

occurred in the stockholdings of _____ (Licensee) trading as _____ holder of _____ (Trade Name, if any) _____ for premises located at _____ (Type of License and Number) _____ (No.) _____ (Street) _____ (Municipality)

resulting in the following persons, each acquiring in the aggregate one percent or more of the corporate licensee's stock:

Table with 2 columns: Name, Residence Address

Any information concerning the qualifications of any of the above current stockholders should be communicated in writing to:

_____ of _____ (Municipal Clerk) of _____ (Municipality) _____ (Name of Licensee)

Amended by R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Added "not later than 10 days after the occurrence whenever the stockholder change involves a new individual acquiring one percent or more of the stock". Amended Notice.

13:2-2.16 Publication of notice of change in corporate structure

(a) The notice of change in corporate structure shall be published once in a newspaper printed in the English language, published and circulated in the municipality in which the licensed premises is located.

(b) Proof of publication of such notice shall be furnished by the licensee to the municipal issuing authority within 10 days after the date of publication with a copy of the dated advertisement attached.

Amended by R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

In (b), added "with copy of dated advertisement attached".

SUBCHAPTER 3. ISSUANCE OF RETAIL LICENSES BY MUNICIPAL ISSUING AUTHORITIES; SPECIAL REVIEW OF ATLANTIC CITY LICENSES

13:2-3.1 License certificate; form

The Director, Division of Alcoholic Beverage Control shall establish the form and content of all license certificates and shall make certificates for licenses available to the municipal issuing authority in each municipality issuing licenses.

Repeal and New Rule, R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

13:2-3.2 Required records

The municipal issuing authority shall maintain full and complete records concerning each license in its municipality, including information relative to the license's issuance, renewal, transfer, disciplinary sanctions, special conditions, extension of license to a fiduciary, payment of fees and any other matter the director or municipal issuing authority may deem appropriate.

Repeal and New Rule, R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

13:2-3.3 (Reserved)

Repealed by R.1995 d.450, effective August 21, 1995. See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a). Section was "Numbering license certificates".

13:2-3.4 License certificate signed by issuer

Each license certificate shall be signed either in the name of the municipality or its municipal board, whichever is the issuing authority. It shall also bear the actual signature, at the place indicated, of such municipal officer or agent as the governing board or body of the municipality or the municipal board, as the case may be, shall have designated to sign and to deliver such certificate on its behalf.

Amended by R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Recodified from 13:2-3.6. Repealed section was "License certificate stubs".

13:2-3.5 Issuance of license certificate; resolution of issuing authority

(a) No license certificate shall be signed, issued or delivered by any person unless and until expressly directed to do so by a resolution of the issuing authority, which resolution shall, among other things, specifically set forth the name and trade name, if any, of the person, association, firm or corporation adjudged thereby to be entitled to a license, and the kind thereof, address of the licensed premises, and effective date of the license, and shall order issuance and delivery of such license by such municipal officer or agent as the issuing authority shall, thereby or by some previous resolution, designate to sign and deliver such certificate in its behalf.

(b) Unless another specific date is identified in the resolution concerning an application for issuance or transfer of a license, the effective date shall be the date of the adoption of the resolution by the issuing authority.

Amended by R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Recodified from 13:2-3.7. Added (b). Repealed section was "Names on license certificates".

Case Notes

Liquor license limited to building area where alcohol served. The Quay, Inc. v. Sea Bright Borough Mayor and Council, 96 N.J.A.R.2d (ABC) 15.

13:2-3.6 Certification of license activity

Each municipal issuing authority shall make or cause to be made daily certification to the Director of all licenses granted during the preceding business day, which certification shall include any license application filings or amendments, any fees to be remitted to the Director, and any resolutions adopted.

Amended by R.1990 d.412, effective August 20, 1990.
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Recodified from 13:2-3.8. Added "license application filings, amendments, fees and resolutions". Deleted 1-9.
Amended by R.1995 d.450, effective August 21, 1995.
See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).
Deleted enumeration of (a).

13:2-3.7 Atlantic City; alcoholic beverage licenses

(a) The Municipal Board of Alcoholic Beverage Control of the City of Atlantic City shall forward to the Division of Alcoholic Beverage Control a copy of all applications for issuance, renewal or transfer of any alcoholic beverage license.

(b) No action shall be taken by the Board with respect to any application until completion of an appropriate investigation by the Division of Alcoholic Beverage Control or its designees.

(c) Upon completion of the investigation, the Division of Alcoholic Beverage Control shall certify whether granting of the application is in the public interest.

(d) Upon a finding by the Division that granting of the application will not be contrary to the public interest, the Board may act upon the application in any way consistent with its legal authority.

(e) Upon a finding by the Division that the granting of the application would be contrary to the public interest, the Board shall deny the application.

(f) The applicant shall retain the right conferred by N.J.S.A. 33:1-22 to appeal to the Director from the denial of an application by the Board and shall be afforded a hearing.

R.1977 d.348, eff. September 16, 1977.

See: 9 N.J.R. 487(c).

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Recodified from 13:2-3.10. Stylistic revisions.

13:2-3.8 (Reserved)

Recodified to 13:2-3.6 by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Section was "Daily certification of licenses granted".

13:2-3.9 (Reserved)

Repealed by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Section was "Daily certification; accompanying resolution".

13:2-3.10 (Reserved)

Recodified to 13:2-3.7 by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

SUBCHAPTER 4. ISSUANCE, RENEWAL OR TRANSFER OF MUNICIPAL RETAIL LICENSES (OTHER THAN CLUB LICENSES) BY THE DIRECTOR

Subchapter Historical Note

All provisions of this subchapter were filed and became effective prior to September 1, 1969. This subchapter was readopted pursuant to Executive Order 66(1978) as R.1985 d.332, effective June 7, 1985.
See: 17 N.J.R. 1052(a), 17 N.J.R. 1661(a). See chapter and section levels for further amendments.

13:2-4.1 Interest in issuance, renewal or transfer of license; application made to the division

(a) No municipal issuing authority may issue, renew or transfer a license to or from any of its members, or issue, renew or transfer a license to or from any corporation, organization, or association in which any of its members is interested directly or indirectly.

(b) No municipal issuing authority may transfer to other premises a license of any of its members, or transfer to other premises a license of any corporation, organization or association in which any of its members is interested, directly or indirectly.

(c) Whenever the municipal issuing authority is prohibited from acting by this section, or is unable to reach a quorum due to individual conflicts of interest, application must be made to the Director of the Division of Alcoholic Beverage Control and shall be governed by this subchapter.

(d) The provisions of (a) and (b) above shall not apply to club licenses.

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

In (c), clarified when application to Division must be made.

Amended by R.1995 d.450, effective August 21, 1995.

See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

Provided for license renewal and made (a) and (b) inapplicable to club licenses.

Case Notes

Municipality abuses discretion by approving person to person license transfer without obtaining written consent. Royal Oak Ventures, Inc. v. Township of Warren and King Caterers, Inc., 97 N.J.A.R.2d (ABC) 21.

Case Notes

Applicant's request for a special concessionaire permit denied; applicant bears the burden of proof with respect to establishing fitness for licensure, lack of an arrest record and meeting the legal age limit do not establish a "threshold of licensure" but merely indicate that an applicant is not statutorily disqualified from licensure; applicant no longer had the required possessory interest in the premises and was not entitled to the issuance of a special concessionaire's permit (Director's final decision). In Re: Dunn, 10 N.J.A.R. 1 (1984).

13:2-5.3 Special permit for the sale or purchase of alcoholic beverages

(a) The Director, for good cause shown, may issue a special permit to authorize the sale of alcoholic beverages by a receiver, trustee, executor, or other court appointed or authorized person, or judgment creditors or secured parties where such sale is authorized in accordance with law or a specific court order.

(b) An application for such special permit shall be filed with the Division at least seven days before the proposed sale on forms to be prescribed by the Director and accompanied by payment of fees as set forth by the Director. The fees for such permits shall not be less than \$5.00 nor more than \$1,000.

(c) Upon issuance of the special permit, the temporary storage and transportation of alcoholic beverages pending sale shall be authorized, as well as the sale to and transportation by the purchaser.

(d) Within 10 days after the sale, the permittee shall file with the Director a signed inventory report on forms prescribed by the Director identifying the type and quantity of all alcoholic beverages sold, the name and address of the purchaser, the State-assigned license number of the purchaser if it was a New Jersey licensee, and the sales price per item or lot. Failure to file the inventory report shall be cause for denial of future special permit applications.

Amended by R.1990 d.412, effective August 20, 1990.
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Revised section "to authorize the sale of alcoholic beverages by a receiver, trustee, executor" or other parties, in accordance with law or court order. Added (b) through (d).

Amended by R.1995 d.450, effective August 21, 1995.
See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

In (b), substituted "prescribed" for "promulgated" and increased permit fees.

13:2-5.4 Temporary miscellaneous contingency permits; fees

(a) The Director, for special cause shown, may issue such temporary permits for such contingencies where a license is not expressly provided for by law, and such a permit would be appropriate and consonant with the spirit of the Alcoholic Beverage Control Act.

(b) Application for such permits shall be on forms prescribed by the Director and shall be accompanied by payment of fees as set forth by the Director. The fees for such permits shall not be less than \$5.00 nor more than \$1,000.

(c) The Director may impose special conditions or requirements on any such permit.

New Rule, R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Amended by R.1995 d.450, effective August 21, 1995.

See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

In (b), substituted "prescribed" for "promulgated" and increased permit fees.

SUBCHAPTER 6. EXTENSION OF LICENSE

13:2-6.1 Petition for extension of license

(a) In case of death, bankruptcy, receivership or incompetency of a licensee, or if for any other reason whatsoever the operation of the business covered by the license shall devolve by operation of law upon a person other than the licensee, the licensed business may not be operated unless the license is extended by the issuing authority which issued the license.

(b) An application for extension of a license for a limited time not exceeding its term must be made in the form of a petition executed by the executor, administrator, trustee, receiver or other person upon whom operation of the business covered by the license shall have devolved by operation of law.

(c) Said petition shall be addressed to and acted upon by the authority which issued the license sought to be extended. An amendment of the license application to reflect the extension of the license shall be filed at the same time. No fee is required to be paid for an extension of the license and the petitioner is not required to publish a notice of application.

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Section was "Special permit to operate licensed business". Incorporated 13:2-6.2, "Petition for extension of license", as (b) and (c).

13:2-6.2 Special permit to operate licensed business

Where an application for extension of license cannot be made immediately because the fiduciary has not yet qualified, the Director, Division of Alcoholic Beverage Control, may issue a special permit to allow the licensed business to continue operations temporarily until the license is formally extended. The issuance of any special permit shall not indicate any opinion as to the merits of the formal petition to extend the license.

New Rule, R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Incorporated prior text, "Petition for extension of license", into 13:2-6.1.

13:2-6.3 Proof of appointment; assignments

(a) Petitioners for extension of a license must present satisfactory proof to the issuing authority of their appointment to act in their representative capacity.

(b) A license may not be extended to an assignee for the benefit of creditors, unless said assignee presents to the issuing authority a court order authorizing him to continue assignor's business during a period set forth in said order, as provided for in N.J.S.A. 2A:19-16.

13:2-6.4 Endorsement of licenses

If the petition for extension is granted, the license shall be endorsed as follows:

"This license is hereby extended, subject to all of its terms and conditions to (Executor, or as the case may be) until, 19"

Amended by R.1990 d.412, effective August 20, 1990.
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Deleted references to "local issuing authority" and "proper municipal official"; deleted (b), regarding endorsement in license book.

13:2-6.5 (Reserved)

Repealed by R.1990 d.412, effective August 20, 1990.
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Section was "Daily certification of license extensions".

SUBCHAPTER 7. TRANSFERS OF STATE AND MUNICIPAL LICENSES

Subchapter Historical Note

Pursuant to Executive Order No. 66(1978), Subchapter 7 was re-adopted as R.1984 d.176, effective April 26, 1984. See: 16 N.J.R. 493(a), 16 N.J.R. 1277(b). See also Chapter Historical Note and section annotations.

13:2-7.1 Transferability of license

Any license issued under the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq., may be transferred either from person-to-person or place-to-place, or both, in accordance with the provision of said law and these regulations.

Amended by R.1990 d.412, effective August 20, 1990.
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Referenced N.J.S.A. 33:1-1 et seq.

Case Notes

Nude dancing was not allowed within separate room adjacent to or within licensed premises. Division of Alcohol Beverage Control v. J & M Restaurant, 95 N.J.A.R.2d (ABC) 11.

Revocation of license was not required; undisclosed interest of disqualified person; indefinite suspension pending transfer to a bona fide purchaser. Division of Alcoholic Beverage Control v. 99 Washington Street, Inc., t/a Good & Plenti, 92 N.J.A.R.2d (ABC) 76.

Topless bar; application for place-to-place transfer. M.O.O. Inc. v. Board of Commissioners of Union City, 92 N.J.A.R.2d (ABC) 47.

Place-to-place transfer of plenary retail distribution license. Gene's Liquors v. Municipal Board of Alcoholic Beverage Control of the City of Paterson, 92 N.J.A.R.2d (ABC) 39.

Division of Alcoholic Beverage Control without statutory authority to prevent person-to-person transfer of liquor license which may be only asset of corporation which may owe unliquidated debt to transfer objector; liquor license is not property subject to lien, levy or execution; creditor cannot prevent sale of license or obtain satisfaction from proceeds. Mannies Cigarette Service, Inc. v. Aidan Corp., 4 N.J.A.R. 197 (1980).

13:2-7.2 Application for place-to-place license transfer

(a) Application for transfer of license to other premises, signed and sworn to by the licensee, must be filed with the Director or other issuing authority, as the case may be, at or before the first insertion of the advertisement of the notice of application on forms prescribed by the Director.

(b) If the application is for transfer of the license to a building not yet constructed, plans of the proposed building shall accompany the application. The plans shall show the appearance and design of the proposed building, the type or types of exterior building material and the over-all and room dimensions.

(c) Expansion of the licensed premises shall require a place-to-place transfer (expansion of premises) application.

(d) Voluntary reduction of the premises or voluntary de-licensure of all or a portion of the premises shall require a place-to-place transfer (reduction of premises) application.

Amended by R.1990 d.412, effective August 20, 1990.
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Stylistic revisions.

Amended by R.1995 d.450, effective August 21, 1995.
See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

Added provisions for expansion and reduction of licensed premises at (c) and (d).

Case Notes

Neighboring license holder's objections to transfer of liquor license to location across street from his establishment were dismissed where transfer was properly effected and no community sentiment against transfer was shown. McCurdy v. Municipal Board of Alcoholic Beverage Control of Atlantic City, 96 N.J.A.R.2d (ABC) 156.

Evidence that did not exist until after request for place-to-place transfer of liquor license was granted could not be considered in determining reasonableness of that transfer. Borough of Pitman v. Township of Mantua and J.G. Cook's Bar and Grill, 96 N.J.A.R.2d (ABC) 118.

Approval of place-to-place transfer of liquor license was affirmed, despite new location's proximity to school and to existing licensee. Butch Kowel's Tavern, Inc. v. Rahway Board of Alcoholic Beverage Control, 96 N.J.A.R.2d (ABC) 109.

Denial of request for place-to-place transfer of liquor license to site in vicinity of two churches was not unreasonable. Application of Maxine's Tavern, 95 N.J.A.R.2d (ABC) 124.

Transferee of inactive license required place-to-place transfer to re-site in original location. Innkeeper v. Remington, 95 N.J.A.R.2d (ABC) 113.

Temporary loss of possession of foreclosed licensed premises; place-to-place transfer. Innkeeper, Inc., v. Mahwah Township Council, 94 N.J.A.R.2d (ABC) 13.

Filing of an appeal takes place upon the receipt of the Notice and Petition of Appeal by the Director, rather than upon their mailing; appeal dismissed as filed out of time. Van Holt v. Mayor and Council, Boro. of Sea Bright, 3 N.J.A.R. 183 (1981).

13:2-7.3 Application for person-to-person license transfer

Application for transfer of license to another person, or other person and other premises, signed and sworn to by the person who seeks the transfer, and bearing the consent in writing to such transfer by the current licensee, must be filed with the Director, or other issuing authority, as the case may be, at or before the first insertion of the advertisement of the notice of application on forms prescribed by the Director.

Amended by R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Clarified transfer by "current licensee"; added text regarding forms promulgated by Director.

Amended by R.1995 d.450, effective August 21, 1995. See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

Substituted "prescribed" for "promulgated"

Case Notes

Court could order transfer of liquor license without holders' consent as temporary relief measure in breach of contract action arising out of failed liquor license transfer agreement. Parkway Liquor & Deli, Inc. v. P.P.P. USA, Inc. et al., 96 N.J.A.R.2d (ABC) 151.

Mutual interest of city and liquor license transferee's landlord in cross access property agreement and sewer regulator agreement was not conflict of interest, and thus city's approval of liquor license transfer was not prohibited. Cromwell Liquors, Inc. v. Western Beverage Corporation, et. al, 96 N.J.A.R.2d (ABC) 143.

Person-to-person transfer of liquor license was denied based upon finding that applicant was unqualified to run restaurant business and that applicant's father owned undisclosed interest in business. Varalli and Sons, Inc. v. Municipal Board of Alcoholic Beverage Control of Atlantic City, 96 N.J.A.R.2d (ABC) 122.

Filing of an appeal takes place upon the receipt of the Notice and Petition of Appeal by the Director, rather than upon their mailing; appeal dismissed as filed out of time. Van Holt v. Mayor and Council, Boro. of Sea Bright, 3 N.J.A.R. 183 (1981).

Town Council's action denying license transfer not reversible unless based upon mistakes or abuse of discretion; burden of proof upon transfer applicant; denial of transfer reasonable as founded on residents' objections and problems caused by large number of liquor establishments in transferral area. Stonehenge Gardens, Inc. v. Mayor and Town Council, Town of Phillipsburg, 2 N.J.A.R. 417 (1980) affirmed.

13:2-7.4 Notice of transfer application, form

(a) Notice of application for transfer of a license shall be published in the following form:

NOTICE
ALCOHOLIC BEVERAGE CONTROL

Take notice that application has been made to _____ of _____

(Name of Issuing Authority) (Address)
to transfer to _____ (Name of transferee)
trading as _____ for premises located at (Trade Name, if any)
(Address of premises to which transfer is sought)
the _____ heretofore issued to (Type of License and Number)
(Name of Licensee in full), trading as _____ (Trade Names, if any)
for the premises located at _____ (No.) (Street) (Municipality)
The person(s) who will hold an interest in this license is/are: (Name(s))

See *
(See ** to insert other information if applicable)
Objections, if any, should be made immediately in writing to:
_____, of _____ (Address)
(Municipal Clerk or Director, Division of Alcoholic Beverage Control)

_____, (Name of Applicant)
_____, (Address of Applicant)

*If the applicant is an individual, insert the name and residence address of that individual.

If the applicant is a corporation, insert the names and residence of all officers and directors and the names and residences of all stockholders holding one percent or more of any of the stock of the applicant corporation or any corporation that is a stockholder in the applicant corporation.

If the applicant is a partnership, insert the names and residence address of all partners and any limited partners holding an interest of one percent or more.

If the applicant is a club, insert the names and residence address of all officers and the offices they fill respectively, and the names and residences of the directors, trustees or other governing officials.

** If the application is for transfer of a municipal license to a building not yet constructed, insert in the Notice the following: "Plans of building to be constructed may be examined at the office of the Municipal Clerk".

If the application is for a State license for a building not yet constructed, insert "Plans of building to be constructed may be examined at the office of the Division of Alcoholic Beverage Control." If the application is for a place-to-place transfer which involves an expansion or reduction of the premises, insert "Plans of the current licensed premises and proposed licensed premises may be examined at the office

of the municipal clerk (or Division of Alcoholic Beverage Control, if appropriate).”

If the applicant intends to conduct retail sales of alcoholic beverages as may be authorized under a State issued license, insert in the Notice the following: “The applicant intends to engage in the retail sale of _____

_____ at _____
(Alcoholic beverage type) (No.) (Street)

_____ under the terms and conditions
(Municipality)
allowed by law.”

(b) “Name of issuing authority” in the form in N.J.A.C. 13:2-7.4(a), usually means the governing board or body of the municipality, whatever the name may be, for instance, the mayor and common council, the township council, and so forth, except where a municipal board of alcoholic beverage control has been created, in which case such board is the issuing authority. If the application is made by a member of any issuing authority, or by a corporation, organization or association in which any member of an issuing authority is interested directly or indirectly, or if the license sought to be transferred was issued in the first instance by the Director, the Director is the “issuing authority” and in that event the notice must state that objections be addressed to the Director of the Division of Alcoholic Beverage Control, PO Box 087, Trenton, New Jersey 08625-0087. This subsection shall not apply to club licenses.

(c) The notice of application shall be published once a week, for two weeks successively, at least seven days apart, in a newspaper printed in the English language published and circulated in the municipality in which the licensed premises are located. If, however, there shall be no such newspaper, then such notice shall be published in a newspaper printed in the English language, published and circulated in the county in which the licensed premises are located.

(d) Proof of publication of notice of application for transfer of a license shall be furnished after second publication with a copy of the dated advertisements attached.

Amended by R.1974 d.4, effective January 4, 1974.

See: 6 N.J.R. 82(a).

Amended by R.1979 d.138, effective May 1, 1979.

See: 11 N.J.R. 143(a), 11 N.J.R. 257(c).

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Substantially revised application for transfer form. Incorporated 13:2-7.5, “Issuing authority defined in form”, as (b); and 13:2-7.7, “Publication of notice of application”, as (c). Added (d).

Amended by R.1995 d.450, effective August 21, 1995.

See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

In (a) inserted provisions for expansion or reduction of the licensed premises.

Case Notes

Approval of expansion of licensed premises to include deck area was not abuse of discretion with imposition of special conditions. Property Owners Association v. Seaside Heights, 95 N.J.A.R.2d (ABC) 76.

13:2-7.5 Objections; hearing

Each issuing authority, immediately upon receipt of a written objection duly signed by an objector, shall set the matter down for a hearing and notify all parties of the date, hour and place thereof. Said hearing shall be stenographically or electronically recorded.

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Recodified from 3:2-7.8. “Each issuing authority” was “Each municipal clerk”; clarified hearing and notification requirements. Prior text at 3:2-7.5, “Issuing authority defined in form”, incorporated into 13:2-7.4 as (b).

Case Notes

Distance-between-premises ordinance did not preclude transfer of license to within 1000 feet of original premises. Innkeeper v. Mahwah Township Council, 95 N.J.A.R.2d (ABC) 115.

Approval of expansion of licensed premises to include deck area was not abuse of discretion with imposition of special conditions. Property Owners Association v. Seaside Heights, 95 N.J.A.R.2d (ABC) 76.

Transfer of retail distribution license for mixed use as convenience store with package liquor sales was approved. Zafar v. City of Summit, 95 N.J.A.R.2d (ABC) 63.

Entrance of premises to which liquor license transferred was not less than 200 feet from church. St. Paul’s v. Paulsboro, 95 N.J.A.R.2d (ABC) 46.

Denial of liquor license transfer application without evidence of detrimental affect was clear abuse of discretion. Midlantic v. Mayor and Borough Council, 95 N.J.A.R.2d (ABC) 7.

Denial of place-to-place transfer of liquor license; abuse of discretion. Midlantic Development, Inc. v. Mayer and Borough Council of Point Pleasant Borough, 95 N.J.A.R.2d (ABC) 7.

City failed to establish that transfer of license would result in overconcentration. City of Garfield v. Bonanno and Bonanno, 94 N.J.A.R.2d (ABC) 79.

Denial of transfer of liquor license was unreasonable. Grand Victorian Hotel v. Spring Lake Borough Council, 94 N.J.A.R.2d (ABC) 43.

Applicant failed to establish by that transfer of license was necessary or was in the public’s best interest. In the Matter of Sam’s Beer Outlet, Inc., 94 N.J.A.R.2d (ABC) 9.

Person-to-person and place-to-place transfer of plenary retail consumption liquor license was warranted. N.J.S.A. 33:1-76. G & P Restaurant Co., Inc. v. Municipal Bd. of Alcoholic Beverage Control, Passaic County, 92 N.J.A.R.2d (ABC) 5.

13:2-7.6 Date of hearing

The date fixed for hearing shall not be sooner than five days after the second notice was published (excluding Saturdays, Sundays and legal holidays) and should not be later than 14 days thereafter. For good cause, each issuing authority in the exercise of sound and fair discretion may fix a date for hearing later than said 14 days and may adjourn the hearing, upon notification to all parties.

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Recodified from 13:2-7.9. Clarified fixing of hearing date and exception to time limitation. Prior text at 13:2-7.6, "Type of license defined in form", repealed.

13:2-7.7 Hearing not required; reasons

(a) If there is no written objection and the issuing authority determines to approve the application, no hearing is required; but this in no way relieves the issuing authority from the duty of making a thorough investigation on its own initiative. This investigation should include fingerprinting and a criminal background check and financial disclosure documentation.

(b) No application shall be approved unless the issuing authority affirmatively finds and certifies that:

1. The submitted application form is complete in all respects;
2. The applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey

statutes, the regulations promulgated thereunder as well as the pertinent local ordinances and conditions imposed consistent with Title 33;

3. The applicant has disclosed and the issuing authority has reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business and;

4. The transferee has executed a valid consent to transfer the license.

(c) No application shall be disapproved without first affording the applicant an opportunity to be heard, and providing the applicant with at least five days notice thereof. The hearing need not be of the evidentiary or trial type and the burden of establishing that the application should be approved shall rest with the applicant. In every action adverse to any applicant or objector, the issuing authority shall state the reasons therefor.

License suspended for allowing, permitting and suffering possession of controlled dangerous substance on premises; good faith effort to stop activity not found. Div. of Alcoholic Beverage Control v. Ty-Dan Corp., 5 N.J.A.R. 273 (1980), affirmed.

13:2-23.6 Prohibition against immoral activities; disturbance; nuisance on premises

(a) No licensee shall engage in or allow, permit or suffer in or upon the licensed premises:

1. Any lewdness or immoral activity;
2. Any brawl, act of violence, disturbance, or unnecessary noise;
3. Nor shall any licensee allow, permit or suffer the licensed place of business to be conducted in such a manner as to become a nuisance.

Amended by R.1990 d.412, effective August 20, 1990.
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).
Revised heading.

Case Notes

Tavern owner duty-bound to summon police if reasonably foreseeable that patron may otherwise be harmed by criminal acts of another. Dubak v. Burdette Tomlin Memorial Hosp., 233 N.J.Super. 441, 559 A.2d 424 (A.D.1989), certification denied 117 N.J. 48, 563 A.2d 817.

Violation finding upheld against challenge that regulation invalid due to lack of standard for lewdness; contested case decisions provide conduct illustrations or precedents for lewdness available to any licensee. G. & J.K. Enterprises, Inc. v. Div. of Alcoholic Beverage Control, 205 N.J.Super. 77, 500 A.2d 43 (App.Div.1985).

Violation of regulation by tavern owner does not give rise to action by policeman for injuries sustained in answering call for assistance. Entwistle v. Draves, 200 N.J.Super. 1, 490 A.2d 313 (App.Div.1985), affirmed 102 N.J. 559, 510 A.2d (1986).

Licensee loses liquor license for operating business as a nuisance. Antoine Services, Inc. v. City of Linden, 97 N.J.A.R.2d (ABC) 9.

Prior suspension of club's plenary retail consumption license for acts of lewdness by club's dancers supported new license suspension for repeat violation. Jensa, t/a Club Phoenix v. The City of Asbury Park, 96 N.J.A.R.2d (ABC) 76.

Suspension of club's liquor license was warranted by multiple and flagrant violations of state law, including alleged incidents of lewd conduct by club's dancers and patrons. Alcoholic Beverage Control v. Jayson, Inc., 96 N.J.A.R.2d (ABC) 71.

Incidents of lewdness on business premises warranted suspension of liquor license. D & Z Realty v. City of Asbury Park, 96 N.J.A.R.2d (ABC) 41.

Liquor license renewal denied where bar owners failed to comply with special condition and operated bar as a public nuisance. In the Matter of Nathan's Realty, Inc., 96 N.J.A.R.2d (ABC) 25.

Lewd conduct by dancers within sight of licensee warranted revocation of liquor license. Alcoholic Beverage Control v. Quesada, 95 N.J.A.R.2d (ABC) 88.

Illegal drug activity on licensed premises with licensee's knowledge warranted revocation of license. Township of Nutley v. Rockyn Juke Box, 95 N.J.A.R.2d (ABC) 81.

Lewdness of female go-go dancer warranted 45-day suspension of liquor license. Jonilo v. Municipal Board, 95 N.J.A.R.2d (ABC) 1.

Go-go bar's license revoked upon showing of lewd or immoral activity. Division of Alcoholic Beverage Control v. Wemar, Inc., 94 N.J.A.R.2d (ABC) 82.

License suspended for allowing lewd and immoral conduct on premises ("Go-Go" dancers); good faith effort to stop activity not found. State of N.J. v. G. & J.K. Enterprises, Inc., 8 N.J.A.R. 588 (1985).

License suspended for allowing lewd and immoral conduct on premises (topless dancers); while constitutionality of ordinance and regulation must be reviewed by court of plenary jurisdiction, regulation examined and found constitutional; violative activity not protected free speech. Canal Street Pub. Inc. v. Municipal Bd. of Alcoholic Beverage Control, City of Paterson, 6 N.J.A.R. 221 (1982).

13:2-23.7 Prohibition against lottery and gambling; exceptions

(a) No licensee shall engage in or allow, permit or suffer in or upon the licensed premises:

1. The conduct of any lottery;
2. Any ticket or participation right in any lottery to be sold or offered for sale;
3. Any pool-selling, bookmaking or any unlawful game or gambling of any kind;
4. Any slot machine or device in the nature of a slot machine which may be used for the purpose of playing for money or other valuable thing;
5. Nor shall any licensee possess, have custody of, or allow, permit or suffer in or upon the licensed premises any gambling paraphernalia including, but not limited to, any slip, ticket, book, record, document, memorandum or other writing pertaining in any way to any lottery, pool-selling, bookmaking or unlawful game or gambling of any kind.

(b) This rule shall not apply to bingo, raffles or New Jersey State Lottery, or tickets or participation rights therein, being conducted pursuant to appropriate license under the Bingo Licensing Law (N.J.S.A. 5:8-24), Raffles Licensing Law (N.J.S.A. 5:8-50), State Lottery Law (N.J.S.A. 5:9-11) or other activity authorized by State law. However, in any instance of bingo at licensed premises, no licensee, during the period between the commencement of the first and the conclusion of the last game, shall sell, serve, or deliver or allow, permit or suffer the sale, service, delivery or consumption of any alcoholic beverage in or upon any part of the licensed premises where the bingo or any part thereof is being conducted.

Amended by R.1990 d.412, effective August 20, 1990.
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Revised heading.
Amended by R.1995 d.450, effective August 21, 1995.
See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

Prohibited gambling paraphernalia on licensed premises.

Case Notes

Video poker, blackjack, dice, roulette and other electronic forms of traditional gambling games or devices are slot machines within the meaning of this regulation and, therefore, are prohibited on licensed

premises. *Rosenkranz v. Vassallo*, 193 N.J.Super. 319, 473 A.2d 991 (App.Div.1984) on remand 9 N.J.A.R. 297 (1984).

Warrant needed to search the nonpublic areas of a licensed tavern for evidence of general criminality, unrelated to the operation of the licensed activity. *State v. Williams*, 168 N.J.Super. 359, 403 A.2d 31 (App.Div.1979), affirmed 84 N.J. 217, 417 A.2d 1046 (1980).

Warrantless searches of persons and tavern for lottery slips upheld (citing former N.J.A.C. 13:2-21.7). *State v. Carangelo*, 151 N.J.Super. 138, 376 A.2d 596 (Law Div.1977).

Liquor license was suspended for various violations, including possession of illegal gambling device on premises. *Division of Alcoholic Beverage Control v. Deleon Inc.*, 96 N.J.A.R.2d (ABC) 95.

Video machine easily adapted to actual gaming cannot be placed upon liquor-licensed premises unless exception to the proscription have been issued for the machine. *Rosenkranz v. Div. of Alcoholic Beverage Control*, 9 N.J.A.R. 297 (1984).

13:2-23.8 Eastern Standard Time change

(a) On the first Sunday of April of each year, at 2:00 A.M., the clocks in each licensed premises will be advanced one hour in observance of Eastern Daylight Savings Time. The official time will then become 3:00 A.M., and in any municipality having a closing time later than 2:00 A.M., the remaining hours of sale will be calculated accordingly.

(b) On the last Sunday of October of each year, at 2:00 A.M., the clocks in each licensed premises will be turned one hour back in observance of Eastern Standard Time. The official time will be 1:00 A.M., and in any municipality having a closing hour later than 2:00 A.M., remaining hours of sale will be calculated accordingly.

(c) In either case, (a) or (b) above, licensed premises having closing hours of 2:00 A.M. or earlier, will be unaffected.

Amended by R.1980 d.304, effective July 3, 1980.

See: 12 N.J.R. 343(b), 12 N.J.R. 494(b).

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

In (a), "first Sunday" was "last Sunday".

Amended by R.1995 d.450, effective August 21, 1995.

See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

Added provisions for the "Official Time".

13:2-23.9 Prohibition against adulterated alcoholic beverages

(a) No licensee shall manufacture, transport, possess, sell, barter, give away, offer for sale or furnish any alcoholic beverages adulterated with any foreign or harmful substance.

(b) Nothing in this section shall prohibit licensees from storing and temporarily retaining such beverages for purposes of returning same to a manufacturer or wholesaler provided the container is immediately resealed and labeled with the name and address of the customer and the date of return by the customer.

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Added (b).

13:2-23.10 Restriction upon receiving prohibited deliveries of alcoholic beverages

No licensee shall receive, possess or sell any alcoholic beverage transported into this State in violation of N.J.A.C. 13:2-20 and 13:2-21.

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Added reference to 13:2-20.

13:2-23.11 Consumption of alcoholic beverages and possession of open containers prohibited upon retail distribution licensee's premises; exception

(a) No retail distribution licensee shall allow, permit or suffer any alcoholic beverage to be consumed in or upon the licensed premises nor shall such licensee possess or allow, permit or suffer any open containers of alcoholic beverage in or upon the licensed premises.

(b) Nothing in this provision shall prohibit opened bottles of alcoholic beverages returned by a customer as allegedly defective from being possessed by such licensee pending return to the manufacturer or wholesaler; provided the container is immediately resealed and labeled with the name and address of the customer and the date of return by the customer.

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Revised and designated existing text as (a) and (b).

13:2-23.12 Receiving alcoholic beverages from prohibited source

(a) No retail licensee shall purchase or obtain any alcoholic beverage except from the holder of a New Jersey manufacturer's or wholesaler's license or pursuant to a special permit first obtained from the Director.

(b) The purchase of alcoholic beverages by one retailer from another and sale of alcoholic beverages by one retailer to another are prohibited; provided, however, that the passage of title in any alcoholic beverages from transferor to transferee of a license may be authorized by special permit obtained from the Director.

Amended by R.1990 d.412, effective August 20, 1990.

See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Designated existing text as (a) and (b).

Amended by R.1995 d.450, effective August 21, 1995.

See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

Stylistic changes.

13:2-23.13 Maintaining copies of current license certificate; application, list of employees; availability for inspection

(a) No licensee shall conduct the licensed business unless:

1. The current license certificate is at all times conspicuously displayed on the licensed premises in such plain view as to be easily read by all persons visiting such premises;

2. A photostatic or other true copy of the application for the current license as well as the last filed long-form application (if current application is the short form), is kept on the licensed premises; and

3. A list, on a form prescribed by the Director, containing the names and addresses of, and required information with respect to, all persons currently employed on retail licensed premises, is kept on the licensed premises.

(b) Such application copy and such list shall be available for inspection by the Director, the Director's deputies, inspectors and investigators, and by any officer defined by N.J.S.A. 33:1-1(p).