

**13:2-22.4 Dates and location of training**

The educational training programs required under this subchapter shall be available and reasonably accessible to all plenary and limited retail distribution licensees in the State. The training programs shall be offered at least once every three months, subject to need, in the geographical area covered by each of the current three telephone area codes in New Jersey; as well as at least once annually on a Statewide basis.

**13:2-22.5 Designation of entity to conduct the training programs**

In order to satisfy the training requirements on the most cost efficient basis, and in furtherance of the authority set forth in N.J.S.A. 33:1-12.45, the Director, Division of Alcoholic Beverage Control may contract with a non-profit educational organization in this State to administer and conduct all or part of the educational training programs required by this subchapter.

**13:2-22.6 Training program curriculum**

(a) The Director, Division of Alcoholic Beverage Control, shall establish and revise annually the course content and shall approve the individual instructors or lecturers who will conduct the training programs, in consultation with any non-profit educational organization he or she may have contracted with in accordance with N.J.A.C. 13:2-22.5.

(b) The curriculum for the initial training programs shall include, but is not limited to, an explanation and development of the following:

1. The provisions of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq., as it relates to the distribution, transportation, sale, and marketing of alcoholic beverages by retail distribution licensees; with detailed emphasis placed on the provisions of law governing the sale and delivery of alcoholic beverages to persons under the legal age;
2. The rules and regulations promulgated by the Director, Division of Alcoholic Beverage Control, N.J.A.C. 13:2, governing the sale, advertising, transportation, required records, promotion and marketing of alcoholic beverages, the disciplinary and adjudicatory procedures and consequences attendant to violative activity, and the permitted and prohibited conduct and use of the license and the licensed premises;
3. The application of municipal ordinances and regulations concerning the licensure, hours of sale, location, restrictions and permitted use of retail licenses and licensed premises established by municipal governing bodies or municipal boards of alcoholic beverage control;
4. Relevant administrative policies and determinations of the Director, Division of Alcoholic Beverage Control, the requirements and procedures for the collection and remittance of New Jersey taxes, and other State and

Federal laws and regulations that impact upon the retail alcoholic beverage industry of the State of New Jersey; and

5. The relationship and application of the 10 point legislative declaration of policy and purpose set forth in N.J.S.A. 33:1-3 to the conduct and use of retail liquor licenses.

(c) The curriculum for the supplemental training program shall include, but not be limited to, any changes in the Alcoholic Beverage Control Act or other related laws affecting retail licensed businesses, new or amended regulations of the Division of Alcoholic Beverage Control, administrative and judicial policy changes, prevailing market or societal conditions and reinforcement or further expansion of matters addressed in the initial training program or revisions thereto.

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

**13:2-22.7 Registration fees**

(a) Each attendee shall be required to pay a registration fee in an amount to be established by the Director, Division of Alcoholic Beverage Control, giving due consideration to the actual expenses required to properly operate and maintain the educational training programs. The cost of registration shall be reviewed annually by the Director against the actual operational expenses and adjusted accordingly. In no event shall the registration fee for each attendee be less than \$50.00 nor more than \$150.00.

(b) A schedule of registration fees and any subsequent amendments thereto shall be set forth and published in the Alcoholic Beverage Control Bulletin, and otherwise disseminated to all affected licensees.

(c) For purposes of administration, if the Director contracts with a non-profit educational organization pursuant to N.J.A.C. 13:2-22.5, the full registration fee shall be remitted to the contracting educational organization. That organization shall forward 20 percent of the fee to the Director, within seven business days after receipt for deposit in the State Treasury. The balance of the fee shall be retained by the educational organization to reimburse it for the costs associated with the conduct and maintenance of the educational training programs, including the scheduling, notice and promotional expenses, site expenses, instructional expenses (other than personnel of the Division of Alcoholic Beverage Control or other State employees), course materials, and other related expenses.

(d) The non-profit educational organization shall maintain true and accurate books of account concerning all aspects of the operation and maintenance of the educational training program, which records shall be made available for inspection by the Director upon demand. The organization shall provide the Director with a full and complete fiscal

and operational report detailing the program's activities on an annual basis; and it shall post an adequate performance bond if required by the Director.

**13:2-22.8 Certification of educational training or order of deferment**

(a) Upon the satisfactory completion of an initial or any supplemental educational training program required under this subchapter, the holder of a plenary or limited retail distribution license shall receive from the Director, Division of Alcoholic Beverage Control, a Certificate of Educational Training. The certificate shall include the date and location of the completed training program, the name of the attendee or attendees on behalf of the licensee, and the licensee's name, address and license number. The Certificate of Educational Training may be displayed on the licensed premises and must be made available to the licensing issuing authority at the time of any application for renewal of the license.

(b) Any holder of a plenary or limited retail distribution license who is unable to attend an initial or supplemental training program within the required time period, may apply to the Director, no later than 30 days before the expiration of the requisite training time period, for a deferment of the requirement for attendance in the educational program. The request for deferment shall be made to the Director on a form to be prescribed by the Director and accompanied by a non-refundable processing fee of \$25.00. If the Director is satisfied that there is good cause for the deferment, the Director shall issue an Order of Deferment of the training requirement, subject to conditions thereon as may be appropriate.

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

**13:2-22.9 Sanctions for noncompliance**

(a) Any holder of a plenary or limited retail distribution license who fails to attend and successfully complete the required initial or supplemental educational training program within the time period set forth in this subchapter, and who has not received a currently valid Order of Deferment, shall be subject to the following administrative sanctions to be imposed by the Director, Division of Alcoholic Beverage Control.

1. The first failure to attend or successfully complete the training program within the time periods set forth in this subchapter shall constitute a first offense and shall subject the licensee to a monetary penalty of \$250.00 in lieu of institution of formal disciplinary proceedings, with a requirement that the training be completed within the following three months.

2. Failure to attend or successfully complete the training program within the three month extension after a first offense shall constitute a second offense and subject the licensee to a monetary penalty of \$500.00 in lieu of institution of formal disciplinary proceedings, with a requirement that the training be completed within the following three months.

3. Failure to attend or successfully complete the training program within the additional three month extension granted a second offender shall constitute a third offense and subject the licensee to a monetary penalty of \$1,000 in lieu of institution of formal disciplinary proceedings, with a requirement that the training be completed within the following three months.

4. Any failure to comply with the final three months extension afforded a third offender shall subject the licensee to formal administrative charges that can lead to an indefinite suspension of license, with leave granted to lift the suspension upon payment of a monetary penalty of \$2,000 and proof of satisfactory completion of the educational training program.

(b) False or misleading representations by a licensee in its petition for a deferment are grounds for suspension or revocation of its license.

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

**13:2-22.10 (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 "Subchapter operative date".  
Section was "subchapter operative date."

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

**Subchapter Historical Note**

Pursuant to Executive Order No. 66(1978), Subchapter 23 was re-adopted as R.1984 d.51, effective February 14, 1984. See: 16 N.J.R. 29(a), 16 N.J.R. 428(a). See also Chapter Historical Note and section annotations.

**13:2-23.1 Prohibition against serving persons under the legal age and intoxicated persons**

(a) No licensee shall sell, serve or deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any person under the legal age to purchase or consume alcoholic beverages, or allow, permit or suffer the consumption of any alcoholic beverage by any such person in or upon the licensed premises.

(b) No licensee shall sell, serve or deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any person actually or apparently intoxicated, or permit or suffer the consumption of any alcoholic beverage by any such person in or upon the licensed premises.

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.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).

#### Case Notes

Casino patron could not recover damages from casinos under dram shop liability doctrine for gambling losses allegedly caused by casinos' conduct in serving free alcoholic beverages to patron and allowing him to continue to gamble. *Hakimoglu v. Trump Taj Mahal Associates*, C.A.3 (N.J.)1995, 70 F.3d 291.

Casino Control Commission did not have exclusive primary jurisdiction over claims for gambling losses. *Greate Bay Hotel & Casino v. Tose*, C.A.3 (N.J.)1994, 34 F.3d 1227, rehearing and rehearing in banc denied.

Losses incurred by patron allowed to gamble while drunk were proximately caused by casino's negligence. *Tose v. Greate Bay Hotel and Casino Inc.*, D.N.J.1993, 819 F.Supp. 1312.

Contributory negligence based on intoxication of patron is not available to casino. *Tose v. Greate Bay Hotel and Casino Inc.*, D.N.J.1993, 819 F.Supp. 1312.

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

Prerequisites to establish tavern owner's negligence in serving alcoholic beverages to a patron noted. *Geherty v. Moore*, 238 N.J.Super. 463, 570 A.2d 29 (A.D.1990), certification granted 122 N.J. 148, 584 A.2d 219, appeal dismissed as improvidently granted 127 N.J. 287, 604 A.2d 110.

Finding that automobile accident was not proximately caused by motorist's intoxication, so that tavern owner was not liable supported by evidence. *Geherty v. Moore*, 238 N.J.Super. 463, 570 A.2d 29 (A.D.1990), certification granted 122 N.J. 148, 584 A.2d 219, appeal dismissed as improvidently granted 127 N.J. 287, 604 A.2d 110.

Parents had duty to public to exercise reasonable care to arrange for competent supervision of their teenagers. *Morella v. Machu*, 235 N.J.Super. 604, 563 A.2d 881 (A.D.1989).

Insurer did not have duty to defend and indemnify bar in action by barmaid for wrongful termination in violation of public policy. *John's Cocktail Lounge, Inc. v. North River Ins. Co.*, 235 N.J.Super. 536, 563 A.2d 473 (A.D.1989).

Licensee who sells package-alcoholic beverages to visibly intoxicated patron who thereafter negligently operates motor vehicle, is liable for injuries inflicted upon third party as a result thereof. *Tilton v. Brombacher*, 232 N.J.Super. 374, 556 A.2d 1337 (L.1989).

Tavern could be held 75% responsible for deaths and injuries caused by fire, in dram shop action wherein it was alleged that underage drinker negligently set house on fire. *Finney v. Ren-Bar, Inc.*, 229 N.J.Super. 295, 551 A.2d 535 (A.D.1988).

Statute prohibiting underage person from entering casino imposed strict liability. State, Dept. of Law and Public Safety, Div. of Gaming Enforcement v. Boardwalk Regency Corp., 227 N.J.Super. 549, 548 A.2d 206 (A.D.1988).

Record supported the determination that the licensee delivered, either directly or indirectly, or "permitted or suffered" the delivery of beer to a person under legal age, even if a person of legal age had paid for the beer. N.J. Div. of Alcoholic Beverage Control v. H & H Wine and Spirit Shop, 216 N.J.Super. 532, 524 A.2d 466 (App.Div.1987).

Issue of whether owner of liquor store should reasonably have foreseen that underage purchaser would share liquor with minor injured in one car collision was question for jury. *Thompson v. Victor's Liquor Store, Inc.*, 216 N.J.Super. 202, 523 A.2d 269 (App.Div.1987).

Licensee's action dismissed against minor for lost profits due to license suspension caused by licensee's sale of liquor to minor who orally misrepresented age; licensee's failure to obtain written representation of minor's age was proximate cause of suspension. *Faces, Inc. v. Kennedy*, 185 N.J.Super 113, 447 A.2d 592 (Law Div.1981), affirmed per curiam 185 N.J.Super. 77, 447 A.2d 572 (App.Div.1982).

Failure to require underage person to present identification warranted thirty-day suspension of liquor license. *Montville Enterprises v. Township Council*, 95 N.J.A.R.2d (ABC) 55.

Failure to prove that liquor store owner sold alcohol to minors who were subsequently involved in a fatal car accident. *Division of Alcoholic Beverage Control v. Chatfield and Connolly, Inc.*, 94 N.J.A.R.2d (ABC) 51.

Service to underage persons; allowing them to carry beer out of store after another person had paid for it. *Division of Alcoholic Beverage Control v. Mr. G's, Inc.*, 92 N.J.A.R.2d (ABC) 52.

Suspension of license; sale of alcoholic beverages to a person under the legal age. *De Cesare, Inc. v. City of Vineland*, 92 N.J.A.R.2d (ABC) 37.

Fine in lieu of suspension of plenary retail consumption license. N.J.S.A. 33:1-31, 33:1-77. *W.A.M. Night Clubs, Inc. v. Township Committee of the Township of Teaneck*, 92 N.J.A.R.2d (ABC) 17.

Respondent guilty of selling alcoholic beverages to an underage individual (Decision of Div. of A.B.C.). *Div. of Alcoholic Beverage Control v. H & H*, 11 N.J.A.R. 478 (1986) affirmed 216 N.J.Super. 532, 524 A.2d 466.

Finding of not guilty of serving intoxicated person; conduct observed by licensee's employees did not give rise to conclusion by reasonable person that customer was intoxicated. *Div. of Alcoholic Beverage Control v. Harry M. Stevens, Inc.*, 5 N.J.A.R. 141 (1981).

#### 13:2-23.2 Prohibiting sales or consumption of alcoholic beverages during elections; municipal option

No licensee shall sell or offer for sale at retail or deliver to any consumer any alcoholic beverage, or allow, permit or suffer the consumption of any alcoholic beverage in or upon the licensed premises while the polls are open for voting in any municipality in which an election is being held and the sale of alcoholic beverages is prohibited during such election by municipal ordinance.

Amended by R.1970 d.101, effective August 24, 1970.  
See: 2 N.J.R. 76(a).  
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.

#### 13:2-23.3 Closing premises during public emergency or crime investigation

No licensee shall sell, serve or deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, at retail, or allow, permit or suffer the consumption of any alcoholic beverage on the licensed premises, or allow, permit or suffer the retail licensed premises to be open, during any period for which any duly constituted State, county or municipal law enforcement authority, because of a public emergency or investigation of crime, has ordered the li-

censed premises to be closed, unless excepted by such authority to permit continuing conduct of business other than the sale of alcoholic beverages.

### 13:2-23.4 House-to-house solicitation forbidden

No licensee shall solicit from house-to-house, personally or by telephone, the purchase of any alcoholic beverage, or allow, permit or suffer such solicitation.

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.

### 13:2-23.5 Prohibited patrons; narcotics or other unlawful drugs; illegal activity or enterprise

(a) No licensee shall allow, permit or suffer in or upon the licensed premises the habitual presence of any known prostitute, gangster, racketeer, notorious criminal, or other person of ill repute.

(b) No licensee shall allow, permit or suffer in or upon the licensed premises any unlawful possession of or any unlawful activity pertaining to:

1. Narcotic drugs;
2. Controlled dangerous substances as defined by the New Jersey Controlled Dangerous Substances Act (N.J.S.A. 24:21-1 et seq.);
3. Controlled dangerous analogs as defined by the Comprehensive Drug Reform Act of 1987 (N.J.S.A. 2C:35-1 et seq.);
4. Any prescription legend drug, in any form, which is not a narcotic drug or a controlled dangerous substance or analog, as so defined; or
5. Drug paraphernalia as defined by N.J.S.A. 2C:36-1.

(c) No licensee shall allow, permit or suffer the licensed premises to be accessible to any premises upon which any illegal activity or enterprise is carried on, or the licensed premises or business to be used in furtherance or aid of or accessible to any illegal activity or enterprise.

Amended by R.1972 d.67, effective April 6, 1972.  
See: 4 N.J.R. 50(a), 4 N.J.R. 105(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), added numbered paragraphs, "Controlled dangerous analogs . . ." and "Drug paraphernalia . . .".

#### Case Notes

Revocation of liquor license was improper. County Hearth, Inc., v. Old Bridge Twp. Council, 221 N.J.Super. 293, 534 A.2d 424 (App.Div. 1987).

Law enforcement officers could not search the nonpublic areas of a licensed tavern for evidence of general criminality, unrelated to the operation of the licensed activity, without a search warrant. 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).

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.

Stockholder's crime of distribution of a controlled dangerous substance was one of moral turpitude; retail consumption license properly revoked. Division of Alcoholic Beverage Control v. Doug-Kar Corp., 92 N.J.A.R.2d (ABC) 21.

Employees selling drugs and guns and delivering liquor for off-premises consumption after legal hours of sale; suspension of license. N.J.S.A. 33:1-3.1. Director of the Div. of Alcoholic Beverage Control v. Vanmar Liquors, Inc., 92 N.J.A.R.2d (ABC) 9.

Sale of cocaine on premises warranted revocation of liquor license. Fischer v. Mayor and Council of the City of Garfield, 92 N.J.A.R.2d (ABC) 1.

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).

Violation found for employee's possession of narcotics paraphernalia on premises. Canal Street Pub, Inc. v. Municipal Bd. of Alcoholic Beverage Control, City of Paterson, 6 N.J.A.R. 221 (1982).

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 during 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).

License revoked for cocaine trafficking on premises by majority stockholder; minority stockholders' lack of knowledge of activity not excusable in mitigation of penalty. Valdivia's Bar, Inc. v. Elizabeth City Council, 6 N.J.A.R. 161 (1981).

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).

**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, no licensee or registrant privileged to sell or solicit the sale of alcoholic beverage within this State shall, directly or indirectly, allow, permit or suffer any practice or promotion that:

1. Offers to the public at large unlimited availability of any alcoholic beverage for a set price; or
2. Offers to a patron or consumer a free drink, gift, prize or anything of value, conditioned upon the purchase of an alcoholic beverage or product, except:
  - i. Branded or unique glassware or souvenirs in connection with a single purchase, or
  - ii. Consumer mail-in rebates offered by alcoholic beverage producers or importers in accordance with N.J.A.C. 13:2-24.11; or
  - iii. In off-premises promotions, where the licensee or registrant provides a thing of value or an alternate means of entry to obtain a thing of value that is not unduly burdensome; or
3. Requires or allows a consumer to prepurchase more than one drink or product at a time via tickets, tokens, admission fees, two for one, or the like, as a condition for entry into a licensed premises or as a requirement for service or entertainment thereon.

(b) A prohibited promotion is one that offers any prize, gift or award which consists of alcoholic beverages or coupons or gift certificates which may be redeemed for alcoholic beverages. 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.

(c) 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).

**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.

**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.

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

**Subchapter Historical Note**

This subchapter was filed and became effective prior to September 1, 1969. Amendments were filed and became effective on August 24, 1970 as R.1970 d.101. See: 2 N.J.R. 76(a). Further amendments were filed and became effective on April 6, 1972 as R.1972 d.67. See: 4 N.J.R. 50(a), 4 N.J.R. 105(c). Additional amendments were filed and became effective on August 30, 1973 as R.1973 d.234. See: 5 N.J.R. 356(a). Additional amendments were filed and became effective on December 16, 1974 as R.1974 d.341. See: 6 N.J.R. 439(a), 7 N.J.R. 13(a). Further amendments to this subchapter were filed on April 4, 1979, effective on May 1, 1979 as R.1979 d.138 (except N.J.A.C. 13:2-24.6 which became effective on April 12, 1979). See: 11 N.J.R. 143(a), 11 N.J.R. 257(c). Pursuant to Executive Order No. 66(1978), Subchapter 24 was readopted as R.1984 d.155, effective April 12, 1984. See: 16 N.J.R. 412(a), 16 N.J.R. 1095(a). See also Chapter Historical Note and section annotations.

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

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

1. Which discriminates against purchaser competitors, 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. Any discount, rebate, allowance or advertising service granted to a purchaser is 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.

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.

(b) 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.

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.

**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.

(c) A wholesaler which has complied with the provisions of (b) above shall, on the third business day thereafter, cause a written or electronic "Notice of Delinquency" to be transmitted to all wholesalers of alcoholic beverages who sell to retailers in this State and to the retailer which is the subject of the Notice. The "Notice of Delinquency" shall contain the State license number of the delinquent licensee, the amount due and the date past due.

1. A "Notice of Delinquency" shall not be transmitted by any wholesaler which has received notice that the retailer disputes the existence of an obligation.

2. Any wholesaler which has received a "Notice of Delinquency" with respect to a retail account shall not sell alcoholic beverages to that account on credit terms until it has received a "Notice of Satisfaction" thereof.

(d) A wholesaler which has caused a "Notice of Delinquency" to be transmitted with respect to a retail account shall promptly upon satisfaction of the terms of sale relating to the original transaction (and in no event later than three business days) cause all persons to whom a "Notice of Delinquency" was transmitted to receive a "Notice of Satisfaction". The "Notice of Satisfaction" shall include State license, number of the retailer, the date of satisfaction, and the date originally due.

1. "Satisfaction" for purposes of this regulation shall mean payment according to the terms of sale established individually by each wholesaler in its Current Price List pursuant to N.J.A.C. 13:2-24.6(a)3i.

(e) Any wholesaler which disseminates credit obligation, delinquency, or satisfaction information directly, or through a credit information agency, shall be responsible for the accuracy of the information transmitted to any person and shall:

1. Cause to be maintained all information transmittals and other credit records for a period of two years; and

2. Cause to be submitted to the Division monthly reports of all delinquent retail accounts by license number, license name, the amount due, and the date due; and

3. Cause to be submitted to the Division annually, evidence in the form of a report outlining what it or its agent has done and will do to insure compliance with ABC credit regulations.

(f) Upon receipt of a written claim by a retailer that it disputes the existence of a debt as set forth in a "Notice of Obligation", the Director or his designee will, upon a showing that either the merchandise was not delivered or that payment has been made, direct that the matter be set down for informal conference with notice to the parties and subject to appropriate interim orders to preserve the rights of the retailer. In the event that the dispute has not been resolved by the date of the hearing, the Director or his designee shall take proofs as to whether or not the merchandise which is the subject of the "Notice of Obligation" was delivered, and/or whether or not payment was made, and if so, upon what date. Should the Director or his designee determine that the "Notice of Obligation" was accurate, a special ruling shall be entered directing that a "Notice of Delinquency" be issued with respect to the licensee for such period of time as that which would have transpired between the original "Notice of Obligation" and "satisfaction". Should it be determined that the original "Notice of Obligation" was inaccurate, a special ruling shall be entered prohibiting the issuance of a "Notice of Delinquency." The party for whom the determination was adverse shall promptly remit to the Division such costs as may be determined, which shall in no event be less than \$25.00.

(g) The provisions of this regulation may be relaxed in the discretion of the Director, upon written petition by a retail licensee with notice to all creditor-wholesalers, in such instances where a formal debt liquidation plan has been entered into by such a licensee. In proceedings pursuant to (f) above, the Director will decline to entertain claims predicated upon set-offs or other defenses more appropriately resolved by the parties in a court of competent jurisdiction.

(h) Whenever the license of any retail licensee that is subject to an outstanding "Notice of Delinquency" is transferred or extended to another person or is subject to a change in corporate stockholders, the name and address of the transferee or the person to whom the license has been extended or the same corporate entity that has its State assigned license number modified because of a stockholder change shall be placed on the "Notice of Delinquency" in the place and stead of the transferor or license subject to extension or stockholder change.

Repealed by R.1981 d.71, effective November 1, 1981.

See: 13 N.J.R. 37(b), 13 N.J.R. 238(b).

New Rule, R.1981 d.432, effective November 2, 1981.

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

Amended by R.1981 d.432, effective October 20, 1981.

See: 13 N.J.R. 604(b), 13 N.J.R. 846(e).

Amended by R.1983 d.545, effective November 21, 1983.

See: 15 N.J.R. 1557(a), 15 N.J.R. 1945(b).

In (b), added "personally or by first class mail" and also added last sentence. In (f), added "and subject to appropriate interim orders to preserve the rights of the retailer". Also added (h).

#### Case Notes

Rule cited in support of testimony counter to allegations of customer and territorial allocation conspiracy by distribution in violation of antitrust laws; summary judgement for distribution on liability and damages. *Package Shop, Inc., v. Anheuser-Busch, Inc.*, 675 F.Supp. 894 (D.N.J.1987).

**13:2-24.5 Supplier pricing and marketing information**

(a) Every manufacturer, supplier, winery, brewer, importer, blender or rectifier intending to sell alcoholic beverages to wholesalers or distributors within this State shall:

1. For a period of three years maintain on its licensed premises or other principal place of business made known to the Division in a readily retrievable fashion pursuant to N.J.A.C. 13:2-29:
  - i. A "Historical Price List", which shall contain the prices at which all products by brand, type, proof, age and size were offered for sale to the trade, inclusive of all discounts, allowances or differentials; and
  - ii. A "Marketing Manual", which shall contain, by category, on a chronological basis, all services, facilities, equipment, advertising and promotional items and programs offered to the trade or consumers; and
2. By the first day of the month preceding the month for which they are to become effective, make available to all its wholesalers or distributors its prices, inclusive of all discounts, allowances or differentials.

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(h), 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).

Deleted (a)3, regarding filing of prices certification.

**13:2-24.6 Required records**

(a) Every licensee or registrant privileged and intending to sell alcoholic beverages to retailers in this State shall maintain upon its licensed premises for a period of three years the following records:

1. A "Historical Price List", which shall contain the prices at which all products by brand, type, proof, age and size were offered for sale, inclusive of all discounts, allowances or differentials and which may be maintained in any "readily retrievable" fashion pursuant to N.J.A.C. 13:2-29; and
2. A "Marketing Manual", which shall be maintained in a separate book or ledger and shall contain, by category, on a chronological basis all offered or available services, facilities, equipment, advertising and promotional items and programs; and
3. A "Current Price List", maintained in a separate book or ledger, containing:
  - i. Prices, inclusive of all discounts, allowances and differentials and other terms of sale, at which all products are offered for sale to retailers during the calendar month following filing; and
  - ii. The correct brand or trade name of the product, its nature and type, size and age and proof on alcoholic content when stated on the label, the standard number

of unit containers per standard case and the capacity of each unit container.

4. The Current Price List shall be filed with the Division of Alcoholic Beverage Control no later than the 15th day of each calendar month, shall become effective the first day of the following calendar month and remain effective for that month.

5. The prices contained therein shall be filed independently by each individual filer, and no amendments or changes (except upon approval of the Director to correct bona fide clerical errors) shall be made therein prior to filing of the next monthly price list.

6. No manufacturer, supplier or wholesaler shall offer for sale, sell or deliver to any retailer and no retailer shall accept delivery from any manufacturer, supplier or wholesaler of any alcoholic beverage upon terms other than those set forth in the seller's "Current Price List".

7. The Current Price List shall be a public record and nothing herein shall preclude any licensee selling alcoholic beverages to retailers from providing it directly to retailers by mail, through sales personnel or through publication in trade journals.

Amended by R.1979 d.138, effective April 12, 1979.

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

**13:2-24.7 Marketing initiatives**

Subject to the foregoing provisions of this subchapter, a licensed manufacturer, supplier, importer, wholesaler or distributor may furnish or provide advertising or promotional materials to any retail licensee. Such licensees may provide product samples to retailers and make donations of alcoholic beverages to qualified industry trade organizations and bona fide charitable organizations, only within the terms and conditions of a special permit first obtained from the Director, issued upon a petition establishing and defining its need and use and verifying that all taxes have been paid.

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) Notwithstanding other provisions of this subchapter, 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) Except for sales to retailers of malt alcoholic beverages, no wholesale licensee shall offer to sell or sell any alcoholic beverage product in combination with another product. For purposes of this subsection, a sale of products which are identical, except for size, in mixed lots (a mixed size sale), and the sale of distillers' and vintners' packaged holiday and gift merchandise pre-packaged as a unit are not combination sales.

(c) Subject to N.J.S.A. 33:1-12, nothing herein shall preclude a retail licensee from selling or offering for sale any product in combination with another product at a single unit price, providing that such unit price shall exceed the cost of the combined products and the individual unit price of each combined product is provided in advertising and shelf pricing.

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).

### 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, or circulars of general distribution; 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.