

33:1-126

LEGISLATIVE HISTORY CHECKLIST
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(Alcohol beverage licenses-taxes)

NJSA: 33:1-126

LAWS OF: 1993 **CHAPTER:** 232

BILL NO: S1979

SPONSOR(S) Palaia

DATE INTRODUCED: June 17, 1993

COMMITTEE: **ASSEMBLY:** ---
SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 21, 1993
SENATE: June 21, 1993

DATE OF APPROVAL: August 6, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: No

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

1 **AN ACT** concerning the administration and enforcement of the
2 State taxes paid and collected by alcoholic beverage licensees,
3 amending R.S.33:1-26 and N.J.S.84:50-9.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the
6 State of New Jersey:

7 1. R.S.33:1-26 is amended to read as follows:

8 33:1-26. All licenses shall be for a term of one year from July
9 1 in each year. The respective fees for any such license shall be
10 prorated according to the effective date of the license and based
11 on the respective annual fee as in this chapter provided. Where
12 the license fee deposited with the application exceeds the
13 prorated fee, a refund of the excess shall be made to the
14 licensee. Licenses are not transferable except as hereinafter
15 provided. A separate license is required for each specific place
16 of business and the operation and effect of every license is
17 confined to the licensed premises. No retail license of any class
18 shall be issued to any holder of manufacturer's or wholesaler's
19 license, and no manufacturer's or wholesaler's license shall be
20 issued to the holder of a retail license of any class. Any person
21 who shall exercise or attempt to exercise, or hold himself out as
22 authorized to exercise, the rights and privileges of a license
23 except the licensee and then only with respect to the licensed
24 premises, shall be guilty of a misdemeanor.

25 In case of death, bankruptcy, receivership or incompetency of
26 the licensee, or if for any other reason whatsoever the operation
27 of the business covered by the license shall devolve by operation
28 of law upon a person other than the licensee, the director or the
29 issuing authority may, in his or its discretion, extend the license
30 for a limited time, not exceeding its term, to the executor,
31 administrator, trustee, receiver or other person upon whom the
32 same has devolved by operation of law as aforesaid. Under no
33 circumstances, however, shall a license, or rights thereunder, be
34 deemed property, subject to inheritance, sale, pledge, lien, levy,
35 attachment, execution, seizure for debts, or any other transfer or
36 disposition whatsoever, except for payment of taxes, fees,
37 interest and penalties imposed by any State tax law for which a
38 lien may attach pursuant to R.S.54:49-1 or pursuant to the State
39 Tax Uniform Procedure Law, R.S.54:48-1 et seq., or any similar
40 State lien of tax, except to the extent expressly provided by this
41 chapter.

42 On application made therefor setting forth the same matters
43 and things with reference to the premises to which a transfer of
44 license is sought as are required to be set forth in connection

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 with an original application for license, as to the premises, and
2 after publication of notice of intention to apply for transfer, in
3 the same manner as is required in case of an application for
4 license as to the premises, the director or other issuing authority
5 may transfer, upon payment of a fee of 10% of the annual license
6 fee for the license sought to be transferred, any license issued by
7 him or it respectively to a different place of business than that
8 specified therein, by endorsing permission upon the license.

9 On application made therefor setting forth the same matters
10 and things with reference to the person to whom a transfer of
11 license is sought as are required to be set forth in connection
12 with an original application for license, which application for
13 transfer shall be signed and sworn to by the person to whom the
14 transfer of license is sought and shall bear the consent in writing
15 of the licensee to the transfer, and after publication of notice of
16 intention by the person to whom the transfer of license is sought,
17 to apply for transfer in the same manner as is required in the
18 case of an original application for license, the director or other
19 issuing authority, as the case may be, may transfer any license
20 issued by him or it respectively to the applicant for transfer by
21 endorsing the license. The application and the applicant shall
22 comply with all requirements of this chapter pertaining to an
23 original application for license and shall be accompanied, in lieu
24 of the license fee required on the original application, by a fee of
25 10% of the annual license fee for the license sought to be
26 transferred, which 10% shall be retained by the director or other
27 issuing authority, as the case may be, whether the transfer be
28 granted or not, and accounted for as other license fees.

29 If the other issuing authority shall refuse to grant a transfer
30 the applicant shall be notified forthwith of the refusal by a notice
31 served personally upon the applicant, or sent to him by registered
32 mail addressed to him at the address stated in the application,
33 and the applicant may, within 30 days after the date of service or
34 mailing of the notice, appeal to the director from the action of
35 the issuing authority. If the other issuing authority shall grant a
36 transfer, any taxpayer or other aggrieved person opposing the
37 grant of the transfer may, within 30 days after the grant of the
38 transfer, appeal to the director from the action of the issuing
39 authority.

40 No person who would fail to qualify as a licensee under this
41 chapter shall be knowingly employed by or connected in any
42 business capacity whatsoever with a licensee. A person failing to
43 qualify as to age or by reason of conviction of a crime involving
44 moral turpitude may, with the approval of the director, and
45 subject to rules and regulations, be employed by any licensee, but
46 the employee if disqualified by age shall not, in any manner
47 whatsoever serve, sell or solicit the sale or participate in the
48 manufacture, rectification, blending, treating, fortification,
49 mixing, processing or bottling of any alcoholic beverage; and
50 further provided, that no permit shall be necessary for the
51 employment in a bona fide hotel or restaurant of any person
52 failing to qualify as to age so long as the person shall not in any
53 manner whatsoever serve, sell or solicit the sale of any alcoholic
54 beverage, or participate in the mixing, processing or preparation

1 thereof.

2 Any request for relief under this section shall be accompanied
3 by a nonreturnable filing fee of \$100.00 payable to the director.

4 (cf: P.L.1992, c.188, s.4)

5 2. R.S.54:50-9 is amended to read as follows:

6 54:50-9. Nothing herein contained shall be construed to
7 prevent:

8 a. The delivery to a taxpayer or his duly authorized
9 representative of a copy of any report or any other paper filed by
10 him pursuant to the provisions of this subtitle or of any such
11 State tax law;

12 b. The publication of statistics so classified as to prevent the
13 identification of a particular report and the items thereof;

14 c. The commissioner, in his discretion and subject to
15 reasonable conditions imposed by him, from disclosing the name
16 and address of any licensee under any State tax law, unless
17 expressly prohibited by such State tax law;

18 d. The inspection by the Attorney-General or other legal
19 representative of this State of the reports or files relating to the
20 claim of any taxpayer who shall bring an action to review or set
21 aside any tax imposed under any State tax law or against whom
22 an action or proceeding has been instituted in accordance with
23 the provisions thereof;

24 e. The examination of said records and files by the
25 Comptroller, State Auditor or State Commissioner of Finance, or
26 by their respective duly authorized agents;

27 f. The furnishing, at the discretion of the commissioner, of any
28 information contained in tax reports or returns or any audit
29 thereof or the report of any investigation made with respect
30 thereto, filed pursuant to the tax laws, to the taxing officials of
31 any other State, the District of Columbia, the United States and
32 the territories thereof, providing said jurisdictions grant like
33 privileges to this State and providing such information is to be
34 used for tax purposes only;

35 g. The furnishing, at the discretion of the commissioner, of
36 any material information disclosed by the records or files to any
37 law enforcing authority of this State who shall be charged with
38 the investigation or prosecution of any violation of the criminal
39 provisions of this subtitle or of any State tax law;

40 h. The furnishing by the Director of the Division of Taxation
41 to the State agency responsible for administering the Child
42 Support Enforcement program pursuant to Title IV-D of the
43 federal Social Security Act, Pub. L. 93-647 (42 U.S.C. § 651 et
44 seq.), with the names, home addresses and social security
45 numbers of all absent parents who are certified by that agency as
46 being required to pay child support, upon request by the State
47 agency and pursuant to procedures and in a form prescribed by
48 the director.

49 i. The furnishing by the Director of the Division of Taxation to
50 the Board of Public Utilities any information contained in tax
51 information statements, reports or returns or any audit thereof or
52 a report of any investigation made with respect thereto, as may
53 be necessary for the administration of P.L.1991, c.184
54 (C.54:30A-18.6 et al.).

1 1. The furnishing by the Director of the Division of Taxation to
2 the Director of the Division of Alcoholic Beverage Control in the
3 Department of Law and Public Safety any information contained
4 in tax information statements, reports or returns or any audit
5 thereof or a report of any investigation made with respect
6 thereto, as may be relevant, in the discretion of the director, in
7 any proceeding conducted for the issuance, suspension or
8 revocation of any license authorized pursuant to Title 33 of the
9 Revised Statutes.

10 (cf: P.L.1991, c.184, s.23)

11 3. This act shall take effect immediately

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14 STATEMENT

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16 This bill provides for the effective enforcement of the State
17 tax laws as they apply to alcoholic beverage taxes and the taxes
18 collected by alcoholic beverage licensees. The bill provides an
19 exception to the general rule that alcoholic beverage licenses
20 may not be seized for satisfaction of debts to allow the Division
21 of Taxation to seize New Jersey liquor licenses for satisfaction of
22 State tax debts. The largest debt of a liquor licensee may be to
23 the Division of Taxation in the form of taxes, such as sales taxes
24 and employment tax and income tax withholding, that are
25 actually paid by customers and employees and that the licensee
26 collects as a trustee for the State.

27 The bill also allows the Division of Taxation to share
28 information concerning the State tax liabilities, filings and audits
29 of alcoholic beverage licensees with the Division of Alcoholic
30 Beverage Control, which has among its duties responsibility for
31 protecting the collection of the State taxes on alcoholic
32 beverages and for suspending or revoking alcoholic beverage
33 licenses for failure of a licensee to properly collect or pay taxes.

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38 Concerns administration and enforcement of State taxes paid and
39 collected by alcoholic beverage licensees.

1 j. The furnishing by the Director of the Division of Taxation to
2 the Director of the Division of Alcoholic Beverage Control in the
3 Department of Law and Public Safety any information contained
4 in tax information statements, reports or returns or any audit
5 thereof or a report of any investigation made with respect
6 thereto, as may be relevant, in the discretion of the director, in
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14 SPONSOR'S STATEMENT

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