

ASSEMBLY, No. 2172

STATE OF NEW JERSEY

INTRODUCED JUNE 20, 1996

By Assemblyman DORIA and Assemblywoman CRUZ-PEREZ

1 AN ACT concerning certain alcoholic beverage penalties, and  
2 amending R.S.33:1-31 and P.L.1992, c.188.

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

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

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

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

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

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

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

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

26 g. Any violation of rules and regulations;

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

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

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

33 No suspension or revocation of any license shall be made until a  
34 five-day notice of the charges preferred against the licensee shall have

**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 been given to him personally or by mailing the same by registered mail  
2 addressed to him at the licensed premises and a reasonable opportunity  
3 to be heard thereon afforded to him.

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

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

24 The director may, in his discretion and subject to rules and  
25 regulations, accept from any licensee an offer in compromise in such  
26 amount as may in the discretion of the director be proper under the  
27 circumstances in lieu of any suspension of any license by the director  
28 or any other issuing authority. If the license suspension was issued by  
29 a municipal issuing authority, the director shall forward 20 percent of  
30 such payment to that municipality to be used for law enforcement  
31 purposes.

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

1 issuing authority to grant any refund hereunder shall be subject to  
2 appeal to the director within 30 days after notice of such refusal is  
3 mailed to or served upon the licensee. Surrenders of retail licenses  
4 shall be promptly certified by the issuing authority to the director.  
5 Surrender fees shall be accounted for as are investigation fees. If any  
6 licensee to whom a refund shall become due under the provisions of  
7 this section shall be indebted to the State of New Jersey for any taxes,  
8 penalties or interest by virtue of the provisions of subtitle 8 of the Title  
9 Taxation (§ 54:41-1 et seq.), it shall be the duty of the issuing  
10 authority before making any such refund, upon receipt of a certificate  
11 of the State Tax Commissioner evidencing the said indebtedness to the  
12 State of New Jersey, to deduct therefrom, and to remit forthwith to  
13 the State Tax Commissioner the amount of such taxes, penalties and  
14 interest.

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

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

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34 2. Section 14 of P.L.1992, c.188 (C.33:1-4.1) is amended to read  
35 as follows:

36 14. All fees and penalties collected by the Director of the Division  
37 of Alcoholic Beverage Control pursuant to the provisions of Title 33  
38 of the Revised Statutes, except for 20 percent of certain payments in  
39 lieu of a license suspension as provided in R.S.33:1-31, shall be  
40 forwarded to the State Treasurer for deposit in a special nonlapsing  
41 fund. Monies in the fund shall be used exclusively for the operation of  
42 the Alcoholic Beverage Control Enforcement Bureau in the Division  
43 of State Police and the Division of Alcoholic Beverage Control and for  
44 reimbursement of all additional costs of enforcement of the provisions  
45 of Title 33 incurred by the Department of Law and Public Safety.

46 (cf: P.L.1992, c.188, s.14)

1       3. This act shall take effect immediately.

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STATEMENT

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6       Under R.S.33:1-31, the Director of the Division of Alcoholic  
7 Beverage Control (ABC) is authorized to accept from a licensee a  
8 monetary offer in compromise in an amount he deems proper in lieu of  
9 a license suspension by the director or other issuing authority. Current  
10 law (P.L.1992, c.188; C.33:1-4.1) provides that any such payments are  
11 to be deposited in a special nonlapsing fund to be used exclusively for  
12 the operation of the Alcoholic Beverage Control Enforcement Bureau  
13 and for the costs of enforcing the provisions of Title 33 (the "New  
14 Jersey Alcoholic Beverage Control Act").

15       This bill provides that if a municipal issuing authority issued the  
16 license suspension, the Director of the ABC would be required to  
17 forward 20 percent of any such payment in lieu of suspension to that  
18 municipality to be used for law enforcement purposes.

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23       Requires 20 percent of certain alcoholic beverage penalties to be  
24 forwarded to municipality.