

## **DECLARATION OF EMERGENCY**

### **Department of Revenue Office of Alcohol and Tobacco Control**

#### **CBD Product Public Safety Regulations (LAC 55:VII.601-619)**

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, pursuant to the emergency rulemaking authority granted by R.S. 49:953(B) of the Administrative Procedure Act (R.S. 49:950, et seq.) and the specific rule making authority granted by R.S. 3:1483, hereby adopts the following Emergency Rule for the protection of public health. The effective date of this Rule is upon signature, August 1, 2019.

These revised CBD Product Public Safety Regulations replace the prior Declaration of Emergency, CBD Product Public Safety Regulations, that were promulgated on June 27, 2019 and incorporate requests and suggestions received from the Author of Act 164 of the 2019 Louisiana Legislature and the chairs of both of the agencies' legislative oversight committees. The revisions include: (1) changing the required date for an existing business which desires to have industrial hemp-derived CBD products on their premises to apply for a CBD retail permit from August 1, 2019 to September 1, 2019; (2) changes to ensure retail applicants and permit holders understand that it is the manufacturer's duty to register and obtain label approval for industrial hemp-derived CBD products; (3) providing for the expiration date of March 31, 2020 for initial temporary CBD permits; (4) removing the fee for CBD wholesale permits and providing for the expiration date of July 31, 2020 for initial temporary CBD permits; (5) removal of the staggered expiration and renewal dates for CBD retail permits and providing for all to expire on March 31<sup>st</sup> of each year; (6) removal of the staggered expiration and renewal dates for CBD wholesaler permits and providing for all to expire on July 31 of each year; and (7) clarifying that the civil penalties provided for in section 613 are at the discretion of the Commissioner and in lieu of the criminal penalties provided for by R.S. 3:1485; (8) allows for applicants to apply for CBD permit if they were convicted of a certain felonies with completion of final sentence two years before the date of application; (9) reduces the amount of civil penalties; (10) allows for CBD Owner Training to be valid for two years; (11) removing the limitation on special event permits.

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, finds it necessary to make immediate changes to the Louisiana Administrative Code given the need for regulation of industrial hemp-derived CBD products for consumption and topical use as defined under the provisions of Act No. 164 of the 2019 Louisiana Legislature. The following regulations will give the ATC the ability to properly license and regulate the retail sale of industrial hemp-derived CBD products for consumption and topical use, which will affect the health of Louisiana citizens and give the commissioner of the Office of Alcohol and Tobacco Control the ability to make critical decisions that protect human health. This rule creates §601 through §619 to address retail CBD licensure, permitting, and related matters since this is not addressed otherwise by existing law or regulation.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of alcohol and tobacco control or until permanent rules are promulgated in accordance with law.

#### **Title 55**

#### **PUBLIC SAFETY**

#### **Part VII. Alcohol and Tobacco Control**

#### **Chapter 6. CBD Product Public Safety Regulations**

#### **§601. CBD Retail and Wholesale Permits**

A.1. Each person who sells or is about to engage in the business of selling at retail or wholesale, any industrial hemp-derived product or hemp-derived product that contains CBD intended for consumption or topical use as defined in R.S. 3:1481(5) shall first apply for and obtain a CBD retail and/or wholesale permit for each physical place of business from the Office of Alcohol and Tobacco Control. Online retail sales of industrial hemp-derived CBD products intended for consumption or topical use shall be allowed with a CBD retail permit and physical place of business within the State. Any industrial hemp-derived product or hemp seed incapable of germination that has been approved by the United States Food and Drug Administration and does not contain any amount of cannabidiol shall not fall under the regulations of this Chapter.

2. The commissioner of the Office of Alcohol and Tobacco Control shall have the authority to issue permanent and temporary retail and wholesale permits for industrial hemp-derived CBD products and the permit shall only authorize the storage and sales of said products to take place at each physical place of business so permitted.

a. Existing retail businesses that desire to have industrial hemp-derived CBD products on their premises for sale to consumers shall have until September 1, 2019 to apply for a temporary CBD retail permit with the Office of Alcohol and Tobacco Control.

b. Applicants for initial applications for CBD retail and wholesale permits received by the Office of Alcohol and Tobacco Control shall receive a temporary permit and have until January 31, 2020 to ensure that the industrial hemp-derived CBD products they are carrying have been registered by the manufacturer with the Louisiana Department of Health and until February 28, 2020 to ensure that the CBD products they are carrying have had their labels approved by the Louisiana Department of Health.

c. All industrial hemp-derived CBD products not registered by a manufacturer with the Louisiana Department of Health by January 31, 2020 shall be removed from retail and wholesale premises. All industrial hemp-derived CBD products which have not received label approval from the Louisiana Department of Health by February 28, 2020 shall be removed from retail and wholesale premises.

d. A temporary CBD retail permit holder carrying only hemp-derived CBD products that have been properly registered by the manufacturer with the Louisiana Department of Health and have labels approved by the Louisiana Department of Health, may apply for a permanent CBD retail permit with the Office of Alcohol and Tobacco Control.

e. Permanent CBD retail permit holders and permanent CBD wholesaler permit holders may not possess, store, display, offer for sale, or sell CBD products which have not been registered with and had their labels approved by the Louisiana Department of Health.

3. The CBD retail permit shall not authorize the permittee to sell or offer for sale any industrial hemp-derived CBD product that:

- a. is derived from any source that is not hemp;
- b. contains a tetrahydrocannabinol (THC) concentration of more than 0.3 percent on a dry weight basis;
- c. is intended for inhalation;
- d. is an alcoholic beverage containing CBD or hemp;
- e. is marketed as a dietary supplement, unless approved by the United States Food and Drug Administration;
- f. is a food product or beverage containing CBD or hemp, unless the United States Food and Drug Administration approves CBD and/or hemp as a food additive;
- g. contains a medical claim, unless approved by the United States Food and Drug Administration.

4. The CBD retail permit shall only authorize the permittee to sell or offer for sale an industrial hemp-derived CBD products that is:

- a. produced from hemp grown by a licensee authorized to grow hemp by the United States Department of Agriculture or under an approved state plan pursuant to the Agriculture Improvement Act of 2018, P.L. 115-334, or under an authorized state pilot program pursuant to the Agriculture Act of 2014, P.L. 113-79;
- b. registered with the Louisiana Department of Health in accordance with the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.); and
- c. labeled in accordance with the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.) and approved by the Louisiana Department of Health. The label shall have:
  - i. the following words printed clearly on its label: "This product has not been evaluated by the Food and Drug Administration and is not intended to diagnose, treat, cure, or prevent any disease", unless approved by the United States Food and Drug Administration; and
  - ii. a scannable bar code, QR code, or web address linked to a document or website that contains a certificate of analysis as required by R.S. 3:1482(D).

5. If the permit holder is a corporation or limited liability company, the permit holder shall notify the Office of Alcohol and Tobacco Control in its initial application and renewal applications of all officers, directors, managers, shareholders, members, or persons qualified to conduct or manage the business and same shall meet the qualification requirements of an applicant.

6. The CBD retail and wholesale permits shall be considered a privilege and is not transferrable, assignable, or heritable. The permit must be returned to the Office of Alcohol and Tobacco Control or surrendered to an agent of the commissioner within five days of permit closure, when the ownership of the business is transferred, or the business is terminated. When the ownership of the business is transferred, the new owner shall be allowed to continue to operate using the transferor's permit until a new permit is issued or denied, only if the new owner notifies the Office of Alcohol and Tobacco Control of the transfer within five days of the transfer and applies for a new CBD retail or wholesale permit within fifteen days of the transfer of ownership. If the permit holder is a corporation or limited liability company, the permit holder shall notify the Office of Alcohol and

Tobacco Control of any changes in the officers, directors, managers, shareholders, members, or persons previously qualified to conduct or manage the business within fifteen days of the date of such changes. The notification shall include the suitability documents and information for each new individual required to possess the qualifications of the applicants. However, in the event of the dissolution of a partnership by death, the surviving partner or partners may operate under the partnership permit.

7. Receivers and trustees in bankruptcy may operate under the permit of the person succeeded.

8. When the location of a place of business is proposed to be changed, the proposal shall be received and must be approved by the issuing authority before such action is taken. The change of location shall be noted on the permit by the issuing authority and the permit shall be invalid unless the notation is made.

9. The permit, in addition to any other permit required to be displayed, shall be posted in a conspicuous place on the licensed premises, so as to be easily seen and read by the public. No other signs or notices, except those required by state or federal law, shall be required to be displayed by the retail dealer.

10. A partnership may include a surviving spouse not separate in community and that spouse may operate under the partnership permit for the remainder of the term.

11. A partnership, corporation, or any other authorized legal entity recognized under the laws of the state of Louisiana may include a spouse who has a regime of separation of property, pursuant to Civil Code Article 2370, and may include a spouse who owns the interest in the partnership, corporation, or other legal entity as that spouse's separate property, pursuant to Civil Code Article 2341, and that spouse may operate under the permit of the partnership, corporation, or other legal entity for the remainder of the term after final conviction of the other spouse for any felony that is not directly related to the CBD retail or wholesale permit.

12. The failure of a retail dealer to publicly display his permits, as required by Paragraph ) above, shall be grounds for the withholding, suspension, or revocation of the CBD retail and/or wholesale permit.

B.1. The commissioner shall collect an initial and annual licensure permit fee in the amount of \$175 per year for CBD retail permits. Initially, the commissioner shall issue temporary CBD retail permits that shall expire March 31, 2020.

2. The commissioner shall collect no fee for wholesaler permits. Initially, the commissioner shall issue temporary wholesaler permits that shall expire July 31, 2020.

3. The expiration of CBD retail permits shall be on March 31 of each year and permit holders shall renew their permit prior to that date.

4. The expiration of CBD wholesaler permits shall be on July 31 of each year and permit holders shall renew their permit prior to that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

### **§603. Submission of Applications**

A. All applications for CBD retail and wholesale permits shall be mailed or delivered to the commissioner in Baton

Rouge, Louisiana, unless additional methods are made available by the commissioner. All applications for local permits (if required) shall be mailed or delivered to the respective local authorities, unless additional methods are made available by the local governing authority. An applicant shall mail or deliver both her applications for state and local permits (if required) within twenty-four hours of each other. If she fails to do so, her state application may be withheld and the permits denied. Upon receipt of an application, the commissioner or the local authorities, as the case may be, shall stamp the day, month, and year received, and the commissioner may verify that the applicant does not owe the state or the political subdivision in which the business is located any delinquent sales taxes, penalties, or interest, excluding items under formal appeal pursuant to the applicable statutes. The commissioner and officers or employees specifically so authorized by the commissioner and local authorities may issue the permits immediately after proper investigation but, for a period of thirty-five days after issuance, such permits shall operate on a probationary basis subject to final action on or withholding of the permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

#### **§605. Qualifications**

A. Upon application for initial permit licensure or annual permit license renewal for a CBD retail or wholesale permit, the applicant may be required to submit to a criminal background check. The applicant may be required to submit fingerprints and other identifying information to the Agency along with an application to the Louisiana Bureau of Criminal Identification and Information, who shall forward results of the criminal background check to the Office of Alcohol and Tobacco Control. The costs of providing the criminal background check shall be assessed by the bureau, as specified in R.S. 15:587(B), and paid by the applicant. Information obtained from the criminal background check may be used by the Office of Alcohol and Tobacco Control to determine the applicant's eligibility for a CBD retail or wholesale permit and/or renewal pursuant to this chapter.

B. No person shall be eligible to obtain or hold a permit if:

1. convicted of a felony crime under federal or state law as defined in R.S. 14:2(B) or drug related distribution within 10 years immediately preceding the date of application;

2. convicted of a felony not defined in Subsection B.1, until two years after the completion of the final sentence.

C. Failure to meet or maintain qualifications is a ground for the denial, withholding, suspension, or revocation of a CBD retail and/or wholesale permit.

D. The applicant is responsible for any employee working under the applicant's license and CBD retail and wholesale permit holders shall maintain a record containing the name, date of hire, social security number, and date of employment termination for every employee.

E. Applicants for CBD retail and wholesale permits shall:

1. be a person of good character and reputation and over eighteen years of age. In considering a person's good character or reputation, the commissioner may consider a person's arrests in determining suitability;

2. be a citizen of the United States and the state of Louisiana and a resident of the state of Louisiana continuously for a period of not less than two years next preceding the date of the filing of the application;

3. be the owner of the place of business or have a bona fide written lease therefor for the place of business wherein the storage and retail/wholesale sales of industrial hemp-derived CBD products intended for consumption or topical use shall take place;

4. have not had a license or permit to sell or deal in CBD or hemp, issued by the United States, any state, or by any political subdivision of a state authorized to issue permits or licenses, revoked within two years prior to the application;

5. have not been adjudged by the commissioner, or convicted by a court of violating any of the provisions of this Chapter. If the applicant has been so convicted, the granting of a permit or of a renewal shall be within the discretion of the commissioner.

6. Not owe the state or the local governmental subdivisions in which the application is made any delinquent taxes, penalties, or interest, excluding items under formal appeal pursuant to applicable statutes.

7. Not be the spouse of a person who does not meet the requirements of Paragraphs (1) and (4) through (6) of this Subsection; however, in such cases the age of the ineligible spouse shall be immaterial. For purposes of this Paragraph, the term "spouse" shall also include persons who are considered married outside of the United States, persons who ordinarily hold themselves out as husband and wife, or persons who file their state and federal income tax returns as either "married filing jointly" or "married filing separate".

F. If the applicant is a partnership recognized by Louisiana law, or anyone in such partnership with or financed by another, all members of such partnership, or all the persons furnishing the money shall also possess the qualifications required of an applicant. The application shall name all partners or financial backers and furnish their social security numbers and proper addresses. If a partner of a partnership applying for retail or manufacturer's permits is a corporation or limited liability company, the requirements as to citizenship and residence shall not apply to officers, directors, and stockholders of the corporation or members of the limited liability company. The corporation or limited liability company shall either be organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.

G.1. If the applicant is a corporation or a limited liability company, all officers and directors and all stockholders or members owning in the aggregate more than five percent of the stock or of the membership interest in a limited liability company and the person or persons who shall conduct or manage the business shall possess the qualifications required of an applicant and shall furnish their federal identification number, their Louisiana Department of Revenue business account number, their social security number, and their correct home address. The requirements as to citizenship and residence do not apply to either the officers, directors, or stockholders of corporations, or the officers, managers, or members of limited liability companies. The corporation or limited liability company shall be either organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.

2. Notwithstanding any other provisions of law to the contrary, the commissioner may accept from a publicly traded or other corporation or entity, the necessary documentation of those persons described in Subsection H of this Section and three officers of the corporation in full satisfaction of the requirements of this Section.

H. Notwithstanding the provisions of Subsections B, the commissioner may grant or continue a permit with respect to an applicant, even though the applicant's spouse has been convicted of a felony, if the applicant:

1. had state and local permits prior to the spouse's felony conviction; and

2.a. has a regime of separation of property, pursuant to Civil Code Article 2370, and is the owner of the premises or has a bona fide written lease therefor; or

b. owns the permitted premises as the applicant's separate property, pursuant to Civil Code Article 2341.

I. In order to determine suitability, members of a partnership recognized by Louisiana law, the officers and directors of a corporation, the stockholders of a corporation, and members of a limited liability company owning more than five percent of such a corporation or company may be required to submit fingerprints and other identifying information to the Agency along with an application to the Louisiana Bureau of Criminal Identification, who shall forward results of the criminal background check to the Office of Alcohol and Tobacco Control. The costs of providing the criminal background check shall be assessed by the bureau, as specified in R.S. 15:587(B), and paid by the applicant.

J. All licensees and persons required to be qualified pursuant to the provisions of this Chapter shall have a continuing duty to inform the commissioner of any action which they believe would constitute a violation of this Chapter. No person who so informs the commissioner shall be discriminated against by an applicant or licensee because of supplying such information.

K. All licensees and any other persons who have been found suitable in accordance with the provisions of this Section shall maintain suitability throughout the term of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

#### **§607. Misstatement or Suppression of Fact**

A. Any misstatement or suppression of fact in an application for an initial permit, application for renewal of a permit, special event permit, or any accompanying affidavit to the Office of Alcohol and Tobacco Control is ground for the denial, withholding, suspension, or revocation of a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

#### **§609. Inspection and Examination**

The commissioner or her agent may inspect any place of business where industrial hemp-derived CBD products are offered for wholesale and/or retail sale to the public and she or her agent may examine, at all reasonable hours, the books, records, and other documents of all CBD retail and wholesale permit holders.

No person shall refuse to allow, on demand, the commissioner or her agent to make a full inspection of a place of business where industrial hemp-derived CBD products are offered for wholesale and/or sale to the public, nor shall any person refuse to allow, on demand, the commissioner or her agent to examine and audit the books and records of any business where industrial hemp-derived CBD products are offered for wholesale and/or sale to the public, nor shall any person in any way hinder or prevent such an inspection or audit.

Any refusal by a CBD retail or wholesale permit holder to allow the commissioner or her agent to inspect the permitted place of business or to examine and audit the books and records of the permitted business as provided within this section is grounds for the suspension of a permit, in addition to other penalties provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

#### **§611. Prohibition on Sales to Minors**

A. No Person holding a CBD retail permit and no servant, agent, or employee of the permittee shall sell any industrial hemp-derived CBD product to any person under the age of eighteen years of age.

B. To ensure that no industrial hemp-derived CBD product is sold to a person under the age of eighteen years of age, a CBD retail permit holder and their servants, agents, and employees may require all persons attempting to purchase CBD products to produce for inspection either:

1. a valid, current, Louisiana driver's license which contains a photograph of the person presenting the driver's license;

2. a valid, current, driver's license of another state which contains a photograph of the person and birth date of the person submitting the driver's license;

3. a valid, current, special identification card issued by the state of Louisiana pursuant to R.S. 40:1321 containing a photograph of the person submitting the identification card;

4. a valid, current, passport or visa issued by the federal government or another country or nation, that contains a permanently attached photograph of the person and the date of birth of the person submitting the passport or visa;

5. a valid, current, military or federal identification card issued by the federal government containing a photograph of the person and date of birth of the person submitting the identification card;

6. a valid, current, special identification card of another state which contains a photograph of the person and birth date of the person submitting the identification card;

7. LA Wallet digitized identification shall be the only digital identification that may be accepted by CBD retailers. CBD retailers may choose to accept digitized identification or they may still require a physical identification when checking identification. Retailers whom the Agency has required to utilize scanners shall still be required to request and scan a physical identification and may not accept digitized identification. Digitized identification may be accepted by establishments provided that all employees have been properly trained prior to acceptance in accordance with the requirements of LAC 55:VII.401(D).

C. Each form of identification listed above must on its face establish the age of the person as eighteen years or

older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification mentioned above shall be accepted as proof of age if it is expired, defaced, mutilated, or altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit additional information which contains the name, date of birth, and picture of the person. A duplicate driver's license shall be considered lawful identification for the purposes of this Paragraph, and a person shall not be required to submit additional information containing the name, date of birth, and picture of the person. In addition, an educational institution identification card, check cashing identification card, or employee identification card shall not be considered as lawful identification for the purposes of this Paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

### **§613. Administrative Hearings and Penalties**

A. Any person who violates any of the provisions of this chapter or the provisions of R.S. 3:1481 et seq.; or who alters, forges, or counterfeits, or uses without authority any permit, license, or other document provided for in this chapter, who operates without a permit, or who fails to collect or to timely pay the assessments, fees, and penalties due or assessed pursuant to this chapter or R.S. 3:1481 et seq., shall be subject, in addition to any unpaid assessments, late fees, or collection costs, to a civil penalty of not more than three hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall constitute a separate offense.

B. At the discretion of the commissioner and in lieu of the criminal penalties provided for by R.S. 3:1484, any licensee who violates any of the provisions of this chapter may be subject to having his permit suspended or revoked, in addition to any other penalties authorized herein or by law.

C. At the discretion of the commissioner and in lieu of the criminal penalties provided for by R.S. 3:1485 and in lieu of suspension, revocation, or probation, whoever violates the provisions of this chapter shall be fined as follows.

1. On a first offense, the offender shall be fined not more than \$300.

2. On a second offense that occurs within three years of the first offense, the offender shall be fined not more than \$1,000 and/or have its permit suspended.

3. On a third offense that occurs within three years of the first offense, the offender shall be fined not more than \$5,000 and/or have its permit suspended or revoked.

4. On a fourth offense that occurs within three years of the first offense, the offender shall have its permit revoked.

D. Any fine imposed upon any permittee or the revocation or suspension of a permit is in addition to and is not in lieu of or a limitation upon any other penalty imposed by law and not contained in this Chapter.

E. The procedure for the suspension or revocation of permits shall be substantially as follows.

1. The commissioner may have periodic examinations made of the business of all persons holding permits under this Chapter. If a violation of any provision of this Chapter or of the law is observed, the commissioner may give the

permittee a written warning. If the permittee has been previously warned or if the violation is of a sufficiently serious nature, the commissioner may instruct any agent or employee of the commissioner to prepare and file, upon information and belief based upon the facts in hand, a petition for suspension or revocation of the permit, setting forth the facts and circumstances of the violation, and shall thereupon summon the permittee to appear and show cause why the permit should not be suspended or revoked.

2. The secretary of the Department of Revenue, municipal authorities, sheriffs, and other law enforcing officers may have periodic investigations made of the business of all permittees within their respective jurisdictions. If any violation of any provision of this Chapter or of any law is observed, such authorities may give the permittee a written warning. If the permittee has been previously warned or if the violation is of a sufficiently serious nature, they shall file an affidavit with the commissioner, setting forth the facts and circumstances of the violation. Thereupon, the commissioner shall summon the permittee to appear and show cause why his permit should not be suspended or revoked.

3. Any person may file with the commissioner or with the municipal officers or parish authorities a sworn petition requesting that a permit be suspended or revoked. If the petition is filed with the local authorities, they shall immediately transmit it to the commissioner. When such a petition is received by the commissioner, she shall summon the permittee to appear and show cause why her permit should not be suspended or revoked.

4. No such petition shall be considered by the commissioner unless sworn to by the petitioner in an affidavit which also affirms that the petitioner, together with witnesses, if any, will appear at the hearing to establish the allegations of the petition, and unless the petition sets forth facts constituting a cause or causes enumerated in or authorized by this Chapter for the suspension or revocation of a permit.

5. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

F. No permit shall be withheld, suspended, or revoked except for causes specified in this Chapter. If a person holds more than one permit and any one of them is suspended or revoked, the commissioner may suspend or revoke all of his permits.

G. Conviction by a court of violation of the provisions of this Chapter is not a condition precedent to the refusal, suspension, or revocation of a permit under this Chapter for a violation of any of the provisions of this Chapter or the law. When there has been a previous criminal prosecution for the same or similar act upon which the refusal, suspension, or revocation of a permit is being considered, evidence of a conviction or an acquittal in a court of competent jurisdiction shall be admissible in a proceeding before the commissioner. The commissioner shall withhold, suspend, or revoke permits for violations of this Chapter, regardless of any prosecution in the court or of the result of any such prosecution.

H. When a permit is revoked for any legal cause, the commissioner may, at the same time, order that no state or

local permit shall be issued covering the same premises until two years after the date of revocation.

I. Whenever the commissioner is to hold a hearing pursuant to the provisions of this Chapter, she shall issue a written summons or notice thereof to the applicant or permittee, directing her to show cause why her permit should not be suspended or revoked. The notice or summons shall state the time, place, and hour of the hearing, which shall be not less than ten nor more than thirty calendar days from the date of the notice. The notice or summons shall enumerate the cause or causes alleged for suspending or revoking the permit. All notices or summonses shall be either delivered to the applicant or permittee in person or sent by certified mail to the applicant or permittee and directed to him at the mailing address as given in his last application for the permit. When so addressed and mailed, notices or summonses shall be conclusively presumed to have been received by the applicant or permittee.

J. Hearings by the commissioner shall, in her discretion, be held either at the agency headquarters in Baton Rouge, the agencies New Orleans' office, in the parish in which the licensed premises in question is located, or at another location designated by the commissioner.

K. To the extent practicable, the commissioner may authorize the use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing pursuant to the following requirements.

1. Prior to authorizing the use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing, the commissioner shall provide the permittee with written notice of his intent to do so. The notice shall be sent by certified mail to the permittee at the address of his place of business as given in his application for the permit and shall be sent not less than ten nor more than thirty calendar days from the scheduled hearing date. When so addressed and mailed, the notice shall be conclusively presumed to have been received by the permittee.

2. Any party objecting to the commissioner's authorization of the use of teleconference, video link, or other visual remote communications technology to conduct all or any portion of any authorized hearing shall provide the commissioner with written notification of the objection at least five days prior to the scheduled hearing date. Upon receipt of any objection, the commissioner shall not allow the use of teleconference, video link, or other visual remote communications technology to conduct any portion of the hearing for which a proper objection was raised. Failure of a permittee to object in writing within at least five calendar days prior to the scheduled hearing date shall conclusively constitute a waiver of any objections.

3. Any use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing shall be done in real-time.

L. Hearings may be held by the commissioner or by any person designated and authorized by the commissioner. If the hearing is to be held by a person designated by the commissioner, that person shall take an oath for the faithful performance of his duties. The oath may be administered by anyone qualified by law to administer oaths in this state. The commissioner, or the person designated to hold a hearing, may administer oaths, issue subpoenas for the attendance of witnesses and the production of books, papers, accounts, and

documents, and examine witnesses and receive testimony at the hearing.

M. If a person fails to comply with a subpoena issued by the commissioner or by any duly authorized person holding the hearing or if a witness refuses to testify in any matter regarding which he may be lawfully interrogated, the person conducting the hearing shall adjudge him guilty of contempt and may fine him not more than one hundred dollars or imprison him for not more than thirty days, or both. The sheriff of the parish in which the hearing is held shall execute the judgment of contempt.

N. If a permittee or applicant who has been notified of a hearing does not appear, the hearing may proceed without her and the commissioner may consider and dispose of the case, but in all cases the commissioner, upon application or ex propria motu, may grant continuances from time to time. If the continuance be granted to a fixed future date by written consent or in the presence of the permittee, applicant, or his counsel, no further notice of the hearing date need be given. In all other cases the same notice of hearing as in original hearings shall be given.

O. In determining cases involving the suspension or revocation of permits, if the commissioner finds that the violation is of a minor nature, or that there are extenuating circumstances, or that there are reasonable grounds to expect that the permittee will not again violate any of the provisions of this Chapter, the commissioner may suspend the permit for such time as she thinks proper. If the permittee has previously been fined or had a permit suspended or revoked, or if the violation is flagrant or serious, the commissioner may revoke the permit or permits and shall immediately notify the state and local authorities of this action. When the commissioner either suspends or revokes a permit, all permits to deal in industrial hemp-derived CBD products as herein defined and all similar local permits are ipso facto suspended or revoked without action on the part of state or local governing authorities. The commissioner shall retain jurisdiction to re-open cases at any time upon petition or ex propria motu, and for good cause shown may modify, revise, or reverse her former findings and decisions, and all such re-opened cases shall be heard and determined under the same rules of procedure as original cases.

P. In hearings of the commissioner which finally result in withholding the issuance of a permit or in suspending or revoking a permit, the commissioner shall assess the costs of the hearing to the applicant or permittee. The costs are recoverable by the commissioner in any appellate proceeding instituted by the applicant or permittee or in any other judicial proceeding.

Q. Decisions of the commissioner in withholding, suspending, or revoking permits and of local authorities in withholding permits are final and binding on all parties unless appealed in the manner provided in section R below and finally reversed by the courts.

R. Any party aggrieved by a decision of the commissioner to withhold, suspend, or revoke a permit or of the local authorities to withhold a permit may, within ten days of the notification of the decision, take a devolutive appeal to the district court having jurisdiction of the applicant's or permittee's place of business, proposed or actual as the case may be. Such appeals shall be filed in the district courts in the same manner as original suits are instituted therein. The appeals shall be tried de novo. Either party may amend and supplement her pleadings and

additional witnesses may be called and heard. When there has been a previous criminal prosecution for the same or similar act upon which the refusal, suspension, or revocation of a permit is being considered, evidence of a conviction or an acquittal in a court of competent jurisdiction is admissible in the trial of the appeal. Within ten calendar days of the signing of the judgment by the district court in any such appeal case, the commissioner or the applicant for a permit or permittee, as the case may be, may devolutively appeal the judgment to the appellate court of proper jurisdiction. These appeals shall be perfected in the manner provided for in civil cases and shall be devolutive only. If the district court determines that the decision of the commissioner or of the local authorities in withholding, suspending, or revoking the permit was in error, the decision of the commissioner or local authorities shall not be voided if the commissioner or local authorities take an appeal to the court of appeals in the time provided for suspensive appeals.

S. All proceedings in the district and appellate courts arising under this Part are civil in nature and shall be heard summarily by the court, without a jury, shall take precedence over other civil cases, and shall be tried in chambers or in open court, in or out of term.

T. The courts of this state shall have jurisdiction to issue restraining orders and writs of injunction restraining the commissioner as provided in the constitution, but no writ or order shall issue before a decision has been made by the commissioner either withholding the application for a permit, or suspending or revoking a permit under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

#### **§615. CBD Owner Training**

A. A CBD retail permittee must complete the free ATC online CBD education training course within 30 days after receiving their CBD retail permit. All individuals completing CBD education training shall receive a certificate of completion evidencing their training which shall be valid for two years. CBD retail permittee employees who may be called upon to sell or serve industrial hemp-derived CBD products to consumers at retail may voluntarily complete the ATC online CBD education training. Individuals who maintain current valid non-expired certificate of CBD education training and the permittee they are employed by may receive a warning in lieu of penalties for a first offense violation of a CBD/hemp product sale to a minor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

#### **§617. CBD Special Event Permits**

A. For purposes of this regulation, special events are defined as events, held at any location, where industrial hemp-derived CBD products are sold as an incidental part of the event for payment rendered or are supplied as part of a general admission or other type fee.

B. For such events, this office may issue a special temporary CBD retail permit to existing CBD retail permit holders authorizing the sale of industrial hemp-derived CBD products that have been registered and had their labels approved by the Louisiana Department of Health at the special event for a maximum duration of three consecutive

days only, but wholesalers may deliver products to the event up to two days prior to the effective date of the permit.

C. The commissioner shall collect special event licensure permit fee for each CBD Special Event Permit in the amount of \$100.

D. No industrial hemp-derived CBD product intended for consumption or topical use shall be given away free of charge at a special event, even by a special event permit holder, unless authorized in writing by the Louisiana Office of Alcohol and Tobacco Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

#### **§619. No Donations or Free CBD Products**

A. No industrial hemp-derived CBD product shall be donated or given away free of charge outside the confines of a permitted wholesale or retail permit holder's place of business, nor shall same be sold through a vending machine, unless authorized in writing by the Louisiana Office of Alcohol and Tobacco Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

Juana Marine-Lombard  
Commissioner

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