

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.

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

13:2-23.30 Prohibition against hindering an investigation

(a) Every license and every person with an ownership interest therein and every director, officer, agent and employee of every licensee shall facilitate any investigation or inspection of the licensed premises conducted by, or on behalf of the Division, or other issuing authority. The failure of any of the foregoing persons or entities, either directly or indirectly, to answer any question, to produce any document in the time, place and manner requested or to facilitate in any way whatsoever the inspection of the licensed business or premises shall constitute a violation of this section.

(b) A refusal by any licensee, or any of the persons identified in (a) above, to comply with an investigatory subpoena or request combined with a prompt legal challenge thereto shall constitute a defense if the refusal and legal challenge are based upon a legally cognizable privilege or claim for which the licensee has an objectively reasonable basis to believe applies to its circumstances, as determined by the Director or a court of law with competent jurisdiction. A legal challenge to an investigatory subpoena shall be prompt if a motion to quash the subpoena is filed with either the Director or a court of law before the return date of the subpoena.

(c) Every person identified in (a) above shall accept service of any investigatory request, including requests for documents or testimony or subpoena issued by the Director. If service of an investigatory request cannot be made due to the refusal of the licensee or any such person identified in (a) above to accept service of same, the licensee may be considered in violation of N.J.S.A. 33:1-35 and N.J.A.C. 13:2-23.30.

(d) No licensee, permittee or any shareholder, partner or other person having an interest in a license or permit shall refuse to submit to fingerprinting when so required by the Director or the local issuing authority.

(e) No licensee, permittee or any shareholder, partner or other person having an interest in a license or permit shall refuse to submit full disclosure in a financial investigation, including but not limited to all savings, checking, or other bank or financial accounts held by or for such person or entity individually, jointly, or in trust (for himself, herself or another person or entity), when so required by the Director or the local 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).
 Revised heading; 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).
 Stylistic changes.
 Amended by R.2000 d.342, effective August 21, 2000.
 See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Case Notes

Disciplinary proceedings against liquor company resulted in a suspension of plenary retail distribution license for failure to disclose a hidden interest in the license (N.J.S.A. 33:1.25); failure to keep true books of account (N.J.A.C. 13:2-23.32) and hindering an investigation into the matter in violation of N.J.S.A. 33:1-35 and N.J.A.C. 13:2-23.30. In Re: M.A.T. Co., 9 N.J.A.R. 262 (1983).

13:2-23.31 Law enforcement officers; ownership prohibition; employment restrictions

(a) No license shall be held by any regular police officer, any peace officer or any other person whose powers or duties include the enforcement of the alcoholic beverage law or regulations, or by any profit corporation or association in which any such officer or person is interested, directly or indirectly.

(b) No licensee shall employ or have connected with him in any business capacity whatsoever any such officer or person, except that:

1. Nothing herein shall prohibit a licensee from employing in a non-managerial capacity a special law enforcement officer; and

2. A licensee, upon prior written application to and written approval by the Director, may employ a regular police officer, peace officer or other person whose powers and duties include the enforcement of the Alcoholic Beverage Law (other than an officer employed by the Division of State Police) provided that such officer shall not be employed in a jurisdiction in which the officer is officially employed and further provided:

i. Written application pursuant to (b)2 above shall include prior written approval of such employment by the chief law enforcement officer of the jurisdiction which employs said officer or person and proof that written notice of the application has been provided to the chief law enforcement officer of the jurisdiction where the licensee is located.

ii. In the case of the chief law enforcement officer seeking such employment, the prior written approval must be from the chief executive officer of the governing body of the jurisdiction which employs said chief officer;

iii. A police officer so employed shall not, while engaged in the selling, serving, possessing or delivering of any alcoholic beverages;

(1) Have in his or her possession any firearm; or

(2) Wear or display any uniform, badge or insignia which would identify him or her as a police officer; and

iv. No police officer so employed shall be permitted to work in excess of 24 hours a week in any such establishment.

(c) The Director may authorize, upon prior application, the employment of regular police officers, peace officers, or other persons whose powers and duties include the enforcement of the alcoholic beverage laws and regulations, by licensees who operate racetracks, stadiums, auditoriums, theatres and other such establishments whose primary business does not consist of the sale or service of alcoholic beverages, where the use of trained police officers may be required to provide crowd control, traffic control or security for large sums of money located at such establishments. Persons employed in such capacity may not distribute, possess or sell alcoholic beverages and may only accept such employment with the consent of their governmental employer.

(d) Nothing contained in this section shall prohibit any regular police officer, peace officer or any other person whose powers and duties include the enforcement of the alcoholic beverage control laws or regulations from assuming any leadership or titular position in any fraternal, veterans', religious or similar type of nonprofit organization that is a club licensee; provided, however that:

1. The actual licensee of the organization is not a police officer or a person whose duties include enforcement of the alcoholic beverage control laws and regulations; and

2. No police officer or person whose duties include enforcement of the alcoholic beverage control laws and regulations shall be involved in the alcoholic beverage operations of the club licensee.

Amended by R.1974 d.341, effective December 16, 1974.

See: 6 N.J.R. 439(a), 7 N.J.R. 13(a).

Amended by R.1979 d.67, effective February 15, 1979.

See: 10 N.J.R. 557(a), 11 N.J.R. 146(a).

Amended by R.1980 d.526, effective December 4, 1980.

See: 12 N.J.R. 605(b), 13 N.J.R. 41(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 (b)1, deleted text regarding sale or handling of alcoholic beverages by special officer; in (b)2, deleted text concerning employment "in a non-managerial capacity" and sale or handling of alcoholic beverages by officer; redesignated part of (b)2i as ii, and added iii and iv. Redesignated (b)3 as (c), and 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).

Stylistic changes.

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

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

In (b)1, substituted "law enforcement" for "police."

Case Notes

Attorney's misconduct while serving as judge materially bore on his fitness to practice law and might merit further professional discipline against him, in his capacity as attorney, apart from removal as judge. Matter of Yaccarino, 117 N.J. 175, 564 A.2d 1184 (1989).

Failure of judge to disclose interest in liquor licenses in license applications and transfers found one of several grounds for removal from office; not necessary, in this case, to resolve issue of whether regulation bars license ownership by judge. Matter of Yaccarino, 101 N.J. 342, 502 A.2d 3 (1985).

13:2-23.32 Records to be maintained on the licensed premises; other required records

(a) Unless a licensee has obtained a permit for the off-premises storage of certain records, pursuant to N.J.A.C. 13:2-29.4, each licensee holding a Class C license must keep and maintain the following documents and records on its licensed premises:

1. The current license certificate;
2. A copy of the current license application with any amendments filed, if applicable, together with a copy of the last long-form retail licensee application filed by the licensee;
3. A fully completed up-to-date list of all persons currently working on the licensed premises (commonly known as Form E-141A);
4. The current Federal special tax stamp, or proof of proper filing for such annual stamp;
5. Copies of all delivery slips, invoices or similar documents for such transactions made within the past year;
6. Records of transactions with or placements by a registered display service;
7. New Jersey Sales Tax Certificate of Authority; and
8. Records set forth in (b) and (c) below.

(b) All licensees shall maintain, for a period of five years, a record of all money or any other thing of value received in the ordinary course of business or received outside the ordinary course of business, including, but not limited to, alcoholic beverage sales, food sales, rebates, including payments from any Retail Incentive Program "RIPs," and miscellaneous income.

(c) All licensees shall maintain, for a period of five years, records which show the payment of all expenses. The records shall indicate the name of the person or entity receiving such payment, the amount of the payment and the reason that the payment was made. Payment records shall include payments made for:

1. The purchase of alcoholic beverages;
2. The purchase of food items;
3. The purchase of supplies and use of utilities;
4. The purchase or lease of equipment;
5. The payment of employees' compensation, including all required withholding;
6. The payment of all local, state and Federal taxes and license fees;
7. The payments of rents, mortgages, loans and/or a reduction of an owner's equity; and
8. All other disbursements.