

ASSEMBLY, No. 1155

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen COHEN and SULIGA

1 AN ACT concerning alcoholic beverage licenses, supplementing Title  
2 33 of the Revised Statutes and amending R.S.33:1-31.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. (New section) a. A person who has been issued a plenary retail  
8 consumption license, seasonal retail consumption license or club  
9 license pursuant to R.S.33:1-12 shall maintain liability insurance  
10 coverage in the amount of \$1,000,000 insuring against loss resulting  
11 from liability imposed by law for bodily injury or death sustained by  
12 any person while on the licensed premises, whether the person's  
13 presence was lawful or unlawful. The insurance policy shall include  
14 the name and address of the Director of the Division of Alcoholic  
15 Beverage Control and the clerk of the municipality wherein the  
16 licensed premises are located, who shall be notified if the insurance  
17 policy is cancelled for any reason. If the policy is cancelled, the  
18 director shall suspend the license for 30 days or until the licensee has  
19 obtained liability insurance, whichever is later. The director shall not  
20 issue or renew a license until a copy of the licensee's insurance policy  
21 and a receipt showing payment of one year's premium is submitted to  
22 him.

23 b. If a licensee submits documents to the director falsely showing  
24 proof of insurance, the director shall suspend the license for not less  
25 than 60 days or more than one year and require the licensee to pay a  
26 monetary penalty of \$10,000.

27 c. If a death or the serious bodily injury of any person occurs on  
28 the property of any licensee who has submitted false proof of  
29 insurance to the director, the following penalties shall be imposed:

30 (1) in the case of serious bodily injury, the director shall suspend  
31 the license for not less than six months or more than one year and  
32 impose a monetary penalty of not less than \$10,000 or more than

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 \$100,000; and

2 (2) in the case of death, the director shall suspend the license for  
3 not less than one year or more than two years and impose a monetary  
4 penalty of not less than \$100,000 or more than \$300,000.

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6 2. R.S.33:1-31 is amended to read as follows:

7 33:1-31. Any license, whether issued by the director or any other  
8 issuing authority, may be suspended or revoked by the director, or the  
9 other issuing authority may suspend or revoke any license issued by it,  
10 for any of the following causes:

11 a. Violation of any of the provisions of this chapter;

12 b. Manufacture, transportation, distribution or sale of alcoholic  
13 beverages in a manner or to an extent not permitted by the license or  
14 by law;

15 c. Nonpayment of any excise tax or other payment required by law  
16 to be paid to the State Tax Commissioner;

17 d. Failure to comply with any of the provisions of subtitle 8 of the  
18 Title Taxation (§54:41-1 et seq.);

19 e. Failure to have at all times a valid, unrevoked permit, license or  
20 special tax stamp, or other indicia of payment, of all fees, taxes,  
21 penalties and payments required by any law of the United States;

22 f. Failure to have at all times proper stamps or other proper  
23 evidence of payment of any tax required to be paid by any law of this  
24 State;

25 g. Any violation of rules and regulations;

26 h. Any violation of any ordinance, resolution or regulation of any  
27 other issuing authority or governing board or body;

28 i. Any other act or happening, occurring after the time of making  
29 of an application for a license which if it had occurred before said time  
30 would have prevented the issuance of the license; or

31 j. For any other cause designated by this chapter.

32 No suspension or revocation of any license shall be made until a  
33 five-day notice of the charges preferred against the licensee shall have  
34 been given to him personally or by mailing the same by registered mail  
35 addressed to him at the licensed premises and a reasonable opportunity  
36 to be heard thereon afforded to him.

37 A suspension or revocation of license shall be effected by a notice  
38 in writing of such suspension or revocation, designating the effective  
39 date thereof, and in case of suspension, the term of such suspension,  
40 which notice may be served upon the licensee personally or by mailing  
41 the same by registered mail addressed to him at the licensed premises.  
42 Such suspension or revocation shall apply to the licensee and to the  
43 licensed premises.

44 A revocation shall render the licensee and the officers, directors and  
45 each owner, directly or indirectly, of more than 10% of the stock of a  
46 corporate licensee ineligible to hold or receive any other license, of

1 any kind or class under this chapter, for a period of two years from the  
2 effective date of such revocation and a second revocation shall render  
3 the licensee and the officers, directors and each owner, directly or  
4 indirectly, of more than 10% of the stock of a corporate licensee  
5 ineligible to hold or receive any such license at any time thereafter.  
6 Any revocation may, in the discretion of the director or other issuing  
7 authority as the case may be, render the licensed premises ineligible to  
8 become the subject of any further license, of any kind or class under  
9 this chapter, during a period of two years from the effective date of  
10 the revocation.

11 The director may, in his discretion and subject to rules and  
12 regulations, accept from any licensee an offer in compromise in such  
13 amount as may in the discretion of the director be proper under the  
14 circumstances in lieu of any suspension of any license by the director  
15 or any other issuing authority; provided however, the director shall  
16 not accept an offer in compromise in lieu of a suspension imposed  
17 pursuant to section 1 of P.L. , c. (C. ) (now pending before the  
18 Legislature as this bill).

19 No refund, except as expressly permitted by section 33:1-26 of this  
20 Title, shall be made of any portion of a license fee after issuance of a  
21 license; but if any licensee, except a seasonal retail consumption  
22 licensee, shall voluntarily surrender his license, there shall be returned  
23 to him, after deducting as a surrender fee 50% of the license fee paid  
24 by him, the prorated fee for the unexpired term; provided, that such  
25 licensee shall not have committed any violation of this chapter or of  
26 any rule or regulation or done anything which in the fair discretion of  
27 the director or other issuing authority, as the case may be, should bar  
28 or preclude such licensee from making such claim for refund and that  
29 all taxes and other set-offs or counterclaims which shall have accrued  
30 and shall have become due and payable to this State or any  
31 municipality, or both, have been paid. Such refund, if any, shall be  
32 made as of the date of such surrender. The surrender of a license shall  
33 not bar proceedings to revoke such license. The refusal of the other  
34 issuing authority to grant any refund hereunder shall be subject to  
35 appeal to the director within 30 days after notice of such refusal is  
36 mailed to or served upon the licensee. Surrenders of retail licenses  
37 shall be promptly certified by the issuing authority to the director.  
38 Surrender fees shall be accounted for as are investigation fees. If any  
39 licensee to whom a refund shall become due under the provisions of  
40 this section shall be indebted to the State of New Jersey for any taxes,  
41 penalties or interest by virtue of the provisions of subtitle 8 of the Title  
42 Taxation (§54:41-1 et seq.), it shall be the duty of the issuing authority  
43 before making any such refund, upon receipt of a certificate of the  
44 State Tax Commissioner evidencing the said indebtedness to the State  
45 of New Jersey, to deduct therefrom, and to remit forthwith to the  
46 State Tax Commissioner the amount of such taxes, penalties and

1 interest.

2 In the event of any suspension or revocation of any license by the  
3 other issuing authority, the licensee may, within 30 days after the date  
4 of service or of mailing of said notice of suspension or of revocation,  
5 upon payment to the director of a nonreturnable filing fee of \$100.00,  
6 appeal to the director from the action of the other issuing authority in  
7 suspending or revoking such license which appeal shall act as a stay of  
8 such suspension or revocation pending the determination thereof  
9 unless the director shall otherwise order. When any person files with  
10 any other issuing authority written complaint against a licensee  
11 specifying charges and requesting that proceedings be instituted to  
12 revoke or suspend such license, he may appeal to the director from its  
13 refusal to revoke or suspend such license or other action taken by it in  
14 connection therewith within 30 days from the time of service upon or  
15 mailing of notice to him of such refusal or action. The director shall  
16 thereupon fix a time for the hearing of the appeal and before hearing  
17 the same shall give at least five days' notice of the time so fixed to  
18 such licensee, other issuing authority and appellant.  
19 (cf: P.L.1992, c.188, s.11)

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21 3. This act shall take effect immediately and shall be applicable to  
22 all licenses issued or renewed on or after the effective date.

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#### STATEMENT

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27 This bill requires a person who has been issued a plenary retail  
28 consumption license, seasonal retail consumption license or club  
29 license to maintain liability insurance coverage in the amount of  
30 \$1,000,000 insuring against bodily injury or death sustained by any  
31 person while on the licensed premises, whether the person's presence  
32 was lawful or unlawful. The bill requires notification of the Director  
33 of the Division of Alcoholic Beverage Control and the clerk of the  
34 municipality wherein the licensed premises is located if the insurance  
35 policy is cancelled for any reason. If the policy is cancelled, the  
36 license would be suspended for 30 days or until the licensee has  
37 obtained liability insurance, whichever is later. The director would not  
38 issue or renew a license until a copy of the licensee's insurance policy  
39 and a receipt showing payment of one year's premium was submitted  
40 to him.

41 If a licensee submits documents to the director falsely showing  
42 proof of insurance, the director would suspend the license for 60 days  
43 to one year and require the licensee to pay a monetary penalty of  
44 \$10,000.

45 If death or serious bodily injury occurs on the property of any  
46 licensee who has submitted false proof of insurance, the following

1 penalties would be imposed: (1) in the case of serious bodily injury,  
2 the director would suspend the license for six months to one year and  
3 impose a monetary penalty of \$10,000 to \$100,000; and (2) in the case  
4 of death, the director would suspend the license for one to two years  
5 and impose a monetary penalty of \$100,000 to \$300,000

6 Finally, under the provisions of this bill, the director could not  
7 accept a monetary offer in lieu of a suspension imposed pursuant to  
8 the bill. Under current law, the director may accept from any licensee  
9 a monetary offer in lieu of a license suspension in an amount that he  
10 deems proper under the circumstances.

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15 Requires certain alcoholic beverage licensees to carry \$1 million  
16 liability insurance.