

SENATE, No. 770

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Senator BUBBA

1 AN ACT concerning certain alcoholic beverage penalties, amending
2 R.S.33:1-31 and P.L.1992, c.188 and supplementing Title 33 of the
3 Revised Statutes.

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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

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

34 No suspension or revocation of any license shall be made until a

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

Matter underlined thus is new matter.

1 five-day notice of the charges preferred against the licensee shall have
2 been given to him personally or by mailing the same by registered mail
3 addressed to him at the licensed premises and a reasonable opportunity
4 to be heard thereon afforded to him.

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

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

25 The director may, in his discretion and subject to rules and
26 regulations, accept from any licensee an offer in compromise in such
27 amount as may in the discretion of the director be proper under the
28 circumstances in lieu of any suspension of any license by the director
29 or any other issuing authority. If the license suspension was issued by
30 a municipal issuing authority in a municipality which has enacted an
31 ordinance pursuant to section 3 of P.L. , c. (C.) (now pending
32 before the Legislature as this bill) establishing a surcharge on
33 payments made to the director pursuant to this section, the director
34 shall impose a surcharge of 20 percent of such payment which shall be
35 paid by the licensee to the director in addition to the payment in lieu
36 of suspension. The director shall forward the surcharge to that
37 municipality to be used for law enforcement purposes.

38 No refund, except as expressly permitted by section 33:1-26 of this
39 Title, shall be made of any portion of a license fee after issuance of a
40 license; but if any licensee, except a seasonal retail consumption
41 licensee, shall voluntarily surrender his license, there shall be returned
42 to him, after deducting as a surrender fee 50% of the license fee paid
43 by him, the prorated fee for the unexpired term; provided, that such
44 licensee shall not have committed any violation of this chapter or of
45 any rule or regulation or done anything which in the fair discretion of
46 the director or other issuing authority, as the case may be, should bar

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

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

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

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

42 14. All fees and penalties collected by the Director of the Division
43 of Alcoholic Beverage Control pursuant to the provisions of Title 33
44 of the Revised Statutes, except as provided in R.S.33:1-31, shall be
45 forwarded to the State Treasurer for deposit in a special nonlapsing
46 fund. Monies in the fund shall be used exclusively for the operation of

1 the Alcoholic Beverage Control Enforcement Bureau in the Division
2 of State Police and the Division of Alcoholic Beverage Control and for
3 reimbursement of all additional costs of enforcement of the provisions
4 of Title 33 incurred by the Department of Law and Public Safety.

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

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7 3. (New section) A municipality may enact an ordinance providing
8 that a surcharge shall be assessed on a retail licensee in any case where
9 a municipal issuing authority issued a license suspension, and the
10 director accepts from that licensee an offer in compromise in lieu of
11 suspension pursuant to R.S.33:1-31. The surcharge shall be 20
12 percent of any monies paid to the director in lieu of a license
13 suspension. The surcharge shall be allocated to that municipality to be
14 used for law enforcement purposes.

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16 4. This act shall take effect immediately.

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19 STATEMENT

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21 Under R.S.33:1-31, the Director of the Division of Alcoholic
22 Beverage Control is authorized to accept from a licensee an offer in
23 compromise in an amount he deems proper in lieu of a license
24 suspension by the director or other issuing authority. Current law
25 (P.L.1992, c.188; C.33:1-4.1) provides that these penalty monies are
26 to be deposited in a special nonlapsing fund to be used exclusively for
27 the operation of the Alcoholic Beverage Control Enforcement Bureau
28 and for the costs of enforcing the provisions of Title 33.

29 Under the provisions of this bill, a municipality may enact an
30 ordinance providing for a surcharge to be assessed on a retail licensee
31 in any case where a municipal issuing authority issued a license
32 suspension and the director accepts an offer in lieu of suspension. The
33 surcharge would be 20 percent of any monies paid to the director in
34 lieu of a license suspension. The surcharge would be forwarded to
35 that municipality to be used for law enforcement purposes.

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41 Permits municipalities to impose 20 percent surcharge on certain
alcoholic beverage penalties.