

**CHAPTER 2**

**DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

**Authority**

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

**Source and Effective Date**

R.2000 d.342, effective July 24, 2000.  
See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 2, Division of Alcoholic Beverage Control, expires on July 24, 2005.

**Chapter Historical Note**

Chapter 2, Division of Alcoholic Beverage Control, was adopted and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 2, Division of Alcoholic Beverage Control, was readopted as R.1990 d.412, effective July 24, 1990, and Subchapter 22, Transportation of Alcoholic Beverages by Railroad Carriers, Subchapter 34, Alcohol Permits, and Subchapter 37, Contracts of Employment and Conduct of Solicitors, were repealed by R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Subchapter 22, Licensee Training and Certification, was adopted as new rules by R.1992 d.445, effective November 2, 1992. See: 24 N.J.R. 1958(b), 24 N.J.R. 4055(b).

Chapter 2, Division of Alcoholic Beverage Control, was readopted as R.1995 d.450, effective July 24, 1995, and Subchapter 9, Warehouse Receipts Licenses, Subchapter 11, Farm Winery Licenses and Retail Privileges, Subchapter 28, Decanting of Wine, Subchapter 32, Sales of Forfeited Property, and the Appendix were repealed and Subchapter 34, Restricted Brewery, Subchapter 37, Consumer Alcoholic Beverage Tastings and Tasting Dinners, and Subchapter 41, Issuance or Transfer of Plenary Retail Consumption Licenses to Non-Profit Musical or Theatrical Corporations; Qualifications of Restaurant Operators, were adopted as new rules by R.1995 d.450, effective August 21, 1995. See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Division of Alcoholic Beverage Control, was readopted as R.2000 d.342, effective July 24, 2000, and Subchapter 13, Execution of Questionnaire by State Licensees, and their Principals and Employees, was repealed by R.2000 d.342, effective August 21, 2000. See: Source and Effective Date. See, also, section annotations.

**Law Review and Journal Commentaries**

Practitioner's Guide to ABC Disciplinary Review. Kevin Marc Schatz, 137 N.J.L.J. No. 16, 10 (1994).

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. FILING OF APPLICATION AND ADVERTISING NOTICE OF APPLICATION FOR STATE LICENSE**

- 13:2-1.1 Filing of application; advertising
- 13:2-1.2 Applications by corporations, partnerships, and other types of legal entities; building not yet constructed
- 13:2-1.3 Publication of notice of application
- 13:2-1.4 Proof of publication

- 13:2-1.5 Applicants for renewal of annual State licenses
- 13:2-1.6 Objections; hearing
- 13:2-1.7 Changes in facts; application
- 13:2-1.8 Publication of notice of change in the structure of corporate, partnership, and other types of legal entities; form
- 13:2-1.9 Rules of general application; relaxation

**SUBCHAPTER 2. FILING OF APPLICATION AND ADVERTISING NOTICE OF APPLICATION FOR MUNICIPAL LICENSE**

- 13:2-2.1 Application forms
- 13:2-2.2 Form of notice of application
- 13:2-2.3 Issuing authority defined
- 13:2-2.4 Type of license defined
- 13:2-2.5 Publication of notice of application
- 13:2-2.6 Applicants for renewal of municipal licenses
- 13:2-2.7 Objections; hearing
- 13:2-2.8 Date of hearing
- 13:2-2.9 Hearing not required; reasons
- 13:2-2.10 Decision on application; ad interim (temporary) permit
- 13:2-2.11 Denial of application; refund of fees
- 13:2-2.12 Application granted; proration of fee; refund
- 13:2-2.13 Special conditions
- 13:2-2.14 Changes in facts; application
- 13:2-2.15 Publication of notice of change in the structure of corporate, partnership, and other types of legal entities; form
- 13:2-2.16 Publication of notice of change in corporate structure

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

- 13:2-3.1 License certificate; form
- 13:2-3.2 Required records
- 13:2-3.3 (Reserved)
- 13:2-3.4 License certificate signed by issuer
- 13:2-3.5 Issuance of license certificate; resolution of issuing authority
- 13:2-3.6 Certification of license activity
- 13:2-3.7 Atlantic City; alcoholic beverage licenses
- 13:2-3.8 through 13:2-3.10 (Reserved)

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

- 13:2-4.1 Interest in issuance, renewal or transfer of license; application made to the division
- 13:2-4.2 Application to the Director
- 13:2-4.3 New or renewal license fees; certification by issuing authority
- 13:2-4.4 Fee for license transfer to other persons or other premises; certification
- 13:2-4.5 Fee for combined transfers; certification
- 13:2-4.6 Submission of issuing authority's resolution
- 13:2-4.7 Advertising notice of application
- 13:2-4.8 Refund of fees
- 13:2-4.9 Proration of fee
- 13:2-4.10 Notice of change in facts in application
- 13:2-4.11 (Reserved)

**SUBCHAPTER 5. ISSUANCE OF SPECIAL PERMITS BY DIRECTOR**

- 13:2-5.1 Social affair permit
- 13:2-5.2 Special concessionaire permit

- 13:2-5.3 Special permit for golf facility
- 13:2-5.4 Special permit for the sale or purchase of alcoholic beverages
- 13:2-5.5 Temporary miscellaneous contingency permits; fees

- 13:2-12.2 (Reserved)
- 13:2-12.3 Ineligibility of premises
- 13:2-12.4 Ineligibility of persons under the legal age
- 13:2-12.5 Other disqualification
- 13:2-12.6 Number of permits per year
- 13:2-12.7 Transfer of permits
- 13:2-12.8 Revocation of permit

**SUBCHAPTER 6. EXTENSION OF LICENSE**

- 13:2-6.1 Petition for extension of license
- 13:2-6.2 Special permit to operate licensed business
- 13:2-6.3 Proof of appointment; assignments
- 13:2-6.4 Endorsement of licenses
- 13:2-6.5 (Reserved)

**SUBCHAPTER 13. (RESERVED)**

**SUBCHAPTER 14. EMPLOYMENT BY LICENSEES OF A PERSON FAILING TO QUALIFY AS A LICENSEE**

- 13:2-14.1 Restriction upon a minor's employment activities on a licensed premises
- 13:2-14.2 Minor's employment permit; fees
- 13:2-14.3 Permit; age restrictions
- 13:2-14.4 Blanket minors' employment permit
- 13:2-14.5 Restrictions upon employing criminally disqualified persons
- 13:2-14.6 Application for a rehabilitation employment permit; temporary work letter
- 13:2-14.7 Rehabilitation employment permit; duration; types; fees
- 13:2-14.8 Restrictions upon limited rehabilitation employment permittee
- 13:2-14.9 Termination of employment of disqualified person
- 13:2-14.10 Nontransferability of permits; term of permit; applicant's photograph and fingerprints
- 13:2-14.11 Amendment of application
- 13:2-14.12 Prohibited conduct of permittee
- 13:2-14.13 Cancellation, suspension and revocation of permit

**SUBCHAPTER 7. TRANSFERS OF STATE AND MUNICIPAL LICENSES**

- 13:2-7.1 Transferability of license
- 13:2-7.2 Application for place-to-place license transfer
- 13:2-7.3 Application for person-to-person license transfer
- 13:2-7.4 Notice of transfer application, form
- 13:2-7.5 Objections; hearing
- 13:2-7.6 Date of hearing
- 13:2-7.7 Hearing not required; reasons
- 13:2-7.8 Application for place-to-place license transfer
- 13:2-7.9 Application for person-to-person transfer
- 13:2-7.10 Combined transfer
- 13:2-7.11 Fee for license transfer to other premises or to another person
- 13:2-7.12 Fee for combined license transfer
- 13:2-7.13 Special condition for early grant
- 13:2-7.14 License certificate
- 13:2-7.15 Certification of license transfers
- 13:2-7.16 through 13:2-7.24 (Reserved)

**SUBCHAPTER 8. CLUB LICENSES**

- 13:2-8.1 Definitions
- 13:2-8.2 Bona fide clubs
- 13:2-8.3 Previous period of continuous, active operation
- 13:2-8.4 Previous period of possession and use of club quarters
- 13:2-8.5 Exceptions to eligibility requirements
- 13:2-8.6 Qualifications of officers and members
- 13:2-8.7 Submission of club member list and club charter
- 13:2-8.8 Sales restricted to club members
- 13:2-8.9 Sales for on-premises consumption only
- 13:2-8.10 Hours of permissible sale and consumption
- 13:2-8.11 Social affairs permittees
- 13:2-8.12 (Reserved)
- 13:2-8.13 Advertising prohibition
- 13:2-8.14 Violations

**SUBCHAPTER 15. REMOVAL OF STATUTORY DISQUALIFICATION**

- 13:2-15.1 Time for petition filing; removal of statutory disqualification
- 13:2-15.2 Petition; contents
- 13:2-15.3 Hearing
- 13:2-15.4 Removal of disqualifications; causes

**SUBCHAPTER 16. SOLICITOR'S PERMIT**

- 13:2-16.1 Necessity of permit
- 13:2-16.2 Privileges of permit
- 13:2-16.3 Eligibility for permit
- 13:2-16.4 Permits to enforcement officers or municipal officials
- 13:2-16.5 Permit fees
- 13:2-16.6 Application for permit; photograph and fingerprints; affidavit of compliance with the Alcoholic Beverage Control Act
- 13:2-16.7 Term of permit
- 13:2-16.8 Nontransferability of permit
- 13:2-16.9 Amendment of application
- 13:2-16.10 Surrender of permit upon termination of employment
- 13:2-16.11 Restrictions on permittee
- 13:2-16.12 Interest of permittee in retail business
- 13:2-16.13 Search of permittee's vehicle
- 13:2-16.14 Responsibilities of employer
- 13:2-16.15 Solicitor's contracts
- 13:2-16.16 Filing of statement of compensation with Director

**SUBCHAPTER 9. (RESERVED)**

**SUBCHAPTER 10. PLENARY AND FARM WINERY LICENSES; WINE BLENDING LICENSES; RETAIL PRIVILEGES; PARCEL DELIVERY SERVICE**

- 13:2-10.1 Application for plenary and farm winery licenses; statement of intent
- 13:2-10.2 License certificate endorsement
- 13:2-10.3 Labeling wine sold at retail
- 13:2-10.4 Hours of retail sales
- 13:2-10.5 Application for wine blending license; form
- 13:2-10.6 Joint retail salesroom
- 13:2-10.7 Parcel delivery service
- 13:2-10.8 (Reserved)

**SUBCHAPTER 11. (RESERVED)**

**SUBCHAPTER 12. SPECIAL PERMITS FOR HOME MANUFACTURE OF MALT ALCOHOLIC BEVERAGES AND WINES FOR PERSONAL OR HOUSEHOLD USE OR CONSUMPTION**

- 13:2-12.1 Special malt alcoholic beverage and wine permit

**SUBCHAPTER 17. APPEALS**

- 13:2-17.1 Notice and petition of appeal; contents; fee
- 13:2-17.2 Service of notice and petition of appeal
- 13:2-17.3 Time for appeal
- 13:2-17.4 Answer
- 13:2-17.5 Jurisdiction

## DIVISION OF ALCOHOLIC BEVERAGE CONTROL

- 13:2-17.6 De novo hearing; burden of proof
- 13:2-17.7 Subpoenas
- 13:2-17.8 Stays
- 13:2-17.9 Extension of license term
- 13:2-17.10 Transfer, extension or renewal subject to appeal
- 13:2-17.11 Hearing procedure
- 13:2-17.12 Renewal applications and appeals to the Appellate Division
- 13:2-17.13 through 13:2-17.15 (Reserved)

### SUBCHAPTER 18. PETITION PROCEEDINGS; DISCRIMINATION AGAINST WHOLESALERS

- 13:2-18.1 Grounds for relief
- 13:2-18.2 Filing and serving petitions
- 13:2-18.3 Answer to petition
- 13:2-18.4 Interlocutory relief
- 13:2-18.5 Enforcement of Director's orders
- 13:2-18.6 Jurisdiction
- 13:2-18.7 Public hearing
- 13:2-18.8 Hearing procedure

### SUBCHAPTER 19. DISCIPLINARY PROCEEDINGS

- 13:2-19.1 Commencement of disciplinary proceedings
- 13:2-19.2 Contents of Notice of Charges
- 13:2-19.3 Pleading procedure
- 13:2-19.4 Emergent hearing
- 13:2-19.5 License or permit subject to disciplinary proceedings
- 13:2-19.6 Suspension, cancellation or revocation
- 13:2-19.7 Pending proceedings; effect upon license or permit
- 13:2-19.8 Expiration or surrender of license; pending proceedings
- 13:2-19.9 Suspended license; transfers or extensions
- 13:2-19.10 Revoked license; licensee inability to work; transfer prior to revocation
- 13:2-19.11 Penalty schedule, definition of violation, successive violations
- 13:2-19.12 Offers in compromise of suspension
- 13:2-19.13 Increase or decrease of penalties
- 13:2-19.14 Warning letters and fine letters
- 13:2-19.15 Review by Director of penalties imposed by local issuing authorities
- 13:2-19.16 Application of subchapter

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

- 13:2-20.1 Transit insignia; transportation of alcoholic beverages
- 13:2-20.2 Transportation by retail licensee; delivery slip; emergency delivery
- 13:2-20.3 Transportation by State licensee with retail privileges; delivery slip or route card
- 13:2-20.4 Transportation by other State licensees, importers and manufacturers; delivery documents
- 13:2-20.5 Eligibility for transit insignia, special transit insignia or transportation license insignia
- 13:2-20.6 Application; fees
- 13:2-20.7 Term of transit insignia, special transit insignia or transportation license insignia; renewal
- 13:2-20.8 Location of transit insignia, special transit insignia or transportation license insignia
- 13:2-20.9 Restrictions applicable to vehicles bearing transit insignia, special transit insignia or transportation license insignia
- 13:2-20.10 Search of licensed vehicle
- 13:2-20.11 Duty of personnel delivering alcoholic beverages to consumers
- 13:2-20.12 through 13:2-20.15 (Reserved)

### SUBCHAPTER 21. TRANSPORTATION OF ALCOHOLIC BEVERAGES INTO, THROUGH OR OUT OF THE STATE

- 13:2-21.1 Delivery into or out of the State
- 13:2-21.2 Interstate transportation for personal use; amount limitation; permit
- 13:2-21.3 Transportation through New Jersey
- 13:2-21.4 Limited transportation permit
- 13:2-21.5 Emergency trip permit
- 13:2-21.6 Prohibited transportation; seizure of unlawful property
- 13:2-21.7 Search of vehicle
- 13:2-21.8 (Reserved)

### SUBCHAPTER 22. LICENSEE TRAINING AND CERTIFICATION

- 13:2-22.1 Licensee training program established
- 13:2-22.2 Requirements for successful completion; time for completion
- 13:2-22.3 Individuals required to attend
- 13:2-22.4 Dates and location of training
- 13:2-22.5 Designation of entity to conduct the training programs
- 13:2-22.6 Training program curriculum
- 13:2-22.7 Registration fees
- 13:2-22.8 Certification of educational training or order of deferment
- 13:2-22.9 Sanctions for noncompliance
- 13:2-22.10 (Reserved)

### SUBCHAPTER 23. CONDUCT OF LICENSEES AND PERMITTEES AND USE OF LICENSED PREMISES

- 13:2-23.1 Prohibition against serving persons under the legal age and intoxicated persons
- 13:2-23.2 Prohibiting sales or consumption of alcoholic beverages during elections; municipal option
- 13:2-23.3 Closing premises during public emergency or crime investigation
- 13:2-23.4 House-to-house solicitation forbidden
- 13:2-23.5 Prohibited patrons; narcotics or other unlawful drugs; illegal activity or enterprise
- 13:2-23.6 Prohibition against immoral activities; disturbance; nuisance on premises
- 13:2-23.7 Prohibition against lottery and gambling; exceptions
- 13:2-23.8 Eastern Standard Time change
- 13:2-23.9 Prohibition against adulterated alcoholic beverages
- 13:2-23.10 Restriction upon receiving prohibited deliveries of alcoholic beverages
- 13:2-23.11 Consumption of alcoholic beverages and possession of open containers prohibited upon retail distribution licensee's premises; exception
- 13:2-23.12 Receiving alcoholic beverages from prohibited source
- 13:2-23.13 Maintaining copies of current license certificate; application, list of employees; availability for inspection
- 13:2-23.14 Prohibition against indecent matter upon licensed premises
- 13:2-23.15 Possession of container mislabeled as to fill prohibited; exception
- 13:2-23.16 Prohibited promotions
- 13:2-23.17 Restriction upon limited retail distribution licensee possessing chilled malt alcoholic beverages
- 13:2-23.18 Solicitation prohibited
- 13:2-23.19 Prohibition against offering substitute beverages; exception
- 13:2-23.20 Intoxicated workers prohibited
- 13:2-23.21 Restrictions upon storage of alcoholic beverages
- 13:2-23.22 Requirement for labeled tap markers; provision for electronic systems

- 13:2-23.23 Requirements concerning labels; tax payment indicia
- 13:2-23.24 Restrictions upon placing of orders
- 13:2-23.25 Restrictions upon retail/manufacturer or wholesaler relationships
- 13:2-23.26 Fingerprinting requirements
- 13:2-23.27 Prohibited activities during license suspension
- 13:2-23.28 Responsibility of licensee for employee conduct
- 13:2-23.29 Detention of evidence; search of licensed premises
- 13:2-23.30 Prohibition against hindering an investigation
- 13:2-23.31 Law enforcement officers; ownership prohibition; employment restrictions
- 13:2-23.32 Books of account

**SUBCHAPTER 24. TRADE MEMBER DISCRIMINATION, MARKETING AND ADVERTISING**

- 13:2-24.1 Discrimination in terms of sale
- 13:2-24.2 Discrimination in services, facilities or equipment
- 13:2-24.3 Restraint of trade
- 13:2-24.4 Regulation of wholesaler credit
- 13:2-24.5 Supplier pricing and marketing information
- 13:2-24.6 Required records
- 13:2-24.7 Marketing initiatives
- 13:2-24.8 Sales below cost; prohibited
- 13:2-24.9 Combination and tied sales
- 13:2-24.10 Advertising and consumer protection
- 13:2-24.11 Manufacturers' rebates and coupons
- 13:2-24.12 Display services

**SUBCHAPTER 25. DIVERSION, TRANSSHIPMENT AND REGISTERED DISTRIBUTION**

- 13:2-25.1 Plenary and wine wholesalers: Delivery from warehouse inventory
- 13:2-25.2 Registered distribution
- 13:2-25.3 State beverage distributor

**SUBCHAPTER 26. RETAIL COOPERATIVE PURCHASES**

- 13:2-26.1 Restrictions on cooperative purchases

**SUBCHAPTER 27. LABELING AND STANDARDS OF FILL; DEPOSIT MARKED CONTAINERS**

- 13:2-27.1 Adoption of Federal requirements
- 13:2-27.2 Deposit marked containers

**SUBCHAPTER 28. (RESERVED)**

**SUBCHAPTER 29. RECORDS**

- 13:2-29.1 Public records
- 13:2-29.2 Confidential records
- 13:2-29.3 Inspection, reproduction and availability of records; copy fees
- 13:2-29.4 Licensee records; storage systems and availability of records

**SUBCHAPTER 30. REGISTRATION OF STILLS**

- 13:2-30.1 Stills to be registered
- 13:2-30.2 Registration form; contents
- 13:2-30.3 Possession of registry certificate on premises
- 13:2-30.4 Removal of registered still
- 13:2-30.5 Sale of registered still; notice
- 13:2-30.6 Stills of licensed distillery, rectifier or blender

**SUBCHAPTER 31. SEIZURE HEARINGS**

- 13:2-31.1 Hearings generally
- 13:2-31.2 Procedures; return of property seized
- 13:2-31.3 Forfeiture and sale of seized property

- 13:2-31.4 Hearing procedure

**SUBCHAPTER 32. (RESERVED)**

**SUBCHAPTER 33. PRODUCT INFORMATION FILING: BRAND REGISTRATION**

- 13:2-33.1 Brand registration schedule
- 13:2-33.2 Filing fees and forms

**SUBCHAPTER 34. RESTRICTED BREWERY**

- 13:2-34.1 Application for restricted brewery license
- 13:2-34.2 License fees
- 13:2-34.3 Restaurant premises
- 13:2-34.4 Tasting and sale for off-premises consumption
- 13:2-34.5 Hearings
- 13:2-34.6 Disciplinary proceedings

**SUBCHAPTER 35. SALE AND DISPLAY OF ALCOHOLIC BEVERAGES IN ORIGINAL CONTAINERS BY CONSUMPTION LICENSEES NOT HOLDING THE BROAD PACKAGE PRIVILEGES**

- 13:2-35.1 Definitions
- 13:2-35.2 Prohibition on sales of package goods from other than the principal barroom except by holders of the broad package privilege
- 13:2-35.3 Notation of privilege on license certificate; daily certification
- 13:2-35.4 Off-premises consumption sales; requirements and prohibitions
- 13:2-35.5 Multiple barrooms; package goods sales restricted to the bona fide principal barroom
- 13:2-35.6 (Reserved)

**SUBCHAPTER 36. REQUESTS FOR ADVISORY OPINIONS**

- 13:2-36.1 Advisory opinions

**SUBCHAPTER 37. CONSUMER ALCOHOLIC BEVERAGE TASTINGS AND TASTING DINNERS**

- 13:2-37.1 Consumer alcoholic beverage tastings or tasting dinner events

**SUBCHAPTER 38. LIMITATION OF HOURS FOR SALE AND DELIVERY AT RETAIL OF ALCOHOLIC BEVERAGES IN ORIGINAL CONTAINERS FOR OFF-PREMISES CONSUMPTION**

- 13:2-38.1 Retail package sales hours
- 13:2-38.2 Sunday sales hours for retail distribution licensees and state beverage distributors; effect of municipal ordinances and State statute on sale for off-premises consumption
- 13:2-38.3 (Reserved)

**SUBCHAPTER 39. RETURN OF ALCOHOLIC BEVERAGES; SOLICITOR'S DELIVERY**

- 13:2-39.1 Reasons authorizing return of alcoholic beverages; inclusion in marketing manual; other required records
- 13:2-39.2 Salesman or retailer pick-up notice
- 13:2-39.3 through 13:2-39.4 (Reserved)

**SUBCHAPTER 40. ISSUANCE OF IDENTIFICATION CARDS BY COUNTY CLERKS**

- 13:2-40.1 Form of application; contents
- 13:2-40.2 Establishment of age
- 13:2-40.3 Applicant's photographs
- 13:2-40.4 Execution of application

- 13:2-40.5 Identification card; form
- 13:2-40.6 Issuance of card; procedure
- 13:2-40.7 Fees

**SUBCHAPTER 41. ISSUANCE OR TRANSFER OF  
PLENARY RETAIL CONSUMPTION LICENSES TO  
NON-PROFIT MUSICAL OR THEATRICAL  
CORPORATIONS; QUALIFICATIONS OF  
RESTAURANT OPERATORS**

- 13:2-41.1 Plenary retail consumption licenses for non-profit musical or theatrical corporations; restaurant operator; definitions
- 13:2-41.2 Issuance of special license
- 13:2-41.3 Qualification of restaurant operator
- 13:2-41.4 Privileges and limitations of special license
- 13:2-41.5 Person-to-person and place-to-place transfers
- 13:2-41.6 Reporting changes in facts and in corporate structure
- 13:2-41.7 Renewal of special plenary retail consumption licenses

**SUBCHAPTER 42. PETITIONS FOR RELIEF TO THE  
DIRECTOR, PURSUANT TO N.J.S.A. 33:1-12.18**

- 13:2-42.1 Required filings and required time for filings
- 13:2-42.2 Required contents of the Verified Petition to the Director
- 13:2-42.3 Role of the municipal issuing authority
- 13:2-42.4 Effect of the filing of a Verified Petition
- 13:2-42.5 No right to a hearing

**SUBCHAPTER 43. PETITIONS FOR RELIEF TO THE  
DIRECTOR, PURSUANT TO N.J.S.A. 33:1-12.39**

- 13:2-43.1 Required filings

- 13:2-43.2 Required contents of the Verified Petition to the Director
- 13:2-43.3 Role of the municipal issuing authority
- 13:2-43.4 Eminent domain and casualty exception
- 13:2-43.5 Standard of review
- 13:2-43.6 Right to a hearing
- 13:2-43.7 Effect of the filing of a Verified Petition

**SUBCHAPTER 1. FILING OF APPLICATION AND  
ADVERTISING NOTICE OF APPLICATION  
FOR STATE LICENSE**

**13:2-1.1 Filing of application; advertising**

Application for license must be filed on forms prescribed by the Director, Division of Alcoholic Beverage Control, in duplicate with the Division at or before the first insertion of advertisement and accompanied by the full annual license fee. If the application is to include as the licensed premises a building not yet constructed, plans for 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 overall room dimensions.

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), added on forms promulgated by Director. Deleted sample forms.

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) and substituted "prescribed" for "promulgated".

**Case Notes**

Municipal resolutions regulating retail liquor business need not be approved by the Division Director prior to adoption. *Gober v. Tp. Committee, Pemberton Tp.*, 185 N.J.Super. 323, 448 A.2d 516 (Law Div.1982).

**13:2-1.2 Applications by corporations, partnerships, and other types of legal entities; building not yet constructed**

(a) If an applicant is a corporation, partnership, or other type of legal entity, insert in the Notice of Application the names and residences of all officers, directors, stockholders holding one percent or more of any of the stock of said corporation, general partners, members, and limited partners holding an interest of one percent or more. If in listing those, another corporation, partnership or other legal entity is noted, the Notice must also contain the required information concerning the officers, directors, stockholders, partners, or members of that corporation, partnership or other legal entity.

(b) If the application is to include as the licensed premises a building not yet constructed, also insert in the Notice the following: "Plans of building to be constructed may be examined at the Office of the Director of the Division of Alcoholic Beverage Control, 140 East Front Street, Trenton, New Jersey 08625".

(c) As used in this chapter, the term "legal entity" is defined as any association of natural persons, association, trust company, partnership, corporation, organization, limited liability company and the like.

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), 10 percent holding changed to one percent or more holding; notice must contain information concerning other legal entities; limited partner added. In (b), address change.

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), changed Director's address.  
Amended by R.2000 d.342, effective August 21, 2000.  
See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Rewrote (a); added (c).

**13:2-1.3 Publication of notice of application**

(a) Notice of application shall be published by all applicants for State licenses, except Transportation, Public Warehouse or Warehouse Receipts licenses, in the following form:

-NOTICE-  
ALCOHOLIC BEVERAGE LICENSE

Take notice that \_\_\_\_\_  
(Name of Applicant)  
trading as \_\_\_\_\_ has applied  
(Trade Name, if any)  
to the Director, Division of Alcoholic Beverage Control, for a  
State-issued \_\_\_\_\_ license for premises  
(Type of License)  
situated at \_\_\_\_\_  
(No.) (Street) (Municipality)

The person(s) who will hold an interest in this license is/are:

See\*

(See \*\* to insert other information if applicable)

Objections, if any, should be made immediately in writing to: Director, Division of Alcoholic Beverage Control, PO Box 087, Trenton, New Jersey 08625.

\_\_\_\_\_  
(Name of Applicant)

\_\_\_\_\_  
(Address of Applicant)

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

If applicant is a corporation, partnership, or other legal entity, insert the names and residence address of all persons identified in N.J.A.C. 13:2-1.2(a).

\*\*If the application is for a building not yet constructed, insert in the Notice the following: "Plans of the building to be constructed may be examined at the Office of the Director, Division of Alcoholic Beverage Control, 140 East Front Street, Trenton, New Jersey 08625."

If the applicant intends to conduct retail sales of alcoholic beverages as may be authorized under its license, insert in the Notice the following: "The applicant intends to engage in the retail sale of

\_\_\_\_\_  
(Alcoholic Beverage Type)  
at \_\_\_\_\_  
(No.) (Street) (Municipality)

under the terms and conditions allowed by law."

(b) Where the premises sought to be licensed are located in the State of New Jersey, 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 each municipality in which the premises or any portion thereof, for example, office, warehouse, salesroom, are located. If, however, there shall be no such newspaper, then the notice shall be published in a newspaper printed in the English language,

published and circulated in the county or counties in which the licensed premises or any portion thereof are located.

(c) Where applicant does not maintain any licensed premises in the State of New Jersey, notice of application shall be published in the manner above described in the municipality wherein the duly authorized agent within the State upon whom service of process may be made is located.

(d) Where the applicant intends to conduct retail sales as may be authorized under its license, it shall provide an affidavit that a copy of notice in the proper form has been served personally or by ordinary mail on the clerk or board secretary of the municipality in which the retail sales will take place.

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

Added new (a); (a)-(b) redesignated (b)-(c). In (c), deleted registered agent for corporation.

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), changed Director's address and added notice of intent to sell requirements in (d).

Amended by R.2000 d.342, effective August 21, 2000.  
See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

In (a), rewrote notice.

#### 13:2-1.4 Proof of publication

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

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

Added "copy of dated advertisement"; deleted form.

#### 13:2-1.5 Applicants for renewal of annual State licenses

Applicants for renewal of annual State licenses issued by the Director are not required to advertise notice of application. In lieu thereof, the Director shall cause a general notice of application to be published once a week from the week of April 1 through the week of June 1 in a newspaper printed in the English language and published and circulated in the counties in which the premises of applicants for such renewals are located. The notice shall be published in the following form:

NOTICE OF  
APPLICATION FOR RENEWAL OF  
ALCOHOLIC BEVERAGE LICENSES

Notice is hereby given that applications to renew all annual alcoholic beverages licenses will be filed with the Director of the Division of Alcoholic Beverage Control or the municipal local license issuing authority and may be approved on or after May 1st of this year. Objection to any renewal should be made immediately in writing to the Municipal Clerk of the municipality where the license is located if that license sells alcoholic beverages to consumers or to the Director Div. of ABC, PO Box 087, Trenton, NJ 08625-0087 for any other type alcoholic beverage license. No individual notices will be published with respect to license renewal applications.

#### 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).

Amended notice.

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

Holder of retail consumption liquor license could not sell groceries on the premises. 164 Belmont Avenue Corp. v. Board of Alcoholic Bev. Control, 91 N.J.A.R.2d 1 (ABC).

#### 13:2-1.6 Objections; hearing

The Director, upon receipt of a timely written objection duly signed by an objector, shall provide a hearing and all parties shall be notified of the date, hour and place thereof. No hearing need be held if no objection shall be lodged unless the Director deems one necessary in order to make his or her determination on the application. The Director shall not deny issuance, renewal or transfer of any license without first stating the reasons therefor and affording applicant the opportunity to be heard.

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

Added "unless Director deems hearing necessary".

#### Case Notes

Failure to establish good cause for renewal of inactive license. In the Matter of Application of Paul, 92 N.J.A.R.2d (ABC) 87.

License renewal; narcotics violations. Ed and Jim's Idle Hour, Inc. t/a Griff's Inn v. Mayor and Board of Aldermen of the Town of Dover, 92 N.J.A.R.2d (ABC) 65.

Failure to establish good cause for the renewal. In the Matter of the Application of Matinee Liquors, Inc., 92 N.J.A.R.2d (ABC) 61.

Insufficient evidence that the licensee's operation constituted a nuisance. Allan Corp. v. Township Council of the Township of Garfield, 92 N.J.A.R.2d (ABC) 26.

#### 13:2-1.7 Changes in facts; application

(a) Whenever any change shall occur in any of the facts as set forth in any existing filed application concerning a State-issued license, the licensee shall file with the Director an amendment to the license application in a form prescribed by the Director reflecting the change not later than 10 days after the occurrence.

(b) Corporate licensees shall file an amendment to reflect any stockholder change resulting in any person acquiring one percent or more of its stock. If the change affects less than one-third of the stock of the corporation, the licensee need only amend those pages that reflect the change in information. If the change affects one-third or more of the stock, a full application is required. Changes in partnerships and other types of legal entities shall be treated in the same manner as a stockholder change of a corporate 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).  
 Amended by R.2000 d.342, effective August 21, 2000.  
 See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

In the first line of (a), added "any of" following "in"; in (b), substituted "partnerships and other types of legal entities" for "limited partners".

**Case Notes**

Expansion of liquor license premises to include family theater; operation of two businesses. Nels Hart of Berkeley, Inc. v. Township Council of the Township of Berkeley, 92 N.J.A.R.2d (ABC) 73.

**13:2-1.8 Publication of notice of change in the structure of corporate, partnership, and other types of legal entities; form**

(a) Every corporate, partnership and other type of legal entity licensee shall, in addition to filing written notice with the Director of changes in ownership, cause to be published in the following form a notice of change in structure not later than 10 days after the occurrence whenever the change involves a new individual acquiring one percent or more of the ownership thereof.

-NOTICE-

Take notice that on \_\_\_\_\_ a change occurred in the ownership of \_\_\_\_\_ (Licensee)

trading as \_\_\_\_\_ (Trade Name, if any)

holder of \_\_\_\_\_ for premises (Type of License)

located at \_\_\_\_\_ (No.) (Street) (Municipality)

resulting in the following persons, each acquiring one percent or more of the ownership of the licensee:

Name	Residence Address

Any information concerning the qualifications of any of the above stockholders should be communicated in writing to the Director, Division of Alcoholic Beverage Control, PO Box 087, Trenton, New Jersey 08625-0087.

(Name of Licensee)

(b) The notice of change in corporate structure shall be published once in a newspaper printed in the English language, published and circulated in each municipality in which the licensed premises is located. If, however, there shall be no such newspaper, then the notice shall be published in a newspaper printed in the English language, published and circulated in the county in which the licensed premises is located.

(c) Proof of publication of such notice shall be furnished by the licensee to the Director within 10 days after the date of publication with copy of the dated advertisement attached.

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.2000 d.342, effective August 21, 2000.  
 See 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Rewrote (a).

**13:2-1.9 Rules of general application; relaxation**

(a) The rules of this chapter may be relaxed by the Director upon a showing of undue hardship, economic or otherwise, on a licensee; that the waiver of the rule would not unduly burden any affected parties; and, that the waiver is consistent with the underlying purposes of Title 33 and the implementing regulations. Waiver requests must be submitted in writing to the Director and shall include all documentation which supports the applicant's request for a waiver.

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

(c) No licensee, permittee, applicant or any shareholder, partner or other person having or applying for 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 or another person or entity), when so required by the Director or the local issuing authority.

(d) In the event that a check submitted by a licensee, permittee or applicant which is returned unpaid to the Director or other issuing authority, or all or any portion of any fee required is unpaid, the licensee, permittee or applicant shall be subject to disciplinary action or denial of current and future applications.

(e) Notwithstanding (d) above, any applicant for a license or license renewal who has submitted the license fee for an application for a license issued or transferred on or after July 1, 2003, or renewed for a license term commencing on or after July 1, 2003, shall submit immediately any outstanding portion of the total license fee as increased by P.L. 2003, c.117. If the increased portion of the license fee has not been paid in full by October 1, 2003, the applicant shall be deemed to be in violation of N.J.S.A. 33:1-27 and the Director may issue an *ex parte* order revoking the license or indefinitely suspending it until payment.

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).

Amended and redesignated existing text as (a) and added (b) through (d).  
Special amendment, R.2003 d.311, effective July 3, 2003 (to expire January 3, 2004).  
See: 35 N.J.R. 3707(a).  
Rewrote (d); added (e).  
Adopted concurrent amendment, R.2003 d.470, effective November 5, 2003.  
See: 35 N.J.R. 3707(a), 35 N.J.R. 5427(a).  
Provisions of R.2003 d.311 adopted without change.

Adopted concurrent amendment, R.2003 d.470, effective November 5, 2003.  
See: 35 N.J.R. 3707(a), 35 N.J.R. 5427(a).  
Provisions of R.2003 d.311 adopted without change.

**Case Notes**

Late license renewal filing was allowed where licensee's deteriorating health was found to constitute special circumstances. *Newby v. Division of Alcoholic Beverage Control*, 96 N.J.A.R.2d (ABC) 137.

**SUBCHAPTER 2. FILING OF APPLICATION AND ADVERTISING NOTICE OF APPLICATION FOR MUNICIPAL LICENSE**

**13:2-2.1 Application forms**

(a) Application for license must be filed with the issuing authority, in triplicate, on forms prescribed by the Director, Division of Alcoholic Beverage Control at or before the first insertion of advertisement together with the full annual license fee and an additional \$200.00 filing fee payable to the Division of Alcoholic Beverage Control. One copy of the application and the non-returnable filing fee of \$200.00 shall be forwarded by the issuing authority to the Director immediately upon receipt thereof, and a second copy returned to the applicant. If the application is to include as the licensed premises 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 overall room dimensions.

1. If an applicant is a corporation, partnership, or other legal entity, the names and residences of all those persons identified in N.J.A.C. 13:2-1.2(a) shall be inserted in the application. If in listing those, another corporation, partnership, or other legal entity is noted, the notice shall also contain the names and addresses of the officers, directors, stockholders, partners, or members in that other entity noted.

Amended by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
Added "in triplicate, on forms promulgated by the 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" and increased filing fees.  
Amended by R.2000 d.342, effective August 21, 2000.  
See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).  
Designated existing paragraph as (a); added a new (a)1.  
Special amendment, R.2003 d.311, effective July 3, 2003 (to expire January 3, 2004).  
See: 35 N.J.R. 3707(a).  
In (a), substituted "\$200.00" for "\$100.00" in the introductory paragraph.

**13:2-2.2 Form of notice of application**

Notice of application shall be published in the following form:

-NOTICE-

**ALCOHOLIC BEVERAGE LICENSE**

Take notice that \_\_\_\_\_  
(Name of Applicant)  
trading as \_\_\_\_\_  
(Trade Name, if any)  
has applied to \_\_\_\_\_  
(Name of Issuing Authority)  
of \_\_\_\_\_  
(Municipality)  
for a \_\_\_\_\_ license for premises situated  
(Type of License)  
at \_\_\_\_\_  
(No.) (Street) (Municipality)

The person(s) who will hold an interest in this license is/are:

See\*

(See \*\* to insert other information if applicable)

Objections, if any, should be made immediately in writing to:

\_\_\_\_\_ of \_\_\_\_\_  
(Municipal Clerk) (Municipality and Mailing Address)  
\_\_\_\_\_  
(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, partnership, or other legal entity, insert the names and residence addresses of all persons identified in N.J.A.C. 13:2-1.2(a).

If the applicant is a club, insert the name 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 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."

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

Amended Notice.

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

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

Deleting enumeration of (a).

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Rewrote the notice.

### 13:2-2.3 Issuing authority defined

(a) "Issuing authority" in the form of notice in N.J.A.C. 13:2-2.2 usually means the governing board or body of the municipality, whatever the name may be, for instance the mayor and council, the township committee, and so forth, except where a municipal board of alcoholic beverage control has been created, in which case such board is the issuing authority.

(b) If the application is made by a member of the issuing authority or by a corporation, partnership or other legal entity in which any member of the issuing authority is interested, directly or indirectly, the Director of the Division of Alcoholic Beverage Control is the issuing authority in the form of notice and the notice must state that any objections should be addressed to the Director, Division of Alcoholic Beverage Control, PO Box 087, Trenton, New Jersey 08625-0087. This subsection shall not apply to club licenses.

Amended by R.1984 d.141, effective April 16, 1984.

See: 16 N.J.R. 345(a), 16 N.J.R. 916(a).

Deleted "25 Commerce Drive, Cranford, New Jersey 07016."

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).

Made (b) inapplicable to club licenses.

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

In (b), substituted "partnership or other legal entity" for "organization or association".

### 13:2-2.4 Type of license defined

"Type of license" in the form of notice in N.J.A.C. 13:2-2.2 requires the name or kind of license that is involved in the application. It must be worded strictly in accordance with the statutory language, for instance, "plenary retail consumption license", "plenary retail distribution license", "club license", and so forth.

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.

### 13:2-2.5 Publication of notice of application

(a) 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 is located. If, however, there shall be no such newspaper, then the notice shall be published in a newspaper printed in the English language, published and circulated in the county in which the licensed premises is located.

(b) Proof of publication of the notice of application for license shall be furnished after the second publication with copies of the dated advertisements 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 copies of advertisements attached"; deleted form.

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

In (a), added "at least seven days apart" following "successively,".

### 13:2-2.6 Applicants for renewal of municipal licenses

Applicants for renewal of municipal licenses, other than seasonal retail consumption licenses, issued by municipal issuing authorities are not required to advertise notice of application. In lieu thereof, the Director shall cause a general notice of application to be published in the form set forth in N.J.A.C. 13:2-1.5 once a week from the week of April 1 through the week of June 1 in a newspaper printed in the English language and published and circulated in the counties in which the premises of applicants for such renewals are located.

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; deleted Notice.

### 13:2-2.7 Objections; hearing

Each municipal issuing authority, upon receipt of a timely written objection duly signed by an objector shall set the matter down for a hearing and all parties shall be notified 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).

Stylistic revisions.

### Case Notes

Request to renew license; failure to prove ability to expeditiously activate license. In the Matter of Vaughn, 94 N.J.A.R.2d (ABC) 77.

Good cause; consideration of application for renewal; plenary retail consumption license. In the Matter of Donald T. Von Hagen Renewal Application Authorization, 94 N.J.A.R.2d (ABC) 74.

Good cause existed to activate liquor license. In the Matter of the Application of Salvatore Massamuto for Relief, 94 N.J.A.R.2d (ABC) 59.

Plenary Retail Consumption license would be granted to hotel where it met all criteria. Belleaire Resort Corp. v. Spring Lake Borough, 94 N.J.A.R.2d (ABC) 25.

Plenary retail consumption liquor license inactive for six years renewable upon conditions. In the Matter of the Application of Ocean Mile Development Group, Ltd. for Relief Pursuant to N.J.S.A. 33:1-12.39, 94 N.J.A.R.2d (ABC) 19.

Inactive liquor license renewed upon showing that public interest would be served and that applicant made continuous effort to develop project. In the Matter of the Renewal Application of the Pocket License of Branca Corp., 94 N.J.A.R.2d (ABC) 1.

### 13:2-2.8 Date of hearing

The date fixed for hearing shall not be sooner than five days (excluding Saturdays, Sundays and legal holidays) after the second publication and should not be later than 14 days thereafter. For good cause, each issuing authority in the exercise of sound and fair discretion may, subject to appeal to the Director by the applicant if he proves that he is aggrieved by the delay, fix a date for hearing later than said 14 days or 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).

Stylistic revisions.

### 13:2-2.9 Hearing not required; reasons

(a) If there is no timely 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.

(b) No application shall be approved unless the issuing authority affirmatively finds and reduces to resolution 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 the New Jersey Alcoholic Beverage Control Act, the regulations promulgated thereunder, as well as any pertinent local ordinances or Division-approved conditions; and

3. The applicant has disclosed and the 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.

(c) No application shall be disapproved without the issuing authority 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.

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).  
Stylistic revisions.

### 13:2-2.10 Decision on application; ad interim (temporary) permit

(a) A municipal issuing authority must render a decision within 45 days from the date of a duly filed application for issuance of a new license unless the applicant consents to an extension. Failure to act may be deemed a denial of application by the applicant for the purpose of allowing the applicant to appeal to the Director.

(b) If no action is taken on an application for renewal of license prior to the expiration of its term, the applicant may apply to the Director for issuance of an ad interim (temporary) permit authorizing the applicant to continue to conduct the licensed business until the application has been acted upon. If no action is taken on an application for renewal of a license within 90 days after the expiration of its term, the applicant may file an appeal with the Director from such failure to act on the renewal 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.

### 13:2-2.11 Denial of application; refund of fees

If the application for new or renewal license is denied for any reason whatsoever or withdrawn, a statutory refund of 90 percent of the fee deposited with the municipality shall be made by the municipality to the applicant. The remaining 10 percent shall be deemed an investigation and processing fee and shall be retained by the municipality. The State filing fee required to accompany such applications shall be retained by the Director as a processing fee.

Amended by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
Added "State filing fee retained as processing fee".

### 13:2-2.12 Application granted; proration of fee; refund

If the application for a new license is granted, except in connection with the issuance of a new license upon failure to timely renew under N.J.S.A. 33:1-12.18, the license fee shall be prorated from the effective date of the license; and where the amount deposited exceeds the prorated fee, the applicant shall be entitled to a refund of the excess. Any new license issued for failure to timely renew pursuant to N.J.S.A. 33:1-12.18 will be effective immediately following the last day of the preceding license term, and no prorating of fee is warranted.

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

Added "for a new license", "except in connection for failure to timely renew" and "effective immediately following last day of preceding term".

### 13:2-2.13 Special conditions

If a resolution granting an application for license is adopted sooner than five business days (excluding Saturdays, Sundays and legal holidays) after publication of the second notice of application, the resolution shall set forth in a special condition that the license will not be issued until the five business days have elapsed. If a written objection to issuance of the license is filed within such period, the license shall not be issued pending hearing and further determination of 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).  
Stylistic revisions.

#### Case Notes

Settlement terms sustain license's special condition. *F.G.P.S.V., Inc. v. Borough of Pleasant Beach*, 97 N.J.A.R.2d (ABC) 4.

Liquor license requirements would be relaxed where local authority's refusal to modify special conditions imposed on licensee were found to be unreasonable. *Wil-Dam Corp. t/a Shakers v. Mayor and Council of the Borough of Carlstadt*, 96 N.J.A.R.2d (ABC) 131.

Action of the local issuing authority which approved its person-to-person license transfer application "subject to" local zoning board approval of petitioner's request to operate as a discotheque was an impermissible condition precedent and should be reversed. *The Iliad & Odyssey, Inc. v. Northvale*, 9 N.J.A.R. 382 (1983).

Local government body has principal jurisdiction and primary authority over imposition of special conditions for liquor license renewal; conditions restricting service to patrons at tables and in conjunction with restaurant operation reasonable; condition banning rock music unreasonable and vague (Division's Final Decision). *A.H.S., Inc. v. Tp. Committee, Tp. of Wall*, 1 N.J.A.R. 284 (1979), reversed (App.Div. 1980).

*Nunzio DeFalco v. West Caldwell*, ABC Bulletin No. 2243, Item No. 2 (October 15, 1976).

### 13:2-2.14 Changes in facts; application

(a) Whenever any change shall occur in any of the facts as set forth in any application for a retail license, the licensee shall file with the municipal issuing authority an amendment to the license application on a form prescribed by the Director reflecting the change and not later than 10 days after the occurrence.

(b) Corporate licensees shall file an amendment to reflect any stockholder change resulting in any person acquiring one percent or more of its stock. If the change affects less than one-third of the stock of the corporation, the licensee need only amend those pages that reflect the change in information. If the change affects one-third or more of the stock, a full application is required. Changes in partnerships and other types of legal entities shall be treated in the same manner as a stockholder change of a corporation licensee.

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), added "an amendment to the license application on form promulgated by Director"; added (b).

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), substituted "prescribed" for "promulgated". Amended by R.2000 d.342, effective August 21, 2000. See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

In (a), added "any of" preceding "the facts"; in (b), substituted "partnerships and other types of legal entities" for "limited partners".

**13:2-2.15 Publication of notice of change in the structure of corporate, partnership, and other types of legal entities; form**

Every corporation, partnership and other type of legal entity licensee shall, in addition to filing written notice with the municipal issuing authority of changes in ownership, cause to be published a notice of changes in structure in the following form, not later than 10 days after the occurrence whenever the change involves a new individual acquiring one percent or more of the ownership thereof.

-NOTICE-

Take notice that on \_\_\_\_\_ a change occurred in the ownership of \_\_\_\_\_ trading as \_\_\_\_\_ holder of \_\_\_\_\_ for premises located at \_\_\_\_\_ resulting in the following persons, each acquiring the aggregate one percent or more of the ownership thereof:

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.

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Rewrote the section.

**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. If, however, there shall be no such newspaper, then the notice shall be published in a newspaper printed in the English language, published and circulated in the county 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

Licensing authority must follow state law's schoolhouse prohibitions when reviewing alcohol license renewals until state court declares law unconstitutional. *Youth Consultation Services v. Board of Commissioners of Union City*, 97 N.J.A.R.2d (ABC) 33.

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).

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 13:2-4.7. Submission "to the Director" clarified. Prior text at 13:2-4.6, "Combined transfers", recodified to 13:2-4.5. 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.

### 13:2-4.7 Advertising notice of application

The rules applicable to the application, advertising and hearing rights concerning a municipal license or the transfer thereof (N.J.A.C. 13:2-2 and N.J.A.C. 13:2-7) shall apply when application is made to the Director. However, the notice of application, as published, shall state that such application has been made to, and objections if any should be addressed to: Director of the Division of Alcoholic Beverage Control, PO Box 087, Trenton, New Jersey 08625-0087.

Amended by R.1985 d.332, effective July 1, 1985.  
See: 17 N.J.R. 1052(a), 17 N.J.R. 1661(a).

Change of address.

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 13:2-4.8. Added "hearing rights" and change of address. Prior text at 13:2-4.7, "Submission of issuing authority's resolution", recodified to 13:2-4.6.

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

Changed Director's address.

### 13:2-4.8 Refund of fees

If the application for license issuance or transfer is denied for any reason whatsoever or withdrawn, a statutory refund of 90 percent of the fee deposited with the municipality shall be made by the municipality to the applicant. The remaining 10 percent shall be deemed an investigation and processing fee and shall be retained by the municipality. If an application for a renewal of license is denied, refund of fees shall be in accordance with N.J.A.C. 13:2-11. The \$50.00 State fee required to accompany the application shall be retained as a processing fee by the Director.

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

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.1985 d.332, effective July 1, 1985.  
See: 17 N.J.R. 1052(a), 17 N.J.R. 1661(a).

Fee changed from \$55.00 to \$50.00.

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 13:2-4.9. Added "processing fee" language. Prior text at 13:2-4.8, "Advertising notice of application", recodified to 13:2-4.7.

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 refund of fees upon denial of license renewal application.

### 13:2-4.9 Proration of fee

If the application for a new license is granted, except in connection with the issuance of a new license upon failure to timely renew under N.J.S.A. 33:1-12.18, the license fee shall be prorated from the effective date of the license and

where the amount deposited exceeds the prorated license fee, the applicant shall be entitled to a refund of the excess. Any renewal or new license issued pursuant to N.J.S.A. 33:1-12.18 will be effective immediately following the last day of the preceding license term, and no prorating of fee is permitted.

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 13:2-4.10. Added N.J.S.A. 33:1-12.18 exceptions. Prior text at 13:2-4.9, "Refund of fees", recodified to 13:2-4.8.

### 13:2-4.10 Notice of change in facts in application

The rules applicable to filing a notice of change in the facts set forth in the application for a retail license and to publishing a notice of change in corporate structure and furnishing proof thereof (N.J.A.C. 13:2-2.14 through 2.16) shall apply to all retail licensees holding licenses issued by the Director. However, the licensee shall file such notice with and furnish such proof directly to the division; and where the notice concerns a change in corporate structure, the notice as published shall state that information concerning the qualifications of any of the stockholders of the corporate licensee shall be addressed to the Director of the Division of Alcoholic Beverage Control, PO Box 087, Trenton, New Jersey 08625-0087.

Amended by R.1985 d.332, effective July 1, 1985.

See: 17 N.J.R. 1052(a), 17 N.J.R. 1661(a).

Address changed.

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 13:2-4.11. Deleted filing "with a municipal issuing authority" and stipulated filing of notice "directly to the Division"; cross-references correction; change of address. Prior text at 13:2-4.10, "Proration of fee", recodified to 13:2-4.9.

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

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

Changed Director's address.

### 13:2-4.11 (Reserved)

Recodified to 13:2-4.10 by R.1990 d.412, effective August 20, 1990.

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

Section was "Notice of change in facts in application".

## SUBCHAPTER 5. ISSUANCE OF SPECIAL PERMITS BY DIRECTOR

### 13:2-5.1 Social affair permit

(a) Application for social affair permit may be made to the director by organizations operating solely for civic, religious, educational, charitable, fraternal, social, or recreational purposes, and not for private gain. In order to establish its eligibility an applicant shall submit in support of its application sufficient documents such as:

1. Certificate of incorporation;
2. Charter;

3. Constitution;
4. Bylaws;
5. Minutes of meetings;
6. Membership roster;
7. Financial records;
8. Documentation of Federal Income Tax exemption or application therefor; and
9. Such other information as the Director may deem appropriate.

(b) A fee, in the sum of \$100.00, per day, made payable to the Division of Alcoholic Beverage Control must accompany each application for social affair permit filed by religious, civic, educational or veterans organizations; and \$150.00 for such other organizations, and must be received at least seven days in advance of date for which permit is requested.

(c) Applications for a social affair permit shall be made on forms prescribed by the Director and endorsed by the chief of police (or authorized designee) and the clerk of the municipality wherein the affair is to be held.

(d) No more than 12 social affair permits shall be issued to any one applicant per 12 months, nor shall any such permit be granted for premises at which 25 prior social affair permits have been issued within the same calendar year.

(e) A social affair permittee shall be entitled to purchase alcoholic beverages to be dispensed at social affairs from a New Jersey licensed wholesaler distributor or retailer only, and to resell said alcoholic beverages, for on-premises consumption only.

(f) The Director may require the permittee to file within 10 days after the social affair a signed inventory report on forms prescribed by the Director showing all purchases of alcoholic beverages and the source and disposition thereof. Failure to file the inventory report shall be cause for denial of future applications for a social affair permit.

(g) A social affair permittee must abide by all the provisions of the New Jersey Alcoholic Beverage law, Division rules and regulations, and municipal ordinances. Failure to do so may result in said permittee being denied future applications for social affair permits.

(h) A social affair permit shall be required for the sale or service of alcoholic beverages to those attending an affair at which there is any charge in connection with the affair, whether the charge be a direct one for drinks, imposed through the sale of tickets or charging of admission, requiring donations or special assessments, or where the charge is made ostensibly for food, entertainment or anything else.

(i) The rules in this section shall be considered general rules governing the issuance of a social affair permit, and may be relaxed or dispensed with by the Director in any case where a strict adherence to them will result in hardship.

As amended, R.1979 d.138, eff. 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).

In (c), stipulated application on "forms promulgated by the Director"; in (d), changed one permit per month to 12 permits per 12 months; redesignated (e)1. as (f), and existing (f) through (h) as (g) through (i). In (h), "social affair permit" was "special permit".

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).

In (b), deleted "in cash, check or money order" following "day,". Special amendment, R.2003 d.311, effective July 3, 2003 (to expire January 3, 2004).

See: 35 N.J.R. 3707(a).

In (b), substituted "\$100.00" for "\$50.00" and "\$150.00" for "75.00" throughout.

Adopted concurrent amendment, R.2003 d.470, effective November 5, 2003.

See: 35 N.J.R. 3707(a), 35 N.J.R. 5427(a).

Provisions of R.2003 d.311 adopted without change.

### 13:2-5.2 Special concessionaire permit

(a) Application for a special concessionaire permit may be made to the Director by any individual, partnership, corporation, or other type of legal entity who has entered into a contract with the State of New Jersey, or any political subdivision thereof, whereby said person or organization is authorized to sell alcoholic beverages for immediate consumption in any public building or on any property owned by or under the control of the State of New Jersey or any political subdivision thereof. Such permit may also authorize the sale of alcoholic beverages in original containers for off-premises consumption, provided the applicant, with the consent of the governmental agency, establishes to the satisfaction of the Director that there is good cause for such sales.

(b) The term of a special concessionaire permit shall be from July 1 through June 30 unless otherwise specified. The fee for the permit shall be \$2,000, and is payable with the application to the Division of Alcoholic Beverage Control.

(c) Application must be supported by the following documents before permit will be issued by the Director:

1. Letter of authorization form, and copy of agreement with, the State, county, or municipal official or body charged with responsibility over public buildings or lands at which the sale of alcoholic beverages is sought;
2. Letter of applicant detailing manner and method of proposed operation under permit;
3. Plan or sketch of premises to be used in accordance with permit;

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

SUBCHAPTER 9. (RESERVED)

SUBCHAPTER 10. PLENARY AND FARM  
 WINERY LICENSES; WINE BLENDING  
 LICENSES; RETAIL PRIVILEGES; PARCEL  
 DELIVERY SERVICE

**13:2-10.1 Application for plenary and farm winery  
 licenses; statement of intent**

(a) All applicants for plenary winery licenses shall comply with the application, advertising and hearing provisions of this chapter. The application shall be filed on a form prescribed by the Director in which the applicant shall demonstrate its ability to comply with the requirements of N.J.S.A. 33:1-10.2a. The applicant shall file a statement of intent which shall include the following information: number of acres engaged in cultivating grapes or growing fruit; location of acreage in respect to the proposed licensed premises; type of products to be produced (for example, naturally fermented wines, fortified wines, treated wines); intent to sell products to wholesalers, retailers, or consumers; and intent to utilize other premises for retail sales.

(b) All applicants for a farm winery license shall comply with the application, advertising and hearing provisions of this chapter. The application shall be filed on a form prescribed by the Director in which the applicant shall demonstrate its ability to comply with the requirements of N.J.S.A. 33:1-10.2b. The applicant shall file a statement of intent which shall include the following information: number of acres engaged in cultivating grapes or growing fruit; location of acreage with respect to the proposed licensed premises; means by which acreage is under the applicant's control; plan under which New Jersey grown fruit will constitute at least 51 percent of wine product initially with plans to increase that percentage over five years; intent to sell products to wholesalers, retailers, and/or consumers; number of gallons projected to be produced annually; and intent for off winery premises retail sales locations.

(c) Any winery licensee who seeks permission for additional retail sales premises shall file an application on a form prescribed by the Director which shall be accompanied by a sketch of the proposed licensed premises which depicts the area to be included under the license and includes the perimeter measurements. If the additional sales location is to be within a premises where another mercantile business is operating, the application shall be accompanied by a description of the business relationship with the other mercantile business and shall include, a copy of the lease agreement; a statement of how the winery will maintain separate accounting for sales; a description of how the applicant will compensate its sales employees, and shall identify whether any consumption or sampling will take place, and if so, how this will be controlled, and will state its plan for demarcating the licensed premises.

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 "Application for license, form; date for filing".  
 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 farm winery licenses in (b) and renumbered former (b) as (c).

**13:2-10.2 License certificate endorsement**

Whenever the holder of a plenary or farm winery license is granted the privilege of selling its wine products at retail at a premises other than the winery licensed premises, the license certificate shall be appropriately endorsed by the Director and will set forth the retail privileges conferred thereunder, and no plenary or farm winery licensee whose certificate does not bear such endorsement shall sell or deliver or allow, permit or suffer the sale or delivery at retail of wine at other than the winery 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).

Recodified from 13:2-10.6. Deleted text regarding sale of "other alcoholic beverages"; added language on sale of wine at other than licensed premises. Prior text at 13:2-10.2, "Application for retail wine privilege, form and content", repealed.

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 farm winery licenses.

**13:2-10.3 Labeling wine sold at retail**

(a) Unless the container in which the wine product is sold shall bear a label approved pursuant to the provisions of the Federal Alcoholic Administration Act, each plenary winery licensee having the privilege of selling wine at retail shall attach a label to each container in which wine is sold to consumers, which label shall bear the brand name, type, alcoholic content of the wine stated in percentage of alcohol by volume within an accuracy of one percent, net contents of the container, and name or trade name and address of the licensee.

(b) Unless the container in which the wine is sold shall bear a label approved pursuant to the provisions of the Federal Alcoholic Administration Act, each farm winery licensee shall attach a label to each container in which wine is sold to consumers, which label shall bear the brand name, type, alcoholic content of the wine stated in percentage of alcohol by volume within an accuracy of one percent, net contents of the container, and the name and address of the licensee. Every container's label must indicate that it is "New Jersey Wine" and its wine contents shall comply with the requirements of N.J.S.A. 33:1-10.2b.

(c) All wine products which a plenary or farm winery licensee shall offer for resale to another authorized New Jersey licensee or to sell to consumers at retail shall be brand registered pursuant to the provisions of N.J.A.C. 13:2-33.1.

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 13:2-10.7. Deleted "off-premises consumption" reference. Prior text at 13:2-10.3, "Application for retail wine and other privilege; form", repealed.

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

Designated existing text as (a) and added (b) and (c) regarding labeling of plenary and farm winery products.

#### 13:2-10.4 Hours of retail sales

No plenary or farm winery licensee privileged to sell at retail shall sell, serve or deliver, or allow, permit or suffer the sale, service or delivery of any wine at retail during any hours where the retail sale of alcoholic beverages is prohibited in the municipality where the winery retail sale would occur.

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 13:2-10.8. Added "serve" to "sell or deliver" and "service" to "sale or delivery" and deleted "or other alcoholic beverages"; replaced existing language on hours of retail sale. Prior text at 13:2-10.4, "Existing licensee application for additional retail privilege", repealed.

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

Added provision for farm winery.

#### 13:2-10.5 Application for wine blending license; form

All applicants for a wine blending license shall comply with the application, advertising and hearing provisions of this chapter. The application shall be filed on a form prescribed by the Director in which the applicant shall demonstrate its ability to comply with the requirements of N.J.S.A. 33:1-10.2c. The applicant shall file a statement of intent which shall include the following information: type of process to be implemented, for example, blending, treating, mixing, or bottling; products to result from process; and intended sales to wholesalers or retailers.

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 "Prior consideration given vineyard-owning applicants".  
Amended by R.1995 d.450, effective August 21, 1995.

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

Inserted requirement that application be on a form prescribed by the Director.

#### 13:2-10.6 Joint retail salesroom

(a) A "joint retail salesroom" is defined as a jointly controlled and operated retail salesroom by at least two plenary or farm winery licensees. Products of any plenary or farm winery licensee may be sold at retail in joint retail salesrooms for consumption on and off the joint licensed salesroom premises and for sampling purposes on the joint licensed salesroom premises.

(b) Applicants for a joint retail salesroom permit shall comply with the application, advertising, and hearing provisions of this chapter. The application shall also be accompanied by a sketch of the proposed joint salesroom premises depicting the area to be included within the scope of the license and the perimeter measurements. If the sales location is to be within another mercantile business operation, the application shall be accompanied by a description of the business relationship with the other business and shall include at a minimum, a copy of the lease agreement; a statement of how the winery sales outlet will maintain separate accounting for sales; a description of how the applicant will compensate the sales employees; and a description of any consumption or sampling to take place including how this will be controlled, and will state its plan for demarcating the licensed premises.

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 13:2-10.6, "Certificate of endorsement", to 13:2-10.2.

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

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

Substituted "joint retail" for "combination enterprise retail"; decreased number of licensees from five to two and provided for consumption of plenary or farm wine products on the joint salesroom premises.

#### 13:2-10.7 Parcel delivery service

Plenary and farm wineries, who wish to ship their wines in this State by parcel delivery services, must comply with the provisions of N.J.A.C. 13:2-20.3.

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 13:2-10.7, "Labeling wine sold at retail", to 13:2-10.3.

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

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

Deleted existing (a) through (c) and made reference to applicable N.J.S.A. sections.

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Substituted "N.J.A.C. 13:2-20.3" for "N.J.S.A. 33:1-28.1 through 28.4".

#### 13:2-10.8 (Reserved)

Recodified to 13:2-10.4 by R.1990 d.412, effective August 20, 1990.

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

Section was "Hours of retail sales".

**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 \$100.00. The petitioner shall be required to submit a set of fingerprints and a recent color passport photograph (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.

**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.

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).

**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.

**13:2-17.4 Answer**

Within 10 days after service of the notice and petition of appeal, each respondent shall file, in duplicate, an answer with the Director and serve a copy thereof on each of the parties to the appeal. The answer filed by the respondent issuing authority shall include a statement of the grounds for its action, together with a copy of the subject resolution.

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

**13:2-17.5 Jurisdiction**

Upon filing of the notice and petition of appeal and answer, the Director shall determine whether the case is contested. If the case is determined to be contested, the Director shall file it with the Office of Administrative Law pursuant to N.J.A.C. 1:1-8 or retain it under the provisions of N.J.S.A. 52:14F-8.

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).

Stylistic changes.

#### Case Notes

Appeal from issuance of plenary retail license to replace seasonal consumption license was moot. *Belleaire v. Spring Lake*, 95 N.J.A.R.2d (ABC) 114.

### 13:2-17.6 De novo hearing; burden of proof

All appeals shall be heard de novo and the burden of establishing that the action of the respondent issuing authority was erroneous, and should be reversed, shall rest with appellant.

Amended by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
Deleted N.J.A.C. 13:2-17.8 exception.

#### Case Notes

Appeal was properly dismissed where reasonable support existed for municipal board's granting of application for place-to-place transfer of plenary retail consumption license. *Caracitas v. Municipal Board of Alcoholic Beverage Control*, 96 N.J.A.R.2d (ABC) 98.

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.

Liquor license for bar/restaurant, given relatively minor incidents, should have been renewed instead of denied. *Starbo Corp. v. City of Asbury*, 95 N.J.A.R.2d (ABC) 107.

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.

Violation found for unlawful sale of cocaine upon the premises; respondents offered transcribed record in lieu of producing witnesses at the hearing de novo (Division's final decision). *T.L.S. Inc. v. City of Bayonne*, 9 N.J.A.R. 403 (1985).

Denial of person-to-person transfer of a plenary retail consumption license based upon licensee's conviction on three disorderly persons offenses upheld. *Sturchio v. Town of Harrison*, 9 N.J.A.R. 78 (1986).

Burden of showing erroneous action of licensing authority so as to reverse license suspension not met by licensee. *Canal Street Pub. Inc. v. Municipal Bd. of Alcoholic Beverage Control, City of Paterson*, 6 N.J.A.R. 221 (1982).

An appeal from a local license issuing authority is heard de novo; the de novo hearing is designed to cure any procedural defects which occur in connection with the issuing authority's action. *Valdivia's Bar, Inc. v. Elizabeth City Council*, 6 N.J.A.R. 161 (1981).

### 13:2-17.7 Subpoenas

Subpoenas and subpoenas duces tecum, signed by the Director or Administrative Law Judge, for the attendance of witnesses and the production of books, records and other documents at the hearing on the appeal, may be obtained by the parties upon request.

Recodified from 13:2-17.9 by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
Prior text at 13:2-17.7, "Public hearing", repealed.

### 13:2-17.8 Stays

(a) The filing of an appeal from a suspension or revocation of a license by a municipal issuing authority shall act as an automatic stay of such suspension or revocation, unless the Director shall otherwise order. All other appeals shall not stay the effect of the action appealed from unless otherwise ordered by the Director or Administrative Law Judge.

(b) In cases in which a suspension or revocation has been stayed pending the outcome of an appeal to the Director, the licensee must file a renewal application and the appropriate fees for each subsequent license term while the appeal is pending or the license shall be deemed to have expired.

(c) In cases in which a suspension has not been stayed or in which a revocation has been stayed and an indefinite suspension imposed pending the outcome of an appeal to the Director, the licensee must file a renewal application and the appropriate fees for each subsequent license term while the appeal is pending or the license shall be deemed to have expired.

(d) In cases in which a revocation has not been stayed pending the outcome of an appeal to the Director, the licensee need not file a renewal application and appropriate fees for each subsequent license term while the appeal is pending. If the revocation is not sustained on appeal, then the licensee shall be required to file renewal applications and pay the appropriate fees for each license term during which the appeal was pending, within 60 days of the date of the Director's decision or the license shall be deemed to have expired.

(e) In all other cases, except those addressed in N.J.A.C. 13:2-17.9, the licensee must file a renewal application and the appropriate fees for each subsequent license term while the appeal is pending or the license shall be deemed to have expired.

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 13:2-17.11. Filing of appeal by municipal authority is an "automatic" stay. Prior text at 13:2-17.8, "Stipulations, offer of transcript", repealed.

Amended by R.2003 d.436, effective November 3, 2003.  
See: 35 N.J.R. 2810(a), 35 N.J.R. 5122(a).

Designated existing text as (a); added (b) through (e).

#### Case Notes

Offer of transcription of proceedings before local issuing authority in lieu of producing witnesses on appeal de novo noted. *Marlboro Manor, Inc. v. Alcoholic Beverage Control Bd., Tp. of Montclair*, 7 N.J.A.R. 29 (1981), reversed 187 N.J.Super. 359, 454 A.2d 905 (App. Div.1982).

### 13:2-17.9 Extension of license term

(a) Upon the filing of an appeal from the denial of an application for renewal of a license, or the failure to act upon such renewal application within the time set forth in N.J.A.C. 13:2-2.10(b), the Director may, at the time of the filing of the appeal, in the exercise of sound discretion, issue an order upon respondent issuing authority to show cause why the term of the license should not be extended pending the determination of the appeal, together with ad interim relief extending the license pending the return of the order to show cause. If it appears that a substantial question of fact or law has been raised, and that irreparable injury to the appellant would result if the license is not extended, the Director may extend the license pending the outcome of the appeal, subject to such special conditions as the Director may deem appropriate.

**13:2-18.2 Filing and serving petitions**

(a) The petitioner shall file with the Director, Division of Alcoholic Beverage Control, an original and copy of a Verified Petition setting forth the identity of the parties, the subject matter of the petition, the identity and the brand registration number for each of the product(s) involved, the relief sought, the grounds therefor and such other matters required under N.J.S.A. 33:1-93.6 et seq.

(b) The petitioner shall serve, personally or by ordinary mail, a copy of the petition upon the respondent importer, blender, distiller, rectifier or winery no later than within five days from the filing of the petition. The original petition, together with acknowledgement or affidavit of service, shall be filed with the Director.

(c) The petition shall be accompanied by a filing 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 (a) and redesignated existing text, with revisions, as (b).  
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).

**13:2-18.3 Answer to petition**

Within 10 days after service of the copy of the petition, each respondent shall file an answer with the Director,

together with proof of service of a copy thereof on the petitioner. The answer shall include a statement as to whether the respondent has refused to sell to the petitioner and, if so, the reasons for such refusal.

Amended by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
Deleted exception regarding sale of malt beverages.

**13:2-18.4 Interlocutory relief**

(a) The petitioner may apply to the Director by verified petition and request interlocutory relief. The verified petition must allege that the petitioner will probably suffer substantial and irreparable injury before final determination of the proceeding unless interlocutory relief is granted.

(b) If it appears that the petitioner will probably suffer immediate, substantial and irreparable injury before a hearing can be held on the return date of the order to show cause, the Director may enter an ex parte order granting ad interim relief, provided the respondent is granted the right to move, on two days notice, to dissolve or modify said order. Ad interim relief can include an Order which requires, among other things, that the respondent sell designated product(s) to the petitioner upon terms as specified by the Director.

(c) Upon return of the order to show cause, the Director may grant interlocutory relief if it appears that a substantial question of law or fact has been raised and that the petitioner will probably suffer substantial and irreparable injury without such relief before final determination of the proceeding.

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 13:2-18.7. Revised (a) and deleted (b). Prior text at 13:2-18.4, "Hearing schedules; notice", repealed.  
Amended by R.1995 d.450, effective August 21, 1995.  
See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

Divided existing text into (a) and (c) and added (b).

**13:2-18.5 Enforcement of Director's orders**

All persons whether licensees or non-licensees, shall comply with the terms of any final, interlocutory or other order entered in these proceedings. In the event a respondent fails to comply with the terms of such order, the Director may, in addition to any penalty provided by law, enter an order prohibiting any licensed wholesaler from purchasing, directly or indirectly, any alcoholic beverage other than malt alcoholic beverages of such respondent until the Director finds that there has been compliance therewith.

Recodified from 13:2-18.8 by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Prior text at 13:2-18.5, "Discovery", repealed.

**13:2-18.6 Jurisdiction**

Upon the filing of the Verified Petition and answer, the Director shall determine whether the case is contested. If the case is determined to be contested, the Director shall either file it with the Office of Administrative Law pursuant to N.J.A.C. 1:1-8 or retain it under the provisions of N.J.S.A. 52:14F-8.

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 "Hearing procedure".

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.

**13:2-18.7 Public hearing**

All proceedings shall be heard at a location designated by the Division of Alcoholic Beverage Control or by the Office of Administrative Law, whichever agency is hearing the case.

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 13:2-18.7, "Interlocutory relief", to 13:2-18.4.

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

Changed hearing location.

**13:2-18.8 Hearing procedure**

Upon determination that the matter is a contested case, the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1) shall govern its conduct.

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 13:2-18.8, "Enforcement of director's orders", to 13:2-18.5.

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.

**SUBCHAPTER 19. DISCIPLINARY PROCEEDINGS**

**13:2-19.1 Commencement of disciplinary proceedings**

(a) Disciplinary proceedings shall be commenced upon the service of a Notice of Charges on the licensee, permittee, brand registrant or other party (hereinafter, "licensee"). For purposes of this subchapter, licenses, permits and registrations will hereinafter be described as licenses.

(b) Service shall be made in person or by certified mail, return receipt requested on any individual listed in (c) below. If the addressee refuses to claim or to accept delivery of certified mail, service shall be made by ordinary mail. If mail service is unsuccessful, then service shall be made by publication.

(c) Service shall be made upon any of the following: the individual licensee, the agent designated to accept service on the most recent license application or any officer, director, shareholder, member or partner of the licensee. If none of these individuals are available at the licensed premises, then service may be made on any employee. Mail service shall be made upon any individual listed above using the address that is shown for that individual on the most recent license application. Service by publication shall be made by publishing the Notice of Charges once in a newspaper published or of general circulation in the county in which the license is venued or which was the last known situs of the business.

(d) Service is complete upon receipt of personal service or acceptance of certified mail. If the addressee refuses to claim or accept delivery of certified mail, service is complete upon the mailing of ordinary mail. If service is made by publication, service is complete upon publication of the Notice of Charges.

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

Former N.J.A.C. 13:2-19.1, License or permit subject to disciplinary proceedings, recodified to N.J.A.C. 13:2-19.5.

**13:2-19.2 Contents of Notice of Charges**

(a) The Notice of Charges shall include the following:

1. A list of each of the charges against the licensee;
2. A statement that each charge shall constitute an individual and separate violation and the penalty for each

charge, as set forth in the Penalty Schedule in N.J.A.C. 13:2-19.11(i), shall be listed separately;

i. If the penalty sought is revocation, the licensee shall be notified of the personal disqualification penalty, as set forth in N.J.A.C. 13:2-19.10, and whether the Division seeks to have the premises barred from licensure for two years, pursuant to N.J.S.A. 33:1-31;

ii. If the premises is not owned by the licensee and the Division seeks to bar licensure of the premises for two years, pursuant to N.J.S.A. 33:1-31, the owner of the premises shall also be notified in the manner set forth in N.J.A.C. 13:2-19.1(b);

3. Notice that the licensee has 30 days from the date of service of the Notice of Charges to enter a plea of guilty, not guilty or non vult to the charges;

i. Notice that, if the licensee fails to enter a timely plea, it shall be deemed to have pled non vult to the charges. Thereafter, the Director may impose upon the licensee the penalty or penalties stated in the Notice of Charges, without further notice;

ii. Notice that, if the licensee pleads guilty or non vult to the charges, it shall have the opportunity to present mitigating circumstances to the Director;

iii. Notice that the licensee may petition the Director to accept a monetary offer in compromise in lieu of all or part of the penalty or penalties stated in the Notice of Charges, as provided in N.J.S.A. 33:1-31; and

4. Advice of the licensee's right to representation.

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

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

Former N.J.A.C. 13:2-19.2, Suspension, cancellation or revocation, recodified to N.J.A.C. 13:2-19.6.

### 13:2-19.3 Pleading procedure

(a) Within 30 days of service of the Notice of Charges on the licensee, the licensee shall enter a plea of guilty, not guilty or non vult to the charges.

(b) If the licensee enters a plea of guilty or non vult, the charges shall be deemed sustained, but the licensee shall have the opportunity:

1. To petition the Director to accept a monetary offer in compromise in lieu of all or part of the penalty or penalties (suspensions only) stated in the Notice of Charges, as provided in N.J.S.A. 33:1-31; and

2. To demonstrate mitigating circumstances, either by written statement or, in the sole discretion of the Director, by oral statement.

(c) If the licensee enters a plea of not guilty, the proceedings shall be considered a contested case. Contested cases shall be filed with the Office of Administrative Law, pursuant to N.J.A.C. 1:1-3.2, or retained by the Director, under the provisions of N.J.S.A. 52:14F-8. The Uniform Administrative Procedure Rules, N.J.A.C. 1:1, shall govern the conduct of all contested cases, except as otherwise provided in N.J.S.A. 33:1-1 et seq. or this chapter.

(d) Prior to the expiration of the 30-day period in which to enter a plea, upon application by the licensee, the Director may, for good cause shown, grant an additional 30-day period for the licensee to enter a plea.

(e) Failure of the licensee to enter a plea within the 30-day period, plus extension, if any, shall be deemed a plea of non vult. Upon submission of a certification by the Division that service was made upon the licensee and that no plea was received within the 30-day period, plus extension, if any, the Director may, in the Director's sole discretion, impose upon the licensee the penalty or penalties stated in the Notice of Charges, or take any other appropriate action, without further notice.

(f) In the event a matter is returned to the Division from the Office of Administrative Law due to the licensee's failure to appear at a scheduled proceeding, pursuant to N.J.A.C. 1:1-14.4, the licensee shall be deemed to have withdrawn any plea previously entered and a plea of non vult shall be entered. No earlier than 14 days of the date of the notice from the Clerk of the Office of Administrative Law returning the case to the agency for this reason, the prosecuting Deputy Attorney General may submit a certification to the Director that the attorney has received no explanation for the licensee's nonappearance and the Director may, in the Director's sole discretion, impose upon the licensee the penalty or penalties stated in the Notice of Charges, or take any other appropriate action, without further notice.

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

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

Former N.J.A.C. 13:2-19.3, Pending proceedings; effect upon license or permit, recodified to N.J.A.C. 13:2-19.7.

### 13:2-19.4 Emergent hearing

(a) If an alleged action of a licensee presents a danger which is an immediate threat to the public health, safety or welfare and contrary to the interest of the community, the Director may, upon request of the Division, issue an Order for Emergent Hearing. The Order shall either provide a plenary hearing on the charges pursuant to (b) below or provide a hearing concerning the imposition of conditions pending a plenary hearing pursuant to (c) below.

1. The hearing date shall be not less than five days from the date of service upon the licensee of the Order for Emergent Hearing. Service shall be made in the same manner set forth in N.J.A.C. 13:2-19.1(b).

2. In the Order for Emergent Hearing, the Director may impose such conditions to be in effect until the hearing date, as the Director, in the Director's sole discretion, deems necessary to protect the public health, safety and welfare.

(b) The Order for Emergent Hearing shall contain all of the information required for a Notice of Charges, as set forth in N.J.A.C. 13:2-19.2 and notify the licensee of the time and place of the hearing. The licensee must appear before the Director at the designated time and place for a plenary hearing to answer the charges.

1. An Order for Emergent Hearing regarding charges shall notify the licensee that a failure to appear shall be deemed a plea of non vult to the charges. Upon submission of a certification by the Division that service was made, the Director may impose upon the licensee the penalty or penalties stated in the Order for Emergent Hearing, without further notice.

(c) If the sole purpose of the emergent hearing is to address the imposition of pendente lite conditions, those conditions and the basis upon which the Division seeks to impose the conditions shall be set forth in the Order for Emergent Hearing, instead of the information required in N.J.A.C. 13:2-19.2. The licensee must appear before the Director at the designated time and place to address the issue of imposition of the conditions pending the plenary hearing.

1. An Order for Emergent Hearing regarding pendente lite relief only shall notify the licensee that a failure to appear shall be deemed to indicate no objection to the conditions only. Upon submission of a certification by the Division that service was made, the Director may impose upon the licensee the condition or conditions stated in the Order for Emergent Hearing, without further notice.

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

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

Former N.J.A.C. 13:2-19.4, Expiration or surrender of license; pending proceedings, recodified to N.J.A.C. 13:2-19.8.

### 13:2-19.5 License or permit subject to disciplinary proceedings

Disciplinary proceedings against a license or permit shall not be barred or abated because of the expiration, transfer, surrender, renewal or extension of the 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).

Clarified text.

Recodified from N.J.A.C. 13:2-19.1 by R.2001 d.447, effective December 3, 2001.

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

Former N.J.A.C. 13:2-19.5, Suspended license; transfers or extensions, recodified to N.J.A.C. 13:2-19.9.

### Case Notes

Attempt to revoke liquor license by converting renewal proceedings into disciplinary proceedings was improper. *What's Your Beef v. Plainfield*, 95 N.J.A.R.2d (ABC) 24.

### 13:2-19.6 Suspension, cancellation or revocation

Any license or permit may be suspended, cancelled or revoked for proper cause, notwithstanding that such cause arose prior to a subsequent transfer or extension of the license, or arose during a prior license term of a license held by the licensee or his predecessor in interest or arose during the term of a prior permit held by the permittee.

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

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

Specified "subsequent" transfer or extension of license, and added clarifying language.

Recodified from N.J.A.C. 13:2-19.2 by R.2001 d.447, effective December 3, 2001.

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

Former N.J.A.C. 13:2-19.6, Jurisdiction and hearing procedure, repealed.

### Case Notes

Sales and delivery of alcoholic beverages before legal hours of sale warranted 18-day license suspension. *Hardys Liquor Deli v. Alcoholic Beverage Control*, 95 N.J.A.R.2d (ABC) 94.

Denial of liquor license for lewd conduct was moot absent objection prior to license expiration. *Daniels v. Township of Neptune*, 95 N.J.A.R.2d (ABC) 68.

Liquor license suspended; unlawful activity premises. *Alcoholic Beverage Control Division v. M & O O, Inc. t/a Party Place*, 94 N.J.A.R.2d (ABC) 63.

Time for commencement and termination of licensee's five-day suspension. *Matter of Div. of Alcoholic Beverage Control v. Mr. G's, Inc.*, 93 N.J.A.R.2d (ABC) 59.

### 13:2-19.7 Pending proceedings; effect upon license or permit

When disciplinary proceedings are instituted and the license is transferred, extended or renewed, or a permit is extended or renewed during the pendency thereof, such proceedings shall be carried through to completion. Any order of suspension, cancellation or revocation therein shall apply without further proceedings to the transferred, extended or renewed 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).

Stylistic revisions.

Recodified from N.J.A.C. 13:2-19.3 by R.2001 d.447, effective December 3, 2001.

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

Former N.J.A.C. 13:2-19.7, Revoked license: licensee inability to work; transfer prior to revocation, recodified to N.J.A.C. 13:2-19.10.

### 13:2-19.8 Expiration or surrender of license; pending proceedings

Where a license expires or is surrendered and another license is issued or transferred to another person for the licensed premises subject to pending disciplinary proceedings, the premises shall continue to be subject to any order

made in the disciplinary proceedings declaring the premises ineligible to become the subject of a license under N.J.S.A. 33:1-31.

Amended by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Added N.J.S.A. 33:1-31 limitation.  
 Recodified from N.J.A.C. 13:2-19.4 by R.2001 d.447, effective December 3, 2001.  
 See: 33 N.J.R. 2795(a), 33 N.J.R. 4135(c).

**13:2-19.9 Suspended license; transfers or extensions**

When any license has been suspended, such suspension shall continue in full force and effect notwithstanding any transfer or extension of the license during the period of suspension.

Amended by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Included "extension" of license.  
 Recodified from N.J.A.C. 13:2-19.5 by R.2001 d.447, effective December 3, 2001.  
 See: 33 N.J.R. 2795(a), 33 N.J.R. 4135(c).

**13:2-19.10 Revoked license: licensee inability to work; transfer prior to revocation**

(a) A revocation shall render the licensee and the officers, directors and each owner, directly or indirectly, of more than 10 percent of the stock of a corporate licensee ineligible to hold or receive any other license, of any kind or class, or work, in any capacity, in any licensed premises, for a period of two years from the effective date of such revocation. A second revocation shall render the licensee and the officers, directors and each owner, directly or indirectly, of more than 10 percent of the stock of a corporate licensee ineligible to hold or receive any such license, or work, in any capacity, in any licensed premises, at any time thereafter.

(b) In the event that a license is transferred to another person or entity or a change in corporate structure has occurred, prior to the time that a license has been revoked, the Director shall review the facts of the revocation proceedings. The Director shall thereafter determine whether the holders or owners (either direct or indirect) of the license at the time the violation(s) occurred, at the time the license was revoked, or any interim times, either allowed, permitted or suffered the unlawful conduct or should have known the effects of a license revocation or should otherwise be subject to statutory disqualification. Thereafter, the Director may order that any or all of such holders and owners be statutorily disqualified, pursuant to the terms of N.J.S.A. 33:1-31 and (a) above.

New Rule, R.1995 d.450, effective August 21, 1995.  
 See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).  
 Recodified from N.J.A.C. 13:2-19.7 and amended by R.2001 d.447, effective December 3, 2001.  
 See: 33 N.J.R. 2795(a), 33 N.J.R. 4135(c).  
 Rewrote (b).

**13:2-19.11 Penalty schedule, definition of violation, successive violations**

(a) This section sets forth penalties for violations of the Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq., or the rules or orders of the Director promulgated thereunder.

(b) The Director may suspend or revoke a license, even for a first violation.

(c) The term "violation" means each breach of duty or responsibility imposed by the Alcoholic Beverage Control Act or the rules or orders of the Director promulgated thereunder.

(d) Violations by each and every individual shall constitute a separate incident for purposes of calculating the number of violations.

(e) The term "concurrent violations" means violations that occur within the same 24 hour period. The penalties for concurrent violations shall generally be calculated based on the same level of violation, subject to the provisions of (g) below. Notwithstanding the foregoing, the Director may, in the Director's sole discretion, consider aggravating or mitigating circumstances in determining the penalty for each violation.

(f) The term "successive violations" means violations that occur outside of the same 24 hour period. The penalties for successive violations shall generally be calculated based upon the number of violations occurring within a two-year period from the date of the first violation, subject to the provisions of (g) below. Notwithstanding the foregoing, the Director may, in the Director's sole discretion, consider aggravating or mitigating circumstances in determining the level of violation.

(g) The penalty for a second, third or fourth violation shall only be imposed if the licensee has been notified in writing of the prior violation or violations, before the additional violation is charged. Such notice may be provided by service of a Notice of Charges or the receipt of a written notice from an investigating officer that a violation has occurred, which may be presented to the licensee or other employee at the licensed premises, or other reasonable form of notice. Notwithstanding the foregoing, if violations are discovered during an undercover operation, then no notice of any prior violation is necessary to impose the penalty for a second, third or fourth violation.

(h) The penalty schedule lists the most common violations and is not intended to be exhaustive. Therefore, a license may be suspended or revoked for a violation that is not set forth in the penalty schedule. In fixing the penalty for any such violation, the Director shall state in writing specific reasons for determining the penalty imposed.

(i) Penalty Schedule<sup>1</sup>

<u>Statute, Regulation or Bulletin Item</u>	<u>Code</u>	<u>Description</u>	<u>First Violation</u> <sup>2</sup>	<u>Second Violation</u> <sup>2</sup>	<u>Third Violation</u> <sup>2</sup>	<u>Fourth Violation</u> <sup>2</sup>
---	-------------	--------------------	-------------------------------------	--------------------------------------	-------------------------------------	--------------------------------------

N.J.S.A. 33:1-25, 26, 31a and 52	A & A	Aiding and abetting	10	20	30	
N.J.A.C. 13:2-23.5(c)	ACTIV	Illegal activity on the licensed premises	30	60	90	Revocation
N.J.A.C. 13:2-24.10(a)1-6	ADV1	Improper advertising	5	10	20	
N.J.A.C. 13:2-24.10(a)7	ADV2	Improper cooperative advertising	5	10	20	
N.J.A.C. 13:2-23.13(a)2	APP1	Failure to provide a copy of the most recent full application and/or current renewal application	1	3	5	
N.J.S.A. 33:1-25 and N.J.A.C. 13:2-2.14(a)	APP2	Failure to timely notify of change in fact on the license application	1	3	5	
N.J.S.A. 33:1-25 and N.J.A.C. 13:2-2.14(b)	APP3	Failure to notify of corporate structure change	1	3	5	
N.J.S.A. 33:1-25	APP4	Failure to disclose or false, misleading or inaccurate answer to a question on an application, which would not by itself result in a disqualification for licensure	10	20	30	
N.J.S.A. 33:1-25	APP5	Failure to disclose or false, misleading or inaccurate answer to a question of material fact on an application	45	90		Revocation
N.J.S.A. 33:1-26	APP6	Lease out of the license	45	90		Revocation
N.J.A.C. 13:2-23.32, 24.1(c) and (e)	BOOKS1	Failure to have true book or books of account available on the licensed premises, but produced within seven business days of demand	1	5	10	
N.J.A.C. 13:2-23.32, 24.1(c) and (e)	BOOKS2	Failure to maintain true books or books of account or failure to produce true books or books of account within seven business days of demand	30	60		Revocation
N.J.A.C. 13:2-23.15 or 23.23	BOT1A	Contaminated or low proof bottles (one to five bottles)	1	5	10	
N.J.A.C. 13:2-23.15 or 23.23	BOT1B	Contaminated or low proof bottles (six or more bottles)	5	10	20	
N.J.A.C. 13:2-23.19	BOT2	Substitution of beverages	5	10	20	
N.J.A.C. 13:2-23.9(a)	BOT3	Tampering/adulterated alcohol	5	10	20	
N.J.A.C. 13:2-35.1 and 35.5 or 35.2 and 35.4	BPP1	Broad package privilege violation (improper sale or display)	10	30	60	
N.J.A.C. 13:2-35.1 and 35.2	BPP2	Broad package privilege violation (insufficient equipment and/or bar)	10	30	60	
N.J.A.C. 13:2-23.12	BULK	Transfer of inventory without a bulk permit	1	5	10	
N.J.A.C. 13:2-23.13(a)1	CERT	License certificate not conspicuously displayed	1	3	5	
N.J.A.C. 13:2-1.9(d)	CHECK	Return of an unpaid check to Division or issuing authority (penalties will include original check amount and administrative costs)	5	10	20	
N.J.A.C. 13:2-8.13	CLUB1	Advertising availability of alcoholic beverages to the public	5	10	20	
N.J.A.C. 13:2-8.8, 9 and 11	CLUB2	Sale beyond the scope of the club license, including, but not limited to, sale to non-member or social affair permittee	10	20	30	
N.J.A.C. 13:2-26.1	COOP1	Purchase of alcoholic beverages by a non-member	10	20	30	
N.J.A.C. 13:2-26.1	COOP2	Allowed a person not qualified and/or minor permittee to order for member or employee of cooperative	10	20	30	
N.J.A.C. 13:2-26.1	COOP3	Allowed a purchase by a non-member retailer under cooperative	10	20	30	
N.J.A.C. 13:2-24.8	COST	Sale of alcoholic beverages below cost	15	30	45	
N.J.A.C. 13:2-24.6(a)6	CPL1	Sale of alcoholic beverages not listed on a "Current Price List"	15	30	45	
N.J.A.C. 13:2-24.6(a)6	CPL2	Sale or acceptance of alcoholic beverages upon terms other than set forth on a "Current Price List"	15	30	45	
N.J.A.C. 13:2-24.6(a)1 and 2	CPL3	Failure to maintain an "Historical Price List" and "Marketing Manual"	15	30	45	
N.J.A.C. 13:2-24.1	DISC1	Terms of sale of alcoholic beverages offered in discriminatory manner	15	30	45	Revocation
N.J.A.C. 13:2-24.2	DISC2	Offers service to a licensee in a discriminatory manner	15	30	45	Revocation
N.J.S.A. 33:1-26 and N.J.A.C. 13:2-14.5	DISQ1	Employed a criminally disqualified person	30	60	90	Revocation
N.J.S.A. 33:1-25, 26	DISQ2	Criminally disqualified licensee				Revocation

N.J.A.C. 13:2-23.13(a)3	E141	Employees list not complete or available on the licensed premises	1	5	10	
N.J.A.C. 13:2-14.1 and/or 14.2	EMIN	Employing a minor without a permit	1	5	10	
N.J.A.C. 13:2-23.31(b)2i	EPOL1	Employed a law enforcement officer without approval	10	20	30	
N.J.A.C. 13:2-23.31(b)2ii	EPOL2	Employed a law enforcement officer in jurisdiction where law enforcement officer serves	15	30	45	Revocation
N.J.A.C. 13:2-23.25	ESOL	Employment of a solicitor by a retailer	15	30	45	Revocation
N.J.S.A. 33:1-12a	FETAL	Failure to display Fetal Alcoholic Syndrome warning poster	1	3	5	
N.J.S.A. 2A:40-1	GAMB1	Failure to notify of placement of approved video game within 48 hours of placement	5	10	20	
N.J.A.C. 13:2-23.7	GAMB2	Raffling of sealed containers of alcoholic beverages without a permit	5	10	20	
N.J.A.C. 13:2-23.7(a)5	GAMB3	Gambling paraphernalia on the licensed premises	5	10	20	
N.J.A.C. 13:2-23.7(a)	GAMB4A	Non-criminal gambling activity on the licensed premises	5	10	20	
N.J.A.C. 13:2-23.7(a)	GAMB4B	Criminal gambling activity on the licensed premises	30	60	90	Revocation
N.J.A.C. 13:2-23.7(a)	GAMB5	Unapproved video or slot machine or other gambling device on the licensed premises	5	10	20	
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.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(a)3	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(a)3	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. 13:2-23.16	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)	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.

**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.

(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).

**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.

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

**13:2-19.14 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, special transit insignia, 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.

**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) The holder of a New Jersey Plenary Winery license with retail privileges or a Farm Winery license with retail privileges may authorize the shipment of wine purchased in person at retail on the licensed premises or ordered by mail or telephone (but for mail or telephone orders only if the licensee has a signed authorization by the person placing the order) to a destination within this State by a parcel delivery service subject to the following terms and conditions:

1. The New Jersey Plenary or Farm Winery licensee with retail privileges must first file an application for authorization to utilize a parcel delivery service before it makes any such deliveries to consumers. The application is made on a form provided by the Division and must be accompanied by an annual fee of \$150.00. All parcel delivery service permits are for the one year and expire on June 30 and must be renewed annually; and

2. The parcel delivery service must first be registered and approved by the Director. Application for approval shall be made on a form to be provided by the Division. No fee is required. Once approved, a parcel delivery service shall not be required to obtain a Transportation License under N.J.S.A. 33:1-13 or any Transit Insignia under N.J.S.A. 33:1-28 or this subchapter; and

3. An invoice must be attached to every package stating the purchaser's name, address, destination, quantity of wine being shipped and place of purchase. A copy of the original invoice must be made 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. for a period of one year at the office of the licensee; and

4. The wine shall be shipped as a restricted delivery and may be delivered only to the residence of the person who placed the order. It is the duty of personnel delivering the wine for a licensee in accordance with N.J.S.A. 33:1-28.1 et seq. and this subsection to seek to determine that, at the time of delivery of wine, the party signing a delivery receipt is of legal age to purchase and consume alcoholic beverages.

(c) 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."

In (b)1: changed "the calendar year" to "one year" and changed "December 31" to "June 30" regarding parcel delivery service permits.

In (b)3: changed "three years" to "one year" regarding invoice requirements.

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

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

Allowed for mail or telephone wine order purchases.

### 13:2-20.4 Transportation by other State licensees, importers and manufacturers; delivery documents

(a) No manufacturer, importer or wholesaler shall deliver or transport, directly or indirectly, any alcoholic beverages into, out of, or within the State of New Jersey in any vehicle, nor shall any transportation licensee so deliver or transport alcoholic beverages for any licensee, unless the driver of the vehicle has in his possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating the name, address and New Jersey State assigned license number (if applicable) of the purchaser or consignee, the brand, size of container, terms of sale, quantity and price of each kind of alcoholic beverages being delivered or transported. Such document shall further bear a printed or stamped legend reading substantially as follows:

"The undersigned licensee hereby acknowledges that all of the alcoholic beverages itemized above have been ordered and were received on \_\_\_\_\_

(Date)

\_\_\_\_\_"  
(Signature by or for licensee)

(b) Two copies of such delivery slip, invoice, manifest, waybill or similar document shall be truly dated and signed by the licensee or his agent at the time and on the date of actual delivery of any alcoholic beverage. One copy shall be retained for a period of one year from the date thereof by the manufacturer, importer or wholesaler and the other by the purchasing licensee for a like period at its respective licensed premises, 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 written permission to the manufacturer, importer, wholesaler or retailer to keep its copies at another designated place.

(c) Except that with regard to the following:

1. Sales or transfers from manufacturers or importers to wholesalers or distributors, when the nature of the documentation and transaction precludes the immediate availability of all documents required in (a) and (b) above, compliance shall be deemed to have occurred when all such records are available within a reasonable time following the sale, transfer, delivery and receipt; and

2. Sales or deliveries of keg beer or ale only to retail licensees, when the nature of the documentation and transaction precludes the immediate availability of all documents required in (a) and (b) above, compliance shall be deemed to have occurred when all such records are available upon completion of the operative period of the terms of such sales which shall have been set forth and shall be consistent with the seller's Marketing Manual and Current Price List pursuant to N.J.A.C. 13:2-24.

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).

In (a): added "nor . . . licensee" regarding transportation and delivery requirements.

In (b): changed "three years" to "one year" requirement for delivery slips. Substituted "New Jersey Alcoholic Beverage Control Act" for "Alcoholic Beverage Law."

### 13:2-20.5 Eligibility for transit insignia, special transit insignia or transportation license insignia

(a) No transit insignia, special transit insignia or transportation license insignia shall be issued:

1. To a bonded warehouse bottling licensee, public warehouse licensee, or warehouse receipts licensee, unless such licensee also holds a license of some type which authorizes the transportation of alcoholic beverages.

2. For any motor vehicle unless it is properly registered in New Jersey or authorized to utilize New Jersey roads in accordance with State law applicable to such vehicle.

3. For any leased vehicle or other vehicle not owned by the licensee unless said lease or other document by its terms transfers to the licensee exclusive possession, control and operation of such vehicle when utilized in connection with the licensed business. A copy of the lease or other document must be furnished with any application.

(b) No transit insignia or special transit insignia shall be issued for any solicitor's vehicle unless an agreement exists authorizing utilization of the solicitor's vehicle for purposes in furtherance of the business of the solicitor's employer.

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

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

Old text deleted and new substituted.

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

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

Changed section title by deleting "transportation permit" and adding "transit insignia or transportation license insignia." Revised stylistically throughout.

Restructured section by re-codifying (b)-(d) to (a)1 and 2 and (b) to clarify new eligibility standards.

In new (b): added language regarding authorization for issuance of transit insignia.

**13:2-20.6 Application; fees**

(a) Application for transit insignia shall be filed with the Director upon a prescribed form accompanied by the full fee of \$75.00 for each insignia payable to the order of the Division of Alcoholic Beverage Control.

(b) Application for special transit insignia, which may be issued for passenger type vehicles and consists of a sticker that is less conspicuous than a transit insignia, shall be filed with the Director upon a prescribed form accompanied by the full fee of \$75.00 for each permit payable to the order of the Division of Alcoholic Beverage Control.

(c) Application for transportation license insignia shall be filed with the Director upon a prescribed form and shall be issued at a cost of \$30.00 for each insignia payable to the order of the Division of Alcoholic Beverage Control.

1. No transportation license insignia shall be required for any vehicle operated by a parcel delivery service holding a transportation license for delivery of alcoholic beverages purchased at retail to consumers unless the vehicle is primarily and substantially used at any time for transport or delivery of alcoholic beverages.

2. The parcel delivery service must first be licensed by the Director. Application for licensure shall be made on a form to be provided by the Division.

3. An invoice must be attached to every package stating the purchaser's name, address, destination, quantity of wine being shipped and place of purchase. A copy of the original invoice must be made 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. for a period of one year at the office of the licensee.

Amended by R.1973 d.234, effective August 30, 1973.

See: 5 N.J.R. 356(a).

Amended by R.1978 d.75, effective March 1, 1978.

See: 9 N.J.R. 482(a), 10 N.J.R. 170(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).

In (b): stylistic revisions to conform with name change from "transportation permit" to "transit insignia."

Added new (c).

Amended by R.1993 d.288, effective June 7, 1993.

See: 25 N.J.R. 1340(a), 25 N.J.R. 2485(a).

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)2 and (c)3.

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Deleted ", in cash, money order or check" preceding "payable" throughout.

Special amendment, R.2003 d.311, effective July 3, 2003 (to expire January 3, 2004).

See: 35 N.J.R. 3707(a).

In (a) and (b), substituted "\$75.00" for "\$50.00"; in (c), substituted "\$30.00" for "\$20.00" in the introductory paragraph.

Adopted concurrent amendment, R.2003 d.470, effective November 5, 2003.

See: 35 N.J.R. 3707(a), 35 N.J.R. 5427(a).

Provisions of R.2003 d.311 adopted without change.

**13:2-20.7 Term of transit insignia, special transit insignia or transportation license insignia; renewal**

(a) All transit insignia and special transit insignia expire on August 31 following their issuance unless sooner terminated by order of the Director or by surrender or termination of the basic license under which the insignia was issued.

(b) All transportation license insignia expire on June 30 following their issuance or upon sooner termination of the underlying transportation license.

(c) Renewals must be applied for in the same manner as a new insignia.

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

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

Old text deleted and new text recodified from section 14.

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

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

Revised section title by deleting "transportation permit" and adding "transit insignia or transportation license insignia."

Restructured section into (a)-(c), adding new language for (b).

**13:2-20.8 Location of transit insignia, special transit insignia or transportation license insignia**

(a) Transit insignia must be directly affixed to the exterior of the vehicle on the left side thereof, so as to be clearly visible at all times.

(b) Special transit insignia must be directly affixed to the rearmost side window on the driver's side of the vehicle. The insignia shall be placed in the lower rear corner of such window, shall be affixed from the inside facing outward and shall be clearly visible at all times.

(c) Transportation license insignia shall either be affixed to the exterior of the vehicle in the same manner as a transit insignia or otherwise visibly displayed as may be determined by the Director.

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

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

Old text deleted and new text recodified from section 12.

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

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

Revised section title, which was "Affixing transit insignia or special transportation permit sticker to vehicle." Revised text to conform with title change.

In (b): deleted "at the time of receipt" regarding affixing of insignia and changed "left corner" to "rear corner."

Added (c).

**13:2-20.9 Restrictions applicable to vehicles bearing transit insignia, special transit insignia or transportation license insignia**

(a) No licensee shall allow, permit or suffer any vehicle for which a transit insignia, special transit insignia or transportation license insignia is issued to be used to transport alcoholic beverages except solely for the licensee's own business.

(b) When any transit insignia, special transit insignia or transportation license insignia shall become marred, defaced or damaged, the licensee shall forthwith notify the Director in writing, so that there may be appropriate replacement, if necessary, of such insignia.

(c) Transit insignia or special transit insignia may be used only for the vehicle for which issued, provided, however, that nothing herein contained shall prohibit the transportation of alcoholic beverages by a transferee of a license in a vehicle for which a transit insignia or special transit insignia was issued to his transferor for a period not exceeding seven days subsequent to the effective date of the transfer of license to such transferee.

(d) A transportation license insignia is issued to the holder of a transportation license and may be used for any eligible vehicle under N.J.A.C. 13:2-20.5, provided the identity of the transportation license holder is indicated on the vehicle.

(e) Except as provided in (c) above, no licensee shall sell or otherwise dispose of any vehicle to which a transit insignia or special transit insignia is affixed, without having first removed said insignia and having notified the Director of such removal.

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

Old text deleted; section amended with text from 20.12 and 13.  
Amended by R.1989 d.372, effective July 17, 1989.  
See: 21 N.J.R. 1300(a), 21 N.J.R. 2045(a).

Revised section title, which was "Restrictions applicable to vehicles bearing transit insignia or special transportation permit." Revised text to conform with title change.

In (c): deleted language that transportation permits are not transferable. Recodified (d) to (c) and added new (d).

**13:2-20.10 Search of licensed vehicle**

By acceptance of a transit insignia, special transit insignia or transportation license insignia, the licensee consents to the inspection and search of the vehicle for which such insignia is issued, without search warrant, 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.

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

Old text deleted and new text recodified from section 15.  
Amended by R.1989 d.372, effective July 17, 1989.  
See: 21 N.J.R. 1300(a), 21 N.J.R. 2045(a).

Deleted "transportation permit" and substituted "transit insignia or transportation license insignia."

Changed "Alcoholic Beverage Law" to "New Jersey Alcoholic Beverage Control Act."

**13:2-20.11 Duty of personnel delivering alcoholic beverages to consumers**

It is the duty of personnel delivering alcoholic beverages to consumers to seek to determine that, at the time of delivery of product, the party signing a delivery receipt is of legal age to purchase and consume alcoholic beverages. Failure to carry out this duty by the employee shall be considered a violation and is grounds for the suspension or revocation of the employer's license.

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

**Historical Note**

A former N.J.A.C. 13:2-20.11 was repealed by R.1985 d.333, effective July 1, 1985.

**13:2-20.12 through 13:2-20.15 (Reserved)**

Amended by R.1980 d.304, effective July 3, 1980.  
See: 12 N.J.R. 343(b), 12 N.J.R. 494(b).  
Repealed by R.1985 d.333, effective July 1, 1985.  
See: 17 N.J.R. 1054(a), 17 N.J.R. 1662(a).

**SUBCHAPTER 21. TRANSPORTATION OF ALCOHOLIC BEVERAGES INTO, THROUGH OR OUT OF THE STATE**

**13:2-21.1 Delivery into or out of the State**

Delivery of alcoholic beverages into or shipment of alcoholic beverages out of New Jersey is prohibited unless the beverages are transported by a licensee pursuant to N.J.A.C. 13:2-20 or in a vehicle bearing or carrying a permit issued in accordance with this subchapter.

Repeal and New Rule, R.1989 d.371, effective July 17, 1989.  
See: 21 N.J.R. 1304(a), 21 N.J.R. 2047(a).

Section was "Importation by licensed manufacturer or wholesaler."

**13:2-21.2 Interstate transportation for personal use; amount limitation; permit**

(a) Alcoholic beverages intended in good faith for personal use and not for sale may be transported into this State from a point outside New Jersey by any person in a vehicle under his control, without any transportation license or permit, to the extent permitted by N.J.S.A. 33:1-2 that is, not exceeding one-fourth barrel or one case containing not in excess of 12 quarts in all, of beer, ale or porter, and one gallon of wine, and two quarts of other alcoholic beverages within any consecutive period of 24 hours.

(b) Interstate transportation of alcoholic beverages intended in good faith for personal use in excess of the limits set forth in this section is prohibited; unless the consumer:

1. Has the alcoholic beverages transported by a New Jersey licensed alcoholic beverage transporter; or

2. Acquires from the Division a special permit to authorize the interstate transportation for a fee of \$25.00 as set forth in N.J.S.A. 33:1-2. No such permit shall be issued until the applicant establishes that there has been payment of all applicable New Jersey Alcoholic Beverage taxes.

Repealed by R.1989 d.371, effective July 17, 1989.

See: 21 N.J.R. 1304(a), 21 N.J.R. 2047(a).

Section was "Transportation through New Jersey."

Recodified 13:2-21.4, with amendments, to 13:2-21.2.

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

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

Made reference to interstate transportation throughout the section; deleted (b); renumbered (c) as (b); deleted former (c)1 and increased the transportation fee.

### 13:2-21.3 Transportation through New Jersey

(a) Alcoholic beverages may be transported through the State of New Jersey in any vehicle provided the following terms and conditions are met:

1. No delivery is made in New Jersey;
2. The alcoholic beverages may lawfully be sold and transported from the state of origin;
3. The driver of the vehicle possesses a bona fide, accurate waybill, bill of sale, invoice, receipt or similar document stating the name and address of the seller and buyer, the type and quantity of alcoholic beverages being transported and the places of origin and destination; and
4. The alcoholic beverages may lawfully be delivered to and received in the state of destination.

Repeal and New Rule, R.1989 d.371, effective July 17, 1989.

See: 21 N.J.R. 1304(a), 21 N.J.R. 2047(a).

Section was "Importation by a licensed transporter."

### 13:2-21.4 Limited transportation permit

(a) Alcoholic beverages not intended for delivery, sale or use in New Jersey may be transported from the licensed premises in this State of a manufacturer, wholesaler or public warehouse licensee, to points outside this State; or between points outside this State and piers of import or export located within the State by the holder of a New Jersey transportation license or a limited transportation permit.

(b) Application for a limited transportation permit shall be made to the Division on a form prescribed by the Director accompanied by a fee of \$750.00.

(c) A limited transportation permit has a term of one year terminating on September 30, unless sooner canceled by the Director.

(d) The holder of a limited transportation permit cannot transport alcoholic beverages unless the vehicles have affixed thereto a limited transportation permit insignia.

(e) Limited transportation permit insignia are obtainable from the Division in the same manner, with the same eligibility requirements, transfer restrictions and insignia location as a transit insignia as set forth in N.J.A.C. 13:2-20. The cost for this limited transportation permit insignia is \$75.00 per vehicle.

Amended by R.1989 d.371, effective July 17, 1989.

See: 21 N.J.R. 1304(a), 21 N.J.R. 2047(a).

Recodified to 21.2 from 21.4, with stylistic changes and new subsections added.

In (a): deleted language about labeling of alcoholic beverages and added "without any transportation in N.J.S.A. 33:1-2, that is."

Added (b) and (c).

Amended by R.1993 d.288, effective June 7, 1993.

See: 25 N.J.R. 1340(a), 25 N.J.R. 2485(a).

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

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

Deleted (c)1.

Special amendment, R.2003 d.311, effective July 3, 2003 (to expire January 3, 2004).

See: 35 N.J.R. 3707(a).

In (b), substituted "\$750.00" for "\$400.00"; in (e), substituted "\$75.00" for "\$40.00".

Adopted concurrent amendment, R.2003 d.470, effective November 5, 2003.

See: 35 N.J.R. 3707(a), 35 N.J.R. 5427(a).

Provisions of R.2003 d.311 adopted without change.

### 13:2-21.5 Emergency trip permit

(a) The Director, Division of Alcoholic Beverage Control, or any designated agent of the Director may issue a special emergency trip permit for the temporary or emergency transportation of alcoholic beverages into or out of the State in any vehicle not otherwise authorized by license or permit issued pursuant to N.J.A.C. 13:2-20 or this subchapter.

(b) An emergency trip permit shall authorize the delivery into or out of the State for a particular singular shipment identified in the permit from a specified source of origin to a specified destination. The permit shall remain in effect for the duration of the trip, or for 24 hours from the time of issuance, whichever period is longer.

(c) Applications for an emergency trip permit shall be on a form prescribed by the Director and may be issued by the Director or his designated agent for such purpose.

(d) The fee for an emergency trip permit is \$25.00, which shall be deposited in the State Treasury. A surcharge in an amount allowed by the Director may be collected and retained by the agent when the permit is issued by that designated agent.

(e) A designated agent shall maintain true and accurate books of account, electronically transmit to the Division at time of issuance a copy of the issued permit, remit emergency trip permit fees to the Division within seven business days after issuance, and post an adequate performance bond if required.

(f) A designated agent serves at the will of the Director and may be dismissed without cause upon 30 days notice.

Repeal and New Rule, R.1989 d.371, effective July 17, 1989.

See: 21 N.J.R. 1304(a), 21 N.J.R. 2047(a).

Section was "Special permits."

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

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

Provided permit effectiveness period.

### 13:2-21.6 Prohibited transportation; seizure of unlawful property

No alcoholic beverages shall be transported into, through or out of the State except in accordance with this subchapter. Alcoholic beverages transported in violation of this subchapter and the vehicle containing the same, are unlawful property and are subject to seizure and forfeiture by the Director in accordance with N.J.S.A. 33:1-66.

Repealed by R.1989 d.371, effective July 17, 1989.

See: 21 N.J.R. 1304(a), 21 N.J.R. 2047(a).

Section was "Transportation by retail transit licensees."

Recodified 13:2-21.8, with amendments, to 13:2-21.6.

### 13:2-21.7 Search of vehicle

By acceptance of a special permit issued pursuant to this subchapter for the transportation of alcoholic beverages in excess of the quantities authorized by law, or a limited transportation permit, or an emergency trip permit, the holder of the permit consents to the inspection and search of the vehicle for which such permit is issued, without search warrant, 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.

New Rule, R.1989 d.371, effective July 17, 1989.

See: 21 N.J.R. 1304(a), 21 N.J.R. 2047(a).

Recodified to 21.4 from 21.7, with stylistic changes and new subsections added.

Added (b)-(c) to explain the application process, permit and cost requirements.

Original section 21.7 "Limited transportation permit" was recodified to section 21.4.

### 13:2-21.8 (Reserved)

Repealed by R.1989 d.371, effective July 17, 1989.

See: 21 N.J.R. 1304(a), 21 N.J.R. 2047(a).

Recodified to 21.6 from 21.8.

Substituted "this subchapter" for reference to "rules."

Added "Director in accordance with N.J.S.A. 33:1-66" as seizure authority.

## SUBCHAPTER 22. LICENSEE TRAINING AND CERTIFICATION

### 13:2-22.1 Licensee training program established

All holders of plenary or limited retail distribution licenses issued under the provisions of N.J.S.A. 33:1-12 shall successfully complete educational training courses at such times, under such conditions, and with identified consequences for noncompliance, as are hereinafter set forth in this subchapter.

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

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

### 13:2-22.2 Requirements for successful completion; time for completion

(a) All holders of plenary or limited retail distribution licenses at the time this subchapter becomes operative shall successfully complete an initial educational training program within nine months of March 9, 1994. Successful completion shall entail attendance during the entire training program and satisfactory participation in program's group exercise and questioning activities.

(b) Whenever a plenary or limited retail distribution license is acquired as a newly issued license, or by an approved person-to-person transfer of license, or any currently existing plenary or limited retail distribution license held by a corporation is subject to a change of 33½ percent or more of its corporate stockholders, individuals as specified in N.J.A.C. 13:2-22.3 shall be required to attend and successfully complete an initial educational training program within nine months of acquiring the new license or 33½ percent or more interest in such license.

(c) All holders of plenary or limited retail distribution licenses that have successfully completed an initial educational training program shall be required to have appropriate individuals attend and successfully complete supplemental continuing educational training programs if determined necessary by the Director based upon modifications and changes in the law, regulations, policy or societal conditions. The schedule for supplemental training shall be set forth in the Alcoholic Beverage Control Bulletin and further communicated to all affected licensees.

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

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

### 13:2-22.3 Individuals required to attend

(a) One or more of the following individuals shall be required to attend the educational training programs on behalf of the plenary or limited retail distribution licensee:

1. For licenses held by an individual as a sole proprietorship, or for licenses held by a partnership, the required attendee shall be the individual owner of the license, or at least one of the partners, respectively, if such owner or partner is actively engaged in the operation or control of the business.

2. For licenses held by a corporation, the required attendee shall be at least one of the corporate officers or a stockholder owning at least 25 percent of the corporate stock, if such person is actively engaged in the operation or control of the business.

3. Where any licensee designates a manager on its license application, the required attendee shall also include that individual, in addition to the persons identified in (a)1 or (a)2 above.

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 or containing any visible fruit flies or other insect matter. Notwithstanding, to the extent permitted by Federal law, tequila containing the agave worm shall not be deemed in violation of this provision.

(b) If, at the time that a violation of (a) above is discovered by an enforcing agency, the violative container is either sealed or equipped with a pouring spout containing a screen designed to prevent the ability of fruit flies and/or other insects from entering the container, then the enforcing agency shall direct the licensee to empty the violative container. Licensees shall immediately comply with this directive. Compliance with the directive shall result in no administrative charges for this violation.

(c) 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).

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Rewrote the section.

### 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.

**Case Notes**

Licensee's failure to comply with purchase and hiring regulations and statutes supports suspension. Division of Alcoholic Beverage Control v. Chestnut, Inc., 97 N.J.A.R.2d (ABC) 31.

**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).

(c) A licensee shall be deemed to have complied with the requirements of (a)3 above if the information required to be kept on the licensed premises is contained in a computer system, accessible from the licensed premises, and the information can be immediately produced at the request of anyone authorized in (b) above to request such information.

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)3, specified form "promulgated" by the Director.  
 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), substituted "prescribed" for "promulgated" and added (c).

**Case Notes**

Violation finding upheld; failure to keep list of employees cannot be excused by attempting to classify "exotic dancers" as independent contractors, as they were working in furtherance of the licensed premises. G. & J.K. Enterprises, Inc. v. Div. of Alcoholic Beverage Control, 205 N.J.Super. 77, 500 A.2d 43 (App.Div.1985).

Sales and delivery of alcoholic beverages before legal hours of sale warranted 18-day license suspension. Hardys Liquor Deli v. Alcoholic Beverage Control, 95 N.J.A.R.2d (ABC) 94.

**13:2-23.14 Prohibition against indecent matter upon licensed premises**

No licensee shall allow, permit or suffer in or upon the licensed premises or have in his possession or distribute or cause to be distributed any obscene, indecent, filthy, lewd, lascivious or disgusting recording, printing, writing, picture or other matter.

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.

**13:2-23.15 Possession of container mislabeled as to fill prohibited; exception**

No licensee shall knowingly display, sell or deliver any alcoholic beverage in an original container having a content of fill less than that stated on the container or label thereof, subject to such tolerance as permitted by Federal law and regulation; and no licensee shall possess such a container except for the sole purpose of return for credit or replacement consistent with N.J.A.C. 13:2-23.11 and 39.1.

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).  
 Corrected reference.

**13:2-23.16 Prohibited promotions**

(a) Except for consumer alcoholic beverage tastings or tasting dinners conducted in accordance with N.J.A.C. 13:2-37, and promotions permitted in this section, no licensee, permittee or brand registrant shall, directly or indirectly, allow, permit or suffer any practice or promotion that:

1. Offers unlimited availability of any alcoholic beverage for consumption on a licensed premises, for a set price, except for:

i. Private parties, not sponsored by the licensee, such as wedding and birthday parties, and events held by social affair permittees; or

ii. New Year's Eve parties sponsored by a licensee where a set price for attendance includes an open bar;

2. Offers to a patron or customer a free drink, gift, prize or anything of value, conditioned upon the purchase of an alcoholic beverage or product, except for:

i. Branded or unique glassware or souvenirs in connection with a single purchase;

ii. Consumer mail-in rebates offered in accordance with N.J.A.C. 13:2-24.11;

iii. Manufacturer's sweepstakes and contests, not prohibited by law, where entry or opportunity to win is open to the public without a requirement that a purchase be made;

iv. Discounts offered by retailers to consumers on the purchase of alcoholic beverages for off premises consumption;

v. Offers of not more than one free drink per patron, as a gesture of good will, in a 24 hour period, by an on-premise consumption licensee;

vi. Offers of not more than one free drink coupon, ticket, or token redeemable by a patron, once in a 24 hour period;

vii. Offers of a set price for a meal that includes a single alcoholic beverage drink; or

viii. Offers of a single bottle of wine or champagne to guests staying at a licensed hotel or motel, as part of a specialty package, provided that the primary guests are of legal drinking age;

3. Requires or allows a consumer to prepurchase more than one drink or product at a time via tickets, tokens, admission fees, or the like, as a condition for entry into a licensed premises or as a requirement for service or entertainment thereon; or

4. Offers any prize, gift or award which consists of alcoholic beverages or coupons or gift certificates which may be redeemed for alcoholic beverages, such as two for one, and the like, except for a prize consisting of alcoholic beverages in sealed containers offered in a raffle licensed pursuant to N.J.S.A. 5:8-50. A coupon or gift certificate, other than a certificate purchased by a consumer for an amount equal to the dollar value of the certificate, shall expressly state that the certificate shall not be applied toward the purchase or consumption of alcoholic beverages.

(b) No prize or promotion shall be given to, nor shall any contest for consumers be open to, any person under the legal age to purchase or consume alcoholic beverage, any supplier, wholesaler, distributor or retailer; or affiliates, employees or members of the immediate family or household of any such persons or entities.

New Rule, R.1980 d.304, effective July 3, 1980.

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

Amended by R.1983 d.527, effective November 21, 1983.

See: 15 N.J.R. 1558(a), 15 N.J.R. 1946(a).

In (a)2, added "or consumer mail-in rebates offered by alcoholic beverage producers or importers in accordance with N.J.A.C. 13:2-24.11".

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

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

Excepted "consumer alcoholic beverage tastings" and "tasting dinners" from operation of section; divided (a)2 into (a)2.i and (a)2.ii; and added (a)2.iii, (b) and (c).

Amended by R.1996 d.271, effective June 17, 1996.

See: 27 N.J.R. 2051(a), 28 N.J.R. 3177(a).

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Rewrote the section.

#### Case Notes

Under New Jersey law, liability determination was limited to the inquiry surrounding negligent service of alcohol. *Zygmuntowicz v. Hospitality Investments, Inc.*, E.D.Pa.1993, 828 F.Supp. 346.

Leave granted to amend complaint to add claim for punitive damages. *Zygmuntowicz v. Hospitality Investments, Inc.*, E.D.Pa.1993, 151 F.R.D. 53.

Negligence under statute is not definable by reference to administrative regulations. *Fisch v. Bellshot*, 135 N.J. 374, 640 A.2d 801 (1994).

Hotel's "manager's reception" violated State alcoholic beverage laws. In the Matter of the Petition of Embassy Suites Hotel, 94 N.J.A.R.2d (ABC) 4.

#### 13:2-23.17 Restriction upon limited retail distribution licensee possessing chilled malt alcoholic beverages

No limited retail distribution licensee shall possess or allow, permit or suffer any chilled malt alcoholic beverages other than chilled draught malt alcoholic beverages in kegs, barrels or similar containers of at least 7.75 fluid gallons in capacity, in or upon the 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).

Added "chilled draught" exception and changed "one gallon" to "7.75 fluid gallons".

#### 13:2-23.18 Solicitation prohibited

No plenary or seasonal retail consumption licensee shall allow, permit or suffer any person employed on the licensed premises to solicit any beverage, alcoholic or otherwise, at the expense of or as a gift from any customer or patron.

#### 13:2-23.19 Prohibition against offering substitute beverages; exception

No licensee privileged to sell alcoholic beverages for consumption on the licensed premises shall serve or allow, permit or suffer the service of any alcoholic beverage other than ordered or substitute a nonalcoholic beverage when an alcoholic beverage has been ordered, unless agreed to 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 "unless agreed to by the customer".

#### 13:2-23.20 Intoxicated workers prohibited

No licensee shall work in any capacity in or upon the licensed premises while actually or apparently intoxicated, or allow, permit or suffer any actually or apparently intoxicated person to work in any capacity in or upon the 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).

Revised heading.

#### Law Review and Journal Commentaries

Dram Shop Act—Administrative Regulations—Alcohol—Comparative Negligence—Instructions. Steven P. Bann, 137 N.J.L.J. No. 3, 49 (1994).

**13:2-23.21 Restrictions upon storage of alcoholic beverages**

No licensee shall store any alcoholic beverage except at his licensed premises, or at a public warehouse licensed under the alcoholic beverage law, or at other premises pursuant to special permit first obtained from the Director. Nothing herein shall prohibit the storage of alcoholic beverages by a licensee upon the formerly licensed premises for a period not exceeding five days after the effective date of the transfer of the license to other premises or for a period not to exceed 72 hours following delivery at the licensed premises of alcoholic beverages purchased, as part of a cooperative order by a fellow member of a cooperative purchasing agreement made pursuant to N.J.A.C. 13:2-26.

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).

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).

Provided for storage of alcoholic beverages purchased under a cooperative order.

**13:2-23.22 Requirement for labeled tap markers; provision for electronic systems**

(a) No licensee privileged to sell alcoholic beverages for consumption on the licensed premises shall allow, permit or suffer any tap on the licensed premises to be connected with any barrel or other container of a malt alcoholic beverage unless such tap bears a marker which truly indicates the name or brand of the manufacturer of such malt alcoholic beverage, and unless such name or brand is in full view of the purchaser when the tap is located at a bar at which consumers are served.

(b) On premises where either an electronic or automatic system is being used, which provides for the dispensing of distilled alcoholic beverages in a barroom, and the label on the container from which the beverage is drawn is not visible to a consumer at the bar, then some alternate device must be used to indicate to the consumer the brand being dispensed.

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.

**13:2-23.23 Requirements concerning labels; tax payment indicia**

(a) No retail licensee shall possess, have custody of, or allow, permit or suffer in or upon the licensed premises any alcoholic beverage manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported in violation of the alcoholic beverage law, or any alcoholic beverage in any keg, barrel, can, bottle, flask or similar container which:

1. Does not bear any label describing its contents; or

2. Bears a label which does not truly describe its contents; or

3. Does not bear any indicia of tax payment as required by the laws of the United States.

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**

Liquor licensee was fined and license was suspended for conducting business without Special Federal Tax Stamp. Division of Alcoholic Beverage Control v. William Diggs Family, Inc., 96 N.J.A.R.2d (ABC) 81.

**13:2-23.24 Restrictions upon placing of orders**

No licensee shall place any order within this State for the purchase of any alcoholic beverage or allow, permit or suffer any of his employees to place any order for the purchase of any alcoholic beverage, with any individual soliciting in violation of N.J.A.C. 13:2-16.

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.

**13:2-23.25 Restrictions upon retail/manufacturer or wholesaler relationships**

No retail licensee shall employ or have connected with him in any business capacity whatsoever any person interested, directly or indirectly, in the manufacturing or wholesaling of any alcoholic beverage within or without this State, nor shall any retail licensee be employed by or connected in any business capacity whatsoever with any person interested, directly or indirectly, in the manufacturing or wholesaling of any alcoholic beverage within or without this State.

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.

**13:2-23.26 Fingerprinting requirements**

No licensee shall employ or have connected with him in any business capacity whatsoever any person who refuses to submit himself for fingerprinting when required to do so by the Director or the municipal license issuing authority concerned.

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).

Stylistic changes.

**13:2-23.27 Prohibited activities during license suspension**

(a) No licensee, during the suspension of license, shall:

1. Allow, permit, or suffer the sale, service, delivery or consumption of any alcoholic beverage, or any other alcoholic beverage activity in or upon the licensed premises, except the storage of alcoholic beverages on hand or (with the permission of the Director) the return of alcoholic beverages to wholesalers or manufacturers; or

2. Deliver any alcoholic beverage to any consumer; or
3. Receive delivery of any alcoholic beverage at the licensed premises; or
4. Advertise that the licensed premises is closed or the licensed business stopped because of repairs or alterations or for any reason other than the suspension.

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.

### 13:2-23.28 Responsibility of licensee for employee conduct

In disciplinary proceedings brought pursuant to the alcoholic beverage law, it shall be sufficient, in order to establish the guilt of the licensee, to show that the violation was committed by an agent, servant or employee or the licensee. The fact that the licensee did not participate in the violation or that his agent, servant or employee acted contrary to instructions given by him by the licensee or that the violation did not occur in the licensee's presence shall constitute no defense to the charges preferred in such disciplinary proceedings.

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

License suspended due to employee's sale of marijuana on premises; licensee must bear responsibility for employee's action; penalty mitigated by licensee's serious efforts to stop drug trafficking on premises; 30 day suspension ordered (Division's Final Decision). Div. of Alcoholic Beverage Control v. Red Klotz Enterprises, Inc., 6 N.J.A.R. 13 (1982).

### 13:2-23.29 Detention of evidence; search of licensed premises

By the acceptance of the license, the licensee consents to the detention, as and for evidence, of any physical matter, including alcoholic beverages, found on the licensed premises or during the course of any investigation, inspection or search of the licensed premises being conducted by the Director, the Director's deputies, inspectors or investigators or 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).

Revised heading; stylistic revision.

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.

### 13:2-23.30 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.

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).

Rewrote the section.

#### 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 police 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.

**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 Books of account**

(a) All licensees shall have and keep, for an unlimited period of time, a permanent book or books of account in the English language which shall truly and accurately contain a record of all moneys invested in the licensed business, including loans, the source of all such investments and the disposition of such investments for an unlimited period of time.

(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, a record of all money expended from such receipts; the name of the person receiving such money and the purpose for which such expenditures were made.

(c) All books and records pertaining to investments, receipts or expenditures shall be made available for inspection, upon demand, by the Director and the other issuing authority or the Director's deputies, inspectors, investigators and agents and other officers 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).  
 Clarified five-year record requirement of all moneys received and expended.  
 Amended by R.1995 d.450, effective August 21, 1995.  
 See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).  
 Provided recordkeeping periods.

**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).

SUBCHAPTER 24. TRADE MEMBER  
DISCRIMINATION, MARKETING AND  
ADVERTISING

**13:2-24.1 Discrimination in terms of sale**

(a) The purpose of this subchapter is to promote competition while preserving an orderly marketplace, including, but not limited to, the prevention of destructive price wars, and to promote practices that foster moderation and responsibility in the use and consumption of alcoholic beverages.

(b) For purposes of this subchapter:

1. A discount is an inducement or allowance to purchase a product which is reflected on the wholesaler's invoice at the time the sale of the subject alcoholic beverages to a retailer is completed. A discount is reflected in the cost of the product on which it is given, as it relates to the retailer's sale price for purposes of N.J.A.C. 13:2-24.8. Discounts may include quantity discounts;

2. A rebate is an inducement or allowance to purchase a product which is not reflected on the wholesaler's invoice at the time the sale of the subject alcoholic beverages to a retailer is completed, but which is payable no less than 30 days and no more than 90 days after the payment for the product on which it is given. A rebate is not reflected in the cost of the product on which it is given, as it relates to the retailer's sale price for purposes of N.J.A.C. 13:2-24.8; and

3. A retail incentive program (RIP) is a form of rebate in which a wholesaler provides a financial incentive to a retailer to purchase a specific quantity of alcoholic beverages in one purchase transaction and places no other obligation on the retailer. A purchase transaction is a single order and a single delivery of a specific quantity of a specific alcoholic beverage or combination of beverages, as reflected on a single wholesaler's invoice. More specific requirements for this type of rebate are set forth in (e) below.

(c) 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, be a party to, or assist in, any transaction or sale, or contract to sell:

1. Which discriminates against purchasers, in that:

i. There is a different price or are different credit terms for different purchasers of alcoholic beverages of the same brand or trade name of like age, quality and quantity (including, but not limited, to proof and size); or

ii. It is a discount, rebate, allowance or advertising service granted to a purchaser over and above any discount, rebate, allowance, or advertising service available at the time of such transaction to competitors with respect to a sale of alcoholic beverages of the same brand or trade name of like age, quality and quantity. However, a wholesaler may exclude retail cooperatives from a RIP program without the prior approval of the Director so long as the RIP program complies with (e) below. A wholesaler wishing to exclude retail cooperatives from a RIP program that does not comply with (e) below shall first petition the Director and seek approval of its program. This petition may include one or more such proposed programs and shall be submitted to the Director at least 75 days in advance of the date on which the program(s) is proposed to appear on the Current Price List. Such program(s) shall not appear on the Current Price List without the Director's prior approval. The petition shall include the following information upon which the Director shall make his or her decision:

(1) A detailed description of the proposed program(s);

(2) A detailed description of how individual retail licensees will be able to participate in the program(s);

(3) A detailed explanation of why the program(s) will not destabilize the marketplace, including, but not limited to, the creation of destructive price wars, or unduly increase the consumption of alcoholic beverages; and

(4) Any other information the Director deems necessary from a specific petitioner.

2. Alcoholic beverages in any part of the State at prices lower than those charged by that person or entity elsewhere in the State for the purpose of destroying competition, or eliminating a competitor in the State.

3. Alcoholic beverages at unreasonably low prices for the purposes of destroying competition, or eliminating a competitor.

(d) The provisions of the foregoing shall not prevent:

1. Differentials which make only due allowance for actual differences in the cost of manufacture, sale or delivery resulting from differing methods or quantities in which alcoholic beverage products are sold or delivered to, or paid for by, purchasers including discounts for prompt payment.

(e) Except as approved by the Director under (c)1ii above, a retail incentive program (RIP) rebate shall conform to the following requirements:

1. All wholesalers participating in such programs shall provide the rebate in the form of a monetary payment, payable only by business checks issued by the participating wholesalers;

2. No RIP rebate shall be offered on a quantity in excess of 50 cases for distilled spirits and wine, or 250 cases for beer. For every RIP rebate, there shall be a corresponding small quantity RIP rebate on the same product(s), for a quantity that is five cases or less. The minimum quantity of any RIP rebate shall be one bottle for distilled spirits or wine, or one case for beer;

i. RIP rebates may be based on a combination of various sizes and products. However, no single RIP rebate shall exceed \$1,000;

ii. Nothing in this section shall be deemed to limit the number of single RIP rebates which can be earned for qualifying purchases;

iii. If a wholesaler wishes to offer a RIP rebate using any formula or dollar amount other than that specified in this subsection, it shall obtain the written approval of the Director prior to offering such RIP rebate and prior to publication thereof in the wholesaler's Marketing Manual and Current Price List applicable to the period during which the RIP rebate will be offered;

3. All wholesalers and all retailers participating in such programs shall keep a separate, complete and accurate accounting of all such rebates disbursed or received and all documents that reflect same; and

4. All wholesalers participating in such programs shall publish the details in its Marketing Manual and its Current Price List.

(f) The Director may, on his own initiative or at the request of any affected industry member, investigate and, if appropriate, disapprove and prohibit the continued or renewed use of any RIP, including, but not limited to, a RIP that complies with the formula and dollar amounts specified in (e) above, if the effect of that RIP is inconsistent with the purposes of this subchapter. Whether to disapprove and prohibit a RIP will be considered pursuant to N.J.S.A. 33:1-39 and/or N.J.A.C. 13:2-19.

(g) If the Division investigates and/or prosecutes any discount, rebate, allowance or advertising service offered by any manufacturer, supplier, importer, brand registrant, wholesaler, or distributor, the party offering it must make a prima facie showing that the program is consistent with the applicable statutes and rules.

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.1981 d.432, effective November 2, 1981.

See: 13 N.J.R. 604(b), 13 N.J.R. 777(e).

(b)2 deleted.

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

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

Rewrote the section.

#### 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.

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

### 13:2-24.8 Sales below cost; prohibited

(a) Notwithstanding other provisions of this subchapter, no wholesaler distributor or other licensee, privileged to sell to retailers, and no retail licensee, shall offer to sell or sell alcoholic beverages at a price below "cost" except for authorized samples and donations pursuant to N.J.A.C. 13:2-24.7, or upon petition to and approved by the Director, pursuant to a bona fide "close out" sale.

(b) "Cost" is defined as the actual proportionate invoice price and freight charge to a distributor or wholesaler and the actual proportionate invoice price to a retailer, as the case may be, of any given container of an alcoholic beverage product, plus applicable State and Federal taxes. The actual invoice price shall be determined by the "last-in-first-out" method applying generally accepted accounting principles.

Amended by R.1980 d.304, effective July 3, 1980.  
 See: 12 N.J.R. 343(b), 12 N.J.R. 494(b).

### 13:2-24.9 Combination and tied sales

(a) No licensee shall sell or offer to sell any alcoholic beverage product upon terms that permit purchase of that product, by size and price, only when purchased in conjunction with a different product or the same product in a different size.

(b) Subject to the provisions of N.J.S.A. 33:1-12, the holder of a Class C license, notwithstanding a local ordinance to the contrary, may sell alcoholic beverages in combination with packaged holiday merchandise prepackaged as a unit with other suitable objects as gift items to be sold only as a unit.

(c) The holder of a Class A or B license authorized to sell to retailers, may sell any combination of distilled spirits, malt alcoholic beverages and wine, provided that the combined products offered for sale are all within one of the three noted categories.

(d) The holder of a Class C license, or the holder of any Class A or B license which has the privilege to sell at retail, may sell at retail, may sell, at retail, any combination of alcoholic beverages with or without any other suitable objects provided that such sale is in accordance with the license's privileges and that the combination sale shall not be offered at a price below cost as defined by N.J.A.C. 13:2-24.8.

Amended by R.1980 d.72, effective February 11, 1980.  
 See: 11 N.J.R. 285(b), 12 N.J.R. 156(a).  
 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.1980 d.526, effective December 4, 1980.  
 See: 11 N.J.R. 605(b), 13 N.J.R. 41(c).

Amended by R.1996 d.271, effective June 17, 1996.  
 See: 27 N.J.R. 2051(a), 28 N.J.R. 3177(a).

### 13:2-24.10 Advertising and consumer protection

(a) No manufacturer, importer, registrant, wholesaler, distributor or retailer shall include in any advertising material or in any advertisement, directly or indirectly, any statement, illustration, design, device, name, symbol, sign or representation that:

1. Is false or misleading;
2. Is obscene or lewd;
3. Contains the name of or depiction of any biblical character or religious character or symbol;
4. Portrays a minor or child or items or symbols which are generally associated with children or which tends to induce minors to purchase alcoholic beverages;
5. Tends to create or give the impression that the use of an alcoholic beverage has curative or therapeutic effects or enhances athletic prowess;
6. Offers an alcoholic beverage product for sale to consumers which is not immediately available in reasonable supply at the price, size and age specified, unless advertised at a stated limited quantity;
7. Offers alcoholic beverage pricing information in affiliation with other non-identically owned licensees in a communication which fails to truthfully disclose and prominently indicate:
  - i. The identity of the individual licensee who established the pricing information; and
  - ii. That the specific prices and products featured may not be available at all businesses represented or indicated as being affiliated.

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

### 13:2-24.11 Manufacturers' rebates and coupons

(a) Subject to the provisions of this section, a manufacturer, distiller, blender and rectifier, brewer, vintner, or any importer may offer mail-in rebates or refunds of a portion of the purchase price of alcoholic beverages directly to consumers.

1. No such rebate may be for more than the full amount of the retail purchase price of the alcoholic beverage. In addition, the reimbursement of first-class postage to the consumer for the cost of mailing in the rebate offer for redemption is permitted.
2. Any such rebate offer shall require a form, with all the terms and conditions of the rebate offer clearly stated thereon, to be completed and mailed by a consumer who must be of legal age to purchase alcoholic beverages. A

proof-of-purchase may also be required to be submitted with the form. Such forms shall be distributed to consumers via advertisements in newspapers, magazines, circulars of general distribution, or internet site; by general address mailings; by point-of-sale tear-off pads on retail licensed premises; or by neck-hangers or other attachments on bottles or packaging or other similar means of distribution; provided that such pads, neck-hangers, or other attachments or other similar means of distribution shall be non-discriminatorily distributed to licensees within a targeted advertising area.

3. Any rebate offered in accordance with this section shall be mailed to the consumer completing the form at the address shown thereon in the form of cash or check only.

4. At least 10 days prior to the commencement of any rebate promotion offered in accordance with this section, the manufacturer, distiller, blender and rectifier, brewer, vintner, or importer making such rebate offer shall file in duplicate with the Director of the Division of Alcoholic Beverage Control a statement setting forth all terms and conditions of the rebate offer, including, but not limited to, the amount of rebate, any proof-of-purchase requirement, the effective dates of the offer, the marketing area in which the offer will be promoted, how the offer will be advertised to the public and the name and address of any clearinghouse retained to process rebates. A facsimile or copy of the rebate offer form shall also be filed in duplicate. The Division shall promptly be notified of any change in the terms of a rebate offer prior to such changes taking place.

(b) No manufacturer, distiller, blender and rectifier, brewer, vintner, importer, wholesaler or distributor shall provide or distribute by any means whatsoever any coupon or certificate redeemable for a discount on or "cents-off" the purchase price of any alcoholic beverage by a consumer at any retail licensed premises, nor shall any retail licensee redeem any such coupon or certificate.

(c) A retail licensee may advertise a net final price or a reduction in the price of an alcoholic beverage product or package offered for sale by reason of a manufacturer's rebate or refund, provided that the manufacturer's rebate or refund is conspicuously displayed in the advertising.

New Rule, R.1983 d.361, effective September 6, 1983.

See: 15 N.J.R. 1003, 15 N.J.R. 1478(a).

Amended by R.1983 d.644, effective January 17, 1984.

See: 15 N.J.R. 1830(a), 16 N.J.R. 146(a).

(a)5 and (a)6 added, (c) added.

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

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

Added other means of providing rebate forms.

Administrative Correction.

See: 28 N.J.R. 1552(a).

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

In (a)2, deleted "or" following "magazines," and added ", or internet site" following "distribution".

### 13:2-24.12 Display services

(a) No licensee, permittee, or registrant privileged to engage in the commerce of alcoholic beverages in this State shall, directly or indirectly, furnish to, provide payment for, receive or accept anything of value from, or otherwise utilize in any manner whatsoever, any display service unless such service has registered with the Division in a form prescribed by the Director. Such registration shall include:

1. The name and address of the display service and all officers, directors, partners, stockholders and/or employees thereof unless a publicly traded corporation, in which case only officers, directors and stockholders having at least one percent interest need be furnished;

2. An affidavit or certification that no person listed in (a) above would be disqualified from having an interest in an alcoholic beverage license in this State;

3. Copies of all existing display service agreements with licensees, permittees, registrants, suppliers, importers, manufacturers or cooperatives doing business in the State of New Jersey; and

4. The issuance of a registration acknowledgement, which shall be renewable on May 1 of each year.

(b) Every licensee, permittee or registrant privileged to engage in the commerce of alcoholic beverages in this State shall maintain on its licensed premises all written agreements and detailed records of all transactions with any display service for a period of three years.

Amended by R.1984 d.140, effective April 16, 1984.

See: 15 N.J.R. 1921(a), 16 N.J.R. 916(b), 16 N.J.R. 1278(b).

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

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

Stylistic revision.

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

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

Deleted (b) and renumbered (c) as (b).

## SUBCHAPTER 25. DIVERSION, TRANSSHIPMENT AND REGISTERED DISTRIBUTION

### 13:2-25.1 Plenary and wine wholesalers: Delivery from warehouse inventory

No plenary wholesale licensee or wine wholesale licensee shall deliver alcoholic beverages to a licensed retailer other than from inventory in a warehouse located in New Jersey and operated under a plenary wholesale license or a wine wholesale license. Such "inventory" shall be deemed to include only alcoholic beverages which shall have been stored in such warehouse for at least a period of 24 continuous hours.

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

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

New Rule, R.1984 d.50, effective March 5, 1984.  
 See: 16 N.J.R. 31(a), 16 N.J.R. 428(b).  
 Amended by R.1996 d.142, effective March 18, 1996.  
 See: 28 N.J.R. 61(a), 28 N.J.R. 1552(b).  
 Application limited to malt alcoholic beverages.

SUBCHAPTER 28. (RESERVED)

SUBCHAPTER 29. RECORDS

**13:2-29.1 Public records**

(a) The following enumerated records required to be maintained by law or other regulation by the Director shall constitute public records of the Division:

1. All license or permit applications filed with the Director, subject to nondisclosure of information protected by Federal or State law;
2. All filed administrative disciplinary charges, transcripts of Division disciplinary hearings, Office of Administrative Law initial decisions and reports and recommendations, and Conclusions and Orders of the Director;
3. All filed administrative appeal pleadings, transcripts of Division appeal hearings, Office of Administrative Law initial decisions and reports and recommendations, and Conclusions and Orders of the Director;
4. All Ordinances or Resolutions of local issuing authorities that may be filed with the Division;
5. All product information and other filings required to be made by licensees and permittees by law or regulation; and
6. All records, pleadings, documents and orders, exclusive of investigative reports, pertaining to duly instituted seizure proceedings, pocket license applications and tax revocation proceedings.

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 and 3, added text regarding OAL determinations.  
 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.

**13:2-29.2 Confidential records**

(a) For purposes of investigative confidentiality and integrity, the following records constitute "confidential records" of this Division and shall not be available for inspection or photocopy:

1. All initial reports received concerning alleged violations;
2. All investigative records or reports prepared by Division personnel, or prepared on behalf of this Division

by other duly authorized law enforcement agencies of municipal, State or Federal governments, or their agencies or subdivisions;

3. All questionnaires, documents, records and reports required to be filed with the Director by licensees, permittees and other persons interested, directly or indirectly, with such licensees or permittees, the primary purpose of which is for the use in any investigative matter authorized by the Director;

4. All intergovernmental and intra-Division memoranda, reports, documents or records of and to this Division, including, but not limited to Criminal History Record Information supplied by a Criminal Justice Agency;

5. All such other documents, records, reports and memoranda the Division shall possess, where the primary purpose is the investigation and enforcement of the Alcoholic Beverage Law and its regulations;

6. All solicitors' statements of compensation; and

7. Tax reports and documents filed by licensees regarding the payment of monetary penalties.

Amended by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Added (a)7.

**13:2-29.3 Inspection, reproduction and availability of records; copy fees**

(a) As hereinabove defined and limited, every citizen of this State, during regular business hours, shall have the right to inspect such public records at the Division's offices, and, under the supervision of a Division representative, to copy such public records by hand or purchase copies of same upon payment as hereinafter set forth.

(b) The fee for supplying copies of Division records shall be based upon the total number of pages or parts thereof to be purchased for each individual report or separate record filed with this Division, not upon the ultimate number of pages provided.

1. First page to Twentieth page \_\_\_\_\_ \$1.00 per page;
2. Twenty-first to Fortieth page \_\_\_\_\_ \$0.75 per page;
3. All pages over Forty (40) \_\_\_\_\_ \$0.50 per page.

(c) If the Director finds that there is no risk of damage or mutilation of such records and that it would not be incompatible with the economic and efficient operation of the office and the transaction of public business, any citizen who is seeking to copy any individual record or report which exceeds 100 pages may be permitted to use his own photographic process, approved by the custodian, upon the payment of a fee of \$25.00 per day.

(d) Special records such as computer printouts, tapes and discs or other computer records of the Division may be made available, in the discretion of the Director, upon payment of such special costs relating to the development and reproduction thereof, and upon such terms as shall insure their integrity and the privacy of information contained therein, when required by law.

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).  
 Stylistic changes.

### 13:2-29.4 Licensee records; storage systems and availability of records

(a) Upon written application to the Director accompanied by all relevant specifications and descriptions, the Director, in the exercise of sound discretion, may approve alternate methods or locations for storage of any record required to be maintained by licensees, provided that such a record system permits access to all required records so that they are "readily retrievable" and "accurate".

(b) Records are "readily retrievable" if when relating to a transaction from the date of request they are:

1. Not more than three months old and are produced for inspection immediately upon demand;
2. Not more than one year old but in excess of three months old, and are produced for inspection within two business days; or
3. In excess of one year old and produced for inspection within seven business days.

(c) Records are "accurate" if they are reduced copy of the original document or otherwise correctly reflect all information contained on the original required record.

(d) Computer systems and programs may be used to store records required to be maintained by law or other regulation if such records are retrievable within the time limits as enumerated in this section.

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; in (b)1, added "immediately" to "upon demand".  
 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).

## SUBCHAPTER 30. REGISTRATION OF STILLS

### 13:2-30.1 Stills to be registered

Every still, distilling apparatus and parts thereof, located within this State, whether set up, dismantled or in the process of construction, shall be registered with the Director of the Division of Alcoholic Beverage Control.

### 13:2-30.2 Registration form; contents

Such registration shall be upon forms prescribed by the Director designated as registry certificates, which may be obtained from the Director upon request, and which shall set forth the description and location of the still, distilling apparatus and parts thereof, and the names and address of the owner and the person having possession, control or custody thereof.

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

### 13:2-30.3 Possession of registry certificate on premises

Certificates must be completed and returned to the Director in duplicate, and one of said certificates, bearing due endorsement by the Director of the receipt thereof, shall be returned to the registrant and must at all times be kept on the premises where the still, distilling apparatus and parts thereof are located.

Amended by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Substituted "completed and returned" for "executed and transmitted".

### 13:2-30.4 Removal of registered still

No registered still, distilling apparatus and parts thereof shall be transported, except pursuant to written permission first obtained from the Director, and any registered still, distilling apparatus and parts thereof removed from the premises described in the registry certificate without such permission shall be deemed forthwith unregistered.

### 13:2-30.5 Sale of registered still; notice

When any registered still, distilling apparatus and parts thereof are sold or become the subject of a contract of sale, the registrant shall forthwith notify the Director of the name and address of the purchaser and the place where said still, distilling apparatus and parts thereof are to be delivered.

### 13:2-30.6 Stills of licensed distillery, rectifier or blender

None of the foregoing rules shall apply to any still, distilling apparatus and parts thereof, possessed by or in the custody or control of any licensed distillery or rectifier and blender, when located at the licensed premises and used in connection with the operation of the licensed business, and such stills, distilling apparatus and parts thereof are hereby declared registered during the continuance of the license.

## SUBCHAPTER 31. SEIZURE HEARINGS

### 13:2-31.1 Hearings generally

Contested case hearings to determine whether seized property constitutes unlawful property and shall be forfeited, shall be conducted according to N.J.A.C. 1:1 and either retained by the Director, Division of Alcoholic Beverage Control under the provisions of N.J.S.A. 52:14F-8 or filed with the Office of Administrative Law pursuant to N.J.A.C. 1:1-5.1.

1. The amount of malt alcoholic beverage intended for brewing per year;
2. The site of restricted brewery license activities (must be immediately adjacent to retail license restaurant premises);
3. The name and license number of restaurant and seating capacity;
4. The license number of any other restricted brewery license which is issued to the plenary retail consumption licensee;
5. The manner in which the malt alcoholic beverage product will be sold by the open container, for immediate consumption on the restaurant premises, or as package goods for off premises consumption; and
6. A sketch of the proposed area of the licensed premises specifically setting forth the area in which the malt alcoholic beverage product will be sold.

(b) All applicants for a restricted brewery license shall provide this Division with the following documents:

1. Proof of posting of a tax bond with the New Jersey Division of Taxation;
2. Proof of registration as a brewer with the United States Bureau of Alcohol, Tobacco and Firearms (must be registered prior to issuance of license);
3. Compliance with all State, county and/or local requirements associated with manufacturing and waste water discharge;
4. Proof of notice to local issuing authority regarding intention to operate restricted brewery; and
5. Certification from local issuing authority that applicant has present ownership of an active plenary retail consumption license operated in conjunction with a restaurant.

#### 13:2-34.2 License fees

There is a base license fee of \$1,000 which must be paid at the time of the initial application. This fee shall entitle the licensee to brew up to one thousand 31 fluid gallon barrels per year. There is an additional \$500.00 fee for every additional 1,000 barrels up to a 3,000 annual barrel limit. All fees shall be payable to the Division of Alcoholic Beverage Control.

#### 13:2-34.3 Restaurant premises

(a) For the purposes of this license, a restaurant is defined as a premises which is regularly and principally used for the purpose of providing meals to its customers and having adequate kitchen and dining room facilities. The applicant shall submit a sketch of the restaurant premises which must be immediately adjacent to the restricted brewery. The sketch shall reflect the seating capacity of the

restaurant, the menu provided to customers and the layout of the restaurant showing where the malt alcoholic beverage will be sold for off premises consumption, if any.

(b) The Director shall issue a restricted brewery license only to persons or entities who have identical ownership of an active plenary retail consumption license operated in conjunction with an immediately adjacent restaurant as defined herein. A site visit by the Division will be conducted to ensure compliance with these regulations.

(c) For purposes of this subchapter, the term "adjacent" shall include but not be limited to those premises which are entirely surrounded and enclosed within the restaurant licensed premises.

#### 13:2-34.4 Tasting and sale for off-premises consumption

(a) A restricted brewery licensee may offer, without charge, no more than five ounces of the brewed malt alcoholic beverage for consumption on the licensed premises as a sampling of the brewed product. This sampling shall not be offered to the same customer more than once, for each malt beverage brewed on the premises, during the hours of sale on any day.

(b) In addition to the sale of brewed malt alcoholic beverage for on premises consumption, sales for off premises consumption may be conducted on the retail licensed premises.

(c) The containers in which the malt alcoholic beverage are sold for off-premises consumption shall be sealed refillable containers having labeling approved by the Division. The containers may be returned to the restricted brewery and at the time of refill shall be sealed by the licensee.

(d) Display and sale of the malt alcoholic beverages for off-premises consumption on the restaurant licensed premises shall comply with all pertinent provisions of N.J.A.C. 13:2-35.

#### 13:2-34.5 Hearings

The Director shall hold a hearing if the governing body of the municipality in which the license will be located files a written objection with the Director. The Director shall thereafter issue the license only if such issuance will not be contrary to the public interest.

#### 13:2-34.6 Disciplinary proceedings

Any disciplinary proceedings against a restricted brewery license shall be in accordance with N.J.A.C. 13:2-19. The institution of disciplinary proceedings against a restricted brewery license shall be considered separate and distinct from and shall not adversely affect the status of the plenary retail consumption license owned by the person or entity holding the restricted brewery license. However, the Director may institute disciplinary proceedings against the plenary retail consumption license when the factual basis of

the violation charged involves the operation of both the plenary retail consumption license and the restricted brewery license.

#### Case Notes

Transfer of retail consumption license with package sales to site adjacent to licensed premises with restaurant was granted. *Pungoti v. Sayreville*, 95 N.J.A.R.2d (ABC) 72.

#### 13:2-35.2 Prohibition on sales of package goods from other than the principal barroom except by holders of the broad package privilege

(a) No holder of a plenary retail consumption license or seasonal retail consumption license, except as provided by N.J.S.A. 33:1-12.24 and 12.25, shall sell or display for sale any alcoholic beverage in the original container for off-premises consumption except from and in the bona fide public barroom of the licensed premises (the privilege to engage in such sale and display in other than such barroom being known as the "Broad Package Privilege") unless:

1. On or before June 30, 1948, the Director of the Division of Alcoholic Beverage Control received from such a licensee's municipal license issuing authority certification that such licensee, on May 27, 1948, sold alcoholic beverages in original containers for consumption off the licensed premises, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom; or

2. The Director of the Division of Alcoholic Beverage Control has approved a verified petition, received on or before June 18, 1948, by such a licensee alleging that on May 27, 1948, such licensee was not actually engaged in the sale of alcoholic beverages in original containers for off-premises consumption from a portion of the licensed premises other than the public barroom by reason of:

- i. Building alteration or construction in progress;
- ii. Prior destruction or loss of possession of the licensed premises; or
- iii. Non-operation of the entire licensed business, but that, prior to May 28, 1948, such licensee had sold alcoholic beverages in original containers for off-premises consumption from a portion of the premises other than the public barroom or had actually undertaken alteration or construction of the licensed premises to be licensed, intending and making provision thereon for the sale of alcoholic beverages in original containers for off-premises consumption from a portion of the premises other than the public barroom.

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.

#### 13:2-35.3 Notation of privilege on license certificate; daily certification

The Division of Alcoholic Beverage Control shall note the following on the face of the renewal license certificate of each holder of a license which includes the "Broad package privilege" as set forth in N.J.A.C. 13:2-35.2:

### SUBCHAPTER 35. SALE AND DISPLAY OF ALCOHOLIC BEVERAGES IN ORIGINAL CONTAINERS BY CONSUMPTION LICENSEES NOT HOLDING THE BROAD PACKAGE PRIVILEGES

#### 13:2-35.1 Definitions

(a) For the purpose of this regulation:

1. A public barroom shall be a room containing a public bar, counter or similar piece of equipment, which must occupy not less than 15 percent of the total square footage of said room and which is designed for and used to sell and dispense alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises.

2. The public bar, counter or similar piece of equipment must be equipped with hot and cold running water, sink, drainboard, a sufficient number of bar stools (minimum of one for each three feet of bar perimeter), utensils and glassware for the making and serving of mixed drinks, and a sufficient number of opened bottles of alcoholic beverages for the service of drinks to be consumed upon the licensed premises. A substantial portion of the bar must be visible from all public entrances to the barroom.

3. The principal public barroom shall be the room in which the main public bar is located. In determining which public barroom shall constitute the principal public barroom, consideration shall be given to the nature of the operation and volume of alcoholic beverage business for consumption on the licensed premises, the accessibility to the barroom, the size of the barroom, and the hours of operation.

4. A "perimeter wall" of a barroom is defined as an external, generally weight bearing wall of the barroom.

5. The "outside edge" of the cashier (package goods) sales counter is defined as the edge away from the licensee's employee who is conducting sales (that is, the edge of the counter immediately facing the customer). The counter, the walking space behind the counter, and any shelving attached to the perimeter wall (behind the counter) must fall within the five foot limitation as set out in N.J.A.C. 13:2-35.4(a)2.

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 (a)4 and (a)5.

“This license bears the “Broad package privilege” pursuant to P.L. 1948, ch. 98 (N.J.S.A. 33:1-12.23 and N.J.A.C. 13:2-35.2)”.

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

In former (a), changed “issuing authority” to “Division of Alcoholic Beverage Control”; deleted (b), regarding daily certifications.

**13:2-35.4 Off-premises consumption sales; requirements and prohibitions**

(a) No licensee without the “Broad package privilege” shall, with respect to the public barroom in which he may sell or display for sale alcoholic beverages in original containers for off-premises consumption:

1. Display package goods in the principal public barroom other than in an area located behind the bar or on shelving along the perimeter walls of the barroom, which shelving must not exceed two feet in depth, must be attached to the perimeter walls and run parallel to same, may be located below and around the exterior windows but not in any way obstructing the windows, and may include refrigerated cases, which are located flush and fastened to the wall;

2. Maintain a cashier service counter which exceeds more than three percent of the net sales area (with an area 30 inches behind a straight counter being included as part of the counter), nor shall any licensee maintain such counter, the outside edge of which is located more than five feet from a perimeter wall;

3. Maintain folding doors, gates, curtains, or other type of separation to be utilized for the purpose of closing off the package goods display area from the remainder of the barroom, except that such area may be roped off to the public during the hours when the sale of alcoholic beverages for off-premises consumption is prohibited;

4. Permit the public bar to be obstructed by low walls, screens, filigree, plants, flower boxes, racks, gondolas, movable shelves, fences, stacks of alcoholic beverages (including malt alcoholic beverages), or other mercantile items or merchandise.

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 13:2-35.5. In (a), added “Broad package privilege” qualification. Prior text at 13:2-35.4, “Lack of notation of privilege on license certificate”, repealed.

Amended by R.2000 d.342, effective August 21, 2000.  
See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

In (a)1, deleted “and” following “same,”; added “, and may include refrigerated cases, which are located flush and fastened to the wall” at end of paragraph.

**Case Notes**

Transfer of retail consumption license with package sales to site adjacent to licensed premises with restaurant was granted. Pungoti v. Sayreville, 95 N.J.A.R.2d (ABC) 72.

**13:2-35.5 Multiple barrooms; package goods sales restricted to the bona fide principal barroom**

No holder of a plenary retail consumption license or seasonal retail consumption license, without the “Broad package privilege” as set forth in N.J.A.C. 13:2-35.1, 35.2 and 35.3, who maintains at the same time more than one barroom on the licensed premises, shall sell or display for sale any alcoholic beverage in the original container for off-premises consumption except from and in principal bona fide public barroom on the 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).

Recodified from 13:2-35.6. Revised heading. Recodified prior text at 13:2-35.5, “Off-premises consumption sales; requirements”, to 13:2-35.4.

**13:2-35.6 (Reserved)**

Recodified to 13:2-35.5 by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Section was “Multiple barrooms”.

**SUBCHAPTER 36. REQUESTS FOR ADVISORY OPINIONS**

**13:2-36.1 Advisory opinions**

(a) Other than in proceedings instituted pursuant to N.J.S.A. 52:14B-8 (Declaratory Rulings), a written request for an interpretation, application, or other inquiry concerning the Division of Alcoholic Beverage Control’s regulations, policies or practices shall only be considered if it sets forth issues not previously articulated by the Division or involves a substantial question of general applicability.

(b) All requests shall be sent to the Director, Division of Alcoholic Beverage Control, PO Box 087, Trenton, New Jersey 08625-0087, and any request and corresponding advisory opinion may be reproduced in Bulletins issued by the Division which are publicly available upon subscription. Requests which are hypothetical in nature may not receive Division response. All requests shall contain a certification that the requesting party is not aware that the subject matter of the inquiry is presently an issue pending in any Federal or State court or any administrative adjudicatory forum. If the requesting party is aware that the subject matter of the inquiry is an issue pending in any court or forum, the nature of the proceedings and identification of the court or forum shall be fully described in the request for the advisory opinion.

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), “a written request” was “a written non-hypothetical request”; added new (b), with Division address for submitting requests; redesignated existing (b) as (c).

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

Added certification of the legal status of the inquiry subject matter in (b) and deleted (c).

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

In (b), substituted "may" for "will" following "nature".

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Rewrote (a)5.

Special amendment, R.2003 d.311, effective July 3, 2003 (to expire January 3, 2004).

See: 35 N.J.R. 3707(a).

In (a)7, substituted "\$200.00" for "\$100.00" throughout.

Adopted concurrent amendment, R.2003 d.470, effective November 5, 2003.

See: 35 N.J.R. 3707(a), 35 N.J.R. 5427(a).

Provisions of R.2003 d.311 adopted without change.

## SUBCHAPTER 37. CONSUMER ALCOHOLIC BEVERAGE TASTINGS AND TASTING DINNERS

### 13:2-37.1 Consumer alcoholic beverage tastings or tasting dinner events

(a) Consumer alcoholic beverage tastings or tasting dinner events may be held under the following conditions:

1. The host for an event shall hold a valid permit or actively operated license exercising the on-premise consumption privilege;

2. No event shall be conducted on a plenary or limited retail distribution licensed premises;

3. The event shall be conducted and promoted in connection with an instructional or educational program for alcoholic beverage products;

4. All alcoholic beverages sampled at the event shall be obtained from the inventory of the host licensee or Annual State permittee or, if a social affair permittee, purchased in accordance with Division laws and regulations;

5. The event is not open to the general public, but is limited to consumers who purchase a ticket;

6. Servings of alcoholic beverages per person are limited to:

i. No more than five ounces of a particular malt alcoholic beverage, or naturally fermented or sparkling wine at consumer tasting dinners,

ii. No more than one and one-half ounces of a particular naturally fermented or sparkling wine or four ounces of a malt alcoholic beverage at consumer tastings or

iii. No more than one-half ounce of a particular fortified wine or distilled spirit at consumer tastings or consumer tasting dinners; and

7. Suppliers, manufacturers or wholesalers of alcoholic beverages may apply for an annual special permit to participate in consumer tasting events solely to provide educational commentary regarding the alcoholic beverages. The fee for the annual special permit for the supplier, manufacturer or wholesaler shall be \$200.00 and an additional \$200.00 permit for each solicitor or duly authorized representative. Ten days prior to participating in the event, the permittee shall file with the Division a consumer tasting request on a form prescribed by the Director.

## SUBCHAPTER 38. LIMITATION OF HOURS FOR SALE AND DELIVERY AT RETAIL OF ALCOHOLIC BEVERAGES IN ORIGINAL CONTAINERS FOR OFF-PREMISES CONSUMPTION

### 13:2-38.1 Retail package sales hours

(a) Subject to local options as expressed in the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq. and except as further specified in (b) below, no licensee shall allow, permit or suffer the sale, service or delivery of any alcoholic beverage at retail in its original container for consumption off the licensed premises, or the removal of any alcoholic beverage in its original container from retail licensed premises, before 9:00 A.M. or after 10:00 P.M. on any day of the week.

(b) However, if the sale of alcoholic beverages for consumption on the premises is authorized in a municipality, the sale, service or delivery of wine and malt alcoholic beverages in original containers for consumption off the premises shall be authorized on the same days and during the same hours.

(c) Cities of the first class may establish by ordinance separate hours of sale for each type of retail license, and separate hours for each type of retail license for sales by such licenses of alcoholic beverages for on-premises and off-premises consumption.

Amended by R.1973 d.234, effective August 30, 1973.

See: 5 N.J.R. 356(a).

Amended by R.1981 d.71, effective May 1, 1981.

See: 13 N.J.R. 37(b), 13 N.J.R. 238(b).

Added "Subject to . . . N.J.A.C. 13:2-38.2" and "pursuant to N.J.S.A. 33:1-40.3".

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

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

Revised to include service and wine; other textual revisions.

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

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

Divided existing text into (a) and (b) and added (c).

Amended by R.2000 d.342, effective August 21, 2000.

See: 32 N.J.R. 1717(a), 32 N.J.R. 3162(a).

Rewrote (c).

**13:2-38.2 Sunday sales hours for retail distribution licensees and state beverage distributors; effect of municipal ordinances and State statute on sale for off-premises consumption**

(a) If a municipality has no ordinance or local law that authorizes the sale of alcoholic beverages for consumption

on the premises on Sunday, then except as provided in (b) below, a municipality may by ordinance authorize the sale of wine and malt alcoholic beverages in original containers for consumption off-premises by retail distribution licensees and State beverage distributor's licensees any time between the hours of 12:30 P.M. and 6:30 P.M. on Sunday, in addition to such weekday hours as may be authorized by ordinance.

(b) If a licensee enters into a Consent Order that provides a date certain for activation or there will be no further renewals of the license, the licensee may file a Motion to Reopen Consent Order with the Director. The motion shall only be granted upon a showing of extreme justification. The following factors will be considered in reaching this determination:

1. Was there a serious material event that occurred which prevented the license from being activated;
2. Was the material event unforeseen at the time the Consent Order was entered into;
3. Is the license transfer to a premises for immediate activation pending or is construction of premises near completion; and
4. Would denial of the Motion to Reopen the Consent Order, under the circumstances, result in manifest injustice.

#### **13:2-43.6 Right to a hearing**

(a) There is a statutory right to a hearing on a request for relief pursuant to N.J.S.A. 33:1-12.39. That hearing shall be governed by the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) If a licensee enters into a Consent Order in lieu of a hearing and agrees to a date certain for activation or there will be no further renewals of the license, there shall be no further right to a hearing.

#### **13:2-43.7 Effect of the filing of a Verified Petition**

The filing of a Verified Petition for relief pursuant to N.J.S.A. 33:1-12.39 for a particular license term(s) does not eliminate the requirement that the licensee continue to apply for renewal of the license for subsequent license terms by June 30 of each year and file additional Verified Petitions for relief pursuant to N.J.S.A. 33:1-12.39, if necessary, while the initial Verified Petition is pending.