

2022 -- H 8140

LC005680

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO ALCOHOLIC BEVERAGES -- RETAIL LICENSES

Introduced By: Representatives Messier, Barros, Tobon, Felix, and Alzate

Date Introduced: April 13, 2022

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 3-7-21 of the General Laws in Chapter 3-7 entitled "Retail Licenses"
2 is hereby amended to read as follows:

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

4 (a) Upon the application of any petitioner for a license, or of any person authorized to
5 protest against the granting of a license, including those persons granted standing pursuant to § 3-
6 5-19, or upon the application of any licensee whose license has been revoked or suspended by any
7 local board or authority, the director ~~has the right to~~ shall review the decision of any local board,
8 ~~or authority, and after hearing, to confirm or reverse the decision of the local board in whole or in~~
9 ~~part, and to make any decision or order he or she considers proper~~ in accordance with the provisions
10 of this section, but the application shall be made within ten (10) days after the making of the
11 decision or order sought to be reviewed. Notice of the decision or order shall be given by the local
12 or licensing board to the applicant within twenty-four (24) hours after the making of its decision or
13 order and the decision or order shall not be suspended except by the order of the director.

14 (b) If, before the director's review is undertaken, an application is made to the director for
15 leave to present additional evidence, and it is shown to the satisfaction of the director that the
16 additional evidence is material and that there were good reasons for failure to present it in the
17 proceeding before the local board or authority, the director may order that the additional evidence
18 be received by the local board or authority upon conditions determined by the director. Upon
19 consideration of the additional evidence, the local board or authority may modify its findings and

1 decision as a result of the additional evidence and shall file that evidence and any modifications,
2 new findings, or decisions with the director.

3 (c) The review shall be conducted by the director and shall be confined to the record. In
4 cases of alleged irregularities in procedure before the local board or authority, not shown in the
5 record, proof thereon may be taken in by the director. The director, upon request, shall hear oral
6 argument and receive written briefs.

7 (d) The director shall not substitute his/her judgment for that of the local board or authority
8 as to the weight of the evidence on questions of fact. The director may affirm the decision of the
9 local board or authority, or may remand, reverse or modify the decision only if substantial rights
10 of the appellant have been prejudiced because the administrative findings, inferences, conclusions,
11 or decisions are:

- 12 (1) In violation of constitutional or statutory provisions;
- 13 (2) In excess of the statutory authority granted to the local board or authority;
- 14 (3) Made upon unlawful procedure;
- 15 (4) Affected by other error of law;
- 16 (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the
17 whole record; or
- 18 (6) Arbitrary or capricious or characterized by abuse of discretion or a clearly unwarranted
19 exercise of discretion.

20 ~~(b)~~(e) Any appeal or appeals from a decision of any boards located in the towns of
21 Jamestown, Little Compton, Middletown, Portsmouth or Tiverton, or in the city of Newport shall
22 be heard by the director or the director's designee within Newport County. The petitioner shall
23 provide a stenographer and shall bear the cost to have a transcript made of the proceedings. A free
24 copy of the transcript shall be provided by the petitioner to the director upon receipt of the
25 transcript.

26 ~~(e) The director may accept into evidence a stenographic transcript of a witness's sworn~~
27 ~~testimony presented before the local board that was subject to cross examination. This testimony~~
28 ~~may be rebutted by competent testimony presented at the hearing held by the director.~~

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO ALCOHOLIC BEVERAGES -- RETAIL LICENSES

1 This act would establish the same standard of appeal review for local licensing decisions
2 as currently exists for state agency decisions under the administrative procedures act by prohibiting
3 the department of business regulation from substituting its judgment for just and proper decisions
4 made by local boards and authorities, provided that the decision of the local board or authority is
5 not improper, clearly erroneous, or otherwise arbitrary or capricious.

6 This act would take effect upon passage.

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