

SENATE, No. 1425

STATE OF NEW JERSEY

INTRODUCED JULY 25, 1996

By Senator MATHEUSSEN

1 AN ACT concerning the issuance of certain alcoholic beverage  
2 licenses, amending R.S.33:1-25 and R.S.33:1-31 and supplementing  
3 Title 33 of the 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.33:1-25 is amended to read as follows:  
9 33:1-25. No license of any class shall be issued to any person under  
10 the age of 21 years or to any person who has been convicted of a  
11 crime involving moral turpitude.

12 In applications by corporations, except for club licenses, the names  
13 and addresses of, and the amount of stock held by, all stockholders  
14 holding 1% or more of any of the stock thereof, and the names and  
15 addresses of all officers and of all members of the board of directors  
16 must be stated in the application, and if one or more of the officers or  
17 members of the board of directors or one or more of the owners,  
18 directly or indirectly, of more than 10% of the stock would fail to  
19 qualify as an individual applicant in all respects, no license of any class  
20 shall be granted.

21 In applications for club licenses, the names and addresses of all  
22 officers, trustees, directors, or other governing official, together with  
23 the names and addresses of all members of the corporation, association  
24 or organization, must be stated in the application.

25 In applications by partnerships, the application shall contain the  
26 names and addresses of all of the partners. No license shall be issued  
27 unless all of the partners would qualify as individual applicants.

28 A photostatic copy of all federal permits necessary to the lawful  
29 conduct of the business for which a State license is sought and which  
30 relate to alcoholic beverages, or other evidence in lieu thereof  
31 satisfactory to the director, must accompany the license application,  
32 together with a deposit of the full amount of the required license fee,  
33 which deposit to the extent of 90% thereof shall be returned to the  
34 applicant by the director or other issuing authority if the application is

**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 denied, and the remaining 10% shall constitute an investigation fee and  
2 be accounted for as other license fees.

3 Every applicant for a license that is not a renewal of an annual  
4 license shall cause a notice of the making of the application to be  
5 published in a form prescribed by rules and regulations, once per week  
6 for two weeks successively in a newspaper printed in the English  
7 language, published and circulated in the municipality in which the  
8 licensed premises are located; but if there shall be no such newspaper,  
9 then the notice shall be published in a newspaper, printed in the  
10 English language, published and circulated in the county in which the  
11 licensed premises are located. No publication shall be required with  
12 respect to applications for transportation or public warehouse licenses  
13 or with respect to applications for renewal of licenses.

14 The Division of Alcoholic Beverage Control shall cause a general  
15 notice of the making of annual renewal applications and the manner in  
16 which members of the public may object to the approving of the  
17 applications to be published in a form prescribed by rules and  
18 regulations, once per week from the week of April 1 through the week  
19 of June 1 in a newspaper printed in the English language published and  
20 circulated in the counties in which the premises of applicants for  
21 renewals of annual licenses are located. Any application for the  
22 renewal of an annual license shall be made by May 1, and none shall be  
23 approved before May 1.

24 Every person filing an application for a license[, renewal of license]  
25 or transfer of a license with a municipal issuing authority shall, within  
26 10 days of such filing, file with the director a copy of the application  
27 together with a nonreturnable filing fee of ~~[\$100.00]~~ \$600. If there  
28 has been a change in the membership of a corporation or partnership  
29 which is renewing a license, or if any other circumstances occur which,  
30 in the discretion of the director, require a background investigation of  
31 any licensee, the fee for the renewal shall be \$600. The fee for all  
32 other renewals shall be \$100.

33 Applicants for licenses shall answer questions as may be asked and  
34 make declarations as shall be required by the form of application for  
35 license as may be promulgated by the director from time to time. All  
36 applications shall be duly sworn to by each of the applicants, except in  
37 the case of applicants in the military service of the United States  
38 whose applications may be signed in their behalf by an attorney-in-fact  
39 holding a power of attorney in form approved by the director, and  
40 except in cases of applications by corporations which shall be duly  
41 sworn to by the president or vice-president. All statements in the  
42 applications required to be made by law or by rules and regulations  
43 shall be deemed material, and any person who shall knowingly misstate  
44 any material fact, under oath, in the application shall be guilty of a  
45 misdemeanor. Fraud, misrepresentation, false statements, misleading  
46 statements, evasions or suppression of material facts in the securing of

1 a license are grounds for suspension or revocation of the license.  
2 (cf: P.L.1992, c.188, s.3)

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

5 33:1-31. Any license, whether issued by the director or any other  
6 issuing authority, may be suspended or revoked by the director, or the  
7 other issuing authority may suspend or revoke any license issued by it,  
8 for any of the following causes:

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

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

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

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

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

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

23 g. Any violation of rules and regulations;

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

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

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

30 No suspension or revocation of any license shall be made until a  
31 5-day notice of the charges preferred against the licensee shall have  
32 been given to him personally or by mailing the same by registered mail  
33 addressed to him at the licensed premises and a reasonable opportunity  
34 to be heard thereon afforded to him. If the licensee has been afforded  
35 a hearing and the director determines that the suspension or revocation  
36 shall be imposed, the licensee shall be assessed the State's costs  
37 directly associated with that hearing. The hearing costs assessed  
38 pursuant to this section shall be in addition to any other penalty that  
39 the director may impose.

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

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

14 The director may, in his discretion and subject to rules and  
15 regulations, accept from any licensee an offer in compromise in such  
16 amount as may in the discretion of the director be proper under the  
17 circumstances in lieu of any suspension of any license by the director  
18 or any other issuing authority.

19 No refund, except as expressly permitted by [section] R.S.33:1-26  
20 [of this Title], shall be made of any portion of a license fee after  
21 issuance of a license; but if any licensee, except a seasonal retail  
22 consumption licensee, shall voluntarily surrender his license, there shall  
23 be returned to him, after deducting as a surrender fee 50% of the  
24 license fee paid by him, the prorated fee for the unexpired term;  
25 provided, that such licensee shall not have committed any violation of  
26 this chapter or of any rule or regulation or done anything which in the  
27 fair discretion of the director or other issuing authority, as the case  
28 may be, should bar or preclude such licensee from making such claim  
29 for refund and that all taxes and other set-offs or counterclaims which  
30 shall have accrued and shall have become due and payable to this State  
31 or any municipality, or both, have been paid. Such refund, if any, shall  
32 be made as of the date of such surrender. The surrender of a license  
33 shall not bar proceedings to revoke such license. The refusal of the  
34 other issuing authority to grant any refund hereunder shall be subject  
35 to 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  
43 authority before making any such refund, upon receipt of a certificate  
44 of the State Tax Commissioner evidencing the said indebtedness to the  
45 State of New Jersey, to deduct therefrom, and to remit forthwith to  
46 the 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. (New section) The municipal issuing authority shall forward to  
22 the Alcohol Beverage Control Enforcement Bureau in the Division of  
23 State Police a copy of any application for issuance or transfer of any  
24 license issued under R.S.33:1-12. The municipal issuing authority  
25 shall not take action with respect to any application until completion  
26 of an appropriate and thorough investigation by the Alcohol Beverage  
27 Control Enforcement Bureau in the Division of State Police. Upon  
28 completion of the investigation, the Division of Alcoholic Beverage  
29 Control shall certify whether granting of the application is in the public  
30 interest. If the Division of Alcoholic Beverage Control finds that  
31 granting the application will not be contrary to the public interest, the  
32 municipal issuing authority may grant the application. If the Division  
33 of Alcoholic Beverage Control finds that granting the application is  
34 not in the public interest, the municipal issuing authority shall deny the  
35 application. The applicant may appeal to the director of the Division  
36 of Alcoholic Beverage Control the denial of the application by the  
37 municipal issuing authority and shall be afforded a hearing.

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39 4. This act shall take effect on the first day of the second month  
40 after enactment.

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#### STATEMENT

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45 Under this bill, the Division of State Police, Alcoholic Beverage  
46 Control Enforcement Bureau would assume the responsibility for

1 investigating persons applying for a retail liquor license. Currently,  
2 the municipality issuing the license conducts the background  
3 investigation. Under the provisions of section 3 of the bill, the  
4 municipal issuing authority would forward to the Division of State  
5 Police, Alcoholic Beverage Control Enforcement Bureau a copy of any  
6 application for issuance or transfer of any license issued under  
7 R.S.33:1-12. The issuing authority could not take action with respect  
8 to the application until completion of an investigation by the Division  
9 of State Police, Alcoholic Beverage Control Enforcement Bureau.  
10 Following that investigation, if the Division of Alcoholic Beverage  
11 Control certifies that granting of the application will not be contrary  
12 to the public interest, the issuing authority may grant the application.  
13 The applicant could appeal to the director of the Division of Alcoholic  
14 Beverage Control the denial of any application by the municipality and  
15 would be afforded a hearing.

16 The bill amends R.S.33:1-25 to increase the application fee for a  
17 license of any class or the transfer of a license from the current \$100  
18 to \$600. The fee for renewals shall also be increased from \$100 to  
19 \$600 if there is a change in the membership of the partnership or  
20 corporation or other circumstances requiring a background check.  
21 The fee for other renewals remains at \$100.

22 The bill also provides funding sources for the Division of Alcoholic  
23 Beverage Control to assume these duties. The bill increases the  
24 application fee for a license and transfer of a license from \$100 to  
25 \$600 as discussed above. Another source of revenue is provided by  
26 requiring the licensee to pay the State's costs directly associated with  
27 a hearing in any contested case for a violation of any rule or  
28 regulation. These hearing costs would be in addition to any other  
29 penalty that the director may impose. This requirement is set forth in  
30 R.S.33:1-31.

31 The State takeover provision in the bill is modeled on  
32 N.J.A.C.13:2-3.7 by which the State took over the investigation of  
33 license applications filed in Atlantic City. Under this authority, the  
34 Atlantic City Joint Task Force was created in 1977.

35 In a March 1992 report the State Commission of Investigation  
36 (SCI) concluded that the lax manner in which some municipalities  
37 conduct liquor license background checks was the "principal reason"  
38 that organized crime was still involved in the liquor business. The SCI  
39 concluded that the State should assume the responsibility for all  
40 background investigations of applicants for liquor licenses and  
41 suggested that the State use the proceedings by which liquor licenses  
42 are issued in Atlantic City as the model for a State takeover of  
43 background investigations. Since the commission recognized that the  
44 new responsibilities would result in additional costs, it suggested three  
45 funding sources--additional applicant fees for investigative costs,  
46 increased penalties for violations and assessment of costs in

1 administrative cases.

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6 Requires State to assume background checks for liquor license

7 applicants.