

# 33:1-22

## LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1971                CHAPTER: 9

NJSA: 33:1-22                (Alcoholic beverages)

BILL NO: A1210

SPONSOR(S) Rinaldi and Cafiero

DATE INTRODUCED: September 17, 1970

COMMITTEE:                ASSEMBLY: State Government

    SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE:                ASSEMBLY: December 7, 1970

    SENATE: December 18, 1970

DATE OF APPROVAL: January 18, 1971

### FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Original version of bill enacted)

**A1210**

<b>SPONSOR'S STATEMENT:</b>			No
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>		No
	<b>SENATE:</b>		No
<b>FLOOR AMENDMENT STATEMENT:</b>			No
<b>LEGISLATIVE FISCAL NOTE:</b>			No
<b>VETO MESSAGE:</b>			No
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>			Yes

### FOLLOWING WERE PRINTED:

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LAW

STATE OF NEW JERSEY  
LEGISLATIVE HISTORY - ALCOHOLIC BEVERAGES  
CHAPTER 9

CHAPTER.....9..... LAWS OF N. J. 1971

APPROVED 1/18/71

**ASSEMBLY, No. 1210**

**STATE OF NEW JERSEY**

INTRODUCED SEPTEMBER 17, 1970

By Assemblymen RINALDI and CAFIERO

Referred to Committee on State Government

AN ACT concerning alcoholic beverages and amending R. S. 33:1-22  
and R. S. 33:1-31.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. R. S. 33:1-22 is amended to read as follows:

2 33:1-22. If the other issuing authority shall refuse to issue any  
3 license, or if the other issuing authority shall refuse to extend said  
4 license for a limited time not exceeding its term, to the executor or  
5 administrator of a deceased licensee, or to such person who shall be  
6 appointed by the courts having jurisdiction, in the event of the  
7 incompetency of any licensee, the applicant shall be notified forth-  
8 with of such refusal by a notice served personally upon the appli-  
9 cant, or sent to him by registered mail addressed to him at the  
10 address stated in the application. Such applicant may within 30  
11 days after the date of service or of mailing of such notice, *upon*  
12 *payment to the director of a nonreturnable filing fee of \$50.00,*  
13 appeal to the **[commisisoner]** *director* from the action of the issuing  
14 authority. If the other issuing authority shall issue a license, or  
15 grant an extension of said license for a limited time not exceeding  
16 its term, to the executor or administrator of a deceased licensee, or  
17 to such person who shall be appointed by the courts having jurisdic-  
18 tion, in the event of the incompetency of any licensee, any taxpayer  
19 or other aggrieved person opposing the issuance of such license may,  
20 within 30 days after the issuance of such license, *upon payment to*  
21 *the director of a nonreturnable filing fee of \$50.00,* appeal to the  
22 **[commissioner]** *director* from the action of the issuing authority.  
23 The **[commissioner]** *director* shall fix a time for the hearing of the  
24 appeal and before hearing the same, shall give at least 5 days' notice  
25 of the time so fixed to such applicant, such taxpayer, or other ag-  
26 grievd person and other issuing authority.

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

27 Where an appeal is taken from the denial of an application for a  
28 renewal of a license, the [commissioner] *director* may, in his dis-  
29 cretion, issue an order upon the respondent issuing authority to  
30 show cause why the term of the license should not be extended pend-  
31 ing the determination of the appeal, together with ad interim relief  
32 extending the term of the license pending the return of the order to  
33 show cause. If it shall appear upon the return of the order to show  
34 cause that the action of the respondent issuing authority is prima  
35 facie erroneous and that irreparable injury to the appellant would  
36 otherwise result, the [commissioner] *director* may, subject to such  
37 conditions as he may impose, order that the term of the license be  
38 extended pending a final determination of the appeal.

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

2 33:1-31. Any license, whether issued by the director or any other  
3 issuing authority, may be suspended or revoked by the director, or  
4 the other issuing authority may suspend or revoke any license  
5 issued by it, for any of the following causes:

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

27 No suspension or revocation of any license shall be made until a  
28 5-day notice of the charges preferred against the licensee shall have  
29 been given to him personally or by mailing the same by registered  
30 mail addressed to him at the licensed premises and a reasonable  
31 opportunity to be heard thereon afforded to him.

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

38 A revocation shall render the licensee and the officers, directors  
39 and each owner, directly or indirectly, of more than 10% of the stock  
40 of a corporate licensee ineligible to hold or receive any other license,  
41 of any kind or class under this chapter, for a period of 2 years from  
42 the effective date of such revocation and a second revocation shall  
43 render the licensee and the officers, directors and each owner, directly  
44 or indirectly, of more than 10% of the stock of a corporate  
45 licensee ineligible to hold or receive any such license at any time  
46 thereafter. Any revocation may, in the discretion of the director or  
47 other issuing authority as the case may be, render the licensed  
48 premises ineligible to become the subject of any further license, of  
49 any kind or class under this chapter, during a period of 2 years  
50 from the effective date of the revocation.

51 *The director may, in his discretion and subject to rules and regulations,*  
52 *accept from any licensee an offer in compromise in such*  
53 *amount as may in the discretion of the director be proper under the*  
54 *circumstances in lieu of any suspension of any license by the director*  
55 *or any other issuing authority. Any sums of money so collected*  
56 *by the director shall be paid forthwith into the State Treasury for*  
57 *the general purpose of the State.*

58 No refund, except as expressly permitted by section 33:1-26 of  
59 this Title, shall be made of any portion of a license fee after issuance  
60 of a license; but if any licensee, except a seasonal retail consumption  
61 licensee, shall voluntarily surrender his license, there shall be  
62 returned to him, after deducting as a surrender fee 50% of the  
63 license fee paid by him, the prorated fee for the unexpired term;  
64 provided, that such licensee shall not have committed any violation  
65 of this chapter or of any rule or regulation or done anything which  
66 in the fair discretion of the director or other issuing authority, as  
67 the case may be, should bar or preclude such licensee from making  
68 such claim for refund and that all taxes and other set-offs or counterclaims  
69 which shall have accrued and shall have become due and  
70 payable to this State or any municipality, or both, have been paid.  
71 Such refund, if any, shall be made as of the date of such surrender.  
72 The surrender of a license shall not bar proceedings to revoke such  
73 license. The refusal of the other issuing authority to grant any

74 refund hereunder shall be subject to appeal to the director within  
75 30 days after notice of such refusal is mailed to or served upon the  
76 licensee. Surrenders of retail licenses shall be promptly certified by  
77 the issuing authority to the director. Surrender fees shall be ac-  
78 counted for as are investigation fees. If any licensee to whom a  
79 refund shall become due under the provisions of this section shall  
80 be indebted to the State of New Jersey for any taxes, penalties or  
81 interest by virtue of the provisions of subtitle 8 of the Title Taxa-  
82 tion (§ 54:41-1 et seq.), it shall be the duty of the issuing authority  
83 before making any such refund, upon receipt of a certificate of the  
84 State Tax Commissioner evidencing the said indebtedness to the  
85 State of New Jersey, to deduct therefrom, and to remit forthwith  
86 to the State Tax Commissioner the amount of such taxes, penalties  
87 and interest.

88 In the event of any suspension or revocation of any license by the  
89 other issuing authority, the licensee may, within 30 days after the  
90 date of service or of mailing of said notice of suspension or of  
91 revocation, *upon payment to the director of a nonreturnable filing*  
92 *fee of \$50.00*, appeal to the director from the action of the other  
93 issuing authority in suspending or revoking such license which ap-  
94 peal shall act as a stay of such suspension or revocation pending the  
95 determination thereof unless the director shall otherwise order.  
96 When any person files with any other issuing authority written com-  
97 plaint against a licensee specifying charges and requesting that pro-  
98 ceedings be instituted to revoke or suspend such license, he may  
99 appeal to the director from its refusal to revoke or suspend such  
100 license or other action taken by it in connection therewith within  
101 30 days from the time of service upon or mailing of notice to him of  
102 such refusal or action. The director shall thereupon fix a time for  
103 the hearing of the appeal and before hearing the same shall give at  
104 least 5 days' notice of the time so fixed to such licensee, other issuing  
105 authority and appellant.

1 3. This act shall take effect immediately.

FROM THE OFFICE OF THE GOVERNOR

FOR RELEASE: January 18, 1971

A-1210

Governor William T. Cahill today signed into law Assembly Bill 1210 which allows the Director of Alcoholic Beverage Control to accept fines in lieu of license suspensions for violation in certain cases.

The Bill, sponsored by Assemblyman Herbert M. Rinaldi (R., Essex), gives the Director new discretionary powers to such cases as a first offense in selling alcohol during prohibited hours, minimum price violation, and some instances involving the sale of alcohol to minors. The fines will be based on the daily receipts of the offender. However, those convicted of major offenses will continue to receive mandatory suspensions. The new law recognizes an approach recommended by the Governor's Management Commission.

In addition, the law requires a \$50 non-returnable fee for appeals filed with the Director.

The affect of the law will be to eliminate numerous appeals and free personnel for more field work; help avoid the loss of work for innocent employees of suspended licencees; provide alternatives for cases where license suspension is considered to severe for a minor infraction; produce additional State revenue and reduce the public's inconvenience in cases where social events must be cancelled because of license suspensions.

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REMARKS UPON SIGNING ASSEMBLY BILL NO. 1210 (RENAULT)

This bill contains two primary features. One, a \$50 filing fee is required for appeals filed with the Director of Alcoholic Beverage Control. This will require litigants utilizing the appellate facilities of A.B.C. to share in the expenses thereof.

Secondly, the Director of A.B.C. is permitted, subject to rules and regulations, to accept monetary fines in lieu of suspension of a license in certain cases. This will be limited to minor offenses, such as first offenders in cases involving sales during prohibited hours, minimum price violations and some cases of sales to minors. The fines will be based upon the daily receipts of the offending establishments and will be severe so they will serve as a deterrent.

Licensees convicted of major offenses will continue to receive mandatory suspensions.

This new approach has been recommended by the Governor's Management Commission.

The new system for fines will have the following effects:

- 1) It will produce additional State revenue;
- 2) It will eliminate numerous appeals, thus freeing a.b.c. personnel for surveillance and other work in the field;
- 3) It will avoid the loss of work for innocent employees of suspended licensees;
- 4) It will reduce inconvenience to the public in the case of social events which cannot be held due to suspension of licenses; and
- 5) It will provide alternatives for cases where suspension is too severe a penalty for a minor infraction.

POINTS - A-1210

1. PERMITS THE DIRECTOR TO IMPOSE FINES INSTEAD OF MANDATORY SUSPENSIONS.
2. COMPARE TO CRIMINAL PENALTIES-- FINE OR PRISON. THIS WILL PERMIT ~~SOME~~ DISCRETION AS JUDGE.
3. ALREADY IN EFFECT IN SEVERAL STATES AND WAS ENDORSED BY THE MANAGEMENT COMMISSION.

HOW WILL IT WORK?

- (a) DISCRETIONARY WITH DIRECTOR-PAST RECORD
- (b) APPLICABLE ONLY WHERE 30 DAYS OR LESS PENALTY - NOT APPLICABLE TO GAMBLING, NARCOTICS, ETC.
- (c) LOCAL ISSUING AUTHORITY WILL HAVE RIGHT OF VETO - NO FINE IF THEY INSIST ON SUSPENSION.
- (d) NOT A SLAP ON WRIST - % OF GROSS PROFIT TIMES NUMBER OF DAYS OF SUSPENSION - ALREADY CONFERRED WITH FIVE (5) SEPARATE SEGMENTS OF INDUSTRY.

ADVANTAGES

- (a) ADDITIONAL REVENUE
- (b) REDUCE CONTESTED CASES
- (c) INNOCENT EMPLOYEES WOULD NOT SUFFER
- (d) AVOIDS INCONVIENCE TO THE PUBLIC - WEDDING, ETC.
- (e) MORE EFFECTIVE WAY TO PENALIZE SEASONAL LICENSEES
- (f) FINES IN LIEU OF WARNING LETTERS