

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Finance and Administration

Department Alcoholic Beverage Control

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Statutory Authority for Promulgating Rules Act 571 of 2019

Rule Title: Suspension of Permit - ABC Rule 1.81

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

12/22/2019

01/22/2020

05/15/2020

01/22/2020

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Doralee Chandler

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06/22/2020

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Doralee Chandler

Signature

682-1105

Phone Number

abc.admin@dfa.arkansas.gov

E-mail Address

Director

Title

6/22/20

Date

FINAL RULE

Suspension of Permit – Rule 1.81

Section 1.81 *Suspension of Permit When No Business Conducted for a Period of Thirty Days; Inactive Status of Permits.* In the event a permittee does not conduct business under any permit issued for a period of thirty (30) days, the permit shall be surrendered to the Director and shall be placed on inactive status. Inactive status shall commence at the end of thirty (30) days after close of business, regardless of whether the permit is surrendered to the Director. In any event, for purposes of this Rule, a business that has been closed for a period of thirty (30) days shall be deemed to be on inactive status. The permit may remain inactive for three (3) months.

To secure the return of the permit, the permittee shall file with the Director a written statement showing that all taxes and fees owing to the State have been paid, the reason for the suspension of business activities and the date business activity will resume. The date the business activity will resume must be before or on the following day after the expiration of the last day of the inactive status period and includes the resumption of business at the permitted location that means the outlet is open for business and prepared to sell or dispense alcoholic beverages or means the filing of an acceptable application with the agency to transfer the location of the permitted business or such permit shall expire. If said application to transfer the location of the permitted business is granted conditional, the conditions must be met within twelve (12) months from the final agency decision granting the transfer application or the application will be cancelled. In order to extend the twelve (12) month conditional period, written approval must be obtained from the Director or Board before the expiration of the twelve (12) month period or such permit shall expire. Upon any such expiration or cancellation, the inactive status of the permit will be calculated from the time the final agency decision granting the transfer of location was rendered.

The permittee may petition the Alcoholic Beverage Control Board for an extension of inactive status for an additional three (3) month period. The Board may grant an initial extension upon a showing by the permittee and a finding by the Board that business circumstances exist to justify an extension, that the delay to return to business was not due to mere deferral or inattention on the part of the permittee, and that the inactive status should be extended. The permittee may appeal to the Alcoholic Beverage Control Board for a second extension of inactive status for an additional six (6) month period, but only upon a showing by the permittee and a finding by the Board that emergency circumstances exist to justify a final extension. Emergency circumstances means delays in return to business that are beyond the control, planning, or foresight of the permittee, including, but not limited to, a delay due to a natural or man-made disaster, the pending adjudication of a lawsuit, a building construction problem, and a contested or delayed insurance claim or settlement.

Any permit remaining on inactive status for a period of more than twelve (12) months or which has not been granted an extension under the provision of this Rule shall expire pursuant to written notice given to permit holders by this agency or to the provisions of ACA § 3-4-201 as they apply. Any permitted outlet which has been on

inactive status in excess of six (6) months shall be re-inspected by the Alcoholic Beverage Control Enforcement Division to determine if the outlet is in compliance with required health and safety rules and the outlet is open for business and prepared to sell or dispense alcoholic beverages before the permit(s) may be returned to active status. As part of the re-inspection process, the Alcoholic Beverage Control Enforcement Division shall give notice of the request to return to active status to the law enforcement officer who has primary jurisdiction over the site of the permitted outlet. The date the business activity will resume must be before or on the following day after the expiration of the last day of the inactive status period and includes the resumption of business at the permitted location that means the outlet is open for business and prepared to sell or dispense alcoholic beverages or such permit shall expire. (Amended 1-22-20)