



**STATE OF NEW JERSEY**

OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
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*Lt. Governor*

DAVID P. RIBLE  
*Director*

Thank you for your recent inquiry concerning restrictions on club licensure. For your information enclosed please find the following:

1. N.J.S.A 33:1-12.5 Statute Authorizing Issuance of Club Licenses by Municipalities.
2. Division letter dated August 31, 2004 regarding Club License Privileges and Restrictions pursuant to N.J.A.C. 13:2-8.1 thru 8.14.

Should you have any questions concerning the enclosed, please do not hesitate to contact me.

Very truly yours,

Joann Frascella  
Executive Assistant  
Licensing Bureau

Attachments



## INTOXICATING LIQUORS

determining the maximum number of retail licenses permitted under P.L.1962, c. 152 (C.33:1-12.31 et seq.).

**Club license.** 5. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages but only for immediate consumption on the licensed premises and only to bona fide club members and their guests. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than ~~\$50.00~~ \$63 and not more than ~~\$150.00~~ \$188. The governing board or body of each municipality may, by ordinance, enact that no club licenses shall be granted within its respective municipality. Club licenses may be issued only to such corporations, associations and organizations as are operated for benevolent, charitable, fraternal, social, religious, recreational, athletic, or similar purposes, and not for private gain, and which comply with all conditions which may be imposed by the Commissioner of Alcoholic Beverage Control by rules and regulations.

The provisions of section 23 of P.L.2003, c. 117 (C.33:1-12) amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

Amended by L.1942, c. 156, p. 460, § 1; L.1946, c. 272, p. 932, § 1; L.1951, c. 163, p. 632, § 1; L.1956, c. 215, p. 772, § 1; L.1957, c. 179, p. 620, § 1; L.1966, c. 180, § 1, eff. June 22, 1966; L.1967, c. 296, § 1, eff. Feb. 15, 1968; L.1968, c. 335, § 1, eff. Nov. 13, 1968; L.1969, c. 183, § 1, eff. Nov. 5, 1969; L.1976, c. 44, § 3, eff. June 30, 1976; L.1976, c. 54, § 1, eff. July 26, 1976; L.1985, c. 157, § 2, eff. April 26, 1985; L.1993, c. 198, § 1, eff. July 23, 1993; L.1993, c. 216, § 2, eff. July 30, 1993. Amended by L.1996, c. 83, § 1, eff. July 25, 1996; L.1997, c. 8, § 2, eff. Jan. 24, 1997; L.2003, c. 117, § 23, eff. July 1, 2003.

*For text of section effective on the first day of the fifth month following enactment of L.2003, c. 279, approved January 14, 2004, see § 33:1-12, post.*

## 33:1-12. Class C licenses; subdivisions; fees

*Text of section effective the first day of the fifth month following enactment of L.2003, c. 279, approved January 14, 2004.*

Class C licenses shall be subdivided and classified as follows:

**Plenary retail consumption license.** 1. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises; but this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business is carried on, except as hereinafter provided. The holder of this license shall be permitted to conduct consumer wine, beer and spirits tastings and samplings for a fee or on a complimentary basis pursuant to conditions established by rules and regulations of the Division of Alcoholic Beverage Control. Subject to such rules and regulations established from time to time by the director, the holder of this license shall be permitted to sell alcoholic beverages in or upon the premises in which any of the following is carried on: the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons; the sale, at an entertainment facility as defined in R.S.33:1-1, having a seating capacity for no less than 4,000 patrons, of mercantile items traditionally associated with the type of event or program held at the site; the sale of distillers', brewers' and vintners' packaged merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section; the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons, or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages; or, in commercial bowling establishments, the retail sale or rental of bowling accessories and the retail sale from vending machines of candy, ice cream and nonalcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than ~~\$200.00~~ \$250 and not more than ~~\$2,000.00~~ \$500. No ordinance shall be enacted which shall raise or lower the fee to

Last additions in text indicated by underline; deletions by strikeouts



JAMES E. MCGREEVEY  
GOVERNOR

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PETER C. HARVEY  
ATTORNEY GENERAL

JERRY FISCHER  
DIRECTOR

August 31, 2004

Dear Club Licensee:

Re: Club License Privileges and Restrictions

It has come to the attention of the Division of Alcoholic Beverage Control (hereinafter "ABC") that club licensees are conducting promotions and other activities in violation of State law. The main source of violations stems from club licensees operating as if they hold plenary retail consumption licenses. However, the privileges that accompany a club license are more limited and different than those of a plenary license. Therefore, this letter will review those practices that are and are not permitted under a club license, as well as update information previously contained in ABC Bulletin 2431, Item 7 and 2468, Item 1.

The Club License

A club license is issued pursuant to the authority set forth in N.J.S.A. 33:1-12(5). That statute provides that the holder of the club license is entitled, subject to rules and regulations (to be discussed later), to sell any alcoholic beverages, but only for immediate consumption on the licensed premises and only to bona fide club members and their guests. This means that all alcoholic beverages sold or served by a club licensee **must be consumed on the licensed premises** and none may be taken off the licensed premises or licensed portions of the premises. It also means that the only persons who may be served are actual and true members of the non-profit licensed organization and/or actual and personal guests of such members. No one else may be served. Furthermore, a "club" is defined as an organization, corporation, or association consisting of 60 or more persons operating solely for benevolent, charitable, fraternal, social, religious, recreational, athletic or similar purposes and not for private gain.

Rules and Regulations

In furtherance of the statutory mandate discussed above, the ABC has promulgated rules and regulations pertaining to club licenses. The specific regulations governing club licenses are found in Subchapter 8 of Chapter 2, Title 13 of the New Jersey Administrative Code. A reprint of the provisions of that subchapter (cited as N.J.A.C. 13:2-8.1 to 13:2-8.14) is attached to this

letter for your continued reference. However, there are also many other regulatory provisions that govern the conduct of all licensees. You may wish to consider the summary of some of these responsibilities contained in the ABC Handbook for Retail Licensees. The discussion herein is limited to those provisions that are specifically directed at club licensees.

Please note carefully the definitions in N.J.A.C. 13:2-8.1. They are very specific and are to be very strictly followed. To be considered a valid club member, a person must be admitted to full voting membership in a manner prescribed by the bylaws of the club, maintained in good standing on a membership list with address included and admitted to membership no sooner than 3 days after filing an application. Thus, persons holding limited, auxiliary or social memberships, which do not include equal rights with regular members, shall not be deemed to be club members. The practice, which has been observed, where a person purportedly acquires a membership "at the door" or for "one day," or for the apparent purpose of granting to that person the authority to purchase alcoholic beverages, does not confer a valid club membership.

With respect to the conduct of affairs and gatherings on the licensed premises which are sponsored by non-club members, the following should be carefully understood and noted. In most situations where the club rents a portion of its licensed facility to a group for the conduct of a banquet or affair, the club cannot sell alcoholic beverages to that group. The group is not a club member, even if some persons in that group may be members of the club. In those situations, the club rents the facilities and may sell food and non-alcoholic beverages to the group as well as require the hiring of club members as bartenders or waitresses to dispense alcoholic beverages and other items. The group renting the facility must bring in its own alcoholic beverages, which cannot be purchased from the club licensee.

If the group renting the facility is involved in selling alcoholic beverages to those who attend, either by means of its own cash bar or through a ticket price or subscription which includes alcoholic beverages, that group must acquire a social affair permit under N.J.A.C. 13:2-5.1. The club has a responsibility to ensure that a social affair permit is obtained in those situations because a failure to properly have the permit would result in a charge against the club licensee for allowing unlawful alcoholic beverage activity on its licensed premises. Examples of these two situations can be shown as follows: 1) The Rotary Club of a community utilizes a club licensed premises for its regular monthly meetings. At those meetings, the only persons in attendance for the Rotary are Rotary members and specially invited guests. The club can rent the facilities and sell food to the Rotary for the luncheon. If the Rotary desires alcoholic beverages, they must bring in their own to be served and consumed by the attendees at the monthly meeting. 2) The Rotary rents the facilities for the purposes of having a function at which members of the general public are invited to attend at a specified ticket price which includes the availability of alcoholic beverages. In this case, the Rotary would also have to acquire a social affair permit and not acquire its alcoholic beverages from the club licensee.

Furthermore, the club must be able to produce on demand a true record of all scheduled affairs to be held on the club premises and attended by non-members under N.J.A.C. 13:2-8.8(b). These records can serve to keep the club aware of who is using the club facilities and the purpose of such affairs. Copies of all social affair permits issued for the premises should also be retained.

No more than 12 social affair permits can be issued annually to an applicant and no more than 25 permits can be issued for a premises during a calendar year. Failure to keep true records or produce them on demand by authorized enforcement authorities constitutes a violation of these regulations.

In defining who is a guest of a club member, the regulations clearly require that the "guest" be someone expressly invited to the licensed premises and sponsored by a club member. One club member can have as his guests no more than 9 individuals. However, this does not mean that the club can allocate the first 9 non-members who walk into the club premises to a particular member and the next 9 to a second member. The only waiver of the 9 guests limit occurs when a member utilizes a portion of the licensed premises for a private party he/she is sponsoring for an immediate family member, such as a spouse, child, parent, brother or sister. These situations most often represent functions such as weddings, anniversaries, confirmations, bar or bat mitzvahs or birthdays.

The fact that specific provisions of Subchapter 8 are mentioned, and not others, does not mean that the other provisions are less important. All are equally important and pertinent and are to be strictly followed. As a club licensee, you are charged with having knowledge of all regulatory requirements.

#### Other Rules

As mentioned above, there are also other rules and regulations which govern club licensees in addition to Subchapter 8. A club licensee, like any other licensee, may not serve actually or apparently intoxicated persons or underaged persons; no alcoholic beverages may be sold under their cost from the wholesaler; you may purchase your alcohol only from licensed wholesalers; no "2-for-1" specials may be offered; gambling devices and video card games are not permitted on your licensed premises; and you may not allow members to purchase quantities of alcoholic beverages through you (package goods), such as at Christmas time, unless it is all to be consumed on your licensed premises at a member's private party (wedding, etc.). Furthermore, club licensees must adhere to all local ordinances, including the restriction of service of alcohol only during those days and hours permitted.

Another issue which may cause problems for club licensees centers on gambling events and other games of chance. The included activities are typically referred to as "Armchair Races," "Casino Nights" or "Monte Carlo Nights." A club licensee who intends to organize such an event must apply for a special permit from the Legalized Games of Chance Control Commission ("LGCCC"). It is important to note that such an event may only include bona fide club members and their guests, as defined above, if alcoholic beverages are to be sold, unless the club or other sponsor of the event obtains a social affair permit from ABC. Again, please note that the non-member group must provide their own alcohol and cannot purchase alcohol from the licensee. Special permits from the LGCCC and social affair permits from ABC may only be obtained by qualified, not-for-profit organizations, and such events must be conducted in conformance with the conditions contained in the permits.

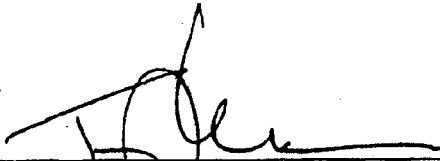
Summary

Because the scope of a club license is very limited, the holder of such license must take extra steps to stay within the limitations discussed above and otherwise contained in rules and regulations. The Division intends to strictly enforce those rules and regulations.

It is our hope, however, that as a club licensee you will be extremely careful to abide by the rules so that disciplinary action will not be necessary. We suggest that the officers, directors, trustees and anyone else responsible for operating the alcoholic beverage service for your club read and become familiar with the content of this letter (which is by no means all-inclusive) and the rules and regulations of this Division (including the ABC Handbook for Retail Licensees).

If anyone has any specific questions regarding anything in this letter or in the regulations, or in any way pertaining to your license and its privileges, please feel free to contact the Division, preferably by letter. We will be glad to assist you.

With your continuing cooperation, the club license privileges which you hold will remain a source of enjoyment for your members.



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JERRY FISCHER  
DIRECTOR

Attachments

### **13:2-8.1 Definitions**

The following words and terms when used in this subchapter shall have the following meanings unless the context clearly indicates otherwise.

"Club" means an organization, corporation or association controlled by and consisting of 60 or more persons, of legal drinking age, operating solely for benevolent, charitable, fraternal, social, religious, recreational, athletic or similar purposes and not for private gain.

"Club member" means any individual in good standing who has been admitted to voting membership in the manner regularly prescribed by the bylaws of a club, and who maintains such membership in a bona fide manner and whose name and address are entered on the list of members. No individual shall be eligible for such club membership unless he has filed written application with the appropriate body, as set forth in the club bylaws, and such application is approved by said body at least three days subsequent to the filing thereof. Persons holding limited or auxiliary club membership shall not be deemed to be club members.

"Guest of club member" means an individual who is expressly invited to the club licensed premises by an individual member of the club and who is sponsored by and personally attended by the member at such premises. An individual club member may have as his guest no more than nine individuals on any one occasion unless such individuals are attending a private affair, such as a wedding, anniversary, confirmation, bar mitzvah or birthday party, honoring a spouse, child, parent, brother or sister of a club member.

### **13:2-8.2 Bona fide clubs**

Club licenses shall be issued only to bona fide clubs.

### **13:2-8.3 Previous period of continuous, active operation**

Except as provided in N.J.A.C. 13:2-8.5, no license shall be issued to any club unless it shall have been in active operation in the State of New Jersey for at least three years continuously immediately prior to the submission of its application for a license.

#### **13:2-8.4 Previous period of possession and use of club quarters**

Except as provided herein or in N.J.A.C. 13:2-8.5, no license shall be issued to any club unless it shall have been in exclusive possession and use of a clubhouse or club quarters for at least three years continuously immediately prior to the submission of its application for a license. A bona fide club which has been in active operation in this State for the period of time required as aforesaid, but which has been deprived of continuous possession and use of its clubhouse or club quarters by reasons of foreclosure, loss of lease, eminent domain, fire, casualty or other removal for a cause other than the violation of the laws of the State or of municipal ordinance, shall not be prevented thereby from obtaining a club license upon presenting to the satisfaction of the issuing authority proof of said facts and proof that possession of suitable premises has been obtained.

#### **13:2-8.5 Exceptions to eligibility requirements**

(a) Any constituent unit, chartered or otherwise duly enfranchised chapter or member club of a national or state order, organization or association, which is in possession of suitable premises, shall not be prevented from obtaining a club license by reason of the fact that the unit, chapter or member club has not been in active operation in this State for at least three years continuously or has not been in exclusive continuous possession and use of a clubhouse or club quarters for the same period of time, provided said unit, chapter or member club obtains from the Director, and presents to the issuing authority at or before the issuance of the license, a certificate stating that satisfactory proof has been submitted to the Director that said unit, chapter or member club has been duly credentialed by a national or state order, organization or association which has been in active operation in this State for at least three years continuously immediately prior to submission of the application for a license.

(b) Nothing in N.J.A.C. 13:2-8.3 or 8.4 shall prevent the issuance of a club license to a bona fide club provided that special cause for such issuance is shown in writing to the Director and provided that the Director's written approval of such issuance is first obtained.

### 13:2-8.6 Qualifications of officers and members

(a) No club license shall be used nor renewal granted to any corporation, association or organization in which an officer or member of the governing body has been convicted of a disqualifying offense pursuant to Title 33 unless the statutory disqualification resulting from such conviction has been removed by order of the Director. Application for removal of the disqualification may be made by verified petition to the Director when the unlawful situation is corrected.

(b) No application shall be approved or renewed unless the issuing authority affirmatively finds and reduces to resolution that:

1. The submitted application form is complete in all respects, including the requirements of N.J.A.C. 13:2-8.7;
2. The officers and directors of applicant club are qualified to be licensed according to all standards established by Title 33 of the New Jersey statutes, regulations promulgated thereunder as well as pertinent local ordinances or conditions consistent with Title 33;
3. The club maintains all records required pursuant to N.J.A.C. 13:2-8.7 and 8.8; and
4. The officers and directors of the applicant club have certified, on a form prescribed by the Director, that they have read and understand all their legal responsibilities pertaining to the operation of a club license.

### 13:2-8.7 Submission of club member list and club charter

(a) A printed or typewritten list containing the names and addresses of all members of the club as of date of filing a club license application shall be submitted with the initial application as well as with each subsequent renewal application. No club license shall be renewed unless the club consists of at least 60 members at the time of renewal. The charter or articles of association of the club shall also be presented for inspection or certified copy of the same submitted with the initial application.

(b) Nothing in this section shall prevent the renewal of a license to a club not qualified by reason of a lack of requisite number of members, provided that special cause of such renewal is shown in writing to the Director and further provided that the Director's written approval for such renewal is first obtained.

**13:2-8.8 Sales restricted to club members**

(a) No club licensee shall sell, serve or deliver, or allow, permit or suffer the sale, service or delivery of any alcoholic beverage to any person not a bona fide member of the club or a bona fide guest of such member.

(b) All club licensees shall have and keep on the licensed premises a true record, on the form prescribed by the Director (set forth below), of all scheduled dinners, luncheons, receptions, dances, parties, catered events and similar affairs held at the club licensed premises and attended by non-club members.

Date of affair \_\_\_\_\_

Type of affair \_\_\_\_\_

Sponsored by \_\_\_\_\_

Was affair conducted under authority of a special permit? \_\_\_\_\_

If so, give number of permit \_\_\_\_\_

Were alcoholic beverages supplied by the club licensee? \_\_\_\_\_

(Signature of authorized officer)

(c) No club licensee shall allow, permit or suffer any such affair to be held at the club licensed premises at which any charge is made to a non-club member or non-bona fide guest in connection with the affair, whether the charge be a direct one for drinks, imposed through the sales of tickets or charging of admission, requiring donation or special assessments, or where the charge is made ostensibly for food, entertainment or anything else unless a special permit is first obtained from the Director.

**13:2-8.9 Sales for on-premises consumption only**

No club licensee shall sell, serve or deliver, or allow, permit or suffer the sale, service or delivery of any alcoholic beverages in original containers for off-premises consumption.

**13:2-8.10 Hours of permissible sale and consumption**

No club licensee shall sell, serve or deliver, or allow, permit or suffer the sale, service, delivery or consumption of any alcoholic beverage on the licensed premises during hours or on days when plenary or seasonal retail consumption licensees in the same municipality are prohibited from such activity by municipal regulation or referendum.

**13:2-8.11 Social affairs permittees**

No club licensee shall sell, serve or deliver any alcoholic beverages to the holder of any special permit authorizing sale of alcoholic beverages at a social affair to be conducted by a permittee other than the club licensee itself, or to any person attending such social affair on the club licensed premises unless such person is, in fact, a bona fide member of the licensee-club or a bona fide guest of such member.

**13:2-8.12 (Reserved)**

### **13:2-8.13 Advertising prohibition**

No club licensee shall advertise, directly or indirectly, or allow, permit or suffer any advertising to non-club members the availability of alcoholic beverages at its licensed premises; provided, however, that the prohibition here in shall not apply to the holder of any special permit issued by the director and authorizing the sale of alcoholic beverages at a social affair to be conducted at the club's licensed premises, with respect to such particular affair providing the social affair permit number is indicated in the advertisement.

### **13:2-8.14 Violations**

A club license is restricted type of retail license and therefore its holder must comply with not only the rules set forth in this subchapter, but with all the relevant provisions applicable to retail licenses. In disciplinary proceedings brought pursuant to the alcoholic beverage law, it shall be sufficient, in order to establish the guilt of the club licensee, to show the violation was committed by an agent, servant or employee of the club licensee or a member of the club. The fact that the licensee did not participate in the violation or that its agent, servant, employee or member acted contrary to instructions given to him by the club licensee or that the violation did not occur in the presence of the licensee's agent, servant, employee or member shall constitute no defense to the charges preferred in such disciplinary proceedings.