

APPELLANT'S GUIDE TO THE ALCOHOLIC BEVERAGE CONTROL APPEALS PROCESS

How long do I have to appeal?

If you have received a final decision from the Department of Alcoholic Beverage Control, first look at the decision to see if it says, "effective immediately."

- If it does - you must file your appeal within 10 days of the date of the decision;
- If it does not - you must file your appeal within 40 days.

Make sure you don't miss the deadline! Your documents will be considered "filed" on the day they are received by email, personal delivery, or regular U.S. Mail. However, if you send your documents by registered mail, they are considered "filed" when they are registered at the Post Office.

What do I do first?

To begin the appeals process, file a **Notice of Appeal**. This document tells the Appeals Board, in writing, that you are appealing the Department's decision. If possible, it should be typed. Please include the following information:

- Your name and the name of your business
- Your address, phone number, email address
- Name of your legal representative (if you have one) and their State Bar number
- The date of the decision you are appealing
- The registration and file numbers
- The grounds for your appeal (why you believe the decision is wrong)
- What specific questions the Board should consider when they review the case
- Every document filed with the Board *must* be accompanied by a **Proof of Service**. This tells everyone involved who got what, when the documents were sent, and whether they were delivered by email, U.S. Mail, or delivered in person.

What do I do with these documents?

- 1) Send your Notice of Appeal and Proof of Service to the Appeals Board:
 - by email to: abcboard@abcappeals.ca.gov
 - or by mail to: 400 R St., Suite 400, Sacramento, CA 95811

- 2) Also send your Notice of Appeal and Proof of Service to:

Department of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100,
Sacramento, CA 95834

Costs

There is no filing fee, but you will receive a bill from the Department for the cost of the exhibits and hearing transcript. You will have 15 days to pay the cost of the record to the Department. If payment is not received by the due date, the appeal will be dismissed. If you wish to receive your own copy of the record, you must specifically request it, and additional costs will apply.

Next Steps

Once the transcript and exhibits are delivered by the Department to you and the Board, we will send you a letter telling you the date of your hearing and outlining the due dates for filing briefs and requesting oral argument. We will assign you a case number (AB-XXXX). Please put this number on all documents filed with the Board.

Electronic Service

If you want to receive documents regarding this matter via email, you may opt into electronic service. Simply say in a signed letter that you consent to electronic service at a specified email address. Send to all parties and the Board.

Opening Brief

File an opening brief (of no more than 20 pages) by the date specified in the briefing letter. Make sure you attach a Proof of Service. Mail or email the brief and proof of service to: the Board, the Department, and any other parties.

Your opening brief is a chance to explain in detail to the Board why you believe the Department's decision is in error. If you refer to testimony from the hearing before the Department, mention the page(s) in the written transcript where that testimony occurs. Do not simply say you think the Department is wrong and you are right. Explain to the Board *why* you believe the decision is wrong, and why you believe the decision should be reversed or sent back to the Department for further hearings.

The Board cannot hear any new evidence, so do not attach exhibits or other new evidence to your brief that is not already part of the record.

Other Briefs

The Department will be filing a Reply Brief 20 days after you file your Opening Brief. Then, you may file a Closing Brief (of no more than 10 pages) which is due 7 days later. This closing brief is not required, but you may wish to rebut any points made in the Department's Reply Brief.

Oral Argument

Notify the Board via email (abcboard@abcappeals.ca.gov) if you plan to appear for oral argument at least 21 days before the scheduled Board meeting. Only one person may appear on your behalf – either you or your representative.

Oral argument is your chance to explain to the Board anything that might not have been clear to them in your briefs. Do not repeat what you said in your brief – the Board will already have read that carefully. The Board cannot hear witnesses or consider any evidence not included in the record. Simply highlight important points and answer any questions they may have.

You will have 15 minutes total for oral argument. You may wish to save part of this time to speak after the Department representative presents their 15-minute argument. The order is as follows: you begin, then the Department answers, then you have the final word.

Final Order

The Board will make a decision on your matter during closed session following the oral argument. Then, their final Order will be issued, and you will receive a copy.

Further Appeal

If you are dissatisfied with the Board's final decision, you may appeal your case to the Court of Appeal or California Supreme Court if you do so within 30 days of the Board's Order.

What if I need help?

If you have any questions, please call the Board's staff at 916-445-4005 or send us an email at abcboard@abcappeals.ca.gov. We cannot give legal advice, but we can answer any questions you may have about the required documents and filing procedures.