.

(c) When reviewing a departmental order or decision immediately suspending a license while an appeal is pending, the Board shall examine whether good cause supports the Division's conclusion that the licensee should not operate pending the appeal. The Board, upon the licensee's written request, shall hold a separate, immediate hearing to address the limited question of whether the suspension should go into effect while the appeal is pending. In determining whether the Division has demonstrated that the licensee should not be permitted to operate during the appeal to the Board, the Board will consider whether:

(i) The licensee has continuously and intentionally violated Wyoming's laws following clear and repeated notice from the Department (Division), and is likely to continue disobeying statutory or regulatory requirements pending the appeal;

(ii) The licensee is likely to engage in activities or conduct harmful to the public's general welfare;

(iii) The Department (Division) or other governmental bodies are unlikely to recover additional financial obligations of the licensee to the State or local licensing authority accruing after notice of the suspension and during an appeal;

(iv) The licensee's interests in operating, pending an appeal, are outweighed by the Division's interests in immediately suspending the license.

(d) The Division shall bear the burden of establishing the licensee should be required to cease operations pending an appeal.