

A liquor appeal to the Department pursuant to R.I. Gen. Laws § 3-7-21 is considered a *de novo* hearing. The Department's jurisdiction is *de novo* and the Department independently exercises the licensing function. *A.J.C. Enterprises v. Pastore*, 473 A.2d 269 (R.I. 1984); *Cesaroni v. Smith*, 202 A.2d 292 (R.I. 1964); and *Hallene v. Smith*, 201 A.2d 921 (R.I. 1964). Because the Department's has such broad and comprehensive control over traffic in intoxicating liquor, its power has been referred to as a "super-licensing board." *Baginski v. Alcoholic Beverage Comm.*, 4 A.2d 265, 267 (R.I. 1939). See also *Board of Police Com'rs v. Reynolds*, 133 A.2d 737 (R.I. 1957). The purpose of this authority is to ensure the uniform and consistent regulation of liquor statewide. *Hallene v. Smith*, 201 A.2d 921 (R.I. 1964).

III. STANDARD FOR ISSUANCE OF A STAY

Under *Narragansett Electric Company v. William W. Harsch et al.*, 367 A.2d 195, 197 (R.I. 1976), a stay will not be issued unless the party seeking the stay makes a "strong showing" that "(1) it will prevail on the merits of its appeal; (2) it will suffer irreparable harm if the stay is not granted; (3) no substantial harm will come to other interested parties; and (4) a stay will not harm the public interest." Despite the ruling in *Harsch*, the Supreme Court in *Department of Corrections v. Rhode Island State Labor Relations Board*, 658 A.2d 509 (R.I. 1995) found that *Harsch* was not necessarily applicable in all agency actions and the Court could maintain the *status quo* in its discretion when reviewing an administrative decision pursuant to R.I. Gen. Laws § 42-35-15(c). The issue before the undersigned is a motion to stay a Decision which is subject to a *de novo* appeal and does not fall under R.I. Gen. Laws § 42-35-15(c). Nonetheless, it is instructive to note that the *Department of Corrections* found it a matter of discretion to hold matters in *status quo* pending review of an agency decision on its merits.

IV. DISCUSSION

R.I. Gen. Laws § 3-7-24 provides as follows:

Certificate of payment of state taxes. Every licensee under this chapter, upon filing an application for renewal or transfer of a license, shall submit with the application a certificate executed by the tax administrator, or some employee designated by the tax administrator, that taxes due the state have been paid. For the purposes of this section, "taxes due the state" shall include contributions due including taxes, interest and penalties due to the department of labor and training pursuant to the employment security act, chapters 42-44 of title 28, and temporary disability insurance act, chapters 39-41 of title 28. No license under this chapter shall be renewed or transferred without that certificate.

230-RICR-30-10-1, *Liquor Control Administration*, §1.4.44 provides in part as follows:

Certificate of Good Standing Compliance

A. In order to ensure compliance with R.I. Gen. Laws § 3-7-24, the following procedures will apply to the renewal and transfer of alcoholic beverage licenses:

1. Renewals: Every licensee must provide the local licensing authority with a Certificate of Good Standing from the Division of Taxation by November 30 of each calendar year. If the Certificate of Good Standing is not provided by November 30 the licensee shall be closed on December 1 and thereafter until said Certificate is so provided. The local authority should inform licensees upon commencement of the renewal process that the Division of Taxation requires a minimum of fifteen (15) days to process and issue requests for a Certificate of Good Standing.

R.I. Gen. Laws § 3-7-6 provide as follows:

Renewal of Class A, Class B, Class C, Class D, Class E, and Class J licenses. The holder of a Class A, Class B, Class C, Class D, Class E, or Class J license who applies before October 1 in any licensing period for a license of the same class for the next succeeding licensing period is prima facie entitled to renewal to the extent that the license is issuable under § 3-5-16. This application may be rejected for cause, subject to appeal as provided in § 3-7-21. A person whose application has been rejected by the local licensing authorities shall, for the purpose of license quotas under § 3-5-16, be deemed to have been granted a license until the period for an appeal has expired or until his or her appeal has been dismissed. The license holder may be required to pay a twenty-five dollar (\$25.00) fee upon application of renewal, at the option of local licensing authorities. This fee shall be used by the local licensing authority for advertising and administrative costs related to processing the renewal application.

R.I. Gen. Laws § 42-35-14(b)¹ provides that a license does not expire until a final decision is made after a timely renewal. *Chernov Enterprises, Inc. v. Sarkas*, 284 A.2d 61 (R.I. 1971) discussed this statute as if the Board was an “agency” as defined by the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.* In *Giraud v. Pastore*, 1984 WL 559294 (R.I. Super.), the Superior Court cited to *Chernov*, to apply R.I. Gen. Laws § 42-35-14(b) to a liquor license renewal. That decision found that since the local licensing authority never made a final determination to deny the renewal of a liquor license after the timely renewal application was filed, the license still existed after its expiration date.

Pursuant to R.I. Gen. Laws § 3-5-8, the Appellant’s License expired on December 1, 2025. The parties stipulated the Appellant’s renewal application for its Class BVX License was timely filed.² The parties agreed the Board did not take any final decision on the Appellant’s renewal application. Rather the matter had been continued several times after the Appellant filed its renewal for the Appellant to obtain a LOGS from the Division. On June 25, 2026, the Board did not deny the renewal application but rather ordered the Appellant to cease and desist selling alcohol as of June 30, 2026 at 4:00 p.m. pending the submission of a LOGS. Therefore, the License has not expired because the renewal was timely filed and no final action has been taken by the Board to deny it. The Appellant had been allowed to stay open despite not being able to provide a LOGS for almost seven (7) months past the expiration date of the License.

¹ R.I. Gen. Laws § 42-35-14(b) provides as follows:

(b) Whenever a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

² The audio for the Board hearing was not available to listen online. The facts are taken from representations and stipulations from the parties at the stay hearing.

The Appellant represented it is contesting a State tax assessment which is in the hearing process at the Division. The Appellant represented that it just discovered that day it had an outstanding liability in collections at the Division, and it hoped that if it paid the outstanding liability, it could obtain a letter from the Division indicating the only tax issue it has is the disputed assessment. The Board and the City indicated they felt that would meet the LOGS requirements.

The undersigned noted that if an applicant's only tax liability is in dispute in the hearing process, that liability has not been finalized so presumably such an applicant would be in good standing for all taxes considered final and owed. The regulatory requirement for a LOGS is a way for an applicant to meet the statutory requirement to show that "taxes due the state have been paid." If the Taxpayer can clear its liability in collections, it would appear it should be able to obtain a letter from the Division that there are no outstanding liabilities as the only outstanding tax assessment is in the hearing process so that all taxes **due** the state have been paid.

The Board and City took the position the Board has no discretion in regard to the statutory requirement that an applicant must show that it has paid all taxes owed. The undersigned agrees that requirement is not discretionary. However, the undersigned agrees that if the Appellant can show that it has paid all outstanding taxes except those being disputed in the hearing process that would meet the requirement to show taxes due the state has been paid since there has no final decision regarding what (if anything) is owed in the disputed tax assessment.

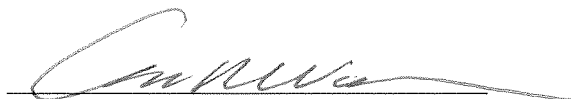
The demonstration of such good standing for state taxes paid is a condition of licensing. The Board has already allowed the Appellant several months to come into compliance. Indeed, the Board represented its cease and desist order allows the License be renewed by submitting the LOGS without going before the Board again.

Since the showing of the payment of state taxes is a condition of licensing that is not discretionary but part of licensing, the Appellant does not have a substantial likelihood of success at hearing that it can maintain its License without meeting that statutory requirement. It also is not in the public interest to not enforce statutory licensing requirements.

V. RECOMMENDATION

Based on the foregoing, the undersigned recommends the Appellant's motion for stay of the cease and desist is denied; thus, the Board's cease and desist order shall stay in effect. The parties may choose to schedule a full hearing or status conference as the circumstances warrant.

Dated: June 30, 2026


Catherine R. Warren
Hearing Officer


INTERIM ORDER

I have read the Hearing Officer's Recommended Order in this matter, and I hereby take the following action with regard to the Recommendation:

*If Appellant hereafter obtains a Division letter confirming the only outstanding tax is the disputed assessment that is subject to a pending hearing, Appellant's counsel should send it to the Board's counsel for submission to the City since the parties agreed this would meet the LOGs requirement.

 ADOPT *
 REJECT
 MODIFY

Dated: 6/30/2026


Elizabeth Kelleher Dwyer, Esquire
Director

NOTICE OF APPELLATE RIGHTS

THIS ORDER CONSTITUTES AN INTERLOCUTORY ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-15. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS

CERTIFICATION

I hereby certify on this 30th day of June, 2026 that a copy of the within Order and Notice of Appellate Rights were sent by email and first class mail, postage prepaid, and by electronic delivery to the following: Steven Nelson, Esquire, and Jillian Barker, Esquire, City of Providence Law Department, 444 Westminster Street, Suite 220, Providence, R.I. 02903, John C. Manni, Esquire, 1405 Plainfield Street, Johnston, R.I. 02919, and Louis A. DeSimone, Jr., Esquire, 1554 Cranston Street, Cranston, R.I. 02920 and by electronic delivery to Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I. 02920.

Megan Mihara
