

2018 -- H 8130

LC005548

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO ALCOHOLIC BEVERAGES - LICENSES

Introduced By: Representatives Diaz, Almeida, Ajello, Hull, and Lombardi

Date Introduced: April 27, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 3-5-28 of the General Laws in Chapter 3-5 entitled "Licenses
2 Generally" is hereby amended to read as follows:

3 **3-5-28. Uniform procedures. Uniform procedures and training.**

4 The department is authorized to issue any orders and prescribe any forms to local
5 licensing boards or authorities that will provide uniform procedures and forms in the processing,
6 handling and reporting of license applications and disciplinary actions against licensees by local
7 licensing boards or authorities. [The department may require local licensing boards and authorities
8 to undergo training designed to improve operational efficiency and effectiveness with respect to
9 the regulation and enforcement of licenses that the local licensing boards and authorities are
10 authorized to issue pursuant to the provisions of this title.](#)

11 SECTION 2. Section 3-7-21 of the General Laws in Chapter 3-7 entitled "Retail
12 Licenses" is hereby amended to read as follows:

13 **3-7-21. Appeals from the local boards to director.**

14 (a) Upon the application of any petitioner for a license, or of any person authorized to
15 protest against the granting of a license, including those persons granted standing pursuant to § 3-
16 5-19, or upon the application of any licensee whose license has been revoked or suspended by
17 any local board or authority, the director has the right to review the decision of any local board,
18 and after hearing, to confirm or reverse the decision of the local board in whole or in part, and to
19 make any decision or order he or she considers proper, ~~but~~ [provided that:](#)

1 (1)(i) ~~the~~ The application shall be made within ten (10) days after the making of the
2 decision or order sought to be reviewed and shall specifically state all charges levied against the
3 applicant by the local board or authority, all matters determined adversely to them that the person
4 desires to appeal and the reasons for the appeal;

5 (ii) Within thirty (30) days after filing of the application, or within such additional time as
6 allowed by the director, the local board or authority shall transmit to the department a certified
7 copy of the entire record of the proceeding under review; and

8 (iii) Within thirty (30) days after certification of the record, the parties shall file with the
9 department briefs with respect to the appeal.

10 (2) Notice of ~~the~~ any decision or order that may be reviewed pursuant to this section shall
11 be given by the local or licensing board to the applicant within twenty-four (24) hours after the
12 making of its decision or order and the decision or order shall not be suspended except by the
13 order of the director.

14 (b) Any review conducted by the director shall be confined to the record. In cases of
15 alleged irregularities in procedure before the local board or authority, not shown in the record,
16 proof thereof may be accepted into evidence by the director. The director, upon request, shall hear
17 oral argument. The director shall not substitute their judgment for that of the local board or
18 authority as to the weight of the evidence on questions of fact. The director may affirm, reverse or
19 modify the decision of the local board or authority or remand the matter to the local board or
20 authority for further proceedings; provided that, the director may reverse or modify the decision
21 only if substantial rights of the appellant have been prejudiced because the local board or
22 authority's findings, inferences, conclusions, or decisions are/were:

23 (1) In violation of statutory provisions;

24 (2) In excess of the statutory authority of the local board or authority;

25 (3) Made upon unlawful procedure;

26 (4) Affected by other error of law;

27 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the
28 whole record; or

29 (6) Arbitrary or capricious characterized by abuse of discretion or a clearly unwarranted
30 exercise of discretion. A party aggrieved by a final order of the director may seek review of the
31 order in the superior court of Providence County in accordance with the procedures contained in
32 § 42-35-15.

33 ~~(b)~~(c) Any appeal or appeals from a decision of any boards located in the towns of
34 Jamestown, Little Compton, Middletown, Portsmouth or Tiverton, or in the city of Newport shall

1 be heard by the director or the director's designee within Newport County. The petitioner shall
2 provide a stenographer and shall bear the cost to have a transcript made of the proceedings. A free
3 copy of the transcript shall be provided by the petitioner to the director upon receipt of the
4 transcript.

5 ~~(e)~~(d) The director may accept into evidence a stenographic transcript of a witness's
6 sworn testimony presented before the local board that was subject to cross examination. This
7 testimony may be rebutted by competent testimony presented at the hearing held by the director.
8 The certified record of proceedings submitted by the local board or authority pursuant to
9 subsection (a) of this section shall include, without limitation, a true and accurate copy of the
10 petitioner's license application and licensing file, the show cause notice and any other documents
11 describing charges levied against the applicant/licensee, the written decision or order issued by
12 the local board or authority, including its findings of fact and conclusions of law, and a
13 stenographic transcript of the hearing(s) before the local board or authority including all witness's
14 sworn testimony presented before the local board that was subject to cross examination.

15 SECTION 3. This act shall take effect upon passage.

=====
LC005548
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO ALCOHOLIC BEVERAGES - LICENSES

- 1 This act would amend procedures regarding local liquor license appeals.
- 2 This act would take effect upon passage.

=====
LC005548
=====