



GUIDELINES FOR CONVERSION OF OUTSTANDING SUSPENSIONS TO FINES IN LICENSE TRANSFER CASES

September 25, 2015

Since the passage of Act 10 of 2002, the Board is authorized to convert outstanding suspensions imposed on a transferor (present licensee) to a monetary fine to be paid by the transferee (new applicant for the licensee). This is in addition to the option of having the transferee serve the outstanding suspension once the transfer is approved. The following is a summary outlining the procedures for the conversion of outstanding suspensions into fines. Questions on these procedures may be addressed to the Office of Chief Counsel, Pennsylvania Liquor Control Board, 401 Northwest Office Building, Harrisburg, PA 17124-0001, phone number 717-783-9454.

1. This procedure applies in situations where an application for the transfer of a license is pending and the transferor has an outstanding suspension that has not yet been served, and cannot be served because the premises is not in operation. The suspension may have been discretionary or mandatory.
2. The Bureau of Licensing will notify the transferee that it can either request that the suspension be served by the transferee by way of a signed stipulation or be converted to a fine, to be paid by the transferee. If the transferee is interested in the latter option, it should contact the Board's Office of Chief Counsel.
3. If the transferee wants to pay a fine in lieu of serving a suspension, it will make a request to the Office of Chief Counsel that a fine be set by the Board. The address and phone number of the Office of Chief Counsel are listed above.
4. Along with this request, the transferee will need to submit to the Office of Chief Counsel: (a) a letter requesting that a fine be set in lieu of the suspension; (b) the reason the transferor cannot serve the suspension; (c) the transferor's federal tax return for its last year of operation, showing the business's gross earnings; (d) the number of days the transferor was open in its last year of operation; (e) other financial documents as requested by the Office of Chief Counsel; and (f) a copy of the Administrative Law Judge's Adjudication and Order that resulted in the suspension. The latter document is obtainable from the Office of the Administrative Law Judge at the telephone number 717-540-5039. Problems that arise with obtaining any of the required information will be addressed on a case-by-case basis.
5. Board action on the request will be required, which will typically take four (4) to six (6) weeks. If the underlying transfer application is not approved, the request will be considered invalid.
6. The Office of Chief Counsel will prepare a memo to go to the Board, which contains the relevant information. The fine will be calculated by the application of the following formula: Gross earnings of the transferor divided by 365 (or the number of days in operation) multiplied by .50, resulting in the amount of fine per day of suspension ("fine per day"). However, there are two (2) caveats to this rule:

- if the fine per day is less than one thousand dollars (\$1,000.00) and the violation that resulted in the suspension was a non-enhanced penalty (involving citations where the Liquor Code imposes a minimum fine of fifty dollars (\$50.00)), then the fine per day will be one thousand dollars (\$1,000.00).

or

- if the fine per day is less than three thousand dollars (\$3,000.00) and the violation that resulted in the suspension was an enhanced penalty (involving citations where the Liquor Code imposes a minimum fine of one thousand dollars (\$1,000.00)); e.g., sales to minors, visibly intoxicated person, permitting minors to frequent the licensed premises, and sales during unlawful hours), then the fine per day will be three thousand dollars (\$3,000.00).
7. The memo will be submitted by the Office of Chief Counsel to the Board, which will act by accepting the request and setting the amount of fine (or rejecting the request, or making a counteroffer).
 8. Once the Board has acted, the Office of Chief Counsel will send a letter to the transferee, with a copy to the Bureau of Licensing, informing it that the Board has approved a fine and the amount. The transferee will also be advised that the Bureau of Licensing will be contacting the transferee if and when the transfer is approved with more information regarding the payment of the fine.
 9. If the transfer is approved, it is subject to the payment of the fine by a certain date. The Bureau of Licensing will notify the transferee of such in its approval letter, and no operating authority will be issued until the fine is paid in full. Notice will also be provided to the Office of the Administrative Law Judge ("OALJ").
 10. The fine must be paid by the transferee to the OALJ, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661. The fine must be paid by Treasurer's Check, Cashier's Check, Certified Check, or Money Order, made payable to the Commonwealth of Pennsylvania. Personal checks, which include business-use personal checks, are not acceptable.
 11. Upon receipt of the fine payment, the OALJ will notify the Bureau of Licensing that the fine has been paid in full, at which time Licensing will then issue operating authority to the transferee, assuming that all other Board requirements to do so have been met.
 12. If after the Board approves a conversion to a fine, the transfer is denied for whatever reason, then the Board's decision regarding the suspension conversion to a fine is rendered a nullity and the unserved suspension remains in effect for the transferor.
 13. If after the Board approves a conversion to a fine, the transferee wishes to serve the original suspension instead of paying the fine, it must ask the Board for permission to do so.