Concise Explanatory Statement

Rhode Island Government Register

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, the following is a concise explanatory statement:

AGENCY:	**Department of Business Regulation**
RULE IDENTIFIER:	**230-RICR-30-10-1**
REGULATION TITLE:	**Liquor Control Administration**
RULEMAKING ACTION:	**Full Rulemaking, Amendment**
PUBLIC COMMENT PERIOD:	**October 12, 2023, to November 11, 2023**

A. Statement of Purpose of the Amendment.

The regulatory changes proposed in this filing were identical to the regulatory language currently in effect as of August 20, 2023. The effective version was originally noticed for public comment from June 21, 2023, through July 21, 2023. During that public comment period, a technical error within the RICR system may have prevented comments submitted through RICR's attachment field from being received by the agency. Any comments submitted directly through RICR's text box option (with no attachments) or submitted directly to the agency were processed successfully.

As a result of the technical error, the Department repromulgated the regulatory changes (effective as of August 20, 2023) to ensure that the public had full access to submit public comments as originally intended.

The Department amended § 1.4.44(A)(2) after a Superior Court decision was issued on January 9, 2023, in The Wine and Liquor Co. v. DBR, PC-2022-02539. The Court held that the one-year completion deadline for the "granting order" specified in § 1.4.14 was problematic and the language rendering a license "null and void" without a hearing on the matter was constitutionally defective. Thereafter, DBR amended the Regulation by deleting § 1.4.14. The language in 1.4.44(A)(2) regarding a license being "granted but not issued" and rendering an application "null and void" is similarly deficient.

This amendment will allow a municipality to grant extensions of thirty (30) days to applicants who do not initially include their Certificate of Good Standing from the Department of Taxation along with their transfer application. The application will remain pending while the applicant obtains the Certificate, rather than being "granted but not issued," thereby eliminating an application and grant of license being rendered null and void for want of the Certificate. A new hearing must be scheduled along with the extension by the municipality if a hearing was scheduled in the first instance.

B. Summary of the Regulatory Analysis.

This amendment affects the retail liquor licenses granted by not issued. Municipal liquor authorities (sometimes a liquor board, sometime the city or town council) need to comply with this regulatory amendment.

The Department is removing the problematic and confusing "granted but not issued" and "null and void" language, and clarifying the requirements and process needed for transfer applicants. The societal benefits of this particular action are a clearer liquor regulatory scheme for municipal and private participants, predictability, and reliability.

There are no societal costs related to this amendment.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

C. Summary of Comments Not Resulting in Regulatory Language Changes.

No comments were received. Therefore, the final proposed regulation is the same as what was initially proposed.