

ASSEMBLY, No. 1156

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. If a licensed premises is found to be in  
8 violation of the certificate of occupancy or the "Uniform Fire Safety  
9 Act," P.L.1983, c.383 (C.52:27D-192 et seq.), or any rule or  
10 regulation promulgated pursuant thereto, the director or other issuing  
11 authority may suspend the license for not more than 90 days.

12 b. If death or serious bodily injury occurs as a direct result of a  
13 violation of the certificate of occupancy issued for the licensed  
14 premises or the "Uniform Fire Safety Act," P.L.1983, c.383  
15 (C.52:27D-192 et seq.), or any rule or regulation promulgated  
16 pursuant thereto, the following penalties shall be imposed:

17 (1) in the case of serious bodily injury, the director or other issuing  
18 authority shall suspend the license for not less than six months or more  
19 than one year and impose a monetary penalty of not less than \$10,000  
20 or more than \$100,000; and

21 (2) in the case of death, the director or other issuing authority shall  
22 suspend the license for not less than one year or more than two years  
23 and impose a monetary penalty of not less than \$100,000 or more than  
24 \$300,000.

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

27 33:1-31. Any license, whether issued by the director or any other  
28 issuing authority, may be suspended or revoked by the director, or the  
29 other issuing authority may suspend or revoke any license issued by it,  
30 for any of the following causes:

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

32 b. Manufacture, transportation, distribution or sale of alcoholic

**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 beverages in a manner or to an extent not permitted by the license or  
2 by law;
- 3 c. Nonpayment of any excise tax or other payment required by law  
4 to be paid to the State Tax Commissioner;
- 5 d. Failure to comply with any of the provisions of subtitle 8 of the  
6 Title Taxation (§54:41-1 et seq.);
- 7 e. Failure to have at all times a valid, unrevoked permit, license or  
8 special tax stamp, or other indicia of payment, of all fees, taxes,  
9 penalties and payments required by any law of the United States;
- 10 f. Failure to have at all times proper stamps or other proper  
11 evidence of payment of any tax required to be paid by any law of this  
12 State;
- 13 g. Any violation of rules and regulations;
- 14 h. Any violation of any ordinance, resolution or regulation of any  
15 other issuing authority or governing board or body;
- 16 i. Any other act or happening, occurring after the time of making  
17 of an application for a license which if it had occurred before said time  
18 would have prevented the issuance of the license; or
- 19 j. For any other cause designated by this chapter.

20 The director or other issuing authority shall suspend the license in  
21 any instance where death or serious bodily injury has occurred  
22 pursuant to section 1 of P.L. , c. (C. ) (now pending before the  
23 Legislature as this bill).

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

29 A suspension or revocation of license shall be effected by a notice  
30 in writing of such suspension or revocation, designating the effective  
31 date thereof, and in case of suspension, the term of such suspension,  
32 which notice may be served upon the licensee personally or by mailing  
33 the same by registered mail addressed to him at the licensed premises.  
34 Such suspension or revocation shall apply to the licensee and to the  
35 licensed premises.

36 A revocation shall render the licensee and the officers, directors and  
37 each owner, directly or indirectly, of more than 10% of the stock of a  
38 corporate licensee ineligible to hold or receive any other license, of  
39 any kind or class under this chapter, for a period of two years from the  
40 effective date of such revocation and a second revocation shall render  
41 the licensee and the officers, directors and each owner, directly or  
42 indirectly, of more than 10% of the stock of a corporate licensee  
43 ineligible to hold or receive any such license at any time thereafter.  
44 Any revocation may, in the discretion of the director or other issuing  
45 authority as the case may be, render the licensed premises ineligible to  
46 become the subject of any further license, of any kind or class under

1 this chapter, during a period of two years from the effective date of  
2 the revocation.

3 The director may, in his discretion and subject to rules and  
4 regulations, accept from any licensee an offer in compromise in such  
5 amount as may in the discretion of the director be proper under the  
6 circumstances in lieu of any suspension of any license by the director  
7 or any other issuing authority; provided however, the director shall not  
8 accept an offer in compromise in lieu of a suspension imposed  
9 pursuant to section 1 of P.L. , c. (C. ) (now pending before the  
10 Legislature as this bill).

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

40 In the event of any suspension or revocation of any license by the  
41 other issuing authority, the licensee may, within 30 days after the date  
42 of service or of mailing of said notice of suspension or of revocation,  
43 upon payment to the director of a nonreturnable filing fee of \$100.00,  
44 appeal to the director from the action of the other issuing authority in  
45 suspending or revoking such license which appeal shall act as a stay of  
46 such suspension or revocation pending the determination thereof

1 unless the director shall otherwise order. When any person files with  
2 any other issuing authority written complaint against a licensee  
3 specifying charges and requesting that proceedings be instituted to  
4 revoke or suspend such license, he may appeal to the director from its  
5 refusal to revoke or suspend such license or other action taken by it in  
6 connection therewith within 30 days from the time of service upon or  
7 mailing of notice to him of such refusal or action. The director shall  
8 thereupon fix a time for the hearing of the appeal and before hearing  
9 the same shall give at least five days' notice of the time so fixed to  
10 such licensee, other issuing authority and appellant.

11 (cf: P.L.1992, c.188, s.11)

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

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#### STATEMENT

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19 Under this bill, the Director of the Division of Alcoholic Beverages  
20 or other issuing authority could suspend for up to 90 days a license to  
21 serve alcoholic beverages if the licensed premises was found to be in  
22 violation of the certificate of occupancy or the Uniform Fire Safety  
23 Act or any rule or regulation promulgated under that act,

24 If death or serious bodily injury occurred as a direct result of a  
25 violation of the certificate of occupancy issued for the licensed  
26 premises or any violation of the Uniform Fire Safety Act or any rule  
27 or regulation promulgated under that act, the following penalties  
28 would be imposed: (1) in the case of serious bodily injury, the director  
29 or other issuing authority would suspend the license for six months to  
30 one year and impose a monetary penalty of \$10,000 to \$100,000; and  
31 (2) in the case of death, the director or other issuing authority would  
32 suspend the license for one to two years and impose a monetary  
33 penalty of \$100,000 to \$300,000.

34 Finally, under the provisions of this bill, the director could not  
35 accept an monetary offer in lieu of a suspension imposed pursuant to  
36 the bill. Under current law, the director may accept from any licensee  
37 a monetary offer in lieu of a license suspension in an amount that he  
38 deems proper under the circumstances.

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43 Provides for license revocation and monetary penalties for occupancy  
44 and fire code violations by certain alcoholic beverage licensees.