

with the Director a notice in writing of the change within 10 days after its occurrence.

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).

### 13:2-14.12 Prohibited conduct of permittee

No permittee shall engage in any conduct which is prohibited to his employer by the Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq. or any regulation adopted thereunder, or by any valid municipal ordinance or regulation pertaining to employment upon licensed premises.

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.

### 13:2-14.13 Cancellation, suspension and revocation of permit

(a) Any employment permit may be canceled or suspended or revoked by the Director for cause, including, but not limited to, any of the following:

1. Violation by the holder of any provision of the alcoholic beverage law or any regulation adopted thereunder;
2. For any fraud, misrepresentation, false statement, misleading statement, evasion or suppression of a material fact in the application for the permit;
3. Proof that the holder has a prohibited interest in any license issued by the Director or any other issuing authority;
4. The permit holder is disqualified from being employed by a licensee for reasons other than the disqualification referred to in the employment permit;
5. Any other act or happening, occurring after the time of making an application for an employment permit which, if it had occurred before said time, would have prevented issuance of the permit; and
6. With respect to rehabilitation employment permits or temporary work letters issued pursuant to N.J.A.C. 13:2-14.6, proof of arrest or conviction of the permit holder of any crime or disorderly persons offense.

Amended by R.1974 d.46, effective February 15, 1974.  
See: 6 N.J.R. 17(a), 6 N.J.R. 119(c).  
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)6, added "or temporary work letters", "proof of arrest or" conviction "of the permit holder".

#### Case Notes

Rehabilitation Employment Permit denied to former criminal probationer to work at his formerly-owned establishment, now owned by wife; permit to work elsewhere granted (Division's Final Decision). *Marini v. Div. of Alcoholic Beverage Control*, 1 N.J.A.R. 365 (1980).

## SUBCHAPTER 15. REMOVAL OF STATUTORY DISQUALIFICATION

### 13:2-15.1 Time for petition filing; removal of statutory disqualification

Any person convicted of a crime involving moral turpitude may, after the lapse of five years from the date of conviction, or release from incarceration, whichever is later, petition the Director of the Division of Alcoholic Beverage Control pursuant to N.J.S.A. 33:1-31.2 for an order removing the resulting statutory disqualification from obtaining or holding any license or permit.

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

Added "release from incarceration" as condition for filing.

### 13:2-15.2 Petition; contents

The petition for removal of disqualification shall be in verified form accompanied by payment of a filing fee of \$125.00. The petitioner shall be required to submit to fingerprinting and provide four recent color passport photographs (two inches by two inches) with said application, as well as any fingerprinting processing fees attendant thereto.

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

Specified submission of "color passport" photo and "fingerprinting processing fees".

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

Increased filing fee.

Amended by R.2006 d.67, effective February 21, 2006.  
See: 37 N.J.R. 3221(a), 38 N.J.R. 1193(a).

Increased fee from \$100.00 to \$125.00; substituted "to fingerprinting" for "a set of fingerprints"; added "provide"; increased number of photographs from one to four.

### 13:2-15.3 Hearing

No petition shall be denied without first affording the petitioner a hearing, which the Director shall schedule to be held at this Division by the Director under N.J.S.A. 52:14F-8 or by an Administrative Law Judge as a contested case pursuant to N.J.A.C. 1:1-3.2. The petitioner and two character witnesses will be required to appear in person at said hearing and to testify under oath.

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

Prohibited petition denial without a hearing, and added text regarding N.J.S.A. 52:14F-8 and N.J.A.C. 1:1-3.2.

### 13:2-15.4 Removal of disqualifications; causes

(a) The Director may, in the exercise of sound discretion, enter an order removing the disqualification, if the Director is satisfied from the petitioner's testimony, the witnesses produced or the investigative record that:

1. At least five years have elapsed from the later of the date of conviction or release from incarceration;

2. The petitioner has behaved in a law-abiding manner during such period; and

3. The petitioner's association with the alcoholic beverage industry will not be contrary to the public interest.

(b) Any person, who applies for and is denied the removal of a disqualification for any reason, may not re-apply for a period of up to five years from the date of final administrative or judicial action, whichever is later, regarding the subject application. The Director shall set the period of time during which a disqualified person may not re-apply in the Order denying the disqualification removal and shall specify the reasons therefor.

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), "or the investigative record" was "and the investigative record"; in (a)1, added "release from incarceration" to elapsed time requirement.

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

Added (b).

#### Case Notes

Request for removal of liquor license disqualification was denied due to applicant's extensive criminal record. In the Application of Vasser, 96 N.J.A.R.2d (ABC) 107.

Reasonable conditions were placed upon licensee in alcohol-abuse counseling to obtain renewal of liquor license. Hilcar v. New Brunswick, 95 N.J.A.R.2d (ABC) 49.

Petitioner entitled to removal of disqualification from alcoholic beverage license. Schoch v. Division of Alcoholic Beverage Control, 94 N.J.A.R.2d (ABC) 89.

No basis for removal of statutory disqualification from employment in liquor industry. Santorella v. Alcoholic Beverage Control Division, 94 N.J.A.R.2d (ABC) 65.

## SUBCHAPTER 16. SOLICITOR'S PERMIT

### 13:2-16.1 Necessity of permit

No individual shall offer for sale or solicit any order in this State for the purchase or sale of any alcoholic beverage, whether such sale is to be made within or without this State, unless such individual holds a solicitor's permit and has such permit upon his person at the time of such solicitation. This, however, does not prohibit such offer or solicitation by any individual licensee himself or by the individual members of a licensed partnership or by any employee of any retail licensee in connection with and in the course of the licensed business.

### 13:2-16.2 Privileges of permit

A solicitor's permit, issuable by the Director of the Division of Alcoholic Beverage Control, authorizes the

permittee to make offers and solicit for such sales of alcoholic beverages on behalf of the licensee represented by the solicitor and designated in the permit.

Amended by R.1973 d.234, effective August 30, 1973.  
See: 5 N.J.R. 356(a).

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.

### 13:2-16.3 Eligibility for permit

Solicitor's permits may be issued only to bona fide employees of Class A (N.J.S.A. 33:1-10) or Class B (N.J.S.A. 33:1-11) licensees with the exception that no solicitor's permits shall be issued to employees of a bonded warehouse bottling licensee which holds no other type of Class A or Class B license.

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 13:2-16.4. Replaced old text with text regarding Class A and Class B licenses. Prior text at 13:2-16.3, "Permit fees; terms; applicant's photographs and fingerprints", repealed. The following annotation pertained to that section:

Amended by R.1973 d.234, effective August 30, 1973.  
See: 5 N.J.R. 356(a).

### 13:2-16.4 Permits to enforcement officers or municipal officials

No solicitor's permit shall be issued to or held by any person charged or entrusted with the enforcement of the laws concerning alcoholic beverages in any manner whatsoever, except that nothing herein shall prohibit a member of a municipal governing body or municipal issuing authority from being issued or holding a solicitor's permit, provided, however, that no holder of a solicitor's permit shall, directly or indirectly, offer for sale or solicit any order for the purchase or sale of any alcoholic beverages in any municipality in which he is a member of the municipal governing body or municipal 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 13:2-16.8. Added "municipal officials" to heading. Recodified prior text at 13:2-16.4, "Eligibility for permit", to 13:2-16.3.

### 13:2-16.5 Permit fees

The fee for a solicitor's permit is \$15.00 per annum for solicitors employed exclusively by licensees whose license permits the sale of malt alcoholic beverages only, and \$25.00 per annum for solicitors employed by all other eligible licensees. A separate fee shall be paid for each licensee designated in the permit.

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).

Section was "Restrictions on permittee".

**13:2-16.6 Application for permit; photograph and fingerprints; affidavit of compliance with the Alcoholic Beverage Control Act**

(a) Each applicant for the issuance or renewal of a solicitor's permit shall make application on a form promulgated by the Director accompanied with the appropriate fee.

(b) Applications for the issuance of a solicitor's permit shall be accompanied by one passport type color photograph

of the applicant, two inches by two inches, taken not more than 30 days prior to the date of the application.

(c) Applications for the issuance of a solicitor's permit shall require the fingerprinting of the applicant and the payment of the fingerprinting processing fees attendant thereto.

(d) Applications for the issuance of a solicitor's permit shall be accompanied by the applicant's affidavit, on a form prescribed by the Director, attesting to compliance with the Alcoholic Beverage Control Act. Such affidavit shall specifically state that the applicant has read, understands and promises not to violate the Alcoholic Beverage Control laws and regulations, including those which relate to:

1. Tied House Restrictions (pursuant to N.J.S.A. 33:1-43 and N.J.A.C. 13:2-23.25);
2. The Retail Cooperative Purchase Regulation (pursuant to N.J.A.C. 13:2-26); and
3. The Trade Member Discrimination, Marketing, and Advertising Regulation (pursuant to N.J.A.C. 13:2-24.)

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).  
 Section was "Solicitation without permit".  
 Amended by R.1995 d.450, effective August 21, 1995.  
 See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).  
 Added (d).

**13:2-16.7 Term of permit**

All solicitors' permits shall expire on May 31st following their issuance, unless otherwise specified therein, as provided in N.J.S.A. 33:1-67.

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).  
 Section was "Interest of permittee in retail business".

**13:2-16.8 Nontransferability of permit**

Each solicitor's permit covers only the employment designated therein and is not transferable as to employer or employee or employment.

Recodified from 13:2-16.9 by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Recodified prior text at 13:2-16.8, "Permits to enforcement officers", to 13:2-16.4.

**13:2-16.9 Amendment of application**

Whenever any change shall occur in any of the facts set forth in the application for a solicitor's permit, the permittee shall file with the Director a notice in writing of such change within 10 days after its occurrence.

Recodified from 13:2-16.10 by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Recodified prior text at 13:2-16.9, "Transferability of permit", to 13:2-16.8.

**13:2-16.10 Surrender of permit upon termination of employment**

Upon the termination of any employment for which a solicitor's permit has been granted, the employer named therein shall file with the Director a notice in writing of such termination and the permittee shall surrender for cancellation to the Director the permit covering such employment within 10 days after its occurrence.

Recodified from 13:2-16.11 by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Recodified prior text at 13:2-16.10, "Amendment of application", to 13:2-16.9.

**13:2-16.11 Restrictions on permittee**

(a) No holder of a solicitor's permit shall, in the State of New Jersey, offer for sale or solicit any order for the purchase or sale of any alcoholic beverage other than to the extent duly allowed and permitted by law and by the New Jersey license of his or her employer.

(b) No holder of a solicitor's permit shall directly or indirectly engage in any conduct prohibited its employer by the provision of Title 33 or any regulations promulgated thereunder, nor shall such person sell, solicit, or deliver alcoholic beverages at a price or upon terms or conditions or under promotions or contests not contained in his or her employer's "Marketing Manual" and "Current Price List" kept pursuant to N.J.A.C. 13:2-24 for the operative period.

(c) As of February 16, 1999, no holder of a solicitor's permit shall offer for sale or solicit any order for the purchase or sale of any alcoholic beverage to any retail licensee in which an immediate family member of the solicitor has any direct or indirect financial interest or participates in the operation of the retail licensee.

(d) The term immediate family member as used in this chapter means husband, wife, son, daughter, grandson, granddaughter, brother, sister, father, mother, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

(e) The provisions of (c) and (d) above do not apply to any solicitor who has been issued a solicitor's permit on or before February 16, 1999.

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

Recodified prior text at 13:2-16.11, "Surrender of permit upon termination of employment", to 13:2-16.10.  
 Amended by R.1999 d.57, effective February 16, 1999.  
 See: 30 N.J.R. 4316(a), 31 N.J.R. 545(a).  
 Added (c) through (e).  
 Amended by R.2005 d.212, effective July 5, 2005.  
 See: 36 N.J.R. 4211(a), 37 N.J.R. 2544(a).  
 In (b), substituted "his or her employer's" for "its employers".

**13:2-16.12 Interest of permittee in retail business**

No holder of a solicitor's permit shall be interested, directly or indirectly, in any retail license or any business conducted thereunder, nor shall the holder of a solicitor's permit be employed by or connected in any business capacity with any retail licensee.

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).  
 Section was "Permittee's activity".

**13:2-16.13 Search of permittee's vehicle**

By the acceptance of a solicitor's permit, the permittee consents to inspection and search of any vehicle owned or being driven by him, without search warrant, by the Director, his or her deputies, inspectors and investigators and by any officer as defined by N.J.S.A. 33:1-1(p).

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.

**13:2-16.14 Responsibilities of employer**

No holder of a Class A (N.J.S.A. 33:1-10) or Class B (N.J.S.A. 33:1-11) license shall allow, permit or suffer, in his behalf, any individual to offer for sale or solicit any order in the State of New Jersey for the purchase or sale of any alcoholic beverage, whether such sale is to be made within or without the State, unless such person has a solicitor's permit.

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

**13:2-16.15 Solicitor's contracts**

All contracts of employment between Class A (N.J.S.A. 33:1-10) or Class B (N.J.S.A. 33:1-11) licenses and their solicitors shall be in writing and shall set forth the salary, commission or other compensation of any kind agreed to be paid to such solicitor. Contracts shall be maintained by the employer for a period of three years from the date of execution and shall be available for inspection by the Director, his or her deputies, inspectors, investigators and agents and other officers as defined by N.J.S.A. 33:1-1(p).

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

**13:2-16.16 Filing of statement of compensation with Director**

On or before May 31 of each year, each holder of a Class A (N.J.S.A. 33:1-10) or Class B (N.J.S.A. 33:1-11) license employing any solicitor during the preceding calendar year shall file with the Director a true statement listing all compensation, itemized as to salary, commission, reimbursed expenses, prizes, awards, bonuses, or otherwise, paid to each such solicitor by such manufacturer or wholesaler during that calendar year.

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

**13:2-16.17 Suspension or revocation of solicitor's permit**

If a solicitor holds more than one solicitor's permit and one of the solicitor's permits is suspended or revoked, all of the solicitor's permits shall be suspended or revoked unless the solicitor demonstrates good cause why the solicitor's other permits should not be suspended or revoked.

New Rule, R.2005 d.212, effective July 5, 2005.

See: 36 N.J.R. 4211(a), 37 N.J.R. 2544(a).

**SUBCHAPTER 17. APPEALS****13:2-17.1 Notice and petition of appeal; contents; fee**

All appeals from the actions taken by a municipal issuing authority concerning the issuance, denial, renewal, transfer, suspension or revocation of a retail license shall be commenced by the filing, in duplicate, of a notice and petition of appeal to the Director of the Division of Alcoholic Beverage Control. The petition shall set forth the identity of the parties involved in the appeal, the subject matter of the appeal, the date and the action of the issuing authority from which the appeal is taken, the relief sought, the grounds therefor and a fee of \$100.00 payable to the Director, Division of Alcoholic Beverage Control.

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

Added "from the actions taken by a municipal issuing authority concerning . . . a retail license."  
Amended by R.1995 d.450, effective August 21, 1995.  
See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).  
Increased fee.

**13:2-17.2 Service of notice and petition of appeal**

The appellant shall first serve, personally or by ordinary mail, a copy of the notice and petition of appeal upon the respondent issuing authority and, where the action appealed from is the grant, transfer or extension of a license, or the refusal to revoke or suspend a license, a copy shall be so served upon the licensee, who shall also be joined as a respondent. The notice and petition of appeal, together with an acknowledgement or affidavit of service, must be filed with the Director within the time set forth in N.J.A.C. 13:2-17.3.

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.

**13:2-17.3 Time for appeal**

Appeals by any taxpayer or other aggrieved person from the issuance of a license or from the grant of an application for the extension or transfer of a license must be taken within 30 days from the date of issuance, extension or transfer of the license. All other appeals by a licensee or applicant for a license must be taken within 30 days after the personal service or mailing by registered mail of a written notice by the municipal issuing authority of the action taken against the licensee or the applicant.

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

Specified service or mailing of a "written" notice by issuing authority.

N.J.A.C. 13:2-23.7(a)4	GAMB6	Video or slot machine or other gambling device playing for money or other valuable thing	30	60	90	Revocation
N.J.A.C. 13:2-23.7	GAMB7A	Criminal gambling activity on the licensed premises involving an employee	90	Revocation		
N.J.A.C. 13:2-23.7	GAMB7B	Criminal gambling activity on the licensed premises involving a licensee	Revocation			
N.J.A.C. 13:2-23.7	GAMB7C	Non-criminal gambling activity on the licensed premises involving an employee	10	20	30	Revocation
N.J.A.C. 13:2-23.7	GAMB7D	Non-criminal gambling activity on the licensed premises involving a licensee	10	20	30	Revocation
N.J.S.A. 33:1-35/ N.J.A.C. 13:2-23.30	HIND1	Employee hindering an investigation	30	60	90	Revocation
N.J.S.A. 33:1-35/ N.J.A.C. 13:2-23.30	HIND2	Licensee hindering an investigation	45	90	Revocation	
N.J.A.C. 13:2-38.1 or 38.2	HRS1	Sale of alcoholic beverages before or after the legal hour or in violation of a municipal ordinance	10	20	30	
N.J.S.A. 33:1-31h and N.J.A.C. 13:2-38.1 or 38.2	HRS2	Presence of non-employee(s) after the legal hour set by a municipal ordinance	10	20	30	
N.J.A.C. 13:2-20	INSIG	Alcoholic beverages transported without a transit insignia	1	5	10	
N.J.A.C. 13:2-20.4(b) or 23.32	INV1	Failure to have invoices available at the licensed premises, but produced within seven business days of demand	1	5	10	
N.J.A.C. 13:2-20.4(b) or 23.32	INV2	Failure to maintain invoices or failure to produce invoices within seven business days of demand	30	60	Revocation	
N.J.A.C. 13:2-23.6(a)1	LEWD1	Lewd activity on the licensed premises	30	60	90	Revocation
N.J.A.C. 13:2-23.6(a)1	LEWD2	Lewd activity with audience participation on the licensed premises	45	90	Revocation	
N.J.A.C. 13:2-23.14	LEWD3	Lewd material on the licensed premises	10	20	30	
N.J.S.A. 33:1-12	MERC	Conducted other mercantile business on the licensed premises	5	10	20	
N.J.S.A. 33:2-23.5(b)	NARC1	Narcotic activity on the licensed premises	45	90	Revocation	
N.J.A.C. 13:2-23.5(b)	NARC2	Narcotic paraphernalia on the licensed premises	45	90	Revocation	
N.J.A.C. 13:2-23.5(b)	NARC3	Narcotic activity on the licensed premises involving an employee	90	Revocation		
N.J.A.C. 13:2-23.5(b)	NARC4	Narcotic activity on the licensed premises involving a licensee	Revocation			
N.J.A.C. 13:2-23.6(b)	NUIS1	Licensed business conducted in such a manner to become a nuisance (quality of life—noise, litter, urination, etc.)	10	20	30	
N.J.A.C. 13:2-23.6(b)	NUIS2	Licensed business conducted in such a manner to become a nuisance (police intervention—public safety or rights being violated)	30	60	90	Revocation
N.J.S.A. 33:1-31(h)	ORDIN	Violation of any ordinance, resolution or regulation of an issuing authority or governing body	10	20	30	
N.J.S.A. 33:1-31	ORDER	Violation of an order of the Director or of an issuing authority	10	20	30	
N.J.A.C. 13:2-9.3	POSS	Failure to maintain continuing possession and exclusive control of licensed premises	Indefinite suspension + 10 days	Indefinite suspension + 20 days	Indefinite suspension + 30 days	Revocation
N.J.A.C. 13:2-23.16	PP	Prohibited promotion	10	20	30	
N.J.A.C. 13:2-23.10	PROHD	Accepted delivery from a non-licensed carrier	5	10	20	
N.J.A.C. 13:2-23.12(a) or (b)	PROHP	Purchased alcoholic beverages from a prohibited source	10	20	30	
N.J.A.C. 13:2-23.12(b)	PROHS	Sale of alcoholic beverages to a prohibited receiver (retailer-retailer)	10	20	30	
N.J.A.C. 13:2-23.1(a)	PULA	Sale to a person under the legal age, but over the age of 18	15	30	45	Revocation
N.J.A.C. 13:2-23.1(a)	PULA/M	Sale to a person under the age of 18 years	30	60	90	Revocation
N.J.A.C. 13:2-24.11	REBATE	Prohibited consumer rebate	5	10	20	
N.J.A.C. 13:2-23.24	RET	Retailer received—parallel to SOL3	30	60	90	Revocation

N.J.S.A. 33:1-11, 2c	SBD1	Sale of less than one hundred forty-four fluid ounces of malt alcoholic beverages in original containers	5	10	20	
N.J.S.A. 33:1-11, 2c	SBD2	Sale of "chilled" malt alcoholic beverages	5	10	20	
N.J.S.A. 33:1-12	SCOPE	Sale or consumption beyond the scope of the license	10	20	30	
N.J.S.A. 33:1-52/N.J.A.C. 13:2-16.11(a) and/or 16.11(c)	SOL1	Solicitor offered an order of alcoholic beverages for purchase or sale, other than allowed by law and the license of employer and/or to retail licensee with family member involved	15	30	45	Revocation
N.J.A.C. 13:2-16.12	SOL2	Solicitor employed by or connected in business capacity to a retail licensee	15	30	45	Revocation
N.J.A.C. 13:2-16.11(b)	SOL3	Solicitor offered a cash rebate, free goods or other incentive not contained on Current Price List	30	60	90	Revocation
N.J.S.A. 33:1-31(e)	STAMP	Federal Tax Stamp not available	1	3	5	
N.J.A.C. 13:2-23.21	STOR1	Storage of alcoholic beverages off the licensed premises without a permit or not in a licensed warehouse	5	10	20	
N.J.A.C. 13:2-23.21	STOR2	Storage of alcoholic beverages for a time period exceeding 72 hours following receipt of a delivery for a fellow co-op member	5	10	20	
N.J.A.C. 13:2-23.27	SUSPV	Prohibited activity during license suspension	10	20	30	
N.J.A.C. 13:2-23.22(a)	TAP	Tap connected to a container of malt alcoholic beverages not truly indicating name or brand	5	10	20	
N.J.S.A. 33:1-31(d)	TAX	Knowing failure to pay taxes described in N.J.S.A. 33:1-31	15	30	60	
N.J.A.C. 13:2-23.1(b)	TOX1	Sale of alcoholic beverages to an intoxicated patron	15	30	45	Revocation
N.J.A.C. 13:2-23.20	TOX2	Licensee or employee working at licensed premises while intoxicated	15	30	45	Revocation
N.J.A.C. 13:2-20.4(a) and N.J.A.C. 13:2-20.3	TRANS	Transporting alcoholic beverages without proper documents	10	20	30	
N.J.S.A. 33:1-25	UI1	Undisclosed person, not otherwise disqualified, with a beneficial interest in a liquor license or licensed business	30	60	90	Revocation
N.J.S.A. 33:1-26	UI2	Person under the age of 18 or criminally disqualified person with an undisclosed beneficial interest in a liquor license or licensed business				Revocation
N.J.S.A. 33:1-12.31	UI3	Acquiring a beneficial interest in more than two retail liquor licenses				Revocation
N.J.S.A. 33:1-43/ N.J.A.C. 13:2-16.12	UI4	Solicitor with an undisclosed business relationship to or a beneficial interest in a retail license				Revocation
N.J.A.C. 13:2-23.31	UI5	Police officer, peace officer, or any other person whose power or duties include the enforcement of the alcoholic beverage law or regulations with an undisclosed beneficial interest in a liquor license				Revocation
N.J.S.A. 33:1-43	UI6	A brewery, winery, distillery, rectifying and blending plant or wholesale licensee with an undisclosed interest in a retail liquor license				Revocation
N.J.A.C. 13:2-16.11 and 23.28	WHOL	Wholesaler responsible for solicitor violating N.J.A.C. 13:2-16.11(a), (b) and/or (c)	30	60	90	Revocation

<sup>1</sup> The description of the penalties in this schedule is not intended to provide a complete description of the violation. The governing standard is set forth in the referenced statute or regulation.

<sup>2</sup> Number refers to days of license suspension.

New Rule, R.2001 d.447, effective December 3, 2001.

See: 33 N.J.R. 2795(a), 33 N.J.R. 4135(c).

Amended by R.2004 d.55, effective February 2, 2004.

See: 35 N.J.R. 1045(a), 36 N.J.R. 657(a).

In (i), amended N.J.A.C. reference in Code, BOOKS1 and BOOKS2.

Amended by R.2005 d.212, effective July 5, 2005.

See: 36 N.J.R. 4211(a), 37 N.J.R. 2544(a).

In (f), substituted "date of disposition of any prior violation(s)" for "date of the first violation"; in (g), deleted "in writing" following "has been notified"; rewrote (i).

#### Case Notes

Licensee's plenary retail consumption license was properly revoked where a preponderance of the evidence demonstrated that the licensee had engaged in sale to underage patrons on four separate incidents; the ages of the underage patrons ranged from a 16-year-old male to a 19-year-old female (adopting 2008 N.J. AGEN LEXIS 908). Best Liquors of Red Bank, Inc. v. Governing Body of Red Bank, OAL Dkt. No. ABC 4908-07, ABC 4909-07 AND ABC 8144-08 (Consolidated), 2009 N.J. AGEN LEXIS 952, Final Decision (January 27, 2009).

Numerous lewd and immoral acts committed by female dancers on the licensed premises with different patrons on three separate days constituted separate and successive violations of N.J.A.C. 13:2-23.6. N.J. Div. of Alcoholic Beverage Control v. S.B. Lazarus, Inc., OAL Dkt. No. ABC 2309-07, 2008 N.J. AGEN LEXIS 342, Initial Decision (June 2, 2008).

License revocation was the appropriate penalty for numerous lewd and immoral acts committed by female dancers on the licensed premises on three separate dates; the violations were egregious and committed with the licensee's knowledge, and the sheer number of violations demonstrated an intentional disregard of the standard of conduct imposed on licensees. N.J. Div. of Alcoholic Beverage Control v. S.B. Lazarus, Inc., OAL Dkt. No. ABC 2309-07, 2008 N.J. AGEN LEXIS 342, Initial Decision (June 2, 2008).

#### 13:2-19.12 Offers in compromise of suspension

(a) The Director may, in the Director's sole discretion, accept offers in compromise for all or part of a suspension. These offers may be monetary, pursuant to N.J.S.A. 33:1-31, or may involve deferring some of the days of suspension. The Director is under no obligation to accept an offer in compromise and shall make this decision based on what the Director determines to be reasonable and proper under the circumstances of the case.

(b) In cases being prosecuted by the Division, a licensee proposing that the Director accept an offer in compromise shall submit any such proposal to the Director, in writing, setting forth the reasons why the offer should be accepted. The Director will not consider an offer in compromise in any case being prosecuted by the Division after an Initial Decision is issued by the Office of Administrative Law, except under extraordinary circumstances. However, if the license is transferred and the current licensee had no interest in the license at the time that the violations in question were charged, the current licensee may apply to the Director for relaxation of this regulation pursuant to N.J.A.C. 13:2-9.1.

(c) In municipal cases involving an application to the Director for a monetary offer in compromise, the licensee shall file a Notice of Appeal, with notice to the municipality, setting forth the reasons why the offer should be accepted. Rules governing the Notice of Appeal are set forth in N.J.A.C. 13:2-17.

(d) If a licensee proposes that the Director accept a monetary offer in compromise, the licensee shall submit any documentation the Director requests, including, but not limited to, income tax returns or other financial reports.

New Rule, R.2001 d.447, effective December 3, 2001.

See: 33 N.J.R. 2795(a), 33 N.J.R. 4135(c).

Amended by R.2005 d.212, effective July 7, 2005.

See: 36 N.J.R. 4211(a), 37 N.J.R. 2544(a).

Rewrote (b).

#### Case Notes

Following appeal of the ABC Director's earlier Final Order (2005 N.J. AGEN LEXIS 912) to the New Jersey Supreme Court (Division of Alcoholic Beverage Control v. Maynard's, Inc., 192 N.J. 158, 927 A.2d 525, 2007 N.J. LEXIS 913 (2007)), the Director, ordered by the Supreme Court to consider mitigating factors upon remand, allowed the appellant licensee to serve only 20 days of the 60-day suspension on drug charges (N.J.A.C. 13:2-23.5) and make a monetary compromise offer, thereby requiring the licensee to pay \$15,000 in lieu of 40 days of suspension. However, as the liability and penalty imposed for the underage violations (N.J.A.C. 13:2-23.1(a)) were not before the Supreme Court, the licensee was required to serve 10 days of suspension, with 20 days held in abeyance for two years, for those violations. Division of Alcoholic Beverage Control v. Maynard's Inc., OAL DKT. NOS. ABCDS 0442-03 and ABCDS 0443-03, 2008 N.J. AGEN LEXIS 37, Final Decision (January 4, 2008).

#### 13:2-19.13 Increase or decrease of penalties

(a) The penalties set forth in the penalty schedule, at N.J.A.C. 13:2-19.11(i), may be increased or decreased based upon a finding by the Director of aggravating or mitigating circumstances.

(b) Some of the factors that the Director may consider to decrease a penalty are: previous history of compliance, good faith efforts to prevent a violation and extraordinary cooperation in the investigation demonstrating that the licensee is acting responsibly. Some of the factors the Director may consider to increase a penalty are: prior warnings or violations about compliance problems, efforts to conceal violations, age of customers and that the incident that gave rise to the violation resulted in death or substantial injury. These factors are provided as examples only and are not to be considered all inclusive.

(c) In addition, if death or serious injury occurred as a result of the incident that gave rise to the violation, the Director may revoke the license, even if it is a first violation. The licensee has the burden of demonstrating mitigating circumstances.

(d) In determining to increase or decrease the penalty or penalties set forth in the penalty schedule, the Director shall state in writing specific reasons for determining the penalty or penalties actually imposed.

(e) In instances where a licensee fails to comply with a request for documents and/or testimony, the Director may indefinitely suspend the license until such time as the licensee complies, in addition to any other penalty for hindering an investigation.

New Rule, R.2001 d.447, effective December 3, 2001.

See: 33 N.J.R. 2795(a), 33 N.J.R. 4135(c).

Amended by R.2005 d.212, effective July 5, 2005.  
See: 36 N.J.R. 4211(a), 37 N.J.R. 2544(a).  
Added (e).

#### Case Notes

Following appeal of the ABC Director's earlier Final Order (2005 N.J. AGEN LEXIS 912) to the New Jersey Supreme Court (Division of Alcoholic Beverage Control v. Maynard's, Inc., 192 N.J. 158, 927 A.2d 525, 2007 N.J. LEXIS 913 (2007)), the Director, ordered by the Supreme Court to consider mitigating factors upon remand, allowed the appellant licensee to serve only 20 days of the 60-day suspension on drug charges (N.J.A.C. 13:2-23.5) and make a monetary compromise offer, thereby requiring the licensee to pay \$15,000 in lieu of 40 days of suspension. However, as the liability and penalty imposed for the underage violations (N.J.A.C. 13:2-23.1(a)) were not before the Supreme Court, the licensee was required to serve 10 days of suspension, with 20 days held in abeyance for two years, for those violations. Division of Alcoholic Beverage Control v. Maynard's Inc., OAL DKT. NOS. ABCDS 0442-03 and ABCDS 0443-03, 2008 N.J. AGEN LEXIS 37, Final Decision (January 4, 2008).

#### 13:2-19.14 Warning letters and fine letters

The Director may, in the Director's sole discretion, issue a warning letter advising a licensee of a violation(s) or issue a fine letter, indicating that the Director will accept a monetary payment in lieu of prosecution.

New Rule, R.2001 d.447, effective December 3, 2001.  
See: 33 N.J.R. 2795(a), 33 N.J.R. 4135(c).

#### 13:2-19.15 Review by Director of penalties imposed by local issuing authorities

In reviewing the reasonableness of penalties imposed by local issuing authorities, reasonableness will be judged in accordance with the penalty schedule and other factors set forth in the record before the Director.

New Rule, R.2001 d.447, effective December 3, 2001.  
See: 33 N.J.R. 2795(a), 33 N.J.R. 4135(c).

#### 13:2-19.16 Application of subchapter

(a) This subchapter, as amended effective December 3, 2001, shall apply to violations occurring on or after December 3, 2001.

(b) To the extent that any of the penalties set forth in this subchapter are inconsistent with the penalties set forth in any earlier document(s), including, but not limited to, ABC Bulletins, the penalties set forth in this subchapter shall apply.

New Rule, R.2001 d.447, effective December 3, 2001.  
See: 33 N.J.R. 2795(a), 33 N.J.R. 4135(c).

### SUBCHAPTER 20. TRANSPORTATION OF ALCOHOLIC BEVERAGES BY LICENSEES; INSIGNIA

#### 13:2-20.1 Transit insignia; transportation of alcoholic beverages

No licensee shall transport alcoholic beverages into, out of, or within the State of New Jersey in any vehicle unless it is

owned, leased or contracted for by the licensee. Such vehicle, while so used, shall first have issued therefor a transit insignia, or transportation license insignia issued pursuant to the provisions of this subchapter, or a limited transportation permit or emergency trip permit issued pursuant to the provisions of N.J.A.C. 13:2-21.

Amended by R.1985 d.333, effective July 1, 1985.  
See: 17 N.J.R. 1054(a), 17 N.J.R. 1662(a).

Substantially amended.

Amended by R.1989 d.372, effective July 17, 1989.  
See: 21 N.J.R. 1300(a), 21 N.J.R. 2045(a).

Deleted language about transportation permit sticker and added description of new transportation license insignia.

Amended by R.2006 d.67, effective February 21, 2006.

See: 37 N.J.R. 3221(a), 38 N.J.R. 1193(a).

Deleted "special transit insignia."

#### 13:2-20.2 Transportation by retail licensee; delivery slip; emergency delivery

(a) No retail licensee shall deliver or transport any alcoholic beverages into, out of, or within the State of New Jersey in any vehicle unless the driver of the vehicle has in his or her possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating the date of delivery, the bona fide name and address of the purchaser or consignee, and the brand, size of container, quantity and price of each item of the alcoholic beverages being delivered or transported. The original or true copy of such delivery slip, invoice, manifest, waybill or similar document shall be retained by the licensee at his licensed premises for a period of one year from the date of delivery and shall be available for inspection by any person authorized to enforce the provisions of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq., unless the Director shall have granted to the licensee written permission to keep such documents at another designated place.

(b) No such licensee shall peddle, barter, or otherwise sell any alcoholic beverages from any vehicle.

(c) It shall be an affirmative defense, to a charge of violating N.J.A.C. 13:2-20.1, where the licensee satisfactorily demonstrates that:

1. The licensee owned or leased a properly permitted vehicle;
2. An emergency situation arose which prevented the delivery from being made in the properly permitted vehicle; and
3. The delivery was, in all other respects, made in accordance with the provisions of N.J.A.C. 13:2-20.2(a).

Amended by R. 1985 d.333, effective July 1, 1985.  
See: 17 N.J.R. 1054(a), 17 N.J.R. 1662(a).

Substantially amended.

Amended by R.1989 d.372, effective July 17, 1989.

See: 21 N.J.R. 1300(a), 21 N.J.R. 2045(a), 21 N.J.R. 2385(c).

In a: changed "Alcoholic Beverage Law" to "New Jersey Alcoholic Beverage Control Act" and revised with minor stylistic changes.

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

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

Added (c).

**13:2-20.3 Transportation by State licensee with retail privileges; delivery slip or route card**

(a) No State licensee privileged to sell alcoholic beverages at retail shall deliver or transport any alcoholic beverages in any vehicle, unless:

1. The driver of the vehicle has in his or her possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating the bona fide name and address of the purchaser or consignee, and the brand, size of container, quantity and price of each item of the alcoholic beverages being delivered or transported; or

2. The driver of the vehicle has in his or her possession a route card which shall contain the name, address and standing order of the customer, and the entry at the time of delivery of the date of delivery, the brand, size of container, quantity delivered and the price charged. In addition to such route cards, there must be carried in the vehicle a loading list setting forth the total quantity of alcoholic

beverages loaded for delivery, indicating as to each brand loaded the total quantity of each size of container; and

3. The original or true copy of such delivery slip, invoice, manifest, waybill, route card or similar document shall be retained by the licensee at his licensed premises for a period of one year from the date of delivery, and shall be available for inspection by any person authorized to enforce the provisions of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq., unless the Director shall have granted to the licensee written permission to keep such documents at another designated place.

(b) No such licensee shall peddle, barter, or otherwise sell any alcoholic beverage from any vehicle to any consumer.

Amended by R.1985 d.333, effective July 1, 1985.

See: 17 N.J.R. 1054(a), 17 N.J.R. 1662(a).

(a)3 added; Old (b) deleted and new (b) and (c) added.

Amended by R.1989 d.372, effective July 17, 1989.

See: 21 N.J.R. 1300(a), 21 N.J.R. 2045(a).

Revised throughout with minor stylistic changes and substituted "New Jersey Alcoholic Beverage Control Act" for "Alcoholic Beverage Law."

## Case Notes

Anti-discrimination statute not violated when supplier refuses to do business with newly-formed limited liability company. *R & R Marketing et al. v. Brown-Foreman Corporation*, 97 N.J.A.R.2d (ABC) 74.

**13:2-24.2 Discrimination in services, facilities or equipment**

(a) Except as may otherwise be authorized by this subchapter, no manufacturer, supplier, importer, brand registrant, wholesaler or distributor privileged to engage in the commerce of any alcoholic beverage into or within this State shall, directly or indirectly, in any connection whatsoever with the sale, purchase, distribution or marketing of alcoholic beverages in this State, sell, pay, grant, provide, receive or accept anything of value:

1. As a commission, brokerage fee or other compensation, or any allowance or discount in lieu thereof, except for the reasonable value of services actually rendered, and as to the sale, purchase or distribution of alcoholic beverages, and only to a permittee, licensee or registrant of this State; or

2. As, or for services, facilities or equipment, unless the same is available on proportionally equal terms to all other customers or accounts competing in the distribution of the connected alcoholic beverage product(s), except that no service, facility or equipment may be offered to a retail licensee which, directly or indirectly, requires the future purchase or an agreement to make a future purchase of any alcoholic beverages.

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)2, corrected error.

**13:2-24.3 Restraint of trade**

No licensee or registrant privileged to sell or distribute alcoholic beverages within this State shall contract, combine in the form of trust or otherwise, or conspire in restraint of trade or commerce in alcoholic beverages.

**13:2-24.4 Regulation of wholesaler credit**

(a) Credit terms established by an individual wholesaler shall be offered equally to the entire retail trade unless different terms to individual retail accounts are justified by the financial or credit history or risk of the particular accounts.

1. The maximum period for which credit may be extended in sales made to retailers is 30 days from the date of delivery in the case of all sales of any type of alcoholic beverage.

(b) In the event that a wholesaler has not received payment in accordance with the terms of sale as set forth upon an individual delivery invoice pursuant to N.J.A.C. 13:2-39.1, such wholesaler shall, personally or by first class mail, serve a "Notice of Obligation" upon any such defaulting retailer or its employee within three business days after the obligation is due. Service shall be deemed complete on the second business day following the date of mailing or when personal service is made.

1. A "Notice of Obligation" shall inform the retailer in writing of amount due, the date delinquency occurred, the consequences of non-payment and that, in the event that the claim is disputed, immediate written notice shall be given to the Division of Alcoholic Beverage Control by the retailer which will initiate a review pursuant to (f) below.