

**CHAPTER 2**

**DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

**Authority**

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

**Source and Effective Date**

R.1990 d.412, effective July 24, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

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

Chapter 2, Division of Alcoholic Beverage Control, expires on July 24, 1995.

**Chapter Historical Note**

Unless otherwise expressly noted, all provisions of this chapter were adopted pursuant to authority of N.J.S.A. 33:1-1 et seq. and 52:17B-17 et seq. and were filed and became effective prior to September 1, 1969. Revised rules were filed and became effective on September 8, 1977, as R.1977 d.342. See: 9 N.J.R. 94(a), 9 N.J.R. 487(b). Amendments were filed and became effective on January 27, 1978, as R.1978 d.33. See: 10 N.J.R. 121(a). Amendments were filed April 4, 1979 to become effective May 1, 1979 as R.1979 d.138. See: 11 N.J.R. 143(a), 11 N.J.R. 257(c). Pursuant to order of the Appellate Division of the Superior Court in Heir et al. v. Degnan et al. (A-2655-78) and Wine and Spirit Retailers of New Jersey, Inc. et al. v. Degnan et al. (A-2708-78) dated April 10, 1979, the Director, Division of Alcoholic Beverage Control is restrained and enjoined from effectuating and enforcing these amendments. That order was lifted by the New Jersey Supreme Court February 11, 1980, but stayed on February 12, 1980 until March 10, 1980. This stay also covers R.1980 d.72 filed February 11, 1980. Pursuant to Executive Order No. 66(1978), Chapter 2, Division of Alcoholic Beverage Control, was readopted as R.1990 d.412. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

**Law Review and Journal Commentaries**

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

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**APPENDIX INSTRUCTIONS**

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

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

(a) Application for license must be filed on forms promulgated 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.

**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 Corporate or partnership applicant; building not yet constructed**

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

(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, TRW Complex, Bldg. 20, 200 Woolverton Street, Trenton, New Jersey 08625."

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.

**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 \_\_\_\_\_  
(Trade Name, if any)

has applied to the Director, Division of Alcoholic Beverage Control, for a State-  
issued \_\_\_\_\_ license for the  
(Type of License)

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

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

\*\* 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, 200 Woolverton 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.

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.

**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, CN 087, Trenton, NJ 08625 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.

**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".

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

(a) Whenever any change shall occur in 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 limited partners 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).

**13:2-1.8 Publication of notice of change in corporate structure; form**

(a) Every corporate licensee shall, in addition to filing written notice with the Director of changes in stockholdings, cause to be published in the following form a notice of change in corporate structure not later than 10 days after the occurrence whenever the stockholder change involves a new individual acquiring one percent or more of the stock.

—NOTICE—

Take notice that on \_\_\_\_\_ a change occurred in the stockholdings of \_\_\_\_\_ (Licensee) trading as \_\_\_\_\_ holder of \_\_\_\_\_ (Trade Name, if any) for premises located \_\_\_\_\_ (Type of License) at \_\_\_\_\_ (No.) \_\_\_\_\_ (Street) \_\_\_\_\_ (Municipality) resulting in the following persons, each acquiring one percent or more of the corporate licensee's stock:

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, CN 087, Trenton, New Jersey 08625.

\_\_\_\_\_  
(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).

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

The procedural rules in this chapter concerning application for licenses, type of forms required, notices to be utilized and specific information to be listed represent provisions of general applicability that may be relaxed by the Director upon a showing of good cause, except where specifically required by law.

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

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

**13:2-2.1 Application forms**

Application for license must be filed with the issuing authority, in triplicate, on forms promulgated 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 \$50.00 filing fee payable to the Division of Alcoholic Beverage Control. One copy of the application and the non-returnable filing fee of \$50.00 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.

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".

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

(a) 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, insert the names and residence addresses of all officers and directors and the names and residences of all stockholders holding one percent or more of any of the stock of the applicant corporation or any corporation that is a stockholder in the applicant corporation.  
If the applicant is a partnership, insert the names and residence addresses of all partners and any limited partners holding an interest of one percent or more.  
If the applicant is a club, insert the names and residence addresses 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.

**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, organization or association (except a club license) 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, CN 087, Trenton, New Jersey 08625.

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.

**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, in a newspaper printed in the English language, published and circulated in the municipality in which the licensed premise 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 premise 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.

### 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.

### 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

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 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 promulgated 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 limited partners shall be treated in the same manner as a stockholder change of a corporate 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).

13:2-2.15 Publication of notice of change in corporate structure; form

Every corporate licensee shall, in addition to filing written notice with the municipal issuing authority of changes in stockholdings, cause to be published a notice of change in corporate structure in the following form, not later than 10 days after the occurrence whenever the stockholder change involves a new individual acquiring one percent or more of the stock.

---NOTICE---

Take notice that on \_\_\_\_\_ a change occurred in the stockholdings of \_\_\_\_\_ (Date) (Licensee) trading as \_\_\_\_\_ holder of (Trade Name, if any) \_\_\_\_\_ for premises located (Type of License and Number) at \_\_\_\_\_ (No.) (Street) (Municipality)

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

Table with 2 columns: Name, Residence Address

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

\_\_\_\_\_ of \_\_\_\_\_ (Municipal Clerk) (Municipality) (Name of Licensee)

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

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

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

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

the licensed premises is located. 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 manner 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 Numbering license certificates

All license certificates shall bear a 12-digit State-assigned license number that will identify the license's county and municipality, license type, sequential license number in that community and license generation number.

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).

#### 13:2-3.4 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".

#### 13:2-3.6 Certification of license activity

(a) 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.

#### 13:2-3.7 Atlantic City; alcoholic beverage licenses

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

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

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

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

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

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

R.1977 d.348, eff. September 16, 1977.  
 See: 9 N.J.R. 487(c).  
 Amended by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Recodified from 13:2-3.10. Stylistic revisions.

**13:2-3.8 (Reserved)**

Recodified to 13:2-3.6 by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Section was "Daily certification of licenses granted".

**13:2-3.9 (Reserved)**

Repealed by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Section was "Daily certification; accompanying resolution".

**13:2-3.10 (Reserved)**

Recodified to 13:2-3.7 by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

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

**Subchapter Historical Note**

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

**13:2-4.1 Interest in issuance or transfer of license; application made to the Division**

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

(b) No municipal issuing authority may transfer to other premises a license of any of its members, or transfer to other premises a license (other than a club license) of any

corporation, organization or association in which any of its members is interested, directly or indirectly.

(c) Whenever the municipal issuing authority is prohibited from acting by this section, application must be made to the Director of the Division of Alcoholic Beverage Control and shall be governed by this subchapter.

Amended by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 In (c), clarified when application to Division must be made.

**13:2-4.2 Application to the Director**

(a) Application to the Director shall be made upon the same application forms used in all applications for municipal licenses (copies are obtainable from the clerk of the municipality wherein the premises sought to be licensed are situated).

(b) The application shall be fully executed and submitted in triplicate.

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

**13:2-4.3 New or renewal license fees; certification by issuing authority**

(a) Applications for a new license or for a renewal of an existing license shall be accompanied by a fee of \$50.00 in cash, money order or certified check drawn to the order of the Division of Alcoholic Beverage Control.

(b) A certification shall also be submitted from the municipal clerk, board secretary, or other responsible municipal official stating that the appropriate municipal fee has been paid and the amount of such fee.

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).  
 Duplicate changed to triplicate.  
 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), deleted submission of supplemental forms requirement; redesignated (a)2. as (b) and added "board secretary".

**13:2-4.4 Fee for license transfer to other persons or other premises; certification**

(a) Applications for transfer of license to other persons only, or applications for transfer of license to other premises only (not combined), shall be accompanied by:

1. A fee of \$50.00 in cash, money order or certified check drawn to the order of the Division of Alcoholic Beverage Control and retained by the Director whether

or not the transfer is granted, and accounted for as are other license fees.

2. A certification shall be submitted from the municipal clerk, board secretary, or other responsible municipal official that 10 percent of the full municipal annual license fee for said license has been paid and the amount of the fee.

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

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

Added text "to the municipality . . . shall be paid."

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 text on license transfer to "other premises only"; 10 percent fee requirement revised and designated (a)2.

### 13:2-4.5 Fee for combined transfers; certification

(a) Transfers of license both as to person and place may be applied for simultaneously and in a single application, accompanied by a fee of \$50.00 in cash, money order or certified check drawn to the order of the Division of Alcoholic Beverage Control.

(b) A certification shall also be submitted by the municipal clerk, board secretary or other responsible municipal official stating that 20 percent of the full municipal annual license fee for said license has been paid and the amount of the fee.

(c) Where there is a combined transfer application, the Director shall not approve a person-to-person transfer of the license if the place-to-place transfer is denied.

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

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

Added text "to the municipality . . . shall be paid."

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 13:2-4.6. Twenty percent fee requirement revised and designated (b); Director's duties clarified. Prior text at 13:2-4.5, "Fee for license transfer to other premises", repealed. The following annotations pertain to that section:

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

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

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

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

Added text "to the municipality . . . shall be paid."

### 13:2-4.6 Submission of issuing authority's resolution

There shall also be submitted to the Director a certified copy of resolution adopted by the issuing authority of the municipality wherein the premises sought to be licensed are situated, setting forth that said issuing authority has no objection to the issuance or the transfer, as the case may be, of the license applied for and consents thereto and, furthermore, is not aware of any circumstances or provisions of law or local ordinance which would prohibit the issuance or the transfer, as the case may be, of the license.

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

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

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

### 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, TRW Complex, 200 Woolverton Street, CN 087, Trenton, New Jersey 08625.

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.

### 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. 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.

### 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, TRW Complex, 200 Woolverton Street, CN 087, Trenton, New Jersey 08625.

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.

**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

### Subchapter Historical Note

Pursuant to Executive Order No. 66(1978), Subchapter 5 was re-adopted as R.1984 d.175, effective April 26, 1984. See: 16 N.J.R. 492(a), 16 N.J.R. 1277(a). See also Chapter Historical Note and section annotations.

**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 \$50.00, per day, in cash, certified check, or money order made payable to the Division of Alcoholic Beverage Control, must accompany each application for social affair permit filed by religious, civic or educational organizations; and \$75.00 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 promulgated by the Director and endorsed by the chief of police (or his or her 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) Within 10 days after the social affair, the permittee shall file with the Director a signed inventory report on forms promulgated 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 any 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".

### 13:2-5.2 Special concessionaire permit

(a) Application for a special concessionaire permit may be made to the Director by any individual, partnership, or corporation 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 fixed by the Director, and must be paid with the application in either cash, certified check or money order payable 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;
4. If applicant is incorporated—copy of certificate of incorporation; if an association—copy of charter; and
5. Affidavit of publication by newspaper in which notice of application has appeared, as hereinafter provided.

(d) Within 10 days subsequent to the filing of application with the Director, applicant shall cause to be published a notice of application once, in a newspaper printed in the English language, published and circulated in the municipality in which the premises sought to be authorized are located. If, however, there shall be no such newspaper, then such notice shall be published in a newspaper printed in the English language, published and circulated in the county in which said premises are located.

(e) Notice of application shall be published in the following form:

## NOTICE ALCOHOLIC BEVERAGE PERMIT

TAKE NOTICE THAT \_\_\_\_\_ has applied to the DIRECTOR  
(Name of Applicant)  
of the New Jersey DIVISION OF ALCOHOLIC BEVERAGE CONTROL for a  
SPECIAL CONCESSIONAIRE PERMIT for premises situated at

(No.)	(Street)	(Municipality)
-------	----------	----------------

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

See \*

See \*\* to insert other information applicable

Objections, if any, should be addressed to the Director, Division of Alcoholic Beverage Control, CN 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, insert the names and residence address of all officers and all directors, and the names and residences of all stockholders holding one percent or more of any of the stock of the applicant corporation or any corporation that is a stockholder in the applicant corporation.

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

If applicant is a club, insert the names and residence addresses of the 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 Director of the Division of Alcoholic Beverage Control, TRW Complex, Bldg. 20, Woolverton Street, Trenton, New Jersey 08625."

(f) Upon timely receipt of a duly signed written objection to the issuance of a special concessionaire permit, the Director will afford a hearing to all parties and notify the applicant and the objector of the date, hour and place thereof.

1. No hearing need be held if no objection shall be lodged, but the application shall not be denied without first affording the applicant an opportunity to be heard.

(g) The holder of a special concessionaire permit shall be entitled to purchase alcoholic beverages only from the holders of New Jersey wholesale licenses. Said permittee is expressly prohibited from purchasing alcoholic beverages from retail licensees and from selling or offering for sale alcoholic beverages for off-premises consumption, unless specifically authorized in the permit issued by the Director upon a showing of good cause therefor.

(h) The Director may, in his or her discretion, impose special conditions on any permit.

(i) The holder of a special concessionaire permit must abide by all provisions of the New Jersey Alcoholic Beverage Control Act, Division rules and regulations and municipal ordinances as they pertain to retail licensees. Failure to do so may result in disciplinary proceedings against the permittee. Hours of sale shall not exceed those permitted in the municipality in which the public building or land is located.

(j) The rules in this section shall be considered as general rules governing the issuance of a special concessionaire 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.1986 d.181, effective May 19, 1986.  
 See: 18 N.J.R. 545(a), 18 N.J.R. 1104(a).  
 Substantially amended.  
 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 "or on any property" owned or controlled by State; in (b), clarified payment of fee with application; in (c)1, added public "buildings or" lands. Substantially revised application form. In (f), "Upon timely receipt" was "Upon receipt"; in (i), stipulated public building "or land".

**Case Notes**

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

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

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

(b) An application for such special permit shall be filed with the Division at least seven days before the proposed sale on forms to be promulgated by the Director and accompanied by payment of fees as set forth by the Director. The fees for such permits shall not be less than \$5.00 nor more than \$500.00.

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

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

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

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

**13:2-5.4 Temporary miscellaneous contingency permits; fees**

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

(b) Application for such permits shall be on forms promulgated by the Director and shall be accompanied by payment of fees as set forth by the Director. The fees for such permits shall not be less than \$5.00 nor more than \$500.00.

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

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

**SUBCHAPTER 6. EXTENSION OF LICENSES**

**13:2-6.1 Petition for extension of license**

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

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

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

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

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

**13:2-6.2 Special permit to operate licensed business**

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

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

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

**13:2-6.3 Proof of appointment; assignments**

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

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

**13:2-6.4 Endorsement of licenses**

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

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

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

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

**13:2-6.5 (Reserved)**

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

Section was "Daily certification of license extensions".

## SUBCHAPTER 7. TRANSFERS OF STATE AND MUNICIPAL LICENSES

### Subchapter Historical Note

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

**13:2-7.1 Transferability of license**

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

Amended by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
Referenced N.J.S.A. 33:1-1 et seq.

### Case Notes

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

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

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

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

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

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

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

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

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

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

Case Notes

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

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

13:2-7.4 Notice of transfer application, form

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

—NOTICE—

ALCOHOLIC BEVERAGE CONTROL

Take notice that application has been made to \_\_\_\_\_  
 \_\_\_\_\_ of \_\_\_\_\_  
 (Name of Issuing Authority) (Municipality)  
 to transfer to \_\_\_\_\_  
 \_\_\_\_\_ (Name of transferee)  
 trading as \_\_\_\_\_ for premises  
 \_\_\_\_\_ (Trade Name, if any)  
 located at \_\_\_\_\_  
 \_\_\_\_\_ (Address of premises to which transfer is sought)  
 the \_\_\_\_\_ heretofore issued to  
 \_\_\_\_\_ (Type of License and Number)  
 \_\_\_\_\_, trading as \_\_\_\_\_  
 (Name of Licensee in full) (Trade Names, if any)  
 for the premises located at \_\_\_\_\_  
 \_\_\_\_\_ (No.) (Street) (Municipality)

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

See \*  
 (See \*\* to insert other information if applicable)  
 Objections, if any, should be made immediately in writing to:

\_\_\_\_\_, of \_\_\_\_\_  
 (Municipal Clerk (Address)  
 or  
 Director, Division of  
 Alcoholic Beverage  
 Control)  
 \_\_\_\_\_  
 \_\_\_\_\_ (Name of Applicant)  
 \_\_\_\_\_  
 \_\_\_\_\_ (Address of Applicant)

\* If the applicant is an individual, insert the name and residence address of that individual.  
 If the applicant is a corporation, insert the names and residence of all officers and directors and the names and residences of all stockholders holding one percent or more of any of the stock of the applicant corporation or any corporation that is a stockholder in the applicant corporation.  
 If the applicant is a partnership, insert the names and residence address of all partners and any limited partners holding an interest of one percent or more.  
 If the applicant is a club, insert the names and residence address of all officers and the offices they fill respectively, and the names and residences of the directors, trustees or other governing officials.  
 \*\* If the application is for transfer of a municipal license to a building not yet constructed, insert in the Notice the following: "Plans of building to be constructed may be examined at the office of the Municipal Clerk".

If the application is for a State license for a building not yet constructed, insert "Plans of building to be constructed may be examined at the office of the Division of Alcoholic Beverage Control".  
 If the application intends to conduct retail sales of alcoholic beverages as may be authorized under a State issued license, insert in the Notice the following: "The applicant intends to engage in the retail sale of

\_\_\_\_\_ at \_\_\_\_\_  
 (Alcoholic beverage type) (No.) (Street)  
 \_\_\_\_\_ under the terms and conditions allowed by law."  
 (Municipality)

(b) "Name of issuing authority" in the form in N.J.A.C. 13:2-7.4(a), usually means the governing board or body of the municipality, whatever the name may be, for instance, the mayor and common council, the township council, and so forth, except where a municipal board of alcoholic beverage control has been created, in which case such board is the issuing authority. If application is made by a member of any issuing authority, or by a corporation, organization or association (except a club license) in which any member of an issuing authority is interested directly or indirectly, or if the license sought to be transferred was issued in the first instance by the Director, he or she is the "issuing authority" and in that event the notice must state that objections be addressed to the Director of the Division of Alcoholic Beverage Control, CN-087, Trenton, New Jersey 08625.

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

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

Amended by R.1974 d.4, effective January 4, 1974.  
 See: 6 N.J.R. 82(a).  
 Amended by R.1979 d.138, effective May 1, 1979.  
 See: 11 N.J.R. 143(a), 11 N.J.R. 257(c).  
 Amended by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

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

13:2-7.5 Objections; hearing

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

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

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

**13:2-7.6 Date of hearing**

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

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

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

**13:2-7.7 Hearing not required; reasons**

(a) If there is no written objection and the issuing authority determines to approve the application, no hearing is required; but this in no way relieves the issuing authority from the duty of making a thorough investigation on its own initiative.

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

1. The submitted application form is complete in all respects;
2. The applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey statutes, the regulations promulgated thereunder as well as the pertinent local ordinances and conditions imposed consistent with Title 33; and
3. The applicant has disclosed and the issuing authority has reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business.

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

(d) In the event no action is taken on an application for transfer of a municipally issued license within 60 days of the date of filing of the application, the applicant may file an appeal with the Director from such failure to act on the transfer application.

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

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

(a)3: "and" added after "licensed business"; (a)4 added.

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

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

Deleted old (b)4.

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

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

Recodified from 13:2-7.10. In (b), "certifies" was "reduces to resolution"; in (d), "municipally issued" license specified, and appeal from application denial changed to appeal from failure to act on transfer. Prior text at 13:2-7.7, "Publication of notice of application", incorporated into 13:2-7.4 as (c).

**Case Notes**

Denial of license transfer without hearing upheld; borough could not grant transfer due to passage of licensee minimum distance ordinance after filing of transfer application. *Lo-Ran, Inc. v. Boro. of Bound Brook*, 3 N.J.A.R. 357 (1981).

**13:2-7.8 Application for place-to-place license transfer**

Applications for transfers of licenses to other premises shall be on forms promulgated by the Director and shall set forth the same information required to be set forth in connection with an original application for license.

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

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

Recodified from 13:2-7.12. Specified "forms promulgated by the Director". Prior text at 13:2-7.8, "Hearing granted upon written objection", recodified to 13:2-7.5.

**13:2-7.9 Application for person-to-person transfer**

Applications for transfers of licenses to other persons shall be on forms promulgated by the Director and shall set forth the same information required to be set forth in connection with an original application for license.

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

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

Recodified from 13:2-7.13. Specified "forms promulgated by the Director". Prior text at 13:2-7.9, "Date of hearing", recodified to 13:2-7.6.

**13:2-7.10 Combined transfer**

Transfers of license both as to person and place may be applied for simultaneously and in a single application; but if there is such combined application for person-to-person and place-to-place transfer, the person-to-person application shall not be approved unless the place-to-place transfer is also granted.

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

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

Recodified from 13:2-7.14. Clarified dual approval requirement. Prior text at 13:2-7.10, "Hearing not required; reasons", recodified to 13:2-7.7.

**Case Notes**

Denial of license transfer without hearing upheld; borough could not grant transfer due to passage of licensee minimum distance ordinance after filing of transfer application. *Lo-Ran, Inc. v. Boro. of Bound Brook*, 3 N.J.A.R. 357 (1981).

**13:2-7.11 Fee for license transfer to other premises or to another person**

Applications for transfers of license to other premises only, or applications for transfer of license to another person only (not combined, shall be filed in triplicate and accompanied by a fee of 10 percent of the full annual license fee for said license, which fee shall be retained by the Director or other issuing authority as the case may be, whether or not the transfer is granted, and is to be accounted for as are other license fees. If the application is for transfer of a retail license to be acted upon locally, it must also be accompanied by a filing fee of \$50.00 to be forwarded to the Director of the Division of Alcoholic Beverage Control along with the original of the application.

Amended by R.1973 d.234, effective August 30, 1973.  
See: 5 N.J.R. 356(a).  
Amended by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Recodified from 13:2-7.15. Added text regarding transfer "to another person only (not combined)"; specified forwarding of original of application for transfer of retail license. Prior text at 13:2-7.11, "Proof of publication of notice of application; form", repealed.

**13:2-7.12 Fee for combined license transfer**

(a) Applications for transfer of license to other premises and other persons shall be filed in triplicate and accompanied by a fee of 20 percent of the full annual license fee for said license, which fee shall be retained by the Director or other issuing authority as the case may be, whether the transfer is granted or not, and accounted for as are other license fees. If the application is for transfer of a retail license to be acted upon locally, it must also be accompanied by a filing fee of \$50.00 to be forwarded to the Director of the Division of Alcoholic Beverage Control along with the original of the application.

Amended by R.1973 d.234, effective August 30, 1973.  
See: 5 N.J.R. 356(a).  
Amended by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Recodified from 13:2-7.17. Specified forwarding of application original for transfer of retail license. Prior text at 13:2-7.12, "Information for premises license transfer", recodified to 13:2-7.8.

**13:2-7.13 Special condition for early grant**

If a resolution or certification granting application for transfer is adopted sooner than five business days (excluding Saturdays, Sundays and legal holidays) after publication of the second notice of application, the resolution or certification shall set forth a special condition that the transfer shall not be effective until five business days have elapsed. If within such period a written objection to the transfer is filed, the transfer shall not be effective pending the 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).

Recodified from 13:2-7.18. Clarified "five business days" requirement; "certification" was "motion". Prior text at 13:2-7.13, "Information of persons seeking transfer", recodified to 13:2-7.9.

**13:2-7.14 License certificate**

(a) Upon the grant of a transfer, the Director or other issuing authority as the case may be shall cause the following written endorsement to be made upon the face of the license certificate:

This license, subject to all of its terms and conditions, is hereby transferred, effective \_\_\_\_\_, 19\_\_\_\_,  
(Date)  
from \_\_\_\_\_  
(Name) and/or (Address)  
to \_\_\_\_\_  
(Name) and/or (Address)  
\_\_\_\_\_  
(Name of Issuing Authority)  
By: \_\_\_\_\_  
(Duly authorized official)

Dated: \_\_\_\_\_, 19\_\_\_\_

(b) Unless another specific date is identified in the resolution approving the transfer of license, the effective date for municipally issued licenses shall be the date of adoption of the resolution by the issuing authority, and for State issued licenses, the date the Director certifies on the license certificate.

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

Recodified from 13:2-7.19. Added (b). Prior text at 13:2-7.14, "Combined transfer", recodified to 13:2-7.10.

**13:2-7.15 Certification of license transfers**

(a) Each municipal issuing authority shall make or cause to be made certification to the Director of all license applications filed, transferred, denied or withdrawn during the preceding business week, which certification shall include the original of the filed application, any fees to be remitted to the Director and any resolution 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 13:2-7.23. Municipal certification requirements delineated on weekly basis. Prior text at 13:2-7.15, "Fee for license transfer to other premises", recodified to 13:2-7.11.

**13:2-7.16 (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 "Fee for license transfer to other persons".

**13:2-7.17 (Reserved)**

Recodified to 13:2-7.12 by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Section was "Fee for combined license transfer".

**13:2-7.18 (Reserved)**

Recodified to 13:2-7.13 by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Section was "Special condition for early grant".

**13:2-7.19 (Reserved)**

Recodified to 13:2-7.14 by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

Section was "License certificate".

**13:2-7.20 (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 "Endorsement; stub in license book".

**13:2-7.21 (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 "Endorsement signature".

**13:2-7.22 (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 "Order or resolution of endorsement".

**13:2-7.23 (Reserved)**

Recodified to 13:2-7.15 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".

**13:2-7.24 (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 "Accompanying resolution".

**SUBCHAPTER 8. CLUB LICENSES****Subchapter Historical Note**

Pursuant to Executive Order No. 66(1978), Subchapter 8 was re-adopted as R.1984 d.177, effective April 26, 1984. See: 16 N.J.R. 494(a), 16 N.J.R. 1277(c). See also Chapter Historical Note and section annotations.

**13:2-8.1 Definitions**

The following words and terms when used in this subchapter shall have the following meanings unless the context clearly indicates otherwise.

"Club" means an organization, corporation or association consisting of 60 or more persons operating solely for benevolent, charitable, fraternal, social, religious, recreational, athletic or similar purposes and not for private gain.

"Club member" means any individual in good standing who has been admitted to voting membership in the manner regularly prescribed by the bylaws of a club, and who maintains such membership in a bona fide manner and whose name and address are entered on the list of members. No individual shall be eligible for such club membership unless he has filed written application with the appropriate body, as set forth in the club bylaws, and such application is approved by said body at least three days subsequent to the filing thereof. Persons holding limited or auxiliary club membership shall not be deemed to be club members.

"Guest of club member" means an individual who is expressly invited to the club licensed premises by an individual member of the club and who is sponsored by and personally attended by the member at such premises. An individual club member may have as his guest no more than nine individuals on any one occasion unless such individuals are attending a private affair, such as a wedding, anniversary, confirmation, bar mitzvah or birthday party, honoring a spouse, child, parent, brother or sister of a club member.

Correction:

See: 15 N.J.R. 1876(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.

**13:2-8.2 Bona fide clubs**

Club licenses shall be issued only to bona fide clubs.

**13:2-8.3 Previous period of continuous, active operation**

Except as provided in N.J.A.C. 13:2-8.5, no license shall be issued to any club unless it shall have been in active operation in the State of New Jersey for at least three years continuously immediately prior to the submission of its application for a license.

**13:2-8.4 Previous period of possession and use of club quarters**

Except as provided herein or in N.J.A.C. 13:2-8.5, no license shall be issued to any club unless it shall have been in exclusive possession and use of a clubhouse or club quarters for at least three years continuously immediately prior to the submission of its application for a license. A bona fide club which has been in active operation in this State for the period of time required as aforesaid, but which has been deprived of continuous possession and use of its clubhouse or club quarters by reasons of foreclosure, loss of lease, eminent domain, fire, casualty or other removal for a cause other than the violation of the laws of the State or of municipal ordinance, shall not be prevented thereby from obtaining a club license upon presenting to the satisfaction of the issuing authority proof of said facts and proof that possession of suitable premises has been obtained.

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

Added "loss of lease, eminent domain, fire, casualty" to reasons for deprivation of club premises use; deleted "dispossession".

**13:2-8.5 Exceptions to eligibility requirements**

(a) Any constituent unit, chartered or otherwise duly enfranchised chapter or member club of a national or state order, organization or association, which is in possession of suitable premises, shall not be prevented from obtaining a club license by reason of the fact that the unit, chapter or member club has not been in active operation in this State for at least three years continuously or has not been in exclusive continuous possession and use of a clubhouse or club quarters for the same period of time, provided said unit, chapter or member club obtains from the Director, and presents to the issuing authority at or before the issuance of the license, a certificate stating that satisfactory proof has been submitted to the Director that said unit, chapter or member club has been duly credentialed by a national or state order, organization or association which has been in active operation in this State for at least three years continuously immediately prior to submission of the application for a license.

(b) Nothing in N.J.A.C. 13:2-8.3 or 8.4 shall prevent the issuance of a club license to a bona fide club provided that special course for such issuance is shown in writing to the Director and provided that the Director's written approval of such issuance is first obtained.

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.

**13:2-8.6 Qualifications of officers and members**

(a) No club license shall be used nor renewal granted to any corporation, association or organization in which an officer or member of the governing body has been convicted of a disqualifying offense pursuant to Title 33 unless the statutory disqualification resulting from such conviction has been removed by order of the Director. Application for removal of the disqualification may be made by verified petition to the Director when the unlawful situation is corrected.

(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, including the requirements of N.J.A.C. 13:2-8.7;
2. The officers and directors of applicant club are qualified to be licensed according to all standards established by Title 33 of the New Jersey statutes, regulations promulgated thereunder as well as pertinent local ordinances or conditions consistent with Title 33; and
3. The club maintains all records required pursuant to N.J.A.C. 13:2-8.8 and 8.12.

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.

**13:2-8.7 Submission of club member list and club charter**

(a) A printed or typewritten list containing the names and addresses of all members of the club as of date of filing a club license application shall be submitted with the initial application as well as with each subsequent renewal application. No club license shall be renewed unless the club consists of at least 60 members at the time of renewal. The charter or articles of association of the club shall also be presented for inspection or certified copy of the same submitted with the initial application.

(b) Nothing in this section shall prevent the renewal of a license to a club not qualified by reason of a lack of requisite number of members, provided that special cause of such renewal is shown in writing to the Director and further provided that the Director's written approval for such renewal is first obtained.

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.

**13:2-8.8 Sales restricted to club members**

(a) No club licensee shall sell, serve or deliver, or allow, permit or suffer the sale, service or delivery of any alcoholic beverage to any person not a bona fide member of the club or a bona fide guest of such member.

(b) All club licensees shall have and keep on the licensed premises a true record, in the form promulgated by the Director (set forth below), of all scheduled dinners, luncheons, receptions, dances, parties, catered events and similar affairs held at the club licensed premises and attended by non-club members.

Date of affair \_\_\_\_\_

Type of affair \_\_\_\_\_

Sponsored by \_\_\_\_\_

Was affair conducted under authority of a special permit?  
\_\_\_\_\_

If so, give number of permit \_\_\_\_\_

Were alcoholic beverages supplied by the club licensee? \_\_\_  
\_\_\_\_\_

(Signature of authorized officer)

(c) No club licensee shall allow, permit or suffer any such affair to be held at the club licensed premises at which any charge is made to a non-club member or non-bona fide guest in connection with the affair, whether the charge be a direct one for drinks, imposed through the sales of tickets or charging of admission, requiring donation or special assessments, or where the charge is made ostensibly for food, entertainment or anything else unless a special permit is first 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).

In (b), specified that a true record be kept in the form "promulgated" by the Director; deleted three-year inspection provision; moved "form" from (c) to (b). In (c), revised prohibition against "any charge ... to a non-club member".

**13:2-8.9 Sales for on-premises consumption only**

No club licensee shall sell, serve or deliver, or allow, permit or suffer the sale, service or delivery of any alcoholic beverages in original containers for off-premises consumption.

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

Prohibited sales "in original containers for off-premises consumption".

**13:2-8.10 Hours of permissible sale and consumption**

No club licensee shall sell, serve or deliver, or allow, permit or suffer the sale, service, delivery or consumption of any alcoholic beverage on the licensed premises during hours or on days when plenary or seasonal retail consumption licensees in the same municipality are prohibited from such activity by municipal regulation or referendum.

**13:2-8.11 Social affairs permittees**

No club licensee shall sell, serve or deliver any alcoholic beverages to the holder of any special permit authorizing sale of alcoholic beverages at a social affair to be conducted by a permittee other than the club licensee itself, or to any person attending such social affair on the club licensed premises unless such person is, in fact, a bona fide member of the licensee-club or a bona fide guest of such member.

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

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

Prohibited sales to "a permittee other than the club licensee itself".

**13:2-8.12 Books of account**

All club licensees shall have and keep for a five year period a true book or books of accounts wherein there shall be entered a record of all moneys received in the ordinary course of business; a record of the source and amount of all moneys received other than in the ordinary course of business; a record of all moneys expended from such receipts; and the name of the person receiving such moneys and the purpose for which such expenditures were made. All books and records pertaining to such receipts or expenditure, as well as other records required by N.J.A.C. 13:2-8.8, shall be made available for inspection by the Director of the Division of Alcoholic Beverage Control and the other issuing authority, by his or her or its deputies, inspectors, investigators and agents and other officers 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).

Specified all moneys received "in the ordinary course of business" and a record of the source "and amount" of all moneys otherwise received; added reference to N.J.A.C. 13:2-8.8.

**13:2-8.13 Advertising prohibition**

No club licensee shall advertise, directly or indirectly, or allow, permit or suffer any advertising to non-club members the availability of alcoholic beverages at its licensed premises; provided, however, that the prohibition here in shall not apply to the holder of any special permit issued by the director and authorizing the sale of alcoholic beverages at a social affair to be conducted at the club's licensed premises, with respect to such particular affair providing the social affair permit number is indicated in the advertisement.

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

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

Deleted text regarding allowance of "signs on the interior" of club premises.

**13:2-8.14 Violations**

A club license is restricted type of retail license and therefore its holder must comply with not only the rules set forth in this subchapter, but with all the relevant provisions applicable to retail licenses. In disciplinary proceedings brought pursuant to the alcoholic beverage law, it shall be sufficient, in order to establish the guilt of the club licensee, to show the violation was committed by an agent, servant or employee of the club licensee or a member of the club. The fact that the licensee did not participate in the violation or that its agent, servant, employee or member acted contrary to instructions given to him by the club licensee or that the violation did not occur in the presence of the licensee's agent, servant, employee or member 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).

Stylistic revision.

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## SUBCHAPTER 9. WAREHOUSE RECEIPTS LICENSES

**13:2-9.1 Application for license; form**

Application to the Director for a warehouse receipts license shall be made on forms promulgated by the Director, Division of Alcoholic Beverage Control, and accompanied by the full amount of the required license fee. No publication of notice of application shall be required.

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

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

Specified application forms "promulgated" by the Director.

**13:2-9.2 Sale of warehouse receipts to manufacturers and wholesalers**

The holders of warehouse receipts licenses may sell receipts thereunder only to New Jersey licensed manufacturers and wholesalers authorized to sell the beverages covered by the receipts. Sales of receipts not in accordance with the foregoing may be made only pursuant to special permit issued by the Director.

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 13:2-9.2, "Sale of receipts prohibited", to 13:2-9.3.

**13:2-9.3 Sale of receipts to retailers and consumers prohibited**

No holder of a warehouse receipts license may sell receipts thereunder to any New Jersey licensed retailer, or to any consumer in this State.

Recodified from 13:2-9.2 by R.1990 d.412, effective August 20, 1990.

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

Recodified prior text at 13:2-9.3, "Solicitor's permit", to 13:2-9.4.

**13:2-9.4 Solicitor's permit required**

No individual shall sell or offer for sale or solicit any order for the purchase or sale of any receipt, certificate, contract or other document given upon the storage of alcoholic beverages unless such individual is the holder of a solicitor's permit issued pursuant to N.J.A.C. 13:2-16. This prohibition shall not apply to any individual licensee or the individual members of a partnership if the license is issued to and held by the individual or partnership.

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 13:2-9.3. Corrected N.J.A.C. reference; clarified application of prohibition. Recodified prior text at 13:2-9.4, "Tax compliance", to 13:2-9.5.

**13:2-9.5 Tax compliance**

Warehouse receipts licensees shall comply with all regulations promulgated by and all requirements pertaining to bonds and reports imposed by the Division of Taxation, Department of the Treasury.

Recodified from 13:2-9.4 by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).

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

**13:2-10.1 Application for plenary winery license;  
statement of intent**

(a) All applicants for a plenary winery license shall comply with the application, advertising and hearing provisions of this chapter, N.J.A.C. 13:2. The application shall also be accompanied by a description of the intended activities to be conducted under the authority of the license. The statement of intent shall include, at a minimum, 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) Any application for license which seeks permission for an off-winery retail sales premises shall be accompanied by a sketch of the proposed licensed premises depicting the area to be included under 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 including, as a minimum, 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 the sales employees; and an identification of whether any sampling will take place and if so, how this will be controlled.

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".

**13:2-10.2 Certificate endorsement**

Whenever the holder of a plenary winery license is granted the privilege of selling wine at retail at a premises other than the winery licensed premises, the license certificate shall be appropriately endorsed by the Director to set forth the retail privileges conferred thereunder, and no plenary 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.

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

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 plenary winery licensee having the privilege of selling wine at retail shall affix 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.

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 endorsement" reference. Prior text at 13:2-10.3, "Application for retail wine and other privilege; form", repealed.

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

No plenary 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.

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

Applicants for a wine blending license shall comply with the application, advertising, and hearing provisions of this chapter, N.J.A.C. 13:2. The application shall also be accompanied by a description of the intended activities to be conducted under the authority of the license. Such statement of intent shall include, at a minimum, 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".

### 13:2-10.6 Combination enterprise retail salesroom

(a) A "combination enterprise retail salesroom" is defined as a jointly controlled and operated retail salesroom by at least five plenary or farm winery licensees, at which premises, the alcoholic products produced under the licenses of such licensees may be sold at retail for consumption off the licensed premises and for consumption on the licensed premises for sampling purposes only.

(b) Only one combination enterprise salesroom shall be licensed per county and the fee therefor shall be \$500.00.

(c) Applicants for a combination enterprise retail salesroom permit shall comply with the application, advertising, and hearing provisions of this chapter, N.J.A.C. 13:2. The application shall also be accompanied by a sketch of the proposed licensed 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 including, 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 sampling to take place including how this will be controlled.

(d) "Sampling" as authorized under N.J.S.A. 33:1-10 means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one half ounces of any wine.

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.

### 13:2-10.7 Parcel delivery service

(a) The holder of a New Jersey issued plenary winery license with retail privileges or a farm winery license may, on forms promulgated by the Director, Division of Alcoholic Beverage Control, apply for authorization to ship within this State wine products by parcel delivery service to customers resulting from sales from the winery premises or off winery premises sales locations, or from mail or telephone orders. Wine which is ordered by mail or telephone may be shipped by parcel delivery only if the licensee has a signed authorization by the person placing the order to ship wine upon his order by mail or telephone. In such case, the wine shall be shipped as a restricted delivery and may be delivered only to the residence of the person who placed the order.

(b) The annual fee for a permit to authorize parcel delivery service is \$150.00 for a plenary winery licensee and \$50.00 for a farm winery licensee.

(c) No delivery shall be completed by a parcel delivery service until the delivering agent shall determine that, at the time of delivery of wine, the party signing the delivery receipt is of legal age to purchase and consume alcoholic beverages.

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.

### 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".

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## SUBCHAPTER 11. FARM WINERY LICENSES AND RETAIL PRIVILEGES

### 13:2-11.1 Application for farm winery license; statement of intent

(a) Applicants for a farm winery license shall comply with the application, advertising and hearing provisions of this chapter, N.J.A.C. 13:2. The application shall also be accompanied by a description of the intended activities to be conducted under the authority of the license. The statement of intent shall include, at a minimum, 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.

(b) Any application which seeks permission for an off-winery retail sales premises shall be accompanied by a sketch of the proposed licensed premises depicting the area to be included under 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 including, at a minimum, 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 the sales employees; and an identification of whether any sampling will take place, and, if so, how this will be controlled.

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 "Endorsement of license certificate; retail sales privilege".

### 13:2-11.2 Certificate endorsement

Whenever the holder of a farm winery license is granted the privilege of selling wine at retail at premises other than the winery licensed premises, the license certificate shall be appropriately endorsed by the Director to set forth the retail privileges conferred thereunder; and no 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.

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 "Vineyard requirements".

### 13:2-11.3 Labeling wine sold at retail

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, for the first five years of the winery's operation, all fermented wines and juices shall be manufactured from at least 51 percent grapes or fruit grown in New Jersey; and that thereafter they shall be manufactured from grapes or fruit grown in this State at least to the extent required for labeling as "New Jersey Wine" under applicable Federal laws and regulations.

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 13:2-11.4; "farm winery licensee" was "limited winery licensee"; added "New Jersey Wine" labeling requirements. Prior text at 13:2-11.3, "Retail sales requirements", repealed.

### 13:2-11.4 Hours of retail sales

No farm winery licensee privileged to sell wine at retail shall sell or deliver, or allow, permit or suffer the sale 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 13:2-11.6; "farm winery licensee" was "limited winery licensee"; revised text regarding hours of sales. Recodified prior text at 13:2-11.4, "Labeling wine sold at retail", to 13:2-11.3.

### 13:2-11.5 Combination enterprise retail salesroom

A farm winery licensee may participate in a combination enterprise retail salesroom in accordance with N.J.A.C. 13:2-10.6.

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 "Retail sales at prescribed licensed premises".

### 13:2-11.6 Parcel delivery service

A farm winery licensee may arrange for delivery of products to consumers by a parcel delivery service in accordance with N.J.A.C. 13:2-10.7.

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 13:2-11.6, "Hours of retail sales", to 13:2-11.4.

### 13:2-11.7 (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 "Consumption on licensed premises".

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## SUBCHAPTER 12. WINE PERMITS

### 13:2-12.1 Special wine permit

(a) Wine for personal consumption may be manufactured only under the provisions of a special wine permit, issuable by the Director, Division of Alcoholic Beverage Control, which authorizes the permittee to manufacture within the home of the permittee or other premises used in connection therewith, and during the permit period, wine in quantities of not more than 200 gallons.

(b) Wine manufactured under the authority of such permit may not be sold under any circumstances, nor may it be used for any purpose other than personal consumption at the permittee's home by the permittee and his family and bona fide guests. The fee for this permit is \$3.00.

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.

### 13:2-12.2 Ineligibility of licensees

No permit shall be issued to the holder of any alcoholic beverage license.

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.

### 13:2-12.3 Ineligibility of licensed premises

No permit shall be issued for the manufacture of wine on premises that are also licensed for the retailing, wholesaling or manufacturing of 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).  
Stylistic revisions.

### 13:2-12.4 Ineligibility of minors

No permit shall be issued to any person under 21 years of age.

Amended by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
"21 years" was "18 years".

### 13:2-12.5 Other disqualification

No permit shall be issued to any person who has been convicted of an offense involving "unlawful alcoholic beverage activity", as defined in N.J.S.A. 33:1-1(x), subject to a waiver of this prohibition in the discretion of the Director after the lapse of 12 months from the date of such conviction.

Amended by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
Revised text regarding conviction of a violation to reflect N.J.S.A. 33:1-1(x).

### 13:2-12.6 Number of permits per year

Not more than one permit shall be issued to any individual during any calendar year.

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

### 13:2-12.7 Transfer of permits

No permit shall be transferable from person to person, and transfer from premises to premises may only be made with the written permission of 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).  
Stylistic revisions.

### 13:2-12.8 Revocation of permit

Violation of the provisions of the permit shall be grounds for revocation.

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 13. EXECUTION OF QUESTIONNAIRE BY STATE LICENSEES AND THEIR PRINCIPALS AND EMPLOYEES

### 13:2-13.1 Execution of questionnaires by State licensees and principals

Every person who, individually or as a member of a partnership, holds a manufacturer's, wholesaler's, public warehouse, warehouse receipts, broker's or transportation license (except railroad carriers, but not excepting their affiliated or subsidiary transportation companies engaged in transporting alcoholic beverages) shall execute a questionnaire, on a form promulgated by the Director. In addition, every person who is an officer, director or holder of more than one percent of the stock of a corporation holding any such license, shall execute a questionnaire, in a form prescribed by the Director.

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

Stipulated use of questionnaire form promulgated by Director; "one percent" of stock was "10 percent" of stock.

### 13:2-13.2 Execution of questionnaires by employees of State licensees; exemptions

(a) Every person employed by or connected in any capacity whatsoever with the alcoholic beverage business conducted in this State by the holder of any license specified in N.J.A.C. 13:2-13.1 shall execute a questionnaire, on a form promulgated by the Director. This requirement shall not apply to:

1. Any person holding a solicitor's permit or an employment permit issued by the Director;
2. Any person whose employment does not exceed 10 working days in any one calendar year;
3. Stenographers, telephone operators, clerks, office boys and other employees who do not handle any alcoholic beverages and have no choice in the conduct of the licensee's alcoholic beverage business in this State;
4. A nonresident banker or other creditor who has loaned money to a licensed corporation and who becomes a director thereof but has no active interest in the conduct of the corporation's business in this State; or
5. Any person whose only connection with a licensed corporation is that of registered or authorized agent for the service of process.

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), specified use of questionnaire form promulgated by the Director; in (a)5, "licensed corporation" was "licensed foreign corporation".

**13:2-13.3 Photograph of person executing questionnaire**

Each questionnaire shall have attached thereto one color passport type photograph, two inches by two inches, of the person who has executed such questionnaire, which photograph shall have been taken not more than 30 days prior to the execution of the questionnaire.

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

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

Specified "color" passport photo of person "who has executed" questionnaire.

**13:2-13.4 Maintenance of questionnaires upon licensed premises**

All questionnaires shall be kept upon the licensed premises, available for inspection by the Director, his or her deputies, inspectors, investigators and agents and other officers 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).

Deleted 13:2-13.5 exception and obsolete language; added N.J.S.A. 33:1-1(p) reference.

**13:2-13.5 (Reserved)**

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

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

Section was "Criminal convictions disclosed in questionnaire".

**13:2-13.6 (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 "Failure to execute questionnaire; employment".

**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**

(a) No licensee shall allow, permit or suffer any person under the age of 18 years to sell, serve or solicit the sale of any alcoholic beverage, or to participate in the manufacture, rectification, blending, treating, fortification, mixing, processing, preparing or bottling of any alcoholic beverage. It shall not constitute a defense to any prosecution for violation of this rule that the employment of a person under the age of 18 years is permitted under N.J.A.C. 13:2-14.2.

(b) No licensee shall allow, permit or suffer any person under 18 years of age to be employed as an entertainer on any premises where the consumption of alcoholic beverages is permitted unless such minor's employment shall be authorized pursuant to N.J.S.A. 34:2-21.1 et seq. of the New Jersey Child Labor Law and the rules and regulations established thereunder.

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

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

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

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

Recodified from 13:2-14.2. Added (b). Prior text at 13:2-14.1, "Criminally disqualified persons", repealed. The following annotation pertained to that section:

Amended by R.1974 d.40, effective February 15, 1974.

See: 6 N.J.R. 17(a), 6 N.J.R. 119(c).

**13:2-14.2 Minor's employment permit; fees**

(a) No licensee (except a retail licensee conducting a bona fide hotel or public restaurant) shall employ any person under the age of 18 years, nor shall such licensee allow, permit or suffer the employment of any such person, in or upon the licensed premises, unless such person shall have obtained an employment permit from the Director of the Division of Alcoholic Beverage Control no later than 10 days from commencement of employment, or the licensee shall have had issued by the Director of the Division of Alcoholic Beverage Control a blanket employment permit issued pursuant to N.J.A.C. 13:2-14.4.

(b) The fee for an individual permit is \$10.00 per annum, or any part thereof.

Amended by R.1971 d.24, effective March 1, 1971.

See: 2 N.J.R. 75(d), 3 N.J.R. 65(a).

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

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

Amended by R.1975 d.237, effective August 8, 1975.

See: 7 N.J.R. 336(a), 7 N.J.R. 436(b).

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 13:2-14.3. Revised permit requirements; added N.J.A.C. 13:2-14.4. Recodified prior text at 13:2-14.2, "Minor's activities on licensed premises", to 13:2-14.1.

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

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

**13:2-14.3 Permit; age restrictions**

No permit shall be issued to any person under the age of 16 years except caddies, pinboys or similar temporary or transient type employees as the Director may deem appropriate upon a showing of good cause, and further except persons employed by a plenary or limited retail distribution licensee, which persons shall be no younger than 15 years of age.

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 13:2-14.4. Added text regarding "temporary or transient type employees"; deleted language concerning entertainment employees under 18. Recodified prior text at 13:2-14.3, "Minor's employment permit; fees", to 13:2-14.2.

**13:2-14.4 Blanket minors' employment permit**

(a) A blanket minors' employment permit may be issued by the Director to a licensee to authorize the employment of persons disqualified by reasons of age, who are employed by the licensee as caddies or pinboys, or similar temporary or transient employees as the Director may deem appropriate upon a showing of good cause, and such persons covered by

the licensee's blanket minors' employment permit need not hold or apply for individual employment permits.

(b) The fee for the blanket employment permit shall be based upon the number of anticipated employees to be hired under the permit, but shall not exceed \$500.00 per annum.

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 13:2-14.4, "Permits; persons under 18 years of age", to 13:2-14.3.

#### **13:2-14.5 Restrictions upon employing criminally disqualified persons**

No licensee shall knowingly employ or have connected with him in any business capacity any person who has been convicted of a crime involving moral turpitude unless the statutory disqualification resulting from such conviction has been removed by order of the Director, in accordance with N.J.A.C. 13:2-15, or such person has first obtained the appropriate rehabilitation employment permit or temporary work letter from the Director.

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 13:2-14.5, "Application; rehabilitation employment permit"; to 13:2-14.6.

#### **13:2-14.6 Application for a rehabilitation employment permit; temporary work letter**

(a) Any person convicted of a crime involving moral turpitude may apply to the Director, in the manner and form prescribed by the Director, for a rehabilitation employment permit. Whenever that application is made and it appears to the satisfaction of the Director that such person's employment in the alcoholic beverage industry will not be contrary to the public interest, the Director may, in his or her discretion, issue such employment permit.

(b) Upon the proper filing of an application and proof of promised employment, the Director may, in his or her discretion, issue the applicant temporary work letters not to exceed 90 days at any one time, authorizing employment upon a specified licensed premises pending determination on the application for a permit.

As amended, R.1971 d.24, effective March 1, 1971.

See: 2 N.J.R. 75(d), 3 N.J.R. 65(a).

As amended, R.1973 d.234, effective August 30, 1973.

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

As amended, R.1974 d.40, effective February 15, 1974.

See: 6 N.J.R. 17(a), 6 N.J.R. 119(c).

As amended, R.1975 d.237, effective August 8, 1975.

See: 7 N.J.R. 336(a), 7 N.J.R. 436(b).

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 13:2-14.5. Added (b). Recodified prior text at 13:2-14.6, "Types of rehabilitation employment permit; duration", to 13:2-14.7.

#### **13:2-14.7 Rehabilitation employment permit; duration; types; fees**

(a) A rehabilitation employment permit shall be issued for a one year period, and shall be renewable annually for the term of disqualification, as set forth in N.J.S.A. 33:1-31.2.

(b) Rehabilitation employment permits shall consist of the following types:

1. Unlimited employment permit: This permit shall allow the holder thereof to be employed by any class license, without restriction as to type of employment. Such permits may not be issued to persons who have been convicted of crimes which, in the opinion of the Director, present a special risk to the alcoholic beverage industry.

2. Limited employment permit: This permit shall allow the holder thereof to be employed by any class license in any non-managerial capacity, except that the holder may not sell, serve or deliver any alcoholic beverages.

(c) The fee for either type of rehabilitation employment permit shall be \$100.00 per annum, payable on the date of application.

As amended, R.1971 d.24, effective March 1, 1971.

See: 2 N.J.R. 75(d), 3 N.J.R. 65(a).

As amended, R.1973 d.234, effective August 30, 1973.

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

As amended, R.1974 d.40, 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).

Recodification from 13:2-14.6. Added (c). Recodified prior text at 13:2-14.7, "Limitations", to 13:2-14.8.

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

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

#### **13:2-14.8 Restrictions upon limited rehabilitation employment permittee**

No licensee shall allow, permit or suffer the holder of limited rehabilitation employment permit to act in a managerial capacity with respect to the licensed business, or sell, serve or deliver any alcoholic beverage; nor shall any holder of a limited rehabilitation permit engage in any such activity.

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 13:2-14.7. Stylistic revisions. Recodified prior text at 13:2-14.8, "Continued employment of disqualified person", to 13:2-14.9.

#### **13:2-14.9 Termination of employment of disqualified person**

No licensee shall continue to employ in any manner whatsoever on the licensed premises any criminally disqualified person after the application of such person for an employment permit has been withdrawn or denied, or the employment permit or temporary work letter has been cancelled, suspended, revoked, or has expired.

As amended, R.1975 d.237, effective August 8, 1975.  
 See: 7 N.J.R. 336(a), 7 N.J.R. 436(b).  
 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 13:2-14.8. Revised to specify "criminally disqualified" person; added withdrawal of application and cancellation of "temporary work letter" to termination criteria. Recodified prior text at 13:2-14.9, "Term of permit; applicant's photograph and fingerprints", to 13:2-14.10.

**13:2-14.10 Nontransferability of permits; term of permit; applicant's photograph and fingerprints**

- (a) Employment permits are not transferable from person to person.
- (b) All individual permits, except rehabilitation permits, expire on March 31st following their issuance unless otherwise specified therein.
- (c) Each applicant for his first permit shall submit with the application one color passport-type photograph, two inches by two inches, taken not more than 30 days prior to the date of application.
- (d) Applications for a rehabilitation employment permit shall require fingerprinting of the applicant and payment of the necessary fingerprinting processing fees attendant thereto.

As amended, R.1975 d.237, effective August 8, 1975.  
 See: 7 N.J.R. 336(a), 7 N.J.R. 436(b).  
 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 13:2-14.9. In (c), specified "color passport photo"; added (d). Prior text at 13:2-14.10, "Blanket employment permit", repealed.

**13:2-14.11 Amendment of application**

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

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

**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 \$25.00. 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".

**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 his or her discretion, enter an order removing the disqualification, if he or she 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 conducted himself or herself in a law-abiding manner during such period; and
3. His or her association with the alcoholic beverage industry will not be contrary to the public interest.

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.

**SUBCHAPTER 16. SOLICITOR'S PERMIT****13:2-16.1 Necessity of permit**

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

**13:2-16.2 Privileges of permit**

A solicitor's permit, issuable by the Director of the Division of Alcoholic Beverage Control, authorizes the permittee to make offers and solicit for such sales of alcoholic beverages on behalf of the licensee represented by the solicitor and designated in the permit.

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

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

Stylistic revisions.

**13:2-16.3 Eligibility for permit**

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

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

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

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

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

No solicitor's permit shall be issued to or held by any person charged or entrusted with the enforcement of the laws concerning alcoholic beverages in any manner whatsoever, except that nothing herein shall prohibit a member of a municipal governing body or municipal issuing authority from being issued or holding a solicitor's permit, provided, however, that no holder of a solicitor's permit shall, directly or indirectly, offer for sale or solicit any order for the purchase or sale of any alcoholic beverages in any municipality in which he is a member of the municipal governing body or municipal issuing authority.

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

Recodified from 13:2-16.8. Added "municipal officials" to heading. Recodified prior text at 13:2-16.4, "Eligibility for permit", to 13:2-16.3.

**13:2-16.5 Permit fees**

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

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

Section was "Restrictions on permittee".

**13:2-16.6 Application for permit; photograph and fingerprints**

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

(b) Applications for the issuance of a solicitor's permit shall be accompanied by one passport type color photograph of the applicant, two inches by two inches, taken not more than 30 days prior to the date of the application.

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

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

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

Section was "Solicitation without permit".

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

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

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

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

Section was "Interest of permittee in retail business".

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

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

Recodified from 13:2-16.9 by R.1990 d.412, effective August 20, 1990.

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

Recodified prior text at 13:2-16.8, "Permits to enforcement officers", to 13:2-16.4.

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

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

Recodified from 13:2-16.10 by R.1990 d.412, effective August 20, 1990.

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

Recodified prior text at 13:2-16.9, "Transferability of permit", to 13:2-16.8.

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

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

Recodified from 13:2-16.11 by R.1990 d.412, effective August 20, 1990.

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

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

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

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

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

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

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

Recodified prior text at 13:2-16.11, "Surrender of permit upon termination of employment", to 13:2-16.10.

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

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

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

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

Section was "Permittee's activity".

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

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

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

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

Stylistic revisions.

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

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

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

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

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

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

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

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

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

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

**SUBCHAPTER 17. APPEALS****Subchapter Historical Note**

All provisions of this subchapter were filed and became effective prior to September 1, 1969. This subchapter expired in accordance with Executive Order No. 66(1978) on October 1, 1984. Re-adoption was filed December 17, 1984 as R.1984 d.608. See: 16 N.J.R. 2954(a), 17 N.J.R. 91(a). See also Chapter Historical Note and section annotations.

**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 \$50.00 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."

**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 Director determines that the case is contested, he or she shall either file it with the Office of Administrative Law pursuant to N.J.A.C. 1:1-5.1 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.

**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

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

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.

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.

#### 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

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 his or her 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 shall appear that a substantial question of fact or law has been raised, and that irreparable injury to the appellant would otherwise result, the extension of license, subject to such conditions as may be imposed, shall be continued pending a final determination of the appeal, or the expiration of the license term, whichever comes sooner.

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 13:2-17.12. Added language regarding N.J.A.C. 13:2-2.10(b) time requirement and continuation of extension of license; deleted references to ALJ order. Recodified prior text at 13:2-17.9, "Subpoenas", to 13:2-17.7.

#### 13:2-17.10 Transfer, extension or renewal subject to appeal

When appeal is taken in any matter, any subsequent transfer, extension or renewal of the license involved in the appeal shall be subject to the ultimate outcome of such appeal, unless otherwise ordered in the final administrative determination of the case.

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 13:2-17.13. Added text regarding "subsequent" change of status of "the license" involved in appeal. Prior text at 13:2-17.10, "Failure to appear; failure to comply with orders or hearing requirements; obstructing the orderly conduct of proceedings", repealed.

#### 13:2-17.11 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 the conduct of the case.

Amended by R.1979 d.393, effective October 1, 1979.

See: 11 N.J.R. 580(f).

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 13:2-17.14. Deleted exception "pursuant to N.J.A.C. 13:2-17.8". Recodified prior text at 13:2-17.11, "Stays", to 13:2-17.8.

#### Case Notes

Granting of stay within Director's sound discretion. *Canal Street Pub, Inc. v. Municipal Bd. of Alcoholic Beverage Control, City of Paterson*, 6 N.J.A.R. 221 (1982).

Procedures and standards on appeal. *Canal Street Pub, Inc. v. Municipal Bd. of Alcoholic Beverage Control, City of Paterson*, 6 N.J.A.R. 221 (1982).

Requirements for appeal based upon agency declaratory ruling; examination and application of statute prohibiting issuance of liquor license to establishment within 200 feet of a church. *Raritan Rd. Baptist Church v. Tp. of Cranford*, 2 N.J.A.R. 218 (1980).

Admissibility of evidence; record includes exhibits marked at original disciplinary proceedings but not timely provided to administrative law judge (citing former rule) (Division's Final Decision). *A.H.S., Inc. v. Tp. Committee, Tp. of Wall*, 1 N.J.A.R. 284 (1979).

#### 13:2-17.12 (Reserved)

Recodified to 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).  
Section was "Extension of license term".

### 13:2-17.13 (Reserved)

Recodified to 13:2-17.10 by R.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
Section was "Transfer, extension or renewal subject to appeal".

### 13:2-17.14 (Reserved)

Recodified to 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).  
Section was "Hearing procedure".

### 13:2-17.15 (Reserved)

Section was "Relaxation of appeals procedures".

## SUBCHAPTER 18. PETITION PROCEEDINGS; DISCRIMINATION AGAINST WHOLESALEERS

### Subchapter Historical Note

Pursuant to Executive Order No. 66(1978), Subchapter 18 was re-adopted as R.1984 d.178, effective April 26, 1984. See: 16 N.J.R. 495(a), 16 N.J.R. 1278(a). See also Chapter Historical Note and section annotations.

### 13:2-18.1 Grounds for relief

(a) There shall be no discrimination in the sale of any nationally advertised brand of alcoholic beverage, other than malt alcoholic beverage, by importers, blenders, distillers, rectifiers and wineries, to duly licensed wholesalers of alcoholic beverages who are authorized by such importers, blenders, distillers, rectifiers and wineries to sell such nationally advertised brand in New Jersey. All actions by duly licensed New Jersey wholesalers seeking relief from such discrimination shall be in the form of a petition to the Director setting forth the facts of alleged discrimination, the relief sought and the grounds therefor.

(b) For purposes of (a) above refusal to sell based upon any of the following shall be deemed not to be discrimination:

1. The appointment of a trustee, receiver or other similar custodian for all or any substantial part of the wholesaler's property based upon the provisions of N.J.S. 14A:14-2(2) or any other State or Federal provision similar to N.J.S. 14A:14-2(2);

2. The filing of the petition by the wholesaler, or an answer, not denying jurisdiction, in bankruptcy, under Chapter XI of the Federal Bankruptcy Act, or any similar law, State or Federal, whether now or hereafter existing, or if any such petition is filed against the wholesaler and not vacated or stayed within 15 days of such filing;

3. The making, by the wholesaler, of an assignment for the benefit of creditors;

4. An attachment of the wholesaler's property, or any substantial part thereof, or the filing of any like process against it which is not discharged within 30 days of such filing, unless satisfaction of the underlying obligation is the subject of continuing negotiation, installment payments, or appeal;

5. The rendition of a final judgment by any competent court or tribunal against the wholesaler which remains unsatisfied for 30 days after the entry thereof and which is substantial in relation to the assets of such wholesaler; unless satisfaction of the underlying obligation is the subject of continuing negotiations, installment payments, or appeal;

6. The actual suspension or loss, by the wholesaler, of any Federal or State license required for the operation of its business, whether lost through revocation, failure to renew or suspension, for a period of 60 continuous days or more;

7. The insolvency of the wholesaler;

8. The disparagement, by the wholesaler, of any product of the refusing seller made by a representative specifically authorized by a wholesaler's key management personnel: "Disparagement" shall mean the specific suggestion that the product of the refusing seller not be purchased, or demonstration of a course of conduct that would lead a reasonable person to believe that the product of the refusing seller should not be purchased, and when called to the attention of key management personnel of the wholesaler, no reasonable corrective action is taken;

9. The unfair preferment in sales effort, by the wholesaler, of a competitor's brand over that of the refusing seller;

10. The material breach, by such wholesaler, of any material term or condition of sale or credit agreed upon or established by course of dealing between the wholesaler and the refusing seller, in writing; provided that where either by virtue of customary practice in the industry or past dealings between parties, such breach would not be deemed a reasonable basis for fear of material economic loss from the transaction or transactions involved.

(c) For purposes of (b)7 above, a wholesaler shall be deemed insolvent when:

1. The aggregate of its property, exclusive of any property which it may have conveyed, transferred, concealed, removed or permitted to be concealed or removed, with intent to defraud, hinder, or delay its creditors, shall not at a fair valuation be sufficient in amount to pay its debts; or

2. The wholesaler is unable, by its available assets or the reasonable use of credit to pay its debts as they become due; provided, however, that where such inability does not put the refusing seller in reasonable fear of material economic loss from the transaction or transactions involved, refusal to sell shall not be authorized.

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.

#### Case Notes

Successor owner of distillery ordered to continue sales to wholesale distributor as under contracts with former owner; N.J.S.A. 33:1-93.6 et seq. constitutional. Royal Liquor Distributors and Importers v. Brown-Forman Distillers Corp., 4 N.J.A.R. 248 (1982).

#### 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 of the product(s) involved, brand registration filings for the products, 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.

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).

#### 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

The petitioner may apply to the Director for interlocutory relief by order to show cause, accompanied by the verified petition alleging that the petitioner will probably suffer substantial and irreparable injury before final determination of the proceeding unless interlocutory relief is granted. 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. 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.

#### 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 Director determines that the case is contested, he or she shall either file it with the Office of Administrative Law pursuant to N.J.A.C. 1:1-5.1 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".

#### 13:2-18.7 Public hearing

All proceedings shall be heard at the office of the Division of Alcoholic Beverage Control or designated location 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.

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

## SUBCHAPTER 19. DISCIPLINARY PROCEEDINGS

### Subchapter Historical Note

All provisions of this subchapter were filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Subchapter 8 was readopted as R.1984 d.606, effective December 17, 1984. See: 16 N.J.R. 2957(a), 17 N.J.R. 92(a). See also Chapter Historical Note and section annotations.

### 13:2-19.1 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.

### 13:2-19.2 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.

### 13:2-19.3 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.

### 13:2-19.4 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.

### 13:2-19.5 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.

### 13:2-19.6 Jurisdiction and hearing procedure

(a) A Division instituted disciplinary proceeding shall be considered a contested case upon the entry of a "not guilty" plea by the licensee or upon the failure of the licensee to enter a timely plea. Contested cases shall be filed with the Office of Administrative Law pursuant to N.J.A.C. 1:1-5.1 or retained by the Director under the provisions of N.J.S.A. 52:14F-8. Upon determination that the matter is a contested case, the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1) shall govern the conduct of the case.

(b) In uncontested cases before the Division, written argument as to penalty may be submitted to the Director within 10 days after entry of the plea. No oral argument may be had before the Director, unless, on his or her own motion, the Director decides to hear oral argument and notifies the parties or their attorneys of the time and place fixed therefor.

Amended by R.1979 d.393, effective October 1, 1979.  
See: 11 N.J.R. 580(f).  
Amended by R.1984 d.606, effective January 7, 1985.  
See: 16 N.J.R. 2957(a), 17 N.J.R. 92(a).  
Old section hearings substantially amended.  
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.

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

### Subchapter Historical Note

All provisions of this subchapter were filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Subchapter 20 was readopted as R.1985 d.333, effective June 7, 1985. See: 17 N.J.R. 1054(a), 17 N.J.R. 1662(a). See also Chapter Historical Note and section annotations.

### 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

(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.

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.

### 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 or Farm Winery license with retail privileges may authorize the shipment of wine purchased in person at retail on the licensed premises 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. 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 calender 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.

### 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 \$25.00 for each insignia, in cash, money order or certified check 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 \$25.00 for each permit, in cash, money order or certified check 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 \$20.00 for each insignia, in cash, money order or certified check 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.

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).

### 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 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 Transportation for personal consumption;  
amount limitation; permit**

(a) Alcoholic beverages intended in good faith for personal consumption and not for sale may be transported into this State from a point outside New Jersey by any person in a vehicle under his or her 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) Alcoholic beverages intended in good faith for personal consumption and not for sale may be transported between points within this State by any person in a vehicle under their control to the extent permitted by N.J.S.A. 33:1-2 that is, not exceeding one-half barrel, or two cases, containing not in excess of 24 quarts in all, of beer, ale or porter, and five gallons of wine and 12 quarts of other alcoholic beverages within any consecutive period of 24 hours.

(c) Transportation of alcoholic beverages intended in good faith for personal consumption in excess of the limits set forth in this section is prohibited, unless the consumer:

1. Acquires from the Division a special permit to authorize the intrastate transportation in that individual's vehicle for a fee of \$5.00 as set forth in N.J.S.A. 33:1-2; or

2. Has the alcoholic beverages delivered intrastate by a New Jersey licensed alcoholic beverage transporter; or

3. Acquires from the Division a special permit to authorize the interstate transportation for a fee of \$5.00 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.

**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, in duplicate, accompanied by a fee of \$400.00.

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

1. Those limited transportation permits and the corresponding limited transportation permit insignia which have been issued with an expiration date of June 30, 1993 shall be and are extended until September 30, 1993.

(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 \$40.00 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).

**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.

(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."

**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**

**Authority**

N.J.S.A. 33:1-3, 12, 12.40 through 12.48, 23, 25, 26, 27, 31, 39 and 93.

**Source and Effective Date**

R.1992 d.445, effective November 2, 1992.  
See: 24 N.J.R. 1958(b), 24 N.J.R. 4055(b).

**Subchapter Historical Note**

Subchapter 22, Transportation of Alcoholic Beverages by Railroad Carriers, was repealed by R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c). See also Chapter Historical Note.

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

All holders of a plenary or limited retail distribution license 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.

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

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

(b) Any person or entity that thereafter acquires a plenary or limited retail distribution license 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 which is subject to a change of 33½ percent or more of its corporate stockholders, shall be required to attend and successfully complete an initial educational training program within nine months of the new license issuance, the approval of a person-to-person license transfer application or the change of 33½ percent or more of the stockholdings in a corporate license.

(c) All holders of plenary or limited retail distribution licenses that have successfully completed an initial educational training program shall be required to attend and successfully complete supplemental continuing educational training programs 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.

**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 in the name of an individual as a sole proprietorship, or for licenses held in the name of a partnership, the required attendee shall be the individual owner of the license, or at least one of the partners actively engaged in the operation or control of the business, respectively.

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, who shall be 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.

4. In addition to the above, any licensee may register as an attendee, on a space available basis, any other officer, stockholder, clerk or other employee actively engaged in the operation or control of the licensed business.

**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 is not 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.

#### 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 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 licenses who submits that it will be 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 promulgated 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. Any Order of Deferment shall not exceed six months.

#### 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) 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

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).

#### 13:2-22.10 Subchapter operative date

This subchapter shall be operative on the date of the Director's contracting with a nonprofit educational organization pursuant to N.J.A.C. 13:2-22.5. Notice of such operative date shall be published in the New Jersey Register and added to this subchapter where necessary through a Notice of Administrative Change.

### 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 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.

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).

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 licensed 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).

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 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 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 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).

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 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.

**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.

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).

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 A.M., the clocks in each licensed premises will be advanced one hour in observance of Eastern Daylight Savings Time. In any municipality having a closing hour later than 2 A.M., the official time will then become 3 A.M. and the hours of sale will be calculated accordingly.

(b) On the last Sunday of October of each year, at 2 A.M., the clocks in each licensed premises will be turned one hour back in observance of Eastern Standard Time. In municipalities having a closing hour later than 2 A.M., the clocks will be immediately returned to 1 A.M. and hours of sale will be calculated accordingly.

(c) In either case, (a) or (b) above, licensed premises having closing hours of 2 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".

**13:2-23.9 Prohibition against adulterated alcoholic beverages**

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

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

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

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

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

Amended by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Added reference to 13:2-20.

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

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

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

Amended by R.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 Revised and designated existing text as (a) and (b).

**13:2-23.12 Receiving alcoholic beverages from prohibited sources**

(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 of the Division of Alcoholic Beverage Control.

(b) The purchase of alcoholic beverages by one retailer from another and the 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 of the 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).  
 Designated existing text as (a) and (b).

**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 promulgated by the Director of the Division of Alcoholic Beverage Control, 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, his or her deputies, inspectors and investigators, and by any officer 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).  
 In (a)3, specified form "promulgated" by the Director.

**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).

**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) No licensee or registrant privileged to sell or solicit the sale of alcoholic beverages 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 branded or unique glassware of souvenirs in connection with a single purchase or consumer mail-in rebates offered by alcoholic beverage producers or importers in accordance with N.J.A.C. 13:2-24.11; 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.

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".

### 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 of the Division of Alcoholic Beverage Control, provided, however, that nothing herein contained shall prohibit the storage of alcoholic beverages by a licensee upon the formerly licensed premises for a period not exceeding five days subsequent to 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 a fellow member of a cooperative purchasing agreement 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.

**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/manufacture or wholesaler relationships**

No retail licensee shall employ or have connected with him in any business capacity whatsoever any person interest-

ed, 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 of the Division of Alcoholic Beverage Control 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.

**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 of the Division of Alcoholic Beverage Control, his or her 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.

**13:2-23.30 Prohibition against hindering an investigation**

No licensee shall, directly or indirectly, fail, on demand, to produce, exhibit or surrender to the Director of the Division of Alcoholic Beverage Control, his or her deputies, inspectors or investigators and any officer as defined by N.J.S.A. 33:1-1(p), any and all matters and things which the Director or other issuing authority is authorized or empowered to investigate, inspect or examine; nor shall any licensee, directly or indirectly, fail to facilitate, or hinder, delay or cause the hindrance or delay, of any investigation or inspection of the licensed business or of the licensed premises or of any search thereof by the Director, his or her 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 revisions.

**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 of the Division of Alcoholic Beverage Control, 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).

#### 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

All licensees shall have and keep a true book or books of account in the English language wherein there shall be entered a record of all moneys invested in the licensed business and the source of all such investments, for an unlimited period of time; and, for a period of five years, a record of all moneys received in the ordinary course of business; a record of the source of all moneys received other than in the ordinary course of business; a record of all moneys expended from such receipts; and the name of the person receiving such moneys and the purpose for which such expenditures were made. All books and records pertaining to such investments, receipts or expenditures shall be made available for inspection, upon demand, by the Director of the Division of Alcoholic Beverage Control and the other issuing authority and by his or her or its 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.

#### 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

#### 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 or registered manufacturer, supplier, importer, wholesaler or distributor may furnish or provide advertising or promotional materials to any retail licensee, except that samples may be provided to retailers, and donations of alcoholic beverages made to qualified industry trade 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 thereon.

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

### 13:2-24.8 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;
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).

### 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 an alcoholic beverage directly to consumers for the purpose of introducing or reintroducing consumers to its product(s) or for advertising, promotion or market-testing purposes.

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 on bottles; provided that such pads or neck-hangers shall be non-discriminatorily distributed to licensees within a targeted advertising area. Nothing shall prohibit the directing of a rebate offer to a specific geographic area, but rebates shall be made to any New Jersey resident complying with the terms of the

offer, whether or not they shall reside in the 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 change's taking place.

5. No such rebate offered in accordance with this section shall require the purchase of more than one alcoholic beverage product or the purchase of any other item or product as a condition for either obtaining a rebate or enhancing the value of a rebate.

6. Any rebate offered in accordance with this section shall be limited to one refund or rebate per household or family for any one rebate or refund program and the rebate offer form shall specifically indicate such restriction. Any manufacturer, distiller, blender and rectifier, brewer, vintner or importer offering a rebate or refund program shall maintain adequate records, or shall cause the clearinghouse processing such rebates to maintain adequate records, in order to assure compliance with the limitation of one rebate or refund per household or family as set forth herein.

(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) No retail licensee shall advertise a lower price or a reduction in the price of an alcoholic beverage product or package it is offering for sale by reason of a manufacturer's rebate or refund. A retail licensee, however, may indicate in advertising that manufacturer's rebate is being offered on a particular alcoholic beverage product or package but any such advertising must also indicate that the rebate is limited to one per household or family.

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.

### 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 display service shall file with the Director quarterly reports on or before the 15th of January, April, July and October for the preceding calendar quarter, which reports shall identify the amounts and sources of all monies received from any licensee, permittee, registrant, supplier, importer or manufacturer of alcoholic beverages, indicate the name, address, and the license number of all licensees to which services were furnished; and set forth, the value of the advertising or display materials furnished to or on behalf of each such licensee. Such reports shall be confidential pursuant to N.J.A.C. 13:2-29.2(a)3.

(c) 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.

## SUBCHAPTER 25. DIVERSION, TRANSSHIPMENT AND REGISTERED DISTRIBUTION

### Subchapter Historical Note

Pursuant to Executive Order No. 66(1978), Subchapter 25 was re-adopted as R.1984 d.179, effective April 26, 1984. See: 16 N.J.R. 496(a), 16 N.J.R. 1278(c). See also Chapter Historical Note and section annotations.

### 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).  
Amended by R.1980 d.72, effective February 11, 1980.  
See: 11 N.J.R. 285(b), 12 N.J.R. 156(a).

### 13:2-25.2 Registered distribution

No plenary wholesale, wine wholesale or limited wholesale licensee shall sell or deliver any brand of alcoholic beverage intended for resale in this State unless the alcoholic beverage is acquired from the brand owner, or his authorized agent, or a wholesale licensee designated as a New Jersey registered distributor by the brand owner or his authorized agent pursuant to N.J.A.C. 13:2-33.

New Rule, R.1979 d.138, effective May 1, 1979.  
See: 11 N.J.R. 143(a), 11 N.J.R. 257(c).  
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.1990 d.412, effective August 20, 1990.  
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
Revised former (a) and deleted (b), regarding accommodation sales or transfers.

### Case Notes

N.J.A.C. 13:2-25.2(a) valid as serving purpose of identifying licensees subject to taxation through filing of documentation, as providing marketplace and industry stability, as solving problem of industry member identification and as promoting and enhancing interbrand competition; rule does not adversely affect consumers or violate anti-trust laws (Director's Decision). In Re: Todd Seifert, 4 N.J.A.R. 294 (1983).

### 13:2-25.3 State beverage distributor

(a) No State beverage distributor shall sell or deliver to any retailer or consumer malt alcoholic beverages other than from inventory in a warehouse or salesroom located in New Jersey and operated under a State beverage distributor's license. Such "inventory" shall be deemed to include only malt alcoholic beverages which shall have been stored in such warehouse for at least a period of 24 continuous hours.

(b) No State beverage distributor shall sell or deliver any brand of alcoholic beverage intended for resale in this State unless the alcoholic beverage is acquired from the brand owner or his authorized agent, or a New Jersey distributor designated by the brand owner or his authorized agent.

New Rule, R.1980 d.72, effective February 11, 1980.  
 See: 11 N.J.R. 285(b), 12 N.J.R. 156(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 (a) to specify "any retailer or consumer" and malt beverage inventory, and (b) to include "any brand of alcoholic beverage".

**Case Notes**

N.J.A.C. 13:2-25.3(b) valid as serving purpose of identifying licensees subject to taxation through filing of documentation, as providing marketplace and industry stability, as solving problem of industry member identification and as promoting and enhancing interbrand competition; rules does not adversely affect consumers or violate anti-trust laws (Director's Decision). In Re: Todd Seifert, 4 N.J.A.R. 294 (1983).

**SUBCHAPTER 26. RETAIL COOPERATIVE PURCHASES**

**Subchapter Historical Note**

Fill standards previously in this subchapter were recodified to 13:2-27. Pursuant to Executive Order No. 66(1978), Subchapter 26 was readopted as R.1984 d.180, effective April 26, 1984. See: 16 N.J.R. 497(a), 16 N.J.R. 1279(a). See also Chapter Historical Note and section annotations.

**13:2-26.1 Restrictions on cooperative purchases**

(a) A Class C retail licensee, as defined in N.J.S.A. 33:1-12, may join with another Class C licensee in a cooperative agreement for the purchase and transportation of alcoholic beverages, provided that such agreement and activity shall conform to the following standards:

1. No unlicensed person or entity may participate in any management capacity nor receive any compensation in connection with the purchase or transportation of alcoholic beverages;
2. The number of Class C licensees joined in any agreement shall not exceed the largest number of plenary retail distribution licenses, as defined in N.J.S.A. 33:1-12(3)(a), issued to any one person or entity in this State at the time of the prior most recent annual renewal of such licenses;
3. No cooperative agreement may prohibit any licensee from joining any other cooperative agreement;
4. No cooperative agreement may prohibit any retailer from advertising or selling any product at any otherwise lawful price;
5. Any licensee may withdraw from any cooperative agreement upon 30 days written notice and no penalties may be charged for such withdrawal;

6. All purchases on credit through or by cooperative agreement shall be reduced to writing, signed by the wholesaler and each individual participating member of the cooperative, and be consistent with the credit provisions of N.J.A.C. 13:2-24. Such credit terms shall include adequate assurances of payment by either the posting of a bond by the cooperative member or a provision that each member of the cooperative shall be jointly and severally liable for payment for the purchases made through the cooperative. A copy of such written agreements shall be maintained by the wholesaler in its marketing manual and by the registered buying cooperative;

7. All individual purchases through or by cooperative agreement shall be separately invoiced consistent with N.J.A.C. 13:2-20.4, and shall contain the cooperative's registration number;

8. All purchases through or by cooperative agreement shall be transported consistent with N.J.A.C. 13:2-20, N.J.S.A. 33:1-13 and N.J.S.A. 33:1-28;

9. No licensed party to a cooperative agreement shall co-mingle inventory, funds or other assets inconsistent with this subchapter and N.J.A.C. 13:2-23.21;

10. Any purchase or transfer in violation of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq., or the regulations promulgated thereunder, shall be a violation by all members of the cooperative purchase agreement; and

11. Nothing herein shall be deemed to require the servicing of any cooperative agreement with quantity or cash discounts if there exists no corresponding justification for the differential pursuant to N.J.A.C. 13:2-24.1(b)1.

(b) No cooperative buying group may participate in any business transaction permitted by (a) above, unless the cooperative is registered with the Division in a form prescribed by the Director. Such registration shall include:

1. The identity and State issued license numbers of the members;
2. A copy of the cooperative agreement; and
3. The issuance of a special permit by the Director, which shall be renewable annually on August 1.

New Rule, R.1979 d.138, effective May 1, 1979.  
 See: 11 N.J.R. 143(a), 11 N.J.R. 257(c).  
 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.1990 d.412, effective August 20, 1990.  
 See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).  
 In (a), stylistic revisions; corrected references.

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

### Subchapter Historical Note

Pursuant to Executive Order No. 66(1978), Subchapter 27 was re-adopted as R.1984 d.181, effective April 26, 1984. See: 16 N.J.R. 497(b), 16 N.J.R. 1279(b). See also Chapter Historical Note and section annotations.

### 13:2-27.1 Adoption of Federal requirements

Federal regulations, as amended or supplemented from time to time, relating to labeling and standards of fill concerning distilled spirits, wine and malt alcoholic beverages packaged for shipment in interstate or foreign commerce, are made a part hereof and shall also apply to alcoholic beverages packaged purely for intrastate shipment within New Jersey.

Amended by R.1971 d.148, effective August 27, 1971.  
See: 3 N.J.R. 111(b), 3 N.J.R. 181(b).  
Amended by R.1976 d.252, effective October 1, 1976.  
See: 8 N.J.R. 336(c), 8 N.J.R. 439(c).  
Amended by R.1979 d.138, effective May 1, 1979.  
See: 11 N.J.R. 143(a), 11 N.J.R. 257(c).

### 13:2-27.2 Deposit marked containers

No manufacturer, supplier, importer, brand registrant, wholesale or retail licensee or permittee shall sell, distribute or market for resale to a consumer in New Jersey or purchase for resale to a consumer in New Jersey any alcoholic beverage product packaged in a bottle or can marked for deposit of another state.

New Rule, R.1984 d.50, effective March 5, 1984.  
See: 16 N.J.R. 31(a), 16 N.J.R. 428(b).

## SUBCHAPTER 28. DECANTING OF WINE

### 13:2-28.1 Decanting wine for consumption; labeling container

The holder of any retail license authorizing the sale of alcoholic beverages for consumption on the licensed premises may transfer wine from any original barrel, cask, keg or other container on the licensed premises to another barrel, cask, keg, decanter, bottle or similar receptacle and serve such wine therefrom solely for consumption on the licensed premises, and not to be removed from the licensed premises under any circumstances whatsoever; provided, however, that the last barrel, cask, keg or other container from which the contents thereof were drawn to fill the open container served to the patron shall have affixed thereto at all times a gummed label clearly identifying the contents thereof.

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

Deleted "tax paid" from "any original barrel, cask, keg . . ."; added "to fill the open container served to the patron".

### 13:2-28.2 Form of label

The label prescribed by the preceding paragraph shall be in the following form and each statement shall be true, viz.:

This tax paid \_\_\_\_\_ contains \_\_\_\_\_ wine,  
(Type of container) (Type and brand)  
received from \_\_\_\_\_ on  
(Name and address of seller)

\_\_\_\_\_  
(Date of receipt)

\_\_\_\_\_  
(Signature)

## SUBCHAPTER 29. RECORDS

### Subchapter Historical Note

This subchapter was filed and became effective prior to September 1, 1969. Amendments to this subchapter were filed on April 4, 1979, as R.1979 d.138, effective May 1, 1979. See: 11 N.J.R. 143(a), 11 N.J.R. 257(c). Pursuant to Executive Order No. 66(1978), Subchapter 29 was re-adopted as R.1984 d.182, effective April 26, 1984. See: 16 N.J.R. 498(a), 16 N.J.R. 1279(c). See also Chapter Historical Note and section annotations.

### 13:2-29.1 Public records

(a) The following enumerated records required to be maintained by law or other regulation by the Director, Division of Alcoholic Beverage Control, 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.

**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 incom-

patible with the economic and efficient operation of the office and the transaction of public business, he or she may permit any citizen who is seeking to copy any individual record or report which exceeds 100 pages 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 associated with the Licensing Information System (ABC/LIS) 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.

**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 his or her 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.

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".

**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 promulgated 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 addresses 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".

**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****Subchapter Historical Note**

All provisions of this subchapter were filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Subchapter 31 was readopted as R.1984 d.602, effective December 17, 1984. See: 16 N.J.R. 2959(a), 17 N.J.R. 92(b). See also Chapter Historical Note and section annotations.

**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.

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

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

Deleted language regarding hearings open to the public.

**13:2-31.2 Procedures; return of property seized**

(a) Prior to final determination by the Director, claims for the return of property seized under N.J.S.A. 33:1-66 or N.J.S.A. 33:2-3 may be made to the Director by payment in cash, under protest, of the retail value of the seized property, or by the posting of a proper bond with sureties satisfactory to the Director in a sum double the retail value of the property. In lieu of such cash bond or surety bond, a claimant may institute an action for replevin against the Director in any court of competent jurisdiction according to the forms and procedure, including the delivery of a bond, of such court; such action to be commenced within 30 days from the seizure of such property and not thereafter. The Director may, in his or her discretion, refuse to entertain any such claim for the posting of a bond to obtain return of the property seized made more than 30 days from the date of the final order of forfeiture.

(b) The Director's appraisal of the retail value of seized property, upon claim for its return, shall be controlling.

(c) A person making payment in cash, or the posting of a proper bond, under protest, may either institute suit to recover such payment in a court of competent jurisdiction under the provisions of N.J.S.A. 33:1-66 or elect, by written stipulation satisfactory to the Director, to have the matter heard as a contested case and to have the Director decide whether the claim shall be recognized or denied, and whether such cash or bond should be forfeited or returned.

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.

**13:2-31.3 Forfeiture of seized property**

(a) The order of forfeiture of seized property after hearing terminates all property interests therein and in any proceeds therefrom, including the interests of the owner, any conditional vendor, chattel mortgagee or lienor. The standards and procedure on claims addressed to the Director for the return of unlawful property or recognition of outstanding interests therein shall be as provided in (b), (c) and (d) below.

(b) Claims may be made by the person whose property has been seized or forfeited for the return of seized property on the ground that the claimant has acted in good faith and has unknowingly violated the law, by presenting evidence to that effect at the hearing. The Director may require a claimant to file a verified petition setting forth in detail all of the facts relied upon. Where the Director is satisfied that the claimant has acted in good faith and has unknowingly violated the law, he or she may order the return of the property upon payment by claimant of reasonable costs of seizure and storage.

(c) Claims may be made by any person having a bona fide and valid lien upon or interest in the seized or forfeited property for the recognition of the validity and priority of such lien or interest, by presenting evidence at the hearing that such claimant has acted in good faith, and had no knowledge of the unlawful use to which the property was put, or of such facts as would have led a person of ordinary prudence to discover such use. The Director may require such claimant to file a verified petition setting forth in detail the facts relied upon. If the claim is established to the satisfaction of the Director, he or she may order the return of the property to the claimant where it appears that the amount or value of such lien or interest exceeds the value of the property, subject to payment of reasonable costs of seizure and storage; or order the retention of the property for the use of the State, subject to the payment of the lien or interest less costs of seizure and storage; or order the sale of the property, subject to the payment of the lien or interest out of the proceeds of sale, after first deducting the reasonable costs of seizure and storage.

(d) Claims may be made by a common carrier whose vehicle has been seized for return of the vehicle by filing a verified petition with the Director substantiating such interest, together with a statement that claimant has acted in good faith and had no knowledge at the time of the seizure that the vehicle contained illicit alcoholic beverages. The Director may, in his or her discretion, if satisfied that these facts are established, order the return of the seized vehicle to the common carrier.

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

#### 13:2-31.4 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 the conduct of the case.

Amended by R.1979 d.393, effective October 1, 1979.  
See: 11 N.J.R. 580(f).  
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.

## SUBCHAPTER 32. SALES OF FORFEITED PROPERTY

### 13:2-32.1 Publication of notice of sale

Notice of sale of forfeited property shall be given by publication twice in at least one newspaper designated by the Director of the Division of Alcoholic Beverage Control and published either in one county where the sale is to be held, or elsewhere in the State of New Jersey as may appear expedient once in each of the two consecutive calendar weeks preceding such sale. Such notice shall contain a brief description of the property to be sold and shall state that inspection of such property will be permitted upon application therefor to 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).  
Stylistic revision.

### 13:2-32.2 Adjournment of sales

Sales may be adjourned from time to time with respect to all of the property to be sold or any part thereof. No advertisement of the adjourned date shall be necessary but such adjourned date shall be announced at the sale. Adjourned sales shall be subject to all rules in this subchapter.

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.

### 13:2-32.3 Bulk and individual sale

All property to be sold, except motor vehicles, shall be first offered for sale in bulk and thereafter offered for sale in individual lots or items. Each motor vehicle shall be sold separately.

### 13:2-32.4 Bids subject to rejection

The Director reserves the right to reject each and every bid in whole or in part and all sales shall be subject to such reserved right.

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.

### 13:2-32.5 Bids and deposits

Written bids accompanied by a deposit of 25 percent thereof either in cash, money order or certified check payable to the order of the Division of Alcoholic Beverage Control will be received by the Director at any time within two days prior to the date of sale and will be announced and considered as having been made at the sale. Each successful bidder who submits his bid at the sale must accompany his bid by 25 percent of the amount thereof in cash, money order or certified check. Any deposits made by unsuccessful bidders shall be returned.

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.

**13:2-32.6 Confirmation of bids and sales**

All successful bids shall be submitted to the Director and all bids and sales shall be subject to confirmation by the Director. The Director may in his or her absolute discretion withhold confirmation and such decision shall be final.

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.

**13:2-32.7 Forfeiture of deposits**

Within five days after sale, the purchaser shall pay the balance of the amount bid and in the event that any such purchaser fails to pay the balance of the purchase price within the aforesaid time he shall forfeit the amount deposited on account of said bid or purchase. In the event that the property is thereafter resold, the defaulting bidder shall be liable for the full amount of his bid, less credit for the amount realized on the resale of such property.

**13:2-32.8 Bill of sale; delivery of property**

In cases of property other than motor vehicles, after payment of the balance of the amount due on his bid, within the time limited by N.J.A.C. 13:2-32.7, and after confirmation of the sale by the Director, the purchaser shall be entitled to a bill of sale which shall transfer all the right, title and interest to said property as the Director is empowered to transfer under and by virtue of the alcoholic beverage law, as amended and supplemented, and shall take possession of the property forthwith. In cases of sales of motor vehicles, upon payment of the balance of the amount due on his bid, within the time limited by N.J.A.C. 13:2-32.7, and after confirmation of the sale by the Director, the purchaser shall be entitled to a bill of sale, accompanied by an affidavit of a duly authorized agent of the Director, stating the time and place of seizure, the determination by the Director that said motor vehicle constitutes unlawful property, the sale thereof to the purchaser named in the bill of sale and the confirmation of said sale by the Director. The said bill of sale shall transfer all the right, title and interest to said motor vehicle as the Director is empowered to transfer under and by virtue of the alcoholic beverage law, as amended and supplemented. Actual delivery of the motor vehicle to the purchaser shall be deferred until such purchaser has presented satisfactory evidence of motor vehicle registration thereof. In the event the purchaser fails within five days after delivery of a bill of sale to present such motor vehicle registration, a notice may be mailed to the purchaser at the address set forth in the bill of sale stating that unless such motor vehicle registration is presented within five days from the date of the notice the amount paid by the purchaser shall be forfeited to the State and such property shall be resold for the benefit of the State. The Director may, however, in his or her discretion, permit the purchaser to present evidence of registration and to take possession of such motor vehicle after the expiration of the five day period referred to in the notice.

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.

**13:2-32.9 Unconfirmed sales**

In the event that any sale is not confirmed, the amount deposited shall be returned to the successful bidder and the property shall be resold, subject to this subchapter or otherwise disposed of according to 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.

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## SUBCHAPTER 33. PRODUCT INFORMATION FILING: BRAND REGISTRATION

**Subchapter Historical Note**

Amendments of this subchapter repealing sections 3 and 5 through 7 and recodifying section 4 as section 3, were filed on April 4, 1979, as R.1979 d.138 to become effective on May 1, 1979. See: 11 N.J.R. 143(a), 11 N.J.R. 257(c). Previous amendments to the repealed sections were R.1972 d.158, effective August 11, 1972 (see: 4 N.J.R. 233(d)), R.1974 d.349, effective December 19, 1974 (see: 6 N.J.R. 437(c), 7 N.J.R. 13(b)); R.1975 d.238, effective September 2, 1975 (see: 7 N.J.R. 336(a), 7 N.J.R. 436(c)); and R.1978 d.75, effective March 1, 1978 (see: 9 N.J.R. 482(a), 10 N.J.R. 170(a)). An amendment repealed section 3 effective July 3, 1980 as R.1980 d.304. See: 12 N.J.R. 343(b), 12 N.J.R. 494(b). Pursuant to Executive Order No. 66(1978), Subchapter 33 was readopted as R.1985 d.279, effective May 8, 1985. See: 17 N.J.R. 794(a), 17 N.J.R. 1423(a). See also Chapter Historical Note and section annotations.

**13:2-33.1 Brand registration schedule**

(a) No licensee shall knowingly sell, offer for sale, deliver, receive or purchase, for resale in New Jersey, any alcoholic beverage (including private label brands owned by a retailer or exclusive brands owned by a manufacturer or wholesaler and sold by such manufacturer or wholesaler exclusively to one New Jersey retailer or group of affiliated retailers) unless there is first filed with the Director of the Division of Alcoholic Beverage Control a schedule, for each separate alcoholic beverage product, listing the following:

1. The full and correct brand or trade name;
2. Its nature and type;
3. Its age or vintage and proof or percentage of alcoholic content when stated on the label;
4. The sizes of standard packaging and the standard number of unit containers per standard case;
5. The date of label approval granted by the Federal Bureau of Alcohol, Tobacco and Firearms (B.A.T.F.), together with a copy of the B.A.T.F. Form 1649;
6. The names and license numbers of each New Jersey Class B licensee designated by the filer to be an authorized distributor of the product at wholesale;

7. The full name, address, telephone number, taxpayer identification number and New Jersey license number (if any) of the filer; and

8. An indication whether the schedule is an original filing or an amendment to any existing one.

(b) The brand registration schedule shall be filed by:

1. The manufacturer, importer or wholesaler who owns the brand or trade name and label; or

2. An importer or a wholesaler selling such brand who is appointed as authorized agent by the brand owner for the purpose of filing the brand registration schedule; or

3. In the case of private label brands, by the manufacturer or wholesaler supplying such private label brand to the retailer or by any wholesaler having authority, in writing, from the retailer or affiliated retailers owning such private label brand, except where the alcoholic beverages are imported by the retailer under a special permit issued by the director, in which case the retailer shall file the schedule and the labels.

(c) Whenever any change occurs, including but not limited to the addition or deletion of an authorized wholesaler, the filer of the brand registration schedule shall file an amended brand registration schedule within 10 days after the occurrence of such change.

Amended by R.1974 d.349, effective December 19, 1974.

See: 6 N.J.R. 437(c), 7 N.J.R. 13(b).

Amended by R.1985 d.279, effective June 3, 1985.

See: 17 N.J.R. 794(a), 17 N.J.R. 1423(a).

Substantially amended.

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), clarified text.

**Case Notes**

Rule not promulgated to allow circumvention of importer-wholesaler antidiscrimination statute, but to identify the distribution network of alcoholic beverages to insure tax integrity: statute violation found. *Joseph H. Reinfeld, Inc. v. Schieffelin & Co.*, 94 N.J. 400, 466 A.2d 563 (1983).

Former rule held to be valid as serving purpose of identifying licensees subject to taxation through filing of documentation, as providing marketplace and industry stability, as solving problem of industry member identification and as promoting and enhancing interbrand competition; rule does not adversely affect consumers or violate anti-trust laws (Director's Decision). In *Re: Todd Seifert*, 4 N.J.A.R. 294 (1983).

**13:2-33.2 Filing fees and forms**

(a) Each filing of an original brand registration schedule shall be accompanied by a non-refundable fee of \$10.00, and each filing of an amendment to a previously filed brand registration schedule shall be accompanied by a non-refundable fee of \$7.00. Such fees shall be payable to the Division of Alcoholic Beverage Control.

(b) All filings shall be made on a form which the director shall provide for the filing of brand registration schedules. Filers, however, may utilize a photocopy of the form.

Amended by R.1985 d.279, effective June 3, 1985.

See: 17 N.J.R. 794(a), 17 N.J.R. 1423(a).

Old text deleted and new text substituted.

**SUBCHAPTER 34. (RESERVED)**

**Subchapter Historical Note**

Subchapter 34, Alcohol Permits, was repealed by R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c). See also Chapter Historical Note.

**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.

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.

**13:2-35.2 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:

"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, and may be located below and around the exterior windows but not in any way obstructing the windows;

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.

**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".

readopted by R.1984 d.185, effective April 26, 1984. See: 16 N.J.R. 501(a), 16 N.J.R. 1280(b). Subchapter 37, Contracts of Employment and Conduct of Solicitors, was repealed by R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c). See also Chapter Historical Note.

**SUBCHAPTER 36. REQUESTS FOR ADVISORY OPINIONS****Subchapter Historical Note**

Previous subject, repealed by R.1980 d.304, effective July 3, 1980; see: 12 N.J.R. 343(b), 12 N.J.R. 494(b), was amended by: R.1973 d.312, effective November 1, 1973. See: 5 N.J.R. 350(c), 5 N.J.R. 426(a). R.1974 d.239, effective August 28, 1974. See: 5 N.J.R. 420(c), 6 N.J.R. 410(b). R.1975 d.238, effective September 2, 1975. See: 7 N.J.R. 336(a), 7 N.J.R. 436(c). R.1975 d.263, effective September 2, 1975. See: 7 N.J.R. 383(a), 7 N.J.R. 482(c). R.1975 d.353, effective November 26, 1975. See: 8 N.J.R. 47(c). R.1976 d.71, effective March 4, 1976. See: 8 N.J.R. 71(b), 8 N.J.R. 203(b). R.1978 d.75, effective March 1, 1978. See: 9 N.J.R. 482(a), 10 N.J.R. 170(a). R.1979 d.138, effective May 1, 1979. See: 11 N.J.R. 143(a), 11 N.J.R. 257(c). R.1980 d.72, effective February 11, 1980. See: 11 N.J.R. 285(b), 12 N.J.R. 156(a). Pursuant to Executive Order No. 66(1978), Subchapter 36 was readopted as R.1984 d.184, effective April 26, 1984. See: 16 N.J.R. 500(a), 16 N.J.R. 1280(a). See also Chapter Historical Note and section annotations.

**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, CN 087, Trenton, New Jersey 08625, 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 will not receive Division response.

(c) The provisions of this section are to be considered of general applicability and may be relaxed in the discretion of 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).

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).

**SUBCHAPTER 37. (RESERVED)****Subchapter Historical Note**

Amendments to Subchapter 37 were filed on April 4, 1979 as R.1979 d.138, effective on May 1, 1979. See: 11 N.J.R. 143(a), 11 N.J.R. 257(c). Pursuant to Executive Order No. 66(1978), Subchapter 37 was

**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**

Subject to local options as expressed in the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq. and N.J.A.C. 13:2-38.3, 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 allow, permit or suffer 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; except that, whenever the sale of alcoholic beverages for consumption on the premises is authorized in any municipality for the holder of a retail consumption license, the sale, service or delivery by any licensee with retail off-premises package goods privileges 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 as the sale of alcoholic beverages for consumption on the premises is permitted as reflected in N.J.S.A. 33:1-40.3.

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.

**13:2-38.2 Hours; municipal ordinances**

If a municipality has no ordinance or local law that authorizes the sale of alcoholic beverages for consumption on the premises, then such municipality may by ordinance authorize the sale of wine and malt alcoholic beverages in original containers by retail distribution 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.

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 wine; deleted "bottle or can" from "original containers".

**13:2-38.3 Municipal ordinances and regulations**

N.J.A.C. 13:2-38.1 shall not be construed to permit the sale or delivery of any alcoholic beverage, whether for on-premise or off-premise consumption, during hours when such sale or delivery is prohibited by an applicable municipal regulation or referendum.

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

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

Added "whether for on-premise or off-premise consumption".

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

### Subchapter Historical Note

Amendments to this subchapter which repealed sections 2 through 5 and recodified section 6 as section 2 were filed on April 4, 1979, as R.1979 d.138 to become effective on May 1, 1979. See: 11 N.J.R. 143(a), 11 N.J.R. 257(c).

Previous amendments to repealed sections were R.1974 d.239 effective August 28, 1974 (see: 5 N.J.R. 420(c), 6 N.J.R. 410(b)), and R.1975 d.238, effective September 2, 1975 (see: 7 N.J.R. 336(a), 7 N.J.R. 436(c)).

Pursuant to Executive Order No. 66(1978), Subchapter 39 was readopted as R.1984 d.186, effective April 26, 1984. See: 16 N.J.R. 501(b), 16 N.J.R. 1280(c). See also Chapter Historical Note and section annotations.

### 13:2-39.1 Reasons authorizing return of alcoholic beverages; inclusion in marketing manual; other required records

(a) No manufacturer, brewer, winery, distiller, rectifier and blender, wholesaler or distributor privileged to sell to retailers shall accept a return of any alcoholic beverages from a retail licensee for cash, credit or exchange, nor shall any retail licensee accept any cash, credit or exchange, except for one of the following reasons:

1. Defective product and breakage which occurred prior to or simultaneously with delivery of such products to the retailer;
2. Bona fide error in product delivered;
3. Product which may no longer be lawfully sold;
4. Product on hand when retail licensee terminates business (subject to applicable rights of other persons protected by State or Federal laws);
5. Change in product or labeling of product;
6. Discontinued product;
7. Product likely to spoil from retailers who are only open for a portion of the year;
8. Rotation of malt alcoholic beverage product consistent with the policy established by the brewer; or

9. Such other good cause as may be approved by the Director.

(b) A manufacturer, brewer, winery, distiller, blender and rectifier, wholesaler or distributor privileged to sell to retailers is not required to accept returns from a retail licensee for any of the reasons enumerated in (a) above; but should such licensee do so, the return policy shall be clearly identified in its "Marketing Manual" and shall be nondiscriminatorily applied to all similarly situated retail licenses.

(c) Every return of an alcoholic beverage by a retail licensee shall be accompanied by a return document truly dated and signed by a duly authorized representative of both the wholesale and retail licensee, and contain a detailed description of all product returned, the specific reason for the return, the original date of delivery and invoice number of the original purchase, the date of pick-up or return, the name of the person requesting the return, and the terms of return, that is, cash, credit or exchange. A copy of the return document shall be left with the retail licensee.

(d) The return document shall be retained for a period of one year on the licensed premises, unless the Director, Division of Alcoholic Beverage Control, shall have granted to the licensee written permission to keep such documents at another designated place. Licensees shall make the return documents 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.

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 "Credit terms; disclosure on documents". The following annotations pertained to that section:

Amended by R.1975 d.238, effective September 2, 1975.

See: 7 N.J.R. 336(a), 7 N.J.R. 436(c).

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

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

### 13:2-39.2 Salesman or retailer pick-up notice

If alcoholic beverages are picked up at the licensed premises of a manufacturer or wholesaler by a retail licensee or by a solicitor for ultimate delivery to a retail licensee, proper invoices shall accompany the order and the manufacturer or wholesaler must, within a reasonable time of pick-up, mail a copy of the invoice to the destined retailer. Such copy of the invoice must have prominently printed or stamped thereon the following legend: "To the retailer—If you have not already received the merchandise herein, you must immediately give written notice to the Division of Alcoholic Beverage Control of such fact." Every retail licensee receiving such copy of the invoice shall immediately give written notice to the Division of Alcoholic Beverage Control if he has not already received such merchandise.

New Rule, R.1979 d.138, effective May 1, 1979.

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

Recodified from 13:2-39.5 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 13:2-39.2, "Delivery and transportation documents", repealed. The following annotation pertained to that section: Recodified by R.1979 d.138, effective May 1, 1979. See: 11 N.J.R. 143(a), 11 N.J.R. 257(c).

SUBCHAPTER 40. ISSUANCE OF IDENTIFICATION CARDS BY COUNTY CLERKS

13:2-39.3 (Reserved)

Subchapter Historical Note

New Rule, R.1979 d.138, effective May 1, 1979. See: 11 N.J.R. 143(a), 11 N.J.R. 257(c). Repealed by R.1981 d.71, effective November 1, 1981. See: 13 N.J.R. 37(b), 13 N.J.R. 238(b).

Pursuant to Executive Order No. 66(1978), Subchapter 40 was re-adopted by R.1985 d.395, effective August 5, 1985. See: 17 N.J.R. 1380(a), 17 N.J.R. 1900(a). See also Chapter Historical Note and section annotations.

13:2-39.4 (Reserved)

New Rule, R.1979 d.138, effective May 1, 1979. See: 11 N.J.R. 143(a), 11 N.J.R. 257(c). 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 "Return of alcoholic beverages".

13:2-40.1 Form of application; contents

Application for an identification card by residents of a county who shall have attained the legal age for purchase and consumption of alcoholic beverages may be filed with the county clerk in the county wherein said applicant resides and shall be in the following form:

State of New Jersey, County of \_\_\_\_\_

IDENTIFICATION CARD APPLICATION

TO: County Clerk of \_\_\_\_\_ County, New Jersey. The undersigned hereby applies for an identification card as proof of age, and submits the required fee in the amount established by law.

1. Full name of applicant \_\_\_\_\_ (First) (Middle) (Last)

2. Residence address \_\_\_\_\_

3. Height \_\_\_\_\_ Weight \_\_\_\_\_ (Ft.) (In.)

Color of Eyes \_\_\_\_\_ Color of Hair \_\_\_\_\_

4. Date of Birth \_\_\_\_\_

5. Place of Birth \_\_\_\_\_ (Municipality) (County) (State)

6. Father's name \_\_\_\_\_ (First) (Middle) (Last)

7. Mother's Maden Name \_\_\_\_\_ (First) (Middle) (Last)

8. The applicant presents one or more of the following certificates to establish his or her age (check appropriate line):

- Birth Certificate
Naturalization Certificate
Voter Registration Certificate
Other (\_\_\_\_\_)

9. The applicant submits two (2) recent color photographs, approximately 1 1/2 inches by 1 1/2 inches in size, of himself or herself, full face, without hat.

10. Has the applicant ever previously applied for an identification card.

If so, state the details thereof \_\_\_\_\_

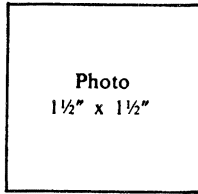
WARNING: Any person not entitled thereto who shall have unlawfully procured or have issued or transferred to him or her an identification card shall be guilty of a disorderly persons offense and shall be sentenced to pay a fine of not more than \$300.00, or imprisonment for not more than 60 days. N.J.S.A. 33:1-81.7.

The applicant hereby certifies that all of the foregoing information and statements are true in all respects.

11. Signature of applicant \_\_\_\_\_ (Date)

12. Signature witnessed by: \_\_\_\_\_ (Date)
(County Clerk or Duly Authorized Deputy)

DO NOT WRITE BELOW THIS LINE



Identification Card Number \_\_\_\_\_  
Date of Issuance \_\_\_\_\_  
Issued by \_\_\_\_\_

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.395, effective August 5, 1985.  
See: 17 N.J.R. 1380(a), 17 N.J.R. 1900(a).  
Application card fee changed from "\$2.00" to "\$4.00".  
Amended by R.1987 d.399, effective October 5, 1987.  
See: 19 N.J.R. 1410(a), 19 N.J.R. 1823(a).  
Deleted "of \$4.00" from form and substituted "in the amount established by law."

**13:2-40.3 Applicant's photographs**

The applicant shall submit two recent photographs, approximately 1 1/2 inches by 1 1/2 inches in size, of himself or herself, full face, without hat.

**13:2-40.2 Establishment of age**

The applicant shall to the satisfaction of the county clerk establish his or her age by presentation of a birth certificate, naturalization certificate or any other proof required by the county clerk, which after examination shall be returned to the applicant.

**13:2-40.4 Execution of application**

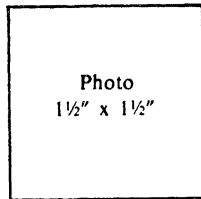
The applicant shall sign the application in the presence of the county clerk or his duly authorized deputy, who shall also sign and date such application.

Amended by R.1985 d.395, effective August 5, 1985.  
See: 17 N.J.R. 1380(a), 17 N.J.R. 1900(a).  
Added text "or her".

**13:2-40.5 Identification card; form**

The identification card shall be 3 1/2 inches wide by 2 1/2 inches high in size, with black print on goldenrod basket weave safety paper containing a hidden Seal of New Jersey and the words State of New Jersey on its front side which is only visible under ultraviolet light, in the following form:

FRONT SIDE



) STATE OF NEW JERSEY  
) COUNTY OF \_\_\_\_\_  
) IDENTIFICATION  
) CARD NO. \_\_\_\_\_  
) —THIS IS TO CERTIFY THAT—  
)  
)  
) —WHO RESIDES AT—  
)  
)  
)  
) HAS FURNISHED TO THE UNDER-  
) SIGNED SATISFACTORY EVIDENCE  
) OF HAVING ATTAINED THE AGE OF  
) 21 YEARS.

HGT.                      WGT.

HAIR                      EYES

DATE OF BIRTH

ATTEST: \_\_\_\_\_  
County Clerk or duly authorized deputy

\_\_\_\_\_  
Date of Issuance

Holder's  
Signature \_\_\_\_\_

**REVERSE SIDE  
WARNING:**

It shall be unlawful for the owner of an identification card to transfer said card to any other person for the purpose of aiding such person to secure alcoholic beverages. Any person who shall transfer an identification card for the purposes of aiding the transferee to obtain alcoholic beverages and any person not entitled thereto who shall have unlawfully procured or have issued or transferred to him or her an identification card shall be guilty of a disorderly

persons offense and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$300.00, or imprisonment for not more than 60 days. N.J.S.A. 33:1-81.7.

**ALCOHOLIC BEVERAGE LICENSEES NOTE:**

The presentation of this identification card by any person in connection with the purchase or attempted purchase of any alcoholic beverage shall constitute a defense to a charge under N.J.S.A. 33:1-77, if the retail licensee makes the sale in good faith reliance on this card and the appearance of the purchaser was such that an ordinary prudent person would believe the card holder to be of legal age.

State No. (preprinted sequential control number)

Amended by R.1985 d.395, effective August 5, 1985.  
See: 17 N.J.R. 1380(a), 17 N.J.R. 1900(a).

Substantially amended.  
Amended by R.1987 d.399, effective October 19, 1987.  
See: 19 N.J.R. 1410(a), 19 N.J.R. 1823(a).

Deleted text "of white index . . . with black print" and substituted "with black print . . . under ultraviolet light."  
Correction: Changed front of Identification Card.  
See: 20 N.J.R. 425(a).

**13:2-40.6 Issuance of card; procedure**

One of the submitted photographs of the applicant shall be mounted on an identification card in the upper left portion of the front side thereof. The card shall be signed by the applicant in the presence of the county clerk or his duly authorized deputy, who shall also sign the card. The official County seal shall be affixed so that it overlaps the photograph and a portion of the printed card. The card shall be inserted into a 10 gauge plastic sleeve that has on its back flap a red ink embossed Great Seal of the State of New Jersey. The plastic will be heat sealed and the laminated card delivered to the applicant. The other photograph of the applicant shall be attached to the application, which shall indicate the date of issuance of the card, the number thereof and the name of the person who issued it. A permanent record thereof shall be retained in the county clerk's office.

Amended by R.1985 d.395, effective August 5, 1985.  
See: 17 N.J.R. 1380(a), 17 N.J.R. 1900(a).  
Substantially amended.  
Amended by R.1987 d.399, effective October 19, 1987.  
See: 19 N.J.R. 1410(a), 19 N.J.R. 1823(a).  
Substantially amended.

**13:2-40.7 Fees**

A fee in the amount established by law shall be paid to the county clerk for the issuance of an original identification card. In the event the card is lost, stolen or destroyed, the holder thereof may apply for a replacement card with new numbers by filing a new application in the same manner as for an original, with payment of fee along with an affidavit as to the loss, theft or destruction of the original card. Every replacement card shall prominently have stamped, typed or otherwise imprinted on the card the word "Duplicate".

Amended by R.1985 d.395, effective August 5, 1985.  
See: 17 N.J.R. 1380(a), 17 N.J.R. 1900(a).  
Fees changed from "\$2.00" to "\$4.00".  
Amended by R.1987 d.399, effective October 19, 1987.  
See: 19 N.J.R. 1410(a), 19 N.J.R. 1823(a).

Deleted "upon payment of an additional \$4.00 fee and upon making"; substituted "with payment of fee" and "in the amount established by law".

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**SUBCHAPTER 41. (RESERVED)**

**Historical Note**

Subchapter 41, which concerned transitional provisions, was repealed by R.1981 d.71, effective March 4, 1981.

**APPENDIX**

**OFFICE OF ADMINISTRATIVE LAW NOTE:** Pursuant to Executive Order No. 66 (1978), the Appendix to N.J.A.C. 13:2 is proposed for repeal and is not reproduced here. The Appendix contains instructions regarding issuance of State and municipal licenses, transfer and extension of licenses, appeals from municipal action, disciplinary proceedings and forms that the Division of Alcoholic Beverage Control considers to have no current effect and no specific reference in the rules. See: 27 N.J.R. 2051(a).