**South Carolina General Assembly**

118th Session, 2009-2010

**S. 20**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Fair and Shoopman

Document Path: l:\council\bills\ms\7078ahb09.docx

Introduced in the Senate on January 13, 2009

Currently residing in the Senate Committee on **Judiciary**

Summary: Beer and wine

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2008 Senate Prefiled

12/10/2008 Senate Referred to Committee on **Judiciary**

1/13/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑80

1/13/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑80

1/23/2009 Senate Referred to Subcommittee: Campbell (ch), Cleary, Williams, Mulvaney, Nicholson

**VERSIONS OF THIS BILL**

[12/10/2008](file:///p:\pprever\2009-10\20_20081210.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61‑4‑280 SO AS TO PROVIDE THAT A PERSON APPLYING FOR A LICENSE TO SELL BEER AND WINE OR ALCOHOLIC LIQUORS MUST BE A RESIDENT OF THE STATE FOR ONE YEAR; BY ADDING SECTION 61‑4‑290 SO AS TO STATE THAT THE SHERIFF OR CHIEF OF POLICE OF THE APPROPRIATE MUNICIPALITY OR COUNTY MAY MAKE A RECOMMENDATION IN WRITING FOR DENIAL OF A BEER AND WINE OR ALCOHOLIC LIQUORS LICENSE; TO AMEND SECTIONS 61‑2‑135 AND 61‑2‑136, RELATING TO RETAINING AN ALCOHOLIC LIQUOR OR BEER AND WINE LICENSE WHEN A BUSINESS IS RELOCATED, AND TO AMEND SECTION 61‑2‑160, AS AMENDED, RELATING TO THE ISSUANCE, RENEWAL, OR TRANSFER OF A LICENSE WHEN DELINQUENT TAXES ARE DUE, ALL SO AS TO PROVIDE THAT THE APPROPRIATE PERSON MUST REAPPLY FOR THE LICENSE, THAT RENEWAL OR TRANSFER OF A LICENSE IS NOT AUTOMATIC, AND THE PROVISIONS OF THE APPLICATION PROCESS MUST BE COMPLIED WITH INCLUDING ALLOWING PERSONS AND MUNICIPAL AND COUNTY GOVERNING BODIES TO PROTEST THE ISSUANCE OF THE LICENSE; TO AMEND SECTION 61‑4‑520, AS AMENDED, RELATING TO REQUIREMENTS FOR RETAIL BEER AND WINE PERMITS, SO AS TO REQUIRE THE DEPARTMENT TO SEND AN AUTHORIZED REPRESENTATIVE TO THE PREMISES TO ASCERTAIN WHETHER THE LOCATION IS UNSUITABLE DUE TO THE PROXIMITY TO RESIDENCES, SCHOOLS, PLAYGROUNDS, OR CHURCHES BEFORE A FINAL DETERMINATION ON WHETHER TO ISSUE A LICENSE IS MADE, TO INCREASE THE SIZE REQUIREMENTS OF THE REQUIRED NOTICE WHICH MUST BE DISPLAYED AT THE SITE OF THE PROPOSED BUSINESS, AND TO PROVIDE THE REQUIRED LEGAL NOTICE MUST BE IN THE NEWSPAPER WITH THE LARGEST CIRCULATION; TO AMEND SECTION 61‑6‑20, AS AMENDED, RELATING TO DEFINITIONS FOR THE PURPOSES OF THE ALCOHOLIC BEVERAGE CONTROL ACT, SO AS TO REVISE THE DEFINITION OF “ALCOHOLIC LIQUORS” OR “ALCOHOLIC BEVERAGES” SO AS TO INCLUDE CERTAIN FLAVORED ALCOHOLIC BEVERAGES; TO AMEND SECTION 61‑6‑120, AS AMENDED, RELATING TO PROHIBITIONS ON ISSUING ALCOHOLIC LIQUOR LICENSES TO PLACES OF BUSINESS WITHIN A CERTAIN PROXIMITY TO A CHURCH, SCHOOL, OR PLAYGROUND, SO AS TO AMEND THE METHOD OF COMPUTATION, REMOVE THE EXEMPTION FOR RENEWAL OF LICENSES, AND TO REQUIRE THE DEPARTMENT TO SEND AN AUTHORIZED REPRESENTATIVE TO THE PREMISES TO MAKE THE APPROPRIATE MEASUREMENTS BEFORE A FINAL DETERMINATION ON WHETHER TO ISSUE A LICENSE IS MADE; TO AMEND SECTION 61‑6‑180, AS AMENDED, RELATING TO NOTICE OF APPLICATION FOR AN ALCOHOLIC LIQUOR LICENSE, SO AS TO INCREASE THE SIZE REQUIREMENTS OF THE REQUIRED NOTICE WHICH MUST BE DISPLAYED AT THE SITE OF THE PROPOSED BUSINESS, TO APPLY THE NOTICE REQUIREMENTS TO RENEWALS OF LICENSES, AND TO PROVIDE THE REQUIRED LEGAL NOTICE MUST BE IN THE NEWSPAPER WITH THE LARGEST CIRCULATION; TO AMEND SECTION 61‑6‑1820, AS AMENDED, RELATING TO NOTICE FOR A LICENSE TO SELL MINIBOTTLES, SO AS TO INCREASE THE SIZE REQUIREMENTS OF THE REQUIRED NOTICE WHICH MUST BE DISPLAYED AT THE SITE OF THE PROPOSED BUSINESS AND TO PROVIDE THE REQUIRED LEGAL NOTICE MUST BE IN THE NEWSPAPER WITH THE LARGEST CIRCULATION; TO AMEND SECTIONS 61‑4‑525, 61‑6‑185, AND 61‑6‑1825, ALL AS AMENDED, ALL RELATING TO PROTESTS OF CERTAIN BEER AND WINE, ALCOHOLIC LIQUORS, AND MINIBOTTLE LICENSES, ALL SO AS TO AUTHORIZE MUNICIPAL AND COUNTY GOVERNING BODIES TO PROTEST THE ISSUANCE OF THE LICENSES UNDER SIMILAR CIRCUMSTANCES AS PERSONS ALREADY AUTHORIZED TO FILE A PROTEST AND TO ALLOW PERSONS TO COME BEFORE THE APPROPRIATE GOVERNING BODY TO ASK THE BODY TO FILE A WRITTEN PROTEST.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑280. An applicant for a license to sell beer and wine or alcoholic liquors in this State pursuant to the provisions of this title must be a legal resident of this State for at least one year before the date of application for the license and has maintained his principal place of abode in the State for at least one year before the date of the application.”

SECTION 2. Article 1, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑290. The sheriff or chief of police of a municipality or county where the business for which an applicant is seeking a license to sell beer and wine or alcoholic liquors is located may make recommendations in writing to the department regarding their view that the license should be denied and stating the reasons for the recommendation of denial.”

SECTION 3. Section 61‑2‑135 of the 1976 Code, as added by Act 70 of 2003, is amended to read:

“Section 61‑2‑135. When a person licensed to sell alcoholic liquor or beer and wine moves his business to a new location in the same county ~~that~~ even if the new location was licensed in the same manner ~~within ninety days of the time of the move~~, the person ~~may use his current license and~~ is ~~not~~ required to initiate a new application ~~upon approval by the department~~ pursuant to the applicable provisions of this title regarding licensing requirements. Renewal or transfer of a license is not automatic. A person, municipality, or county also is entitled to protest the issuance of a license pursuant to Sections 61‑4‑525 and 61‑6‑185.”

SECTION 4. Section 61‑2‑136 of the 1976 Code, as added by Act 161 of 2005, is amended to read:

“Section 61‑2‑136. Notwithstanding another provision of law, a currently licensed beer and wine wholesaler or currently licensed alcoholic liquor wholesaler who wishes to relocate the licensed business to a new location within the State must notify the department. This notice must be in writing, must precisely describe the premises to be licensed, must give the date of the move, and must be filed with the department at least thirty days prior to the move. ~~Upon receipt of this notice,~~ Before the department ~~shall~~ may transfer the permit to the new premises ~~effective on the date of the move~~ , the wholesaler must reapply for a permit to sell beer and wine or alcoholic liquors pursuant to the applicable provisions of this title regarding licensing requirements. Renewal or transfer of a license is not automatic. A person, municipality, or county also is entitled to protest the issuance of a license pursuant to the provisions of Sections 61‑4‑525 and 61‑6‑185.”

SECTION 5. Section 61‑2‑160 of the 1976 Code, as amended by Act 161 of 2005, is further amended to read:

“Section 61‑2‑160. (A) A license or permit pursuant to the provisions of this title ~~must~~ may not be issued, renewed, or transferred unless the department determines that the applicant does not owe the State delinquent taxes, penalties, or interest. If the department determines that delinquent taxes, penalties, or interest are due, the department shall notify the applicant of the necessary requirements to comply with this section.

(B) In addition to the requirements of subsection (A) and notwithstanding another provision of law, a license or permit renewal or transfer, if otherwise authorized by law, may not be automatically issued. The person requesting the renewal or transfer must reapply for the license or permit pursuant to the applicable provisions of this title regarding licensing requirements. A person, municipality, or county is entitled to protest the issuance of the license or permit pursuant to Sections 61‑4‑525 and 61‑6‑185.”

SECTION 6. Section 61‑4‑520 of the 1976 Code, as last amended by Act 161 of 2005, is further amended to read:

“Section 61‑4‑520. A retail permit authorizing the sale of beer or wine ~~must~~ may not be issued unless:

(1) the applicant, a partner, or co‑shareholder of the applicant, and each agent, employee, and servant of the applicant to be employed on the licensed premises are of good moral character~~.~~ ;

(2) the applicant is a legal resident of the United States, has been a legal resident of this State for at least ~~thirty days~~ one year before the date of application, and has maintained his principal place of abode in the State for at least ~~thirty days~~ one year before the date of application~~.~~;

(3) the applicant, within two years before the date of application, has not had revoked a beer or a wine permit issued to him~~.~~;

(4) the applicant is twenty‑one years of age or older~~.~~;

(5) the location of the proposed place of business of the applicant is in the opinion of the department a proper one~~.~~;

(6) the department ~~may~~ must consider, among other factors, as indications of unsuitable location, the proximity to residences, schools, playgrounds, and churches. This item does not apply to locations licensed before April 21, 1986~~.~~;

(7)~~(a)~~ notice of application has appeared at least once a week for three consecutive weeks in ~~a~~ the newspaper ~~most likely to give notice to interested citizens of the county, city, or community in which the applicant proposes to engage in business~~ having the largest circulation published in the county in which the proposed business is to be located. The department shall determine which newspapers meet the requirements of this section based on available circulation figures and the proposed location of the business. However, if a newspaper is published in the county and historically has been the newspaper where the advertisements are published, the advertisements published in that newspaper meet the requirements of this section. The notice must:

~~(i)~~(a) be in the legal notices section of the newspaper or an equivalent section if the newspaper has no legal notices section;

~~(ii)~~(b) be in large type, covering a space of one column wide and at least two inches deep; and

~~(iii)~~(c) state the type license applied for and the exact location of the proposed business~~.~~; and

~~(b)~~ ~~an applicant for a beer or wine permit and an alcoholic liquor license may use the same advertisement for both if the advertisement is approved by the department.~~

(8) notice has been given by displaying a sign for fifteen days at the site of the proposed business. The sign must:

(a) state the type of permit sought;

(b) state where an interested person may protest the application;

(c) be in bold type;

(d) cover a space at least ~~twelve~~ twenty‑four inches high and ~~eighteen~~ twenty‑four inches wide; and

(e) be posted and removed by an agent of the division.”

SECTION 7. Section 61‑6‑20(1) of the 1976 Code, as last amended by Act 139 of 2005, is further amended to read:

“(1)(a) ‘Alcoholic liquors’ or ‘alcoholic beverages’ means any spirituous malt, vinous, fermented, brewed~~(~~, whether lager or rice beer~~)~~, or other liquors or a compound or mixture of them by whatever name called or known which contains alcohol and is used as a beverage~~, but does not include:~~ and flavored alcoholic beverages defined as:

(i) a malt beverage containing a malt base or beer and added natural or artificial blending materials, such as fruit juices, flavors, flavorings, colorings, or preservatives when the blending material constitutes .05 percent or more of the alcohol by volume contained in the finished beverage;

(ii) a beverage containing wine and more than fifteen percent added natural or artificial blending materials, such as fruit juices, flavors, flavorings, or adjuncts, water, plain, carbonated, or sparkling, colorings, or preservatives; or

(iii) a beverage containing distilled alcohol and added natural or artificial blending materials, such as fruit juices, flavors, flavorings, colorings, or preservatives.

(b) ‘Alcoholic liquors’ or ‘alcoholic beverages’ does not include:

(i) wine when manufactured or made for home consumption and which is not sold by the maker of the wine or by another person; or

(ii) a beverage declared by statute to be nonalcoholic or nonintoxicating.

~~(b)~~ (c) ‘Alcoholic liquor by the drink’ or ‘ alcoholic beverage by the drink’ means a drink poured from a container of alcoholic liquor, without regard to the size of the container for consumption on the premises of a business licensed pursuant to Article 5 of this chapter.”

SECTION 8. Section 61‑6‑120 of the 1976 Code, as last amended by Act 458 of 1996, is further amended to read:

“Section 61‑6‑120.~~(A)~~ The department shall not grant or issue ~~any~~ a license provided for in this article or Article 7 of this chapter, if the place of business is within three hundred feet of any church, school, or playground situated within a municipality or within five hundred feet of any church, school, or playground situated outside of a municipality. Such distance ~~shall~~ must be computed ~~by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare~~ from the nearest point of the grounds in use as part of ~~such~~ the church, school, or playground~~,~~. ~~which,~~ As used ~~herein~~ in this section: ~~shall be defined as follows:~~

(1) ‘Church’~~,~~ means an establishment, other than a private dwelling, where religious services are usually conducted~~;~~.

(2) ‘School’~~,~~ means an establishment, other than a private dwelling where the usual processes of education are usually conducted~~; and~~.

(3) ‘Playground’~~,~~ means a place, other than grounds at a private dwelling, which is provided by the public or members of a community for recreation.

The above restrictions ~~do not~~ apply to the renewal and transfer, if allowed by law, of licenses and they ~~do not~~ apply to new applications for locations which are licensed at the time the new application is filed with the department.

~~(B)~~ ~~An applicant for license renewal or for a new license at an existing location shall pay a five dollar certification fee to determine if the exemptions provided for in subsection (A) apply.~~”

SECTION 9. Section 61‑6‑180 of the 1976 Code, as last amended by Act 70 of 2003, is further amended to read:

“Section 61‑6‑180. (A) A person who intends to apply for a license ~~under~~ pursuant to this article or Article 7 of this chapter must advertise at least once a week for three consecutive weeks in ~~a~~ the newspaper ~~circulated nearest to~~ having the largest circulation published in the county in which the proposed ~~location of the~~ business is to be located ~~and most likely to give notice to interested citizens of the county, city, and community in which the applicant proposes to engage in business~~. The department must determine which newspapers meet the requirements of this section based on available circulation figures and the proposed location of the business. However, if a newspaper is published in the county and historically has been the newspaper where the advertisements are published, the advertisements published in that newspaper meet the requirements of this section. The notice must be in the legal notice section of the paper or in an equivalent section if the newspaper has no legal notice section, be in large type, cover a space one column wide and not less than two inches deep, and state the type of license applied for, and the exact location at which the proposed business is to be operated. An applicant for a beer or wine permit and an alcoholic liquor license may use the same advertisement for both if the advertisement is approved by the department.

(B) Notice also must be given by displaying a sign for fifteen days at the site of the proposed business. The sign must:

(1) state the type of license sought;

(2) state where an interested person may protest the application;

(3) be in bold type;

(4) cover a space at least ~~twelve~~ twenty‑four inches high and ~~eighteen~~ twenty‑four inches wide; and

(5) be posted and removed by an agent of the division.

The ~~provision~~ provisions of this section requiring publication of notice ~~do not~~ apply to a person licensed ~~under~~ pursuant to the provisions of this article or Article 7 of this chapter when the licensee applies to the department for a renewal of his license to engage in the same business at the same location.”

SECTION 10. Section 61‑6‑1820 of the 1976 Code, as last amended by Act 70 of 2003, is further amended to read:

“Section 61‑6‑1820. (A) The department may issue a license ~~under~~ pursuant to subarticle 1 ~~of this article~~ upon finding:

(1) the applicant is a bona fide nonprofit organization or the applicant conducts a business bona fide engaged primarily and substantially in the preparation and serving of meals or furnishing of lodging~~.~~;

(2) the applicant, if an individual, is of good moral character or, if a corporation or association, has a reputation for peace and good order in its community, and its principals are of good moral character~~.~~;

(3) as to business establishments or locations established after November 7, 1962, Section 61‑6‑120 has been complied with~~.~~;

(4) notice of application has appeared at least once a week for three consecutive weeks in ~~a~~ the newspaper ~~most likely to give notice to interested citizens of the county, municipality, or community in which the applicant proposes to engage in business~~ having the largest circulation published in the county in which the proposed business is to be located. The department shall determine which newspapers meet the requirements of this section based on available circulation figures and the proposed location of the business. However, if a newspaper is published in the county and historically has been the newspaper where the advertisements are published, the advertisements published in that newspaper meet the requirements of this section. The notice must:

(a) be in the legal notices section of the newspaper or an equivalent section if the newspaper has no legal notices section;

(b) be in large type, covering a space of one column wide and at least two inches deep; and

(c) state the type license applied for and the exact location of the proposed business~~.~~;

~~An applicant for a beer or wine permit and an alcoholic liquor license may use the same advertisement for both if it is approved by the department.~~

(5) notice has been given by displaying a sign for fifteen days at the site of the proposed business. The sign must:

(a) state the type of license sought;

(b) state where an interested person may protest the application;

(c) be in bold type;

(d) cover a space at least ~~twelve~~ twenty‑four inches high and ~~eighteen~~ twenty‑four inches wide;

(e) be posted and removed by an agent of the division~~.~~;

(6) the applicant is twenty‑one years of age or older~~.~~;

(7) the applicant is a legal resident of the United States, has been a resident of this State for at least ~~thirty days~~ one year before the date of application, and has maintained his principal place of abode in this State for at least ~~thirty days~~ one year before the date of application~~.~~; and

(8) the applicant has not been convicted of a felony within ten years of the date of application.

(B) Upon the written request of a person who resides in the county where the license is requested to be issued, the department must not issue the permanent license until interested persons have been given an opportunity to be heard.”

SECTION 11. Section 61‑4‑525 of the 1976 Code, as last amended by Act 161 of 2005, is further amended to read:

“Section 61‑4‑525. (A) A person residing in the county in which a retail beer and wine permit is requested to be granted, or a person residing within five miles of the location for which a retail beer and wine permit is requested, may protest the issuance, ~~or~~ renewal, or transfer, if allowed by law, of the permit if he files a written protest ~~setting forth~~ providing:

(1) the name, address, and telephone number of the person filing the protest;

(2) the name of the applicant for the permit and the address of the premises sought to be licensed, or the name and address of the permit holder if the application is for renewal or transfer;

(3) the specific reasons why the application should be denied; and

(4) whether or not he wishes to attend a contested case hearing before the Administrative Law Court.

(B) In addition to persons authorized to file a protest pursuant to subsection (A), a municipality or county governing body is authorized to protest the issuance, renewal, or transfer, if allowed by law, of a permit if the premises for which a retail beer and wine permit is sought is within the limits of the municipality or county. A person authorized to file a written protest pursuant to subsection (A) may appear before a regularly scheduled town, city, or county council meeting to ask the appropriate governing body to file a written protest pursuant to the provisions of this subsection. If the municipality or county governing body chooses to file a protest, an authorized representative of the municipality or county shall then file the written protest in the same manner as persons authorized to file a protest pursuant to subsection (A) and providing:

(1) the identify of the governing body filing the protest, the name of the authorized representative, and the contact address and telephone number of the authorized representative;

(2) the name of the applicant for the permit and the address of the premises sought to be licensed, or the name and address of the permit holder if the application is for renewal or transfer;

(3) the specific reason the application should be denied; and

(4) whether or not the authorized representative wishes to attend a contested case hearing before the Administrative Law Court.

(C) Upon receipt of a timely filed protest, the department shall determine the protestant’s intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department may not issue the permanent permit but shall forward the file to the Administrative Law Court.

~~(C)~~(D) If the protestant, during the investigation expresses no desire to attend a contested hearing and offer testimony, the protest is considered invalid, and the department shall continue to process the application and shall issue the permit if all other statutory requirements are met.

~~(D)~~(E) A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a fine or penalty to include court costs.”

SECTION 12. Section 61‑6‑185 of the 1976 Code, as last amended by Act 139 of 2005, is further amended to read:

“Section 61‑6‑185. (A) A person residing in the county in which a retail liquor license is requested to be granted, or a person residing within five miles of the location for which a retail liquor license is requested, may protest the issuance, ~~or~~ renewal, or transfer, if allowed by law, of the license if he files a written protest providing:

(1) the name, address, and telephone number of the person filing the protest;

(2) the name of the applicant for the permit and the address of the premises sought to be licensed, or the name and address of the permit holder if the application is for renewal or transfer;

(3) the specific reasons why the application should be denied; and

(4) whether or not he wishes to attend a contested case hearing before the Administrative Law Court.

(B) In addition to persons authorized to file a protest pursuant to subsection (A), a municipality or county governing body is authorized to protest the issuance, renewal, or transfer, if allowed by law, of a license if the premises for which the retail liquor license is sought is within the limits of the municipality or county. A person authorized to file a written protest pursuant to subsection (A) may appear before a regularly scheduled town, city, or county council meeting to ask the appropriate governing body to file a written protest pursuant to the provisions of this subsection. If the municipality or county governing body chooses to file a protest, an authorized representative of the municipality or county shall then file the written protest in the same manner as persons authorized to file a protest pursuant to subsection (A) and providing:

(1) the identify of the governing body filing the protest, the name of the authorized representative, and the contact address and telephone number of the authorized representative;

(2) the name of the applicant for the permit and the address of the premises sought to be licensed, or the name and address of the permit holder if the application is for renewal or transfer;

(3) the specific reason the application should be denied; and

(4) whether or not the authorized representative wishes to attend a contested case hearing before the Administrative Law Court.

(C) Upon receipt of a timely filed protest, the department shall determine the protestant’s intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department may not issue the permanent license but shall forward the file to the Administrative Law Court.

~~(C)~~(D) If the protestant during the investigation expresses no desire to attend a contested hearing and offer testimony, the protest is deemed invalid, and the department shall continue to process the application and shall issue the license if all other statutory requirements are met.

~~(D)~~(E) A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a penalty to include court costs.”

SECTION 13. Section 61‑6‑1825 of the 1976 Code, as last amended by Act 139 of 2005, is further amended to read:

“Section 61‑6‑1825. (A) A person residing in the county in which a license pursuant to the provisions of subarticle 1 ~~of this article~~ is requested to be granted, or a person residing within five miles of the location for which a permit pursuant to the provisions of subarticle 1 of this article is requested, may protest the issuance, ~~or~~ renewal, or transfer, if allowed by law, of the license if he files a written protest providing:

(1) the name, address, and telephone number of the person filing the protest;

(2) the name of the applicant for the license and the address of the premises sought to be licensed, or the name and address of the license holder if the application is for renewal or transfer;

(3) the specific reasons why the application should be denied; and

(4) whether or not he wishes to attend a contested case hearing before the Administrative Law Court.

(B) In addition to persons authorized to file a protest pursuant to subsection (A), a municipality or county governing body is authorized to protest the issuance, renewal, or transfer, if allowed by law, of a license if the premises for which the retail liquor license is sought is within the limits of the municipality or county. A person authorized to file a written protest pursuant to subsection (A) may appear before a regularly scheduled town, city, or county council meeting to ask the appropriate governing body to file a written protest pursuant to the provisions of this subsection. If the municipality or county governing body chooses to file a protest, an authorized representative of the municipality or county shall then file the written protest in the same manner as persons authorized to file a protest pursuant to subsection (A) and providing:

(1) the identify of the governing body filing the protest, the name of the authorized representative, and the contact address and telephone number of the authorized representative;

(2) the name of the applicant for the permit and the address of the premises sought to be licensed, or the name and address of the permit holder if the application is for renewal or transfer;

(3) the specific reason the application should be denied; and

(4) whether or not the authorized representative wishes to attend a contested case hearing before the Administrative Law Court.

(C) Upon receipt of a timely filed protest, the department must determine the protestant’s intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department must not issue the permanent license but must forward the file to the Administrative Law Court.

~~(C)~~(D) If the protestant during the investigation expresses no desire to attend a contested hearing and offer testimony, the protest is deemed invalid, and the department shall continue to process the application and shall issue the license if all other statutory requirements are met.

~~(D)~~(E) A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a penalty to include court costs.”

SECTION 14. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 15. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 16. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑