

CHAPTER 72
FORMERLY
HOUSE BILL NO. 210

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO LICENSING FEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend §554, Title 4 of the Delaware Code by deleting said section in its entirety and replacing said section with the following:

“§ 554. License fees.

- (a) For a license to sell alcoholic liquor in a hotel or restaurant the biennial license fee shall be \$1,000.
- (b) For a license to sell alcoholic liquor on a boat the biennial license fee shall be \$1,000.
- (c) For a license to sell alcoholic liquor in the passenger cars of a railroad the biennial license fee shall be \$600 for each railroad.
- (d) For a license to sell alcoholic liquor in a club, to members of that club, the biennial license fee shall be \$300 if the club has an active membership in good standing of less than 400 members; or \$600 if the club has an active membership in good standing of 400 or more members.
- (e) For a license to sell beer and/or wine only in a restaurant the biennial license fee shall be \$500.
- (f) For a license to sell beer only in a tavern the biennial license fee shall be \$500.
- (g) For a license to sell alcoholic liquors in a taproom the biennial license fee shall be \$1,000.
- (h) For a license to sell alcoholic liquor from a hotel, restaurant, taproom, or store, not for consumption on the premises, the biennial license fee shall be \$1,000.
- (i) For a license to sell alcoholic liquors at gatherings of persons, the license fee shall be as follows:
 - (1) Daily License. For a group type gathering license, the license fee shall be \$5 for each such license granted, unless the said license shall be for a period of more than 2 days in which case the license fee shall be \$5 plus the additional sum of \$2 for each such additional day or unless the said license shall be for any holiday specified in § 709(e) of this title, in which case the license fee shall be an additional \$5 for each such holiday.
 - (2) Biennial License.
 - (i) For a biennial premises type gathering license for a facility in which not more than 25 gatherings of persons at which alcoholic liquors are to be sold are to be held, the biennial license fee shall be \$200.
 - (ii) For a biennial premises type gathering license for a facility in which more than 25 but not more than 75 such gatherings of persons are to be held, the biennial license fee shall be \$400.
 - (iii) For a biennial premises type gathering license for a facility in which more than 75 such gatherings of persons are to be held, the biennial license fee shall be \$1,000.
 - (iv) For the holder of a biennial premises type gathering license to sell alcoholic liquor on any holiday specified in § 709(d) of this title, the biennial license fee shall be: (1) an additional \$200 for a license issued pursuant to subpart (2)(i) of this subsection; (2) an additional \$300 for a license issued pursuant to subpart (2)(ii) of this subsection; and (3) an additional \$400 for a license issued pursuant to subpart (2)(iii) of this subsection.
- (j) For a license to "manufacture" and to "sell" beer and cider, the biennial license fee shall be based upon annual production and shall be computed as follows: \$1,500 for a brewery or microbrewery manufacturing not more than 25,000 barrels of beer and cider per year; \$3,000 for a microbrewery or brewery manufacturing more than 25,000 but not more than 50,000 barrels of beer and cider per year; \$6,000 for a microbrewery or brewery manufacturing more than 50,000 but not more than 100,000 barrels of beer and cider per year; and \$9,000 for a microbrewery or brewery manufacturing more than 100,000 barrels of beer and cider per year.

(k) For a license to operate a distillery for distillation or rectification, the biennial license fee shall be based upon annual production and shall be computed as follows: For the first 500 gallons, \$100; for the next 5,000 gallons, or fraction thereof, at the rate of 6 cents per gallon; for the next 10,000 gallons, or fraction thereof, at the rate of 4.5 cents per gallon; for the next 50,000 gallons, or fraction thereof, at the rate of 3 cents per gallon; for the next 100,000 gallons, or fraction thereof, at the rate of 1.5 cents per gallon; for each gallon in excess of 165,500 gallons, at the rate of three quarters cent per gallon.

(l) For a license to bottle beer the biennial license fee shall be \$100 for the first 500 barrels or less, and \$100 for each additional 500 barrels, or fraction, bottled.

(m) For a license to operate a winery or to bottle and sell wine the biennial license fee shall be \$1,500.

(n) For a license to import or to ship alcoholic liquor, other than beer and wine, into this State and to sell and deliver such alcoholic liquor as provided in this chapter the biennial license fee shall be \$7,500; but a sale and delivery of alcoholic liquor to pharmacists, physicians, dentists, veterinarians, wholesale druggists, manufacturing plants where the alcohol is used in scientific work, or for the manufacture of pharmaceutical products shall not be subject to the license fee.

(o) For a license to import or to ship beer into this State and to sell and deliver such beer the biennial license fee shall be \$3,000; and for a license to import or to ship unlimited amounts of wine into this State and to sell and deliver such wine the biennial license fee shall be \$3,000. A license for a limited wine importer, an importer that imports, sells and delivers less than 1000 cases of wine per year, shall be \$200. A limited wine importer need not pay the application fee required by subsection (x) of this section.

(p) For a license to sell alcoholic liquor as an off-site caterer the biennial license fee shall be \$500.

(q) For a license to transport a stock of alcoholic liquor from the place where sale or storage of such stock has been authorized to another location, the license fee shall be fixed by the Commissioner.

(r) For a license to purchase sacramental wine, no license fee shall be charged.

(s) For a temporary license, the license fee shall be not less than half nor more than double the amount of the annual license fee for a regular license for the same privilege, in the discretion of the Commissioner.

(t) For a license to sell alcoholic liquor at a horse racetrack the biennial license fee shall be \$3,000.

(u) For a license to sell alcoholic liquor at a motorsports speedway the biennial license fee shall be \$3,000.

(v) For license to sell alcoholic liquors as a ship's chandler the biennial license fee shall be \$1,000.

(w) For a license for a multiple activity club to sell alcoholic beverages to any person who is a member of such club or a guest of a member of such club, the biennial license fee shall be \$1,500.

(x) Application process fee. -- If any application for a license under this title requires any investigation by the staff or a hearing by the Commissioner before the Commissioner reaches a decision on the application, the applicant shall pay an application process fee of \$1,000 in addition to any other fees required by this title or the rules of the Commissioner. The application process fee is not refundable regardless of the decision of the Commissioner. This provision for an application process fee does not apply to a gathering of persons under § 514 of this title, a limited suppliers license issued pursuant to §501 of this title, a license to sell on Sunday, and a tasting permit. This provision for an application process fee shall not apply to applications for change of officers, directors or stockholders of a corporate licensee if there is no change in the majority of stockholders or majority of directors. Six hundred dollars of the application process fee shall be retained by the Commissioner and deposited in a special fund for the sole purpose of providing for the implementation, administration and enforcement of the Delaware Responsible Alcoholic Beverage Server Training Program established pursuant to Chapter 12 of this title.

(y) For a license to sell alcoholic liquor in a dinner theater the biennial license fee shall be \$1,000.

(z) For a license to sell alcoholic liquors as a caterer for consumption on the premises where sold the biennial license fee shall be \$1,000.

(aa) For a license as a 'bottle club' authorized by § 515A of this title the biennial license fee shall be \$300.

(bb) For a license to sell alcoholic liquors in a cabaret the biennial license fee shall be \$2,000.

(cc) For a license as an air passenger carrier, as defined in § 512(i) of this title, the biennial license fee shall be \$1,000.

(dd) For a license to conduct wine auctions the biennial license fee shall be \$1,500. For a gathering license to conduct a wine auction by a nonprofit organization the fee shall be \$50 per event.

(ee) For a license to permit spirits, wine and beer tasting the biennial license fee shall be \$150.

(ff) For a farm winery license the biennial license fee shall be \$1,500.

(gg) For a brewery-pub license the biennial license fee shall be \$2,000.

(hh) For a license to sell alcoholic liquors at a multi-purpose sports facility the biennial license fee shall be \$3,000.

(ii) For a license to sell alcoholic liquors at a bowling alley the biennial license fee shall be \$1,000.

(jj) For a license as a 'direct shipper' as provided in §526 of Title 4 the biennial license fee shall be \$100.

(kk) Each of the licensees identified in subsections (a)-(h), (t) - (w), (y), (z), (bb), (cc), (dd), (ff), (gg), (hh), and (ii) of this section, shall pay an additional annual fee of \$100. The Commissioner shall deposit said funds into a special account designated as the 'Overservice Investigation Fund.' Said fund shall be utilized by the Division of Alcohol and Tobacco Enforcement to pay overtime to its agents and/or to hire and equip additional agents for the purpose of investigating and prosecuting licensees that serve intoxicated individuals.

(ll) For a permit to sell alcoholic liquors on a patio, the biennial fee shall be \$1,000. If the holder of a patio permit desires a variance to Rule 42.1, or a subsequently adopted rule, the biennial variance permit fee shall be \$100 per variance."

Section 2. Amend §501(a) of Title 4 of the Delaware Code by deleting the symbol and numerals "\$50" and replacing them with the symbol and numerals "\$100" and further by deleting the symbol and numerals "\$500" and replacing them with the symbol and numerals "\$1,000".

Section 3. Amend §709(c) of Title 4 of the Delaware Code by deleting said subsection and replacing it with the following:

"(c) No holder of a license for the sale of alcoholic liquor shall sell the same between the hours of 1:00 a.m. and 9:00 a.m. The closing hour may be made earlier in any municipality by ordinance of the municipal corporation. The sale of alcoholic liquors by a licensee for consumption on the premises where sold shall be permitted on every day of the year; provided, that no licensee shall be required to be open to sell alcoholic liquors on any of the holidays specified in subsection (d) of this section. Any holder of a license to sell alcoholic liquor, including stores and taprooms, who wishes to sell alcoholic liquors on Sundays, except a gathering license, shall pay a biennial license fee of \$500 for the issuance of a special license to serve alcoholic liquors on Sundays, which shall be in addition to any other license fees which may be required of the licensee. If a licensee holds a license to sell for on-premises consumption and off-premises consumption it shall only be required to purchase one special license if it wishes to serve alcoholic liquors on Sunday."

Section 4. The fees identified in this Bill shall become effective upon the Bill becoming law, but shall only apply prospectively. Thus applicants for new licenses shall pay the new fees, and currently licensed entities shall pay the revised fees when the licensee seeks to renew their license.

Approved July 01, 2009