

CHAPTER 50

CASINO HOTEL ALCOHOLIC
BEVERAGE CONTROL

Authority

N.J.S.A. 5:12-70q and 103.

Source and Effective Date

R.1994 d.29, effective December 15, 1993.
See: 25 N.J.R. 4742(a), 26 N.J.R. 492(b).

Executive Order No. 66(1978) Expiration Date

Chapter 50, Casino Hotel Alcoholic Beverage Control, expires on December 15, 1998.

Chapter Historical Note

Chapter 50, Casino Hotel Alcoholic Beverage Control, was adopted as R.1978 d.13, effective January 23, 1978. See: 9 N.J.R. 602(a), 10 N.J.R. 81(d). Pursuant to Executive Order No. 66(1978), Chapter 50 was readopted as R.1983 d.210, effective May 23, 1983. See: 15 N.J.R. 539(a), 15 N.J.R. 932(b). Pursuant to Executive Order No. 66(1978), Chapter 50 was readopted as R.1988 d.257, effective May 12, 1988. See: 20 N.J.R. 770(a), 20 N.J.R. 1210(a). Pursuant to Executive Order No. 66(1978), Chapter 50 was readopted as R.1993 d.220, effective April 26, 1993. See: 25 N.J.R. 1085(a), 25 N.J.R. 1999(c). Pursuant to Executive Order No. 66(1978), Chapter 50 was readopted as R.1994 d.29. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

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SUBCHAPTER 1. GENERAL PROVISIONS

19:50-1.1 Definitions

(a) For the purposes of this chapter, words shall be defined in accordance with the Act, the regulations of the Commission, Title 33 of the Revised Statutes (N.J.S.A. 33:1-1 et seq.), Title 13 of the New Jersey Administrative Code (N.J.A.C. 13:2) or according to their commonly understood meaning or usage except where such common meaning or usage would be inconsistent with the purpose or intent of the Act. Any definition contained herein or incorporated by reference shall apply to any form of the defined word. For example, "sell" means to make a "sale" as defined in N.J.S.A. 33:1-1(w).

(b) Where definitions set forth in the Act or Commission regulations conflict with those contained in Title 33 of the Revised Statutes or Title 13 of the New Jersey Administrative Code, the definitions contained in the Act or Commission regulations shall govern.

(c) For the purposes of this chapter, the following definitions shall apply:

"Alcohol" is defined in N.J.S.A. 33:1-1(a).

"Alcoholic beverage" is defined in N.J.S.A. 33:1-1(b).

"Approved restricted brewery location" is a site within the licensed CHAB premises which has been approved by the Commission for the brewing of malt alcoholic beverages pursuant to N.J.A.C. 19:50-1.4A.

"Authorized location" means any room or area which is in, on, or about the premises, and which has been approved by the Commission for the service, sale, consumption, or storage of alcoholic beverages pursuant to N.J.S.A. 5:12-103 and this chapter.

"Casino hotel alcoholic beverage (CHAB) licensee" means a person licensed to serve, sell or store alcoholic beverages pursuant to N.J.S.A. 5:12-103 and this chapter.

"Container" is defined in N.J.S.A. 33:1-1(e).

"Manufacturer" is defined in N.J.S.A. 33:1-1(m).

"Original container" means any container in which an alcoholic beverage has been delivered to a CHAB licensee.

"Premises" means the premises licensed as an approved hotel pursuant to N.J.S.A. 5:12-27.

"Retailer" is defined in N.J.S.A. 33:1-1(u).

"Sale" is defined in N.J.S.A. 33:17-1(w).

"Wholesaler" means any person who sells an alcoholic beverage for the purpose of resale to a licensed wholesaler, a licensed retailer, or a CHAB licensee.

Amended by R.1988 d.257, effective June 6, 1988.

See: 20 N.J.R. 770(a), 20 N.J.R. 1210(a).

Amended by R.1992 d.14, effective January 6, 1992.

See: 23 N.J.R. 3087(b), 24 N.J.R. 110(b).

Deleted definition and referenced statutory definition for "alcohol", "alcoholic beverage", "container", "manufacturer", "premises", "retailer" and "sale"; deleted definitions of "illicit beverage", "meals", "unlawful alcoholic beverage activity", "unlawful property" and deleted (d).

Amended by R.1997 d.460, effective November 3, 1997.

See: 29 N.J.R. 3706(a), 29 N.J.R. 4715(b).

In (c), added "Approved restricted brewery location".

19:50-1.2 Applicability of other laws

(a) Title 33 of the Revised Statutes and the rules, regulations and bulletins promulgated thereunder by the Director of the Division of Alcoholic Beverage Control shall, except as otherwise provided in section 103 of the Act or this chapter, apply to any premises and to any CHAB licensee.

(b) All CHAB licensees that are required to make informational and other filings by Title 33 of the Revised Statutes and Title 13 of the New Jersey Administrative Code shall make all such filings both to the Commission, in accordance with prescribed procedures, and to the Division of Alcoholic Beverage Control.

(c) A CHAB licensee engaging in off-premises storage, delivery or sale of alcoholic beverages shall obtain any necessary licenses or permits for such activities from the Division of Alcoholic Beverage Control. If these alcoholic beverage activities are in any way connected with or involve the licensed premises, copies of these licenses or permits shall be submitted to the Commission within three business days of their receipt by the licensee.

(d) Any licensed wholesaler or other person who has obtained a merchandising permit from the Division of Alcoholic Beverage Control to offer complimentary samples of alcoholic beverages on a CHAB licensee's premises, need not obtain a CHAB license or permit from the Commission in order to conduct such activity in a CHAB authorized location; provided, however, that a copy of such permit shall be submitted to the Commission at least three business days prior to the event, and shall be displayed at the event itself.

Amended by R.1988 d.257, effective June 6, 1988.

See: 20 N.J.R. 770(a), 20 N.J.R. 1210(a).

Amended by R.1992 d.14, effective January 6, 1992.

See: 23 N.J.R. 3087(b), 24 N.J.R. 110(b).

Repealed and replaced (c); added new (d).

19:50-1.3 License and authorization as conditions precedent to operation

(a) No casino licensee, nor any of its lessees, agents or employees, nor any other person except as otherwise provided in this chapter, shall expose for sale, solicit or promote the sale of, possess with intent to sell, sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on or about the premises unless such person possesses a CHAB license.

(b) No CHAB licensee, nor any of its agents or employees, shall expose for sale, solicit, or promote the sale of, possess with intent to sell, sell, give, dispense or otherwise transfer or dispose of alcoholic beverages except in an authorized location.

(c) No CHAB licensee, nor any of its agents or employees, shall conduct or participate in the brewing of malt alcoholic beverages unless the CHAB licensee has been granted a restricted brewery authorization.

(d) No CHAB licensee who possesses a restricted brewery authorization, nor any of its agents or employees, shall brew malt alcoholic beverages except in an approved restricted brewery location.

(e) In issuing a CHAB license or any authorization thereunder, or any permit pursuant to N.J.S.A. 5:12-103 and 33:1-1, et seq., the Commission may impose any conditions, limitations and restrictions as it deems necessary and reasonable.

(f) A CHAB license shall be granted for a term which coincides with the term of the casino license or casino service industry license held by the licensee.

Amended by R.1983 d.210, effective June 6, 1983.

See: 15 N.J.R. 539(a), 15 N.J.R. 932(b).

Amended by R.1987 d.109, effective February 17, 1987.

See: 18 N.J.R. 2379(a), 19 N.J.R. 381(a).

Amended by R.1988 d.257, effective June 6, 1988.

See: 20 N.J.R. 770(a), 20 N.J.R. 1210(a).

Amended by R.1992 d.14, effective January 6, 1992.

See: 23 N.J.R. 3087(b), 24 N.J.R. 110(b).

Added (d).

Amended by R.1997 d.460, effective November 3, 1997.

See: 29 N.J.R. 3706(a), 29 N.J.R. 4715(b).

Inserted new (c) and (d), and recodified existing (c) and (d) as (e) and (f).

19:50-1.4 Classification of authorized locations

(a) Authorized locations shall be classified as follows:

1. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(1) shall be classified as Type I (casino/casino simulcasting facility) locations.

2. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(2) shall be classified as Type II (hotel) locations.

3. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(3) shall be classified as Type III (packaged goods) locations.

4. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(4) shall be classified as Type IV (room service) locations.

5. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(5) shall be classified as Type V (storage) locations.

(b) The activities permitted in each type of authorized location, subject to applicable laws, rules, and regulations, are as follows:

1. In a Type I location, a CHAB licensee shall be entitled to sell any alcoholic beverage by the glass or other open receptacle, but not in an original container, for on-premises consumption within a casino or casino simulcasting facility.

2. In a Type II location, a CHAB licensee shall be entitled to sell any alcoholic beverage by the glass or other open receptacle for on-premises consumption within a casino hotel but not in a casino or casino simulcasting facility, or from fixed locations outside a casino hotel, but on a casino hotel premises. Examples of Type II locations include, without limitation, showrooms, cabarets, restaurants, meeting rooms, pubs and lounges.

3. In a Type III location, a CHAB licensee shall be entitled to sell any alcoholic beverage in original containers from an enclosed package goods room, not in a casino or casino simulcasting facility, for consumption outside the authorized location.

4. In a Type IV location, a CHAB licensee shall be entitled to sell any alcoholic beverage from a room service location within an enclosed room, not in a casino or casino simulcasting facility, for delivery to a guest room or to any other room in the premises authorized by the Commission, other than a Type I, III or V location.

5. In a Type V location, a CHAB licensee shall be entitled to possess or to store in a fixed location on the premises, not in a casino or casino simulcasting facility, alcoholic beverages intended but not actually exposed for sale.

(c) Notwithstanding any other provision of this chapter to the contrary, a CHAB licensee shall be entitled to possess or store within any of its authorized locations alcoholic beverages intended but not actually exposed for sale in that authorized location, without obtaining a separate or additional Type V location authorization.

(d) The Commission may, consistent with the requirements of (b) above, issue two or more types of authorizations for the same authorized location, or different types of authorizations for different areas of the same authorized location.

Amended by R.1988 d.257, effective June 6, 1988.

See: 20 N.J.R. 770(a), 20 N.J.R. 1210(a).

Amended by R.1992 d.14, effective January 6, 1992.

See: 23 N.J.R. 3087(b), 24 N.J.R. 110(b).

Revised pursuant to P.L. 1991, c.182.

Amended by R.1993 d.37, effective January 19, 1993.

See: 24 N.J.R. 3695(a), 25 N.J.R. 348(b).

Simulcast requirements added at (a)6 and (b)6.

Amended by R.1993 d.541, effective November 1, 1993.

See: 25 N.J.R. 3687(a), 25 N.J.R. 4928(a).

Amended by R.1994 d.284, effective June 6, 1994.

See: 26 N.J.R. 1211(a), 26 N.J.R. 2477(b).

19:50-1.4A Restricted brewery authorization

(a) A CHAB licensee with a restricted brewery authorization may, in an approved restricted brewery location, brew malt alcoholic beverages in quantities not in excess of 3,000 barrels of 31 fluid gallons per year. Such beverages may be offered for sale in open containers within any of the CHAB licensee's authorized Type I or Type II locations.

(b) The Commission shall issue a restricted brewery authorization to a CHAB licensee, provided that:

1. The licensed premises include a full-service restaurant authorized as a Type II location; and

2. The CHAB licensee submits the following to the Commission:

i. Proof of posting of a tax bond with the New Jersey Division of Taxation;

ii. Proof of registration as a brewer with the United States Bureau of Alcohol, Tobacco and Firearms;

iii. Proof of compliance with all applicable State, county and local requirements associated with manufacturing and waste water discharge;

iv. A description of the amount of malt alcoholic beverages to be brewed each year; and

v. Payment of any applicable fee required by N.J.A.C. 19:41-9.7.

New Rule, R.1997 d.460, effective November 3, 1997.

See: 29 N.J.R. 3706(a), 29 N.J.R. 4715(b).

19:50-1.5 Standards for qualification

(a) No CHAB license shall issue unless each person required to qualify shall have first qualified in accordance with the CHAB license standards set forth in section 103 of the Act, the regulations of the Commission, Title 33 of the Revised Statutes, and the rules, regulations and bulletins of the Division of Alcoholic Beverage Control, except where inconsistent with the Act or the regulations of the Commission.

(b) No CHAB license which authorizes the sale of alcoholic beverages within a casino or casino simulcasting facility shall issue to any applicant who does not hold a casino license issued pursuant to the Act.

(c) No CHAB license which authorizes the possession, sale or storage of alcoholic beverages within any part of the premises, other than a casino or casino simulcasting facility, shall issue to any applicant who would not qualify under the standards for licensure of a non-gaming related casino service industry pursuant to N.J.S.A. 5:12-92(c).

(d) No Type V authorization shall issue to any applicant who does not hold a Type I, II, III, or IV CHAB authorization.

(e) No CHAB licensee shall knowingly employ an unlicensed or unregistered person as a CHAB employee if such person has been convicted of a disqualifying offense pursuant to N.J.S.A. 5:12-86c(1) unless such employment has been expressly authorized by the Commission pursuant to N.J.A.C. 19:41-8.11.

(f) No CHAB licensee shall allow, permit or suffer any wholesaler to sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages to it unless the wholesaler possesses a valid license from the New Jersey Division of Alcoholic Beverage Council.

Amended by R.1988 d.257, effective June 6, 1988.

See: 20 N.J.R. 770(a), 20 N.J.R. 1210(a).

Amended by R.1992 d.14, effective January 6, 1992.

See: 23 N.J.R. 3087(b), 24 N.J.R. 110(b).

Revised pursuant to P.L. 1991 c.182.

Amended by R.1993 d.37, effective January 19, 1993.

See: 24 N.J.R. 3695(a), 25 N.J.R. 348(b).

Simulcasting added.

Amended by R.1993 d.541, effective November 1, 1993.

See: 25 N.J.R. 3687(a), 25 N.J.R. 4928(a).

Amended by R.1994 d.284, effective June 6, 1994.

See: 26 N.J.R. 1211(a), 26 N.J.R. 2477(b).

Amended by R.1996 d. 72, effective February 5, 1996.

See: 27 N.J.R. 3920(a), 28 N.J.R. 901(b).

SUBCHAPTER 2. CONDUCT OF CHAB LICENSEES

19:50-2.1 Operating conditions of CHAB licensees

CHAB licensees shall comply with N.J.S.A. 33:1-1 et seq., N.J.A.C. 13:2-23 et seq. and all other rulings and bulletins of the Division of Alcoholic Beverage Control regarding the retail sale of alcoholic beverages, except as modified by regulations or rulings of the Commission.

Amended by R.1978 d.173, effective May 25, 1978.

See: 10 N.J.R. 210(d), 10 N.J.R. 305(e).

Amended by R.1981 d.438, effective November 16, 1981.

See: 13 N.J.R. 541(b), 13 N.J.R. 849(a).

Amended by R.1983 d.210, effective June 6, 1983.

See: 15 N.J.R. 539(a), 15 N.J.R. 932(b).

Amended by R.1986 d.364, effective September 8, 1986.

See: 18 N.J.R. 160(a), 18 N.J.R. 1840(a).

Amended by R.1987 d.165, effective April 6, 1987.

See: 18 N.J.R. 2439(b), 19 N.J.R. 567(b).

Recodified from 19:50-1.6 by R.1988 d.257, effective June 6, 1988.

See: 20 N.J.R. 770(a), 20 N.J.R. 1210(a).

Repeal and New Rule, R.1992 d.14, effective January 6, 1992.

See: 23 N.J.R. 3087(b), 24 N.J.R. 110(b).

Case Notes

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

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

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

19:50-2.2 Additional operating conditions of CHAB licensees

(a) No employees or agents of a CHAB licensee shall consume alcoholic beverages during their hours of employment or agency by a CHAB licensee, including overtime.

(b) Notwithstanding (a) above, the Commission shall, upon petition by a CHAB licensee, grant approval for certain persons to consume alcoholic beverages during their hours of employment, provided that:

1. Such petition specifies the position of all employees for whom approval is requested and the reason for the requested relief;

2. The CHAB licensee maintains on the licensed premises a complete list of all persons for whom approval is granted and the date of approval; and

3. The CHAB licensee submits a copy of the list maintained pursuant to (b)2 above to the Director of the Commission's Division of Licensing at the address specified in N.J.A.C. 19:40-3.1(a) and to the Division at the address specified in N.J.A.C. 19:40-3.1(d)2, by 5:00 P.M. on June 30 and December 31 of each calendar year.

(c) No CHAB licensee shall create, expand, close or change the name or type of a CHAB location without notifying the Commission and the Division in writing, as follows:

1. Creation, expansion or change in type of CHAB authorization: A petition for approval must be submitted at least ten business days prior to construction or use of the CHAB location, and shall include the name of the location, the floor of the premises where it is located, the type or types of CHAB authorizations, and a floor plan of the location.

2. Permanent closure of a CHAB location: Notification must be filed within five business days after closure.

3. Change in name of a CHAB location: Notification must be filed within five business days after change.

(d) Combination sales of any kind, consisting of more than one article, whether it be an alcoholic beverage or something else, at a single aggregate price are prohibited, except for:

1. A combination sale consisting of a meal and one alcoholic beverage or a show and one alcoholic beverage, provided that:

- i. The alcoholic beverage shall not be advertised as "free," but may be advertised as "included" or "complementary";