

ASSEMBLY, No. 1315

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ROMANO and GARCIA

1 AN ACT prohibiting the Director of the Division of Alcoholic
2 Beverage Control from changing certain penalties and amending
3 R.S.33:1-31.

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

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

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

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

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

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

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

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

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

27 g. Any violation of rules and regulations;

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

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

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 j. For any other cause designated by this chapter.

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

7 Suspension or revocation of license shall be effected by a notice in
8 writing of such suspension or revocation, designating the effective
9 date thereof, and in case of suspension, the term of such suspension,
10 which notice may be served upon the licensee personally or by mailing
11 the same by registered mail addressed to him at the licensed premises.
12 Such suspension or revocation shall apply to the licensee and to the
13 licensed premises.

14 A revocation shall render the licensee and the officers, directors and
15 each owner, directly or indirectly, of more than 10% of the stock of a
16 corporate licensee ineligible to hold or receive any other license, of
17 any kind or class under this chapter, for a period of two years from the
18 effective date of such revocation and a second revocation shall render
19 the licensee and the officers, directors and each owner, directly or
20 indirectly, of more than 10% of the stock of a corporate licensee
21 ineligible to hold or receive any such license at any time thereafter.
22 Any revocation may, in the discretion of the director or other issuing
23 authority as the case may be, render the licensed premises ineligible to
24 become the subject of any further license, of any kind or class under
25 this chapter, during a period of two years from the effective date of
26 the revocation.

27 The director [may, in his discretion and subject to rules and
28 regulations], shall not accept from any licensee an offer in compromise
29 [in such amount as may in the discretion of the director be proper
30 under the circumstances] in any amount in lieu of any suspension of
31 any license by the director or any other issuing authority or any appeal
32 thereof.

33 No refund, except as expressly permitted by section 33:1-26 of this
34 Title, shall be made of any portion of a license fee after issuance of a
35 license; but if any licensee, except a seasonal retail consumption
36 licensee, shall voluntarily surrender his license, there shall be returned
37 to him, after deducting as a surrender fee 50% of the license fee paid
38 by him, the prorated fee for the unexpired term; provided, that such
39 licensee shall not have committed any violation of this chapter or of
40 any rule or regulation or done anything which in the fair discretion of
41 the director or other issuing authority, as the case may be, should bar
42 or preclude such licensee from making such claim for refund and that
43 all taxes and other set-offs or counterclaims which shall have accrued
44 and shall have become due and payable to this State or any
45 municipality, or both, have been paid. Such refund, if any, shall be
46 made as of the date of such surrender. The surrender of a license shall

1 not bar proceedings to revoke such license. The refusal of the other
2 issuing authority to grant any refund hereunder shall be subject to
3 appeal to the director within 30 days after notice of such refusal is
4 mailed to or served upon the licensee. Surrenders of retail licenses
5 shall be promptly certified by the issuing authority to the director.
6 Surrender fees shall be accounted for as are investigation fees. If any
7 licensee to whom a refund shall become due under the provisions of
8 this section shall be indebted to the State of New Jersey for any taxes,
9 penalties or interest by virtue of the provisions of subtitle 8 of the Title
10 Taxation (§ 54:41-1 et seq.), it shall be the duty of the issuing
11 authority before making any such refund, upon receipt of a certificate
12 of the State Tax Commissioner evidencing the said indebtedness to the
13 State of New Jersey, to deduct therefrom, and to remit forthwith to
14 the State Tax Commissioner the amount of such taxes, penalties and
15 interest.

16 In the event of any suspension or revocation of any license by the
17 other issuing authority, the licensee may, within 30 days after the date
18 of service or of mailing of said notice of suspension or of revocation,
19 upon payment to the director of a nonreturnable filing fee of \$100.00,
20 appeal to the director from the action of the other issuing authority in
21 suspending or revoking such license which appeal shall act as a stay of
22 such suspension or revocation pending the determination thereof
23 unless the director shall otherwise order. When any person files with
24 any other issuing authority written complaint against a licensee
25 specifying charges and requesting that proceedings be instituted to
26 revoke or suspend such license, he may appeal to the director from its
27 refusal to revoke or suspend such license or other action taken by it in
28 connection therewith within 30 days from the time of service upon or
29 mailing of notice to him of such refusal or action. The director shall
30 thereupon fix a time for the hearing of the appeal and before hearing
31 the same shall give at least five days' notice of the time so fixed to
32 such licensee, other issuing authority and appellant.

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

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35 2. This act shall take effect immediately.

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STATEMENT

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40 Under the current law, the Director of Alcoholic Beverage Control
41 in the Department of Law and Public Safety may accept a monetary
42 penalty offer in compromise of a license suspension and premises
43 closure ordered by the director or by a local alcoholic beverage
44 licensing board. As a result of such compromises, licensees are often
45 allowed to continue operating while in violation, which may include
46 serving underage drinkers. The monetary penalty then simply becomes

1 a cost of doing business, with little deterrent effect. This bill prohibits
2 the director from compromising license suspensions by accepting
3 monetary penalties.

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8 Prohibits ABC from accepting cash compromise in lieu of license
9 suspension.