

(B) APPLICATION OF CONTESTED CASE PROVISIONS.

THE COMMISSIONER SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) FAILURE OR REFUSAL TO APPEAR.

IF, AFTER DUE NOTICE, THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, NEVERTHELESS THE COMMISSIONER MAY HEAR AND DETERMINE THE MATTER.

REVISOR'S NOTE: Subsections (a) and (b) of this section are new language derived without substantive change from former Art. 100, § 80E(c) and the first sentence of (b).

Subsection (c) of this section is standard language added to clarify that, after an accused individual has been given proper notice, the Commissioner may proceed with a hearing even if the individual fails to appear.

The introductory exception of subsection (a) of this section, "[e]xcept as provided in Title 10, Subtitle 4 of the State Government Article", is added to clarify that the Commissioner may act summarily under certain circumstances. See SG § 10-405(b).

In subsection (a) of this section, the reference to "any final action under § 7-308" is substituted for the former limited reference to suspension or revocation, to clarify that an applicant who is denied a license also is entitled to a hearing. This change is made to conform to other licensing provisions found throughout the Code and to meet fundamental requirements of fairness.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that SG § 10-405(b) allows a licensing authority summarily to suspend a license if "the public health, safety, or welfare imperatively requires emergency action." However, § 7-310 of this subtitle allows the Commissioner summarily to suspend a license only if "necessary to prevent abuse of or injury to a migrant agricultural worker." Since repeals by implication are not favored, both SG § 10-405(b) and § 7-310 of this subtitle are referenced in subsection (a) of this section. However, the Committee recognizes that the General Assembly may have intended the specific provisions of § 7-310 of this subtitle to supersede the more general provision of SG § 10-405(b) with respect to licenses under this title, in accordance with the rules of statutory construction.

As to the power of the Commissioner to administer oaths, see § 7-202(c) of this title.

Defined term: "Commissioner" § 7-101