

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

**DEPARTMENT OF BUSINESS REGULATION (INCLUDES THE OFFICE OF THE
HEALTH INSURANCE COMMISSIONER)**

Title of Rule: Liquor Control Administration

Rule Identifier: 230-RICR-30-10-1

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: October 12, 2023

End of Public Comment: November 11, 2023

Rulemaking Authority:

R.I. Gen. Laws § 3-2-2

3-5-20 and 3-7-14.2.

Summary of Rulemaking Action:

The regulatory changes proposed in this filing are 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 agency is re-promulgating the regulatory changes (effective as of August 20, 2023) to ensure that the public has full access to submit public comments as originally intended. The regulatory language included in this notice redlines the changes made in the most recent promulgation. The agency is noticing these changes for additional public comment.

The Department is proposing to amend § 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.

Amending § 1.4.44(A)(2) 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.

Additional Information and Public Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until November 11, 2023 by contacting the appropriate party at the address listed below:

Amy Stewart

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In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by a governmental agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of the publication of this notice.

Regulatory Analysis Summary and Supporting Documentation:

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 DBR 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.

For full regulatory analysis or supporting documentation contact the agency staff person listed above.