

LAW AND PUBLIC SAFETY

OFFICE OF THE ATTORNEY GENERAL

DIVISION OF GAMING ENFORCEMENT

Casino Hotel Alcohol Beverage Control

General Provisions

Conduct of CHAB Licensees

Conditions of Operation in Authorized Locations

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Permits

Proposed Repeal: N.J.A.C. 19:50

Proposed New Rules: N.J.A.C. 13:69I

Authorized By: David Rebeck, Acting Director, Division of Gaming
Enforcement.

Authority: N.J.S.A. 5:12-69, 70, and 103.

Calendar Reference: See Summary below for explanation of exception to
calendar requirement.

Proposal Number: PRN 2011-200.

Submit written comments by November 18, 2011 to:

Lon E. Mamolen, Deputy Attorney General

Division of Gaming Enforcement

1300 Atlantic Avenue

Atlantic City, NJ 08401

The agency proposal follows:

Summary

Effective February 1, 2011, the Casino Control Act (Act) was
amended. See P.L. 2011, c. 19 (N.J.S.A. 5:12-1 et seq.). Under the

amendatory scheme, the Division of Gaming Enforcement (Division) is authorized to assume many regulatory responsibilities formerly held by the Casino Control Commission (Commission). One such responsibility is to promulgate rules relating to the presence, sale and service of alcoholic beverages in, on, or about the premises of a licensed casino hotel facility. N.J.S.A. 5:12-103. In accordance with that statutory authorization the Division proposes new rules N.J.A.C. 13:69I. With the exception of minor technical changes reflecting the recently enacted changes to the Act and several substantive changes noted below, the new rules, in effect, recodify the rules promulgated by the Commission at N.J.A.C. 19:50, which are proposed for repeal.

The proposed new rules regulate the distribution and consumption of alcoholic beverages on casino premises, as required by N.J.S.A. 5:12-103. The chapter consists of five subchapters. Subchapter 1, General Provisions, contains definitions, applicability of other laws, license and authorization as conditions precedent to operation, classification of authorized locations, restricted brewery authorization, standards for qualification, application for initial Casino Hotel Alcoholic Beverage (CHAB) license, and application for renewal of CHAB license. Subchapter 2, Conduct of CHAB licensees, covers operating conditions of CHAB licensees, additional operating conditions of CHAB licensees, and employee reporting and recordkeeping requirements. Subchapter 3, Conditions of Operation in Authorized Locations, covers conditions of operation in Type I (casino/casino simulcasting facility) locations, conditions of operation in Type III (package goods) locations, and conditions of operation in Type V

(storage) locations. Subchapter 4, Disciplinary Proceedings, covers general provisions. Subchapter 5, Permits, covers social affairs permit, merchandising permit, consumer alcoholic beverage tasting permit, special disposal permits, donation permit, temporary miscellaneous contingency permits, application and permit conditions.

The first substantive change in the proposed new rules is the addition of two provisions to N.J.A.C. 13:69I-1.3(b) which codify existing Alcoholic Beverage Control (ABC) law. The first addition allows a Casino Hotel Alcoholic Beverage (CHAB) licensee to have alcohol present in locations other than those specifically authorized in its CHAB license. The second addition permits a CHAB licensee to purchase alcohol from a licensed alcoholic beverage retailer for a complimentary gift to a patron delivered off the site of the licensed premises.

Next, proposed new N.J.A.C. 13:69I-1.3(f) establishes that a CHAB license shall be valid for a period of time which coincides with the appropriate casino license. The new regulation also establishes that all other CHAB licenses shall be issued for an initial period of five years from the date of the vendor registration, and then an additional five years for each renewal after the resubmission of information required to retain the license.

Next, proposed new rule N.J.A.C. 13:69I-1.5A reflects amendments to the Act which change the licensing structure for casino licensees and vendors. Previously, a non-casino CHAB licensee was required to obtain a casino service industry license. Because this requirement has been eliminated from the Act, the new rule now requires that all

non-casino CHAB licensees are required to register as vendors rather than obtain a license.

Next, proposed new rule N.J.A.C. 13:69I-1.5C sets forth the procedural requirements that must be met in order to retain a non-casino CHAB license. Under the new rule, every five years after initially obtaining a non-casino CHAB licensure, the licensee must resubmit information necessary for the Division to determine that the licensee continues to meet the standards required to retain its CHAB license.

Next, proposed new N.J.A.C. 13:69I-2.2(d) permits a CHAB licensee to sell a combination of an item or service and up to three alcoholic beverages, whereas previously only one alcoholic beverage was permitted to be included in a combination sale.

Next, proposed new rule N.J.A.C. 13:69I-2.4 has been created in order to make CHAB license rules consistent with recent amendments to the Act authorizing joint event sponsorships. Under the authority of the Act, the new rule allows for persons or entities that do not possess a CHAB license to contribute to the planning, organization, conduct, operation or cost of an event sponsored by a CHAB licensee.

Next, proposed new rule N.J.A.C. 13:69I-2.5 has been created to allow manufacturers, suppliers, wholesalers or third parties under their direction to supply retailers with point of sale and consumer novelty items for advertising purposes.

Finally, proposed new N.J.A.C. 13:69I-3.3(c) allows a casino CHAB licensee to sell additional merchandise which is reasonably related to

the enjoyment of alcoholic beverages in a packaged goods (Type III CHAB license) location.

This notice of proposal is not required to be referenced in a rulemaking calendar since a public comment period of 60 days is being provided. See N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for adoption in N.J.A.C. 13:69I will enable the Division to fulfill its statutory mandate to regulate the distribution and consumption of alcoholic beverages on casino premises. N.J.S.A. 5:12-103. Further, by controlling and monitoring the promotion and sale of alcoholic beverages within casino hotels, the rules enhance the public confidence in the integrity of the casino industry. Finally, the rules allow CHAB licensees promotional flexibility and marketing opportunities, which will enhance the hospitality industry in New Jersey and Atlantic City in accordance with the goals of the Act. See N.J.S.A. 5:12-1b(5).

Economic Impact

Compliance with the rules proposed for adoption in N.J.A.C. 13:69I involves time and expense for CHAB licensees. Each applicant for CHAB licensure or license renewal is assessed a fee as set forth in N.J.A.C. 13:69A-9.7. Costs are incurred in maintaining compliance with the various standards and procedures set forth in the rules. The Division of Gaming Enforcement expend staff time in controlling and monitoring alcoholic beverage operations within the casino industry. The costs associated with these rules are unavoidable if the Division is to effectively regulate the distribution and consumption of

alcoholic beverages on casino premises. However, the Division has streamlined and simplified the CHAB rules to the extent possible, so as to maximize efficiency and reduce costs for both the licensees and the regulatory agencies.

Casino licensees are charged additional hourly fees in connection with the processing of any permit application they file. Applicants who are not casino licensees are charged a flat fee of \$50.00 for each permit. These fees are required to cover the costs incurred by the Division in processing the permit application.

The Division is responsible for the issuance of merchandising permits to qualified applicants. In the past, the Division of Alcoholic Beverage Control (ABC) issued these permits. The fee charged to an applicant by the Division is the same as the fee charged by the ABC and results in a loss of revenue for the ABC. However, the number of merchandising permits issued annually for events in casinos has not been very large and the loss of revenue to the ABC should be nominal.

Federal Standards Statement

A Federal standards analysis is not required because the proposed repeal and new rules are authorized by the provisions of the Casino Control Act, N.J.S.A. 5:12-1 et seq., and are not subject to any Federal requirements or standards.

Jobs Impact

The proposed repeal and new rules are not anticipated to create new jobs in the gaming industry or elsewhere except to the extent they

may enable more efficient and cost-effective casino operations. If the industry is able to realize these efficiencies and savings, casino operators may be inclined to increase their workforces. However, any attempt to predict the impact of the proposed repeal and new rules upon the number of jobs in the gaming industry would be speculative at this time. No job loss is anticipated as a result of the proposed repeal and new rules.

Agriculture Industry Impact

The proposed repeal and new rules will have no impact on agriculture in New Jersey.

Regulatory Flexibility Analysis

The CHAB licensees regulated by N.J.A.C. 13:69I are for the most part casino licensees, which do not qualify as small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. because they employ more than 100 persons full-time in the State of New Jersey. However, certain other CHAB licensees may qualify as small businesses. These may include businesses selling alcoholic beverages in a portion of the casino hotel occupied pursuant to a lease or license.

All CHAB licensees, including small businesses, are assessed a fee as set forth in N.J.A.C. 13:69A-9.7. Costs are also necessarily incurred by any CHAB licensee in ensuring that its sale of alcoholic beverages in the casino hotel are fully in compliance with Division standards and the standards of the ABC. Although some small businesses are affected by these rules, the objective of regulating the sale, service and consumption of alcoholic beverages in casino hotels may be

met only by imposing uniform compliance upon all CHAB licensees. Thus, no exemption is provided for small businesses. No professional services or capital costs should be required for compliance.

Smart Growth Impact

The proposed repeal and new rules will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact Analysis

The proposed repeal and new rules will have no impact on the affordability of housing in the State of New Jersey because they affect the regulation of casinos in Atlantic City.

Smart Growth Development Impact Analysis

The proposed repeal and new rules will have no impact on housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan, because they affect the regulation of casinos in Atlantic City.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 19:50.

Full text of the proposed new rules follows:

CHAPTER 69I

CASINO HOTEL ALCOHOLIC BEVERAGE CONTROL

SUBCHAPTER 1. GENERAL PROVISIONS

13:69I-1.1 Definitions

(a) For the purposes of this chapter, words shall be defined in accordance with the Act, the rules of the Division, Title 33 of the Revised Statutes (N.J.S.A. 33:1-1 et seq.), Title 13 of the New Jersey Administrative Code (N.J.A.C. 13:2) or according to their commonly understood meaning or usage except where such common meaning or usage would be inconsistent with the purpose or intent of the Act. Any definition contained herein or incorporated by reference shall apply to any form of the defined word. For example, "sell" means to make a "sale" as defined in N.J.S.A. 33:1-1w.

(b) Where definitions set forth in the Act or Division rules conflict with those contained in Title 33 of the Revised Statutes or Title 13 of the New Jersey Administrative Code, the definitions contained in the Act or Division rules shall govern.

(c) For the purposes of this chapter, the following definitions shall apply:

"Alcohol" is defined in N.J.S.A. 33:1-1a.

"Alcoholic beverage" is defined in N.J.S.A. 33:1-1B.

"Approved restricted brewery location" is a site within the licensed CHAB premises which has been approved by the Division for the brewing of malt alcoholic beverages pursuant to N.J.A.C. 13:69I-1.4A.

"Authorized location" means any room or area which is in, on, or about the premises, and which has been approved by the Division for the service, sale, consumption, or storage of alcoholic beverages pursuant to N.J.S.A. 5:12-103 and this chapter.

"Casino hotel alcoholic beverage (CHAB) licensee" means a person licensed to serve, sell or store alcoholic beverages pursuant to N.J.S.A. 5:12-103 and this chapter. CHAB licensees shall include both holders of and applicants for a casino license, as well as vendor registrants who will operate a CHAB license on a casino licensed premise.

"Container" is defined in N.J.S.A. 33:1-1e.

"Manufacturer" is defined in N.J.S.A. 33:1-1m.

"Original container" means any container in which an alcoholic beverage has been delivered to a CHAB licensee.

"Premises" means the premises licensed as an approved hotel pursuant to N.J.S.A. 5:12-27.

"Retailer" is defined in N.J.S.A. 33:1-1u.

"Sale" is defined in N.J.S.A. 33:17-1w.

"Wholesaler" means any person who sells an alcoholic beverage for the purpose of resale to a licensed wholesaler, a licensed retailer, or a CHAB licensee.

13:69I-1.2 Applicability of other laws

(a) Title 33 of the Revised Statutes and the rules, regulations and bulletins promulgated thereunder by the Director of the Division of Alcoholic Beverage Control shall, except as otherwise provided in Section 103 of the Act or this chapter, apply to any premises and to any CHAB licensee.

(b) All CHAB licensees that are required to make informational and other filings by Title 33 of the Revised Statutes and Title 13 of

the New Jersey Administrative Code shall make all such filings both to the Division, in accordance with prescribed procedures, and to the Division of Alcoholic Beverage Control.

(c) A CHAB licensee engaging in off-premises storage, delivery or sale of alcoholic beverages shall obtain any necessary licenses or permits for such activities from the Division of Alcoholic Beverage Control. If these alcoholic beverage activities are in any way connected with or involve the licensed premises, copies of these licenses or permits shall be submitted to the Division's principal office located in Atlantic City, within three business days of their receipt by the licensee.

13:69I-1.3 License and authorization as conditions precedent to
operation

(a) No casino licensee, nor any of its lessees, agents or employees, nor any other person except as otherwise provided in this chapter, shall expose for sale, solicit or promote the sale of, possess with intent to sell, sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on or about the premises unless such person possesses a CHAB license.

(b) No CHAB licensee, nor any of its agents or employees, shall expose for sale, solicit, or promote the sale of, possess with intent to sell, sell, give, dispense or otherwise transfer or dispose of alcoholic beverages except in an authorized location. However, this shall not prevent a CHAB licensee from such activities when undertaken pursuant to a plenary retail transit license, warehouse license, or

other license or permit issued by the Director of the Division of Alcoholic Beverage Control, nor shall it prohibit a CHAB licensee from purchasing alcoholic beverages, at retail, as a complimentary gift for a patron pursuant to N.J.S.A. 5:12-102, for delivery to a patron at a location away from the approved hotel premises.

(c) No CHAB licensee, nor any of its agents or employees, shall conduct or participate in the brewing of malt alcoholic beverages unless the CHAB licensee has been granted a restricted brewery authorization.

(d) No CHAB licensee who possesses a restricted brewery authorization, nor any of its agents or employees, shall brew malt alcoholic beverages except in an approved restricted brewery location.

(e) In issuing a CHAB license or any authorization thereunder, or any permit pursuant to N.J.S.A. 5:12-103 and 33:1-1 et seq., the Division may impose any conditions, limitations and restrictions as it deems necessary and reasonable.

(f) A CHAB license shall be issued for a period which coincides with the casino license. All other CHAB licenses shall be issued for a period of five years from the date of initial vendor registration, and five year periods thereafter with the resubmission of information required to retain the CHAB license.

13:69I-1.4 Classification of authorized locations

(a) Authorized locations shall be classified as follows:

1. All locations authorized pursuant to N.J.S.A. 5:12-103g(1) shall be classified as Type I (casino/casino simulcasting facility)

locations.

2. All locations authorized pursuant to N.J.S.A. 5:12-103g(2) shall be classified as Type II (hotel) locations.
3. All locations authorized pursuant to N.J.S.A. 5:12-103g(3) shall be classified as Type III (package goods) locations.
4. All locations authorized pursuant to N.J.S.A. 5:12-103g(4) shall be classified as Type IV (room service) locations.
5. All locations authorized pursuant to N.J.S.A. 5:12-103g(5) shall be classified as Type V (storage) locations.

(b) The activities permitted in each type of authorized location, subject to applicable laws, rules, and regulations, are as follows:

1. In a Type I location, a CHAB licensee shall be entitled to sell any alcoholic beverage by the glass or other open receptacle including, but not limited to, an original container, for on-premises consumption within a casino or casino simulcasting facility.

2. In a Type II location, a CHAB licensee shall be entitled to sell any alcoholic beverage by the glass or other open receptacle for on-premises consumption within a casino hotel but not in a casino or casino simulcasting facility, or from fixed locations outside a casino hotel, but on a casino hotel premises. Examples of Type II locations include, without limitation, showrooms, cabarets,

restaurants, meeting rooms, pubs and lounges.

3. In a Type III location, a CHAB licensee shall be entitled to sell any alcoholic beverage in original containers from an enclosed package goods room, not in a casino or casino simulcasting facility, for consumption outside the authorized location.

4. In a Type IV location, a CHAB licensee shall be entitled to sell any alcoholic beverage from a room service location within an enclosed room, not in a casino or casino simulcasting facility, for delivery to a guest room or to any other room in the premises authorized by the Division, other than a Type I, III or V location.

5. In a Type V location, a CHAB licensee shall be entitled to possess or to store in a fixed location on the premises, not in a casino or casino simulcasting facility, alcoholic beverages intended but not actually exposed for sale.

(c) Notwithstanding any other provision of this chapter to the contrary, a CHAB licensee shall be entitled to possess or store within any of its authorized locations alcoholic beverages intended but not actually exposed for sale in that authorized location, without obtaining a separate or additional Type V location authorization.

(d) The Division may, consistent with the requirements of (b) above, issue two or more types of authorizations for the same authorized location, or different types of authorizations for different areas of the same authorized location.

(a) A CHAB licensee with a restricted brewery authorization may, in an approved restricted brewery location, brew malt alcoholic beverages in quantities not in excess of 3,000 barrels of 31 fluid gallons per year. Such beverages may be offered for sale in open containers within any of the CHAB licensee's authorized Type I or Type II locations.

(b) The Division shall issue a restricted brewery authorization to a CHAB licensee, provided that:

1. The licensed premises include a full-service restaurant authorized as a Type II location; and

2. The CHAB licensee submits the following to the Division:

i. Proof of posting of a tax bond with the New Jersey Division of Taxation;

ii. Proof of registration as a brewer with the United States Bureau of Alcohol, Tobacco and Firearms;

iii. Proof of compliance with all applicable State, county and local requirements associated with manufacturing and waste water discharge;

iv. A description of the amount of malt alcoholic beverages to be brewed each year; and

v. Payment of any applicable fee.

13:69I-1.5 Standards for qualification

(a) No CHAB license shall be issued to a person also applying for a casino license unless that person has been granted a casino license or interim casino license.

(b) No CHAB license which authorizes the possession, sale or storage of alcoholic beverages within any part of the casino hotel premises, shall be issued to any non-casino license holder unless the applicant and each person required to qualify have first completed the vendor registration process pursuant to Sections 92c and d of the Act and the CHAB license standards set forth in Section 103 of the Act, the rules of the Division, Title 33 of the Revised Statutes, and the rules, regulations and bulletins of the Division of Alcoholic Beverage Control, except where inconsistent with the Act or the rules of the Division.

(c) Pursuant to (b) above, an applicant for a casino hotel alcoholic beverage license and the qualifiers thereof shall establish by clear and convincing evidence their good character, honesty and integrity, and provide such other financial information as may be required by the Division.

(d) No CHAB licensee shall knowingly employ an unlicensed or unregistered person as a CHAB employee if such person has been convicted of a disqualifying offense pursuant to N.J.S.A. 5:12-86c(1) unless such employment has been expressly authorized by the Division pursuant to N.J.A.C. 13:69A-8.11.

(e) No CHAB licensee shall allow, permit or suffer any wholesaler to sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages to it unless the wholesaler possesses a valid license from the New Jersey Division of Alcoholic Beverage Control.

13:69I-1.5A Application for initial Casino Hotel Alcoholic Beverage
License

(a) An application for an initial casino hotel alcoholic beverage (CHAB) license pursuant to N.J.S.A. 5:12-103(g) shall consist of the fee specified in N.J.A.C. 13:69A-9.8 and the following:

1. For a vendor registrant, a completed original and one copy of a CHAB license application form as set forth in N.J.A.C. 13:69A-5.16; or

2. For a casino licensee or applicant, the information required by N.J.A.C. 13:69C-5.3(a)5.

(b) No initial CHAB license application shall be accepted by the Division pursuant to (a)1 above unless the applicant has completed the vendor registration process pursuant to Section 92c. Such application shall include the fee as specified in N.J.A.C. 13:69A-9.8 and the submission of a CHAB Business Entity Disclosure Form, a CHAB Qualifier Disclosure Form, if applicable, a CHAB Business Entity Disclosure Form-Holding Company and an Equal Opportunity and Affirmative Action Obligation Form.

13:69I-1.5B Application for retention of Casino Hotel Alcoholic
Beverage License

(a) An application for the retention of a casino hotel alcoholic beverage (CHAB) license pursuant to N.J.S.A. 5:12-103g shall consist of the fee specified in N.J.A.C. 13:69A-9.9 and the following:

1. For a casino licensee, the information required by N.J.A.C. 13:69C-11.1 and the retention of its casino license pursuant

to N.J.S.A. 5:12-87.1 and N.J.A.C. 13:69C-11.1; or

2. For a vendor registrant, a completed original and one copy of a CHAB license resubmission application form as set forth in N.J.A.C. 13:69A-5.17.

13:69I-1.5C Casino Hotel Alcoholic Beverage License resubmission for non-casino hotel licensees.

(a) In order to retain its CHAB license, not later than five years after obtaining a vendor registration pursuant to Section 94 of the Act, and every five years thereafter, a non-casino CHAB licensee shall submit such information and documentation as the division may require to demonstrate to the satisfaction of the Director, that the CHAB licensee continues to meet the requirements of Section 103 of the Act, the rules of the Division, Title 33 of the Revised Statutes, and the rules, regulations and bulletins of the Division of Alcoholic Beverage Control, except where inconsistent with the Act or the rules of the Division.

SUBCHAPTER 2. CONDUCT OF CHAB LICENSEES

13:69I-2.1 Operating conditions of CHAB licensees

CHAB licensees shall comply with N.J.S.A. 33:1-1 et seq., N.J.A.C. 13:2 and all other rulings and bulletins of the Division of Alcoholic Beverage Control regarding the retail sale of alcoholic beverages, except as modified by rules or rulings of the Division.

13:69I-2.2 Additional operating conditions of CHAB licensees

(a) No employees or agents of a CHAB licensee shall consume alcoholic beverages during their hours of employment or agency by a CHAB licensee, including overtime.

(b) Notwithstanding (a) above, the Division may, upon petition by a CHAB licensee, grant approval for certain persons to consume alcoholic beverages during their hours of employment, provided that:

1. Such petition specifies the position of all employees for whom approval is requested and the reason for the requested relief;

2. The CHAB licensee maintains on the licensed premises a complete list of all persons for whom approval is granted and the date of approval; and

3. The CHAB licensee submits a copy of the list maintained pursuant to (b)2 above to the Division's principal office located in Atlantic City, by 5:00 P.M. on June 30 and December 31 of each calendar year.

(c) No CHAB licensee shall create, expand, close or change the name or type of a CHAB location without notifying the Division in writing, as follows:

1. Creation, expansion or change in type of CHAB authorization: A petition for approval must be submitted at least 10 business days prior to construction or use of the CHAB location, whichever comes first, and shall include the name of the location, the floor of the premises where it is located, the type or types of CHAB authorizations, and a floor plan of the location.

2. Permanent closure of a CHAB location: notification must

be filed within five business days after closure.

3. Change in name of a CHAB location: notification must be filed within five business days after change.

(d) Combination sales of any kind, consisting of more than one article, whether it be an alcoholic beverage or something else, at a single aggregate price are prohibited, except for:

1. A combination sale consisting of no more than three alcoholic beverages and: admission to a show; a meal; the use of a table, cabana, amenity or similar facility where a use, rental or admission fee is charged; a promotion package including, but not limited to, a weekend, honeymoon, or other similar specialty promotional package for hotel or day guests; provided that the alcoholic beverages shall not be advertised as "free", but may be advertised as "included" or "complimentary" and complimentary non-alcoholic beverages are available and offered as an alternative to the complimentary alcoholic beverages;

2. A combination sale which includes a complimentary bottle of champagne or wine in its original container (not exceeding 187 ml. for one person or 750 ml. for two persons) as part of a weekend, honeymoon, or other specialty promotional package for hotel guests; or

3. A combination sale which is part of a New Year's Eve promotional package.

(e) No CHAB licensee shall, directly or indirectly, allow, permit or suffer any practice or promotion that:

1. Offers to the public at large unlimited availability of any alcoholic beverage for a set price, except on New Year's Eve;

2. Offers to a patron or consumer a free drink, gift, prize or anything of value, conditioned upon the purchase of an alcoholic beverage or product, except branded or unique glassware or souvenirs in connection with a single purchase; or

3. Requires or allows a consumer to prepurchase more than one drink or product at a time via tickets, tokens, admission fees, two for one, or the like, as a condition for entry into its premises or its authorized location, or as a requirement for service or entertainment therein; provided, however, that on New Year's Eve a patron may prepurchase no more than two drinks at a time.

(f) No CHAB licensee shall sell or offer to sell alcoholic beverages at a price below "cost," as defined by the Division of Alcoholic Beverage Control, except that CHAB licensees may serve complimentary alcoholic beverages as follows:

1. In Type I (casino/casino simulcasting facility) authorized locations, at a patron's request, pursuant to Section 103g(1) of the Act;

2. In Type II (hotel), Type III (package goods) or Type IV (room service) authorized locations, pursuant to Sections 99 and 102 of the Act and the Division's rules concerning complementaries;

3. In conjunction with certain combination sales, pursuant to subsection (d) above;

4. Using free drink coupons, distributed to the general public pursuant to Bulletin 2452 (1988) of the Division of Alcoholic Beverage Control; or

5. A CHAB licensee holding a restricted brewery

authorization may offer, without charge, samples of no more than five ounces of any malt alcoholic beverage brewed on the premises, limited to one sample per customer per day of each such beverage.

(g) No CHAB licensee shall discharge, suspend, discipline or demote an employee, or take any other action which would be adverse to the terms and conditions of his or her employment, by reason of the refusal of the employee, with regard to any person who is actually or apparently intoxicated, to:

1. Serve, or allow, permit or suffer the service of alcoholic beverages to such person;
2. Allow, permit or suffer the consumption of any alcoholic beverage in or upon the licensed premises by such person;
3. Deal any game, or allow, permit or suffer the dealing of a game to such person; or
4. Allow, permit or suffer the placement of a wager by such person.

(h) At the request of a CHAB licensee or any patron or employee thereof, any agent of the Division may observe and document, request a videotape or otherwise record the physical condition, appearance and activities of any person who is or is claimed to be actually or apparently intoxicated.

(i) It shall be the affirmative responsibility of each CHAB licensee to comply with the requirements of N.J.A.C. 13:69C-9.2.

(j) All CHAB licensees shall maintain their locations in a secure manner.

13:69I-2.3 Employee reporting and recordkeeping requirements

(a) Each CHAB licensee shall maintain on the licensed premises a complete, accurate and current record of each CHAB employee.

(b) If the CHAB licensee is a casino, the record shall be compiled and filed pursuant to N.J.A.C. 13:69C-9.3.

(c) Each CHAB licensee, other than a casino licensee, shall submit the following information to the Division by hard copy or by approved electronic data transfer on the first day of each calendar quarter:

1. For each current employee:

i. The license or registration number, if applicable;

ii. The Social Security Number, if such information has been voluntarily provided in accordance with Section 7 of the Privacy Act, 5 U.S.C. § 522a;

iii. The last name, first name and middle initial;

iv. The date of birth;

v. The address, including zip code;

vi. A description of the employee's duties and responsibilities;

vii. The initial date of hire; and

viii. If the employee does not hold a valid license or registration, whether such employee has been convicted of a disqualifying offense pursuant to N.J.S.A. 5:12-86c(1).

2. For each person whose employment has been terminated since the date of the most recent report filed with the Division pursuant to this subsection:

- i. The information in (c)li through viii above; and
- ii. The effective date of termination.

3. The date on which the information included in the report was compiled, if such date is other than the date on which the report is submitted or transferred to the Division.

(d) Reports submitted by hard copy shall be mailed to Division's principal office located in Atlantic City.

13:69I-2.4 Joint event sponsorships

(a) A joint sponsorship is an arrangement by which a person or entity not holding a CHAB license contributes to the planning, organization, conduct, operation or cost of an event sponsored by a CHAB licensee, in exchange for publicity as a sponsor in advertising and at the event.

(b) An alcoholic beverage manufacturer, wholesaler or other person licensed to sell alcoholic beverages to retailers, or third parties acting at their direction, may jointly sponsor an event with a CHAB licensee, if:

1. The event consists of a musical or theatrical performance, concert, sporting event, festival; or a series of performances, concerts, sporting events or festivals; or such other events as may be approved by the Division upon petition of a CHAB licensee; and

2. The event, or series of events, is estimated in good faith by the CHAB licensee to have an audience attendance of at least one thousand patrons.

(c) Each CHAB licensee that enters into a joint sponsorship with an alcoholic beverage manufacturer, wholesaler or other person licensed to sell alcoholic beverages to retailers, or third parties acting at their direction, shall maintain a "Sponsorship Manual." This manual shall be maintained on the licensed premises of the CHAB licensee for a period of three years, in a separate book or ledger, or electronic file, and shall contain, by jointly sponsored event, on a chronological basis:

1. A copy of the written joint sponsorship agreement between the CHAB or the person or entity acting on behalf of the CHAB licensee and the joint sponsor;

2. If there is not a written joint sponsorship agreement, or if the written joint sponsorship agreement does not include all of the terms and conditions and agreements concerning the joint sponsorship, a written description of the goods, services or funds to be paid or provided by the joint sponsor for the sponsorship, to whom they are to be paid or provided, when they are to be paid or provided, and precisely what the proposed joint sponsor is to receive from the CHAB licensee or persons acting on behalf of the CHAB licensee, in exchange for its sponsorship;

3. A copy of typical brochures, programs, advertisements and similar promotional material that describe the event to be jointly sponsored; and

4. A document stating:

- i. The name of the event;

- ii. The date and times of the event;

- iii. The location of the event;
- iv. A description of the event;
- v. The number of persons anticipated to attend the event, the basis upon which the estimate is made; and
- vi. The admission price to the event. If complimentary admission to the event is anticipated, the number of paid admissions and the number of complimentary admissions anticipated.

(d) Should a CHAB licensee anticipate the joint sponsorship of an event, and should advertising of that event reflect the anticipated joint sponsor before a joint sponsorship agreement is finalized, the CHAB licensee shall maintain, in its Sponsorship Manual, the information described in (c)3 and 4 above and, to the extent it is then known, the information described in (c)2 above.

(e) In addition to publicity as a sponsor in advertising and at the event, the joint sponsor may receive amenities related to the jointly sponsored event, such as preferred admissions to the event and related activities such as after-parties or meet-and-greet the performers.

(f) When the joint sponsor of an event or series of events is an alcoholic beverage manufacturer, wholesaler or other person licensed to sell alcoholic beverages to retailers, or is a third party acting at their direction, the joint sponsorship agreement shall reflect a benefit to the joint sponsor reasonably commensurate with the cost of the joint sponsorship.

(g) No joint sponsorship arrangement or agreement shall require the alcoholic beverages manufactured or distributed by the joint

sponsor to be exclusively sold or otherwise made available by the CHAB licensee at the sponsored event or at any other time or place. The joint sponsorship arrangement or agreement shall not prohibit the CHAB licensee from selling alcoholic beverages manufactured or distributed by other manufacturers or distributors at the sponsored event or at any other time or place. The joint sponsorship arrangement or agreement cannot require discrimination against other manufacturers' products at the sponsored event or at any other time or place.

13:69I-2.5 Marketing initiatives

(a) Manufacturers, suppliers, wholesalers or third parties at their direction, may supply retailers with point of sale and consumer novelty items, for advertising purposes with the following limitations:

1. Supplied items shall be nominal in value, including, but not limited to, napkins, coasters, T-shirts, golf balls and similar items;
2. Provision of such items to retailers may not be conditional upon any purchase by the retailers; and
3. The items shall be brand identified for advertising purposes and intended for use by the retailer and/or distribution to consumers to advertise products or promote brand recognition.

SUBCHAPTER 3. CONDITIONS OF OPERATION IN AUTHORIZED LOCATIONS

13:69I-3.1 Conditions of operation in Type I (casino/casino

simulcasting facility) locations

(a) No alcoholic beverage shall be sold or given for consumption, delivered or otherwise brought to a patron within a casino room or casino simulcasting facility unless so requested by the patron.

(b) No alcoholic beverage in an original container shall be brought into a Type I location except by the CHAB licensee authorized to sell alcoholic beverages in that Type I location.

(c) No CHAB licensee shall serve any alcoholic beverage in a Type I location except by the glass or other open receptacle including, but not limited to, an original container, for on-premises consumption within the authorized location.

(d) No alcoholic beverage shall be displayed in a Type I location except:

1. As required for the necessary operation of a bar;
2. During the customary and ordinary course of preparing a patron's drink order; or
3. Incidental to delivery or consumption by a patron.

(e) Alcoholic beverages may be served in a Type I location only when the casino room or casino simulcasting facility is open for gaming activity as provided in Section 97a of the Act, but shall not be served later than 15 minutes prior to the closing of the casino room or casino simulcasting facility.

13:69I-3.2 (Reserved.)

13:69I-3.3 Conditions of operation in Type III (package goods)

locations

(a) No CHAB licensee shall, in a Type III location, sell any alcoholic beverage for delivery to any other area in, on or about the premises.

(b) No CHAB licensee shall, in a Type III location, sell any alcoholic beverage in other than original sealed containers or for consumption within the Type III authorized location.

(c) Activities conducted on Type III authorized premises may include the retail sale of distillers' and vintners' packaged holiday merchandise prepaced as a unit with suitable glassware as gift items to be sold only as a unit, cigars, cigarettes, packaged crackers, chips, nuts and similar snacks, ice and non-alcoholic beverages as accessory beverages to alcoholic beverages, and any other merchandise reasonably related to the enjoyment of alcoholic beverages or the retail theme of the CHAB licensee, including, without limitation, novelty wearing apparel identified with the name or the trade name(s) of the CHAB licensee, as long as such merchandise will not have the effect of inducing persons under the age of 21 to enter the Type III CHAB location; and with respect to Type III premises of a CHAB licensee which holds a casino license and operates a casino hotel, the sale of merchandise items incidental to the operation of the hotel as an accommodation to patrons, souvenirs, sundries and hotel gift shop items.

(d) No CHAB licensee shall allow, permit or suffer any alcoholic beverage to be consumed in or upon a Type III location, nor shall any CHAB licensee possess or allow, permit or suffer any open containers

of alcoholic beverages in or upon its Type III location; provided, however, that opened bottles of alcoholic beverages returned by a customer as allegedly defective may be so possessed pending return to the manufacturer or wholesaler; and further provided that the container is immediately resealed and labeled with the name and address of the customer and the date of return by the customer.

(e) Notwithstanding (b) and (d) above, the Division may, pursuant to N.J.A.C. 13:69I-1.4(d), issue a Type II and a Type III authorization for the same location or a Type III authorization for a specific area of a Type II authorized location.

13:69I-3.4 (Reserved.)

13:69I-3.5 Conditions of operation in Type V (storage) locations

(a) A CHAB licensee may, in a Type V location, store alcoholic beverages intended for sale at other authorized locations in, on, or about the premises.

(b) A CHAB licensee shall transfer or deliver such alcoholic beverages from a Type V location only to authorized locations in, on or about the premises.

(c) A CHAB licensee shall not allow, permit or suffer access to or from a Type V authorized location, except to the extent that such access is necessary in the normal course of business to employees or agents of wholesalers or distributors licensed pursuant to Title 33 of the Revised Statutes, Title 13 of the New Jersey Administrative Code, the Act and the rules of the Division.

(d) All Type V locations shall be fixed, enclosed areas within the premises, not in a casino, and not otherwise authorized for the sale, service or consumption of alcoholic beverages.

(e) No alcoholic beverage shall be sold, served or consumed in a Type V location.

SUBCHAPTER 4. DISCIPLINARY PROCEEDINGS

13:69I-4.1 General provisions

(a) Any violation of Title 33 of the Revised Statutes or Title 13 of the New Jersey Administrative Code by an applicant or CHAB licensee, or its agents or employees, shall be grounds for penalty, suspension, revocation, or other disciplinary action by the Division unless the conduct involved is specifically permitted by the Act or by the Division's rules.

(b) In disciplinary proceedings, it shall be sufficient, in order to establish the guilt of the licensee, to show that the violation was committed by an agent, servant or employee of the CHAB licensee. The fact that the CHAB licensee did not participate in the violation or that its agent, servant or employee acted contrary to instructions given by the CHAB licensee or that the violation did not occur in the CHAB licensee's presence shall constitute no defense to the charges preferred in such disciplinary proceedings.

SUBCHAPTER 5. PERMITS

13:69I-5.1 Social affair permit

(a) For purposes of this section:

"Fee" means any amount charged in connection with attendance at an event, whether a direct charge for drinks, the purchase of tickets, admission, donations or other assessments, or an indirect charge for food, entertainment or any other costs.

"Sponsoring organization" means an organization which operates solely for civic, religious, educational, charitable, fraternal, social or recreational purposes and not for private gain and which sponsors an event in, on or about the premises of a CHAB licensee.

"Social affair" means an event sponsored and conducted by a sponsoring organization in, on or about the premises of a CHAB licensee for which any fee is charged in connection with attendance.

(b) The sponsoring organization may sell or serve alcoholic beverages to persons attending a social affair provided that such organization holds a social affair permit issued by the Division. The holder of a social affair permit may purchase alcoholic beverages from a CHAB licensee or a New Jersey licensed wholesaler, distributor or retailer for resale for on-premises consumption.

13:69I-5.2 Merchandising permit

A licensed wholesaler or other person may offer complimentary samples of alcoholic beverages in connection with a merchandising show, alcoholic beverage product introduction event or other promotional event held on the premises of a CHAB licensee, and may accept orders for alcoholic beverages from New Jersey retail

licensees, provided that such wholesaler or person holds a merchandising permit issued by the Division.

13:69I-5.3 Consumer alcoholic beverage tasting permit

(a) A CHAB licensee may conduct an alcoholic beverage tasting or tasting dinner on its premises provided that it holds a consumer alcoholic beverage tasting permit issued by the Division and provided further that:

1. The event is conducted and promoted in connection with an instructional program for alcoholic beverage products;

2. The event is limited to participants who purchase a ticket or are issued a complimentary ticket by a casino licensee;

3. Service of alcoholic beverages is limited to the following amounts per person:

i. No more than five ounces of any one malt alcoholic beverage, naturally fermented wine or sparkling wine at a tasting dinner;

ii. No more than four ounces of any one malt alcoholic beverage, or one and one-half ounces of any one naturally fermented wine or sparkling wine at a tasting; and

iii. No more than one-half ounce of any one fortified wine or distilled spirit at a tasting or tasting dinner; and

4. No later than five days in advance of the scheduled event, the CHAB licensee provides the Division with a copy of each menu, program, or other written description of the tasting or tasting dinner event.

(b) Any supplier, manufacturer or wholesaler which holds an annual special permit for consumer tasting events issued by the Division of Alcoholic Beverage Control may hold a tasting or tasting dinner on the premises of a CHAB licensee provided that a copy of the permit is filed with the Division no later than one day prior to the event.

13:69I-5.4 Special disposal permits

(a) A CHAB licensee may sell surplus alcohol in sealed containers at a price above cost to its employees who are 21 years of age or older, provided that the CHAB licensee holds a special disposal permit issued by the Division and provided further that:

1. Such alcohol is sold for off-premise consumption only;
2. The CHAB licensee has filed the following with the

Division:

- i. An application as set forth in N.J.A.C. 13:69A-5.18;
 - ii. A list of the type and quantity of alcohol to be sold;
 - iii. Internal controls for conduct of the sale; and
 - iv. The job titles and a description of the duties of each employee involved in the conduct of the sale;
3. Only the alcohol specified in the application for the permit is sold;
 4. The conduct of the sale is in accordance with internal controls submitted to the Division; and

5. The CHAB licensee compiles a list of each product purchased, the number of bottles purchased, the amount paid, and the name and identification number of the employee who made the purchase, which list shall be maintained on the premises by the licensee and made available to the Division on request.

13:69I-5.5 Donation permit

(a) A licensed wholesaler or other person may donate alcoholic beverages to a qualified alcoholic beverage industry trade organization or a bona fide charitable organization for consumption at a social affair held on the premises of a CHAB licensee provided that such wholesaler or person holds a donation permit issued by the Division.

(b) Notwithstanding (a) above, a licensed wholesaler or other person which holds an annual special permit issued by the Division of Alcoholic Beverage Control that authorizes the holder to donate alcoholic beverages to qualified industry trade organizations and bona fide charitable organizations may donate alcoholic beverages for consumption at a social affair held on the premises of a CHAB licensee provided that a copy of the permit is filed with the Division no later than one day prior to the event.

13:69I-5.6 Temporary miscellaneous contingency permits

(a) The Division may, for good cause shown, issue a temporary miscellaneous contingency permit for the purchase or sale of alcoholic beverages in, on or about the premises of a CHAB licensee in those

circumstances where a CHAB license or permit is not expressly provided for by law.

(b) A temporary miscellaneous contingency permit may be granted by the Division when the issuance of such permit would be appropriate and consonant with the spirit of the Act, Title 33 of the Revised Statutes and Title 13 of the Administrative Code.

13:69I-5.7 Application

(a) An application for any CHAB permit in this subchapter shall be required to be filed with the Division, and shall include the following, without limitation:

1. A completed CHAB Permit Application Form as set forth in N.J.A.C. 13:69A-5.18; and
2. The fee specified in N.J.A.C. 13:69A-9.8.

(b) Applications for CHAB permits shall be filed as follows:

1. For a social affair permit, at least 14 calendar days in advance of the scheduled event; and
2. For any other permit, at least 30 calendar days in advance of the scheduled event.

13:69I-5.8 Permit conditions

(a) The failure of any holder of a CHAB permit to comply with applicable provisions of the Act and Division's rules, New Jersey Alcoholic Beverage Law, Division of Alcoholic Beverage Control rules and municipal ordinances shall be deemed cause for denial of future applications for any CHAB permit issued by the Division.

(b) The holder of a CHAB permit and the CHAB licensee on whose premises the event is held shall be jointly and severally liable for any violation of applicable provisions of the Act and Division rules relating to the event.

(c) The holder of a CHAB permit shall not sample, sell, serve or deliver, or allow, permit or suffer the sampling, sale, service or delivery of any alcoholic beverages directly or indirectly to or consumption by any person under the legal age at which a person is authorized to purchase and consume alcoholic beverages, nor to any person who is actually or apparently intoxicated.

(d) No more than 12 CHAB permits shall be issued to any one applicant during any 12-month period, and no more than 25 CHAB permits shall be issued in any calendar year for any premises.

(e) The Division may require the holder of a permit to file a notarized inventory report within 10 days of the event. Failure to file an inventory report upon request shall be deemed cause for denial of future applications for any CHAB permit issued by the Division. Such report shall be in a format prescribed by the Division and may include the following information:

1. The permit number issued;
2. The name and address of the permittee;
3. The date and place of the event;
4. The type and number of any alcoholic beverage license held by the permittee;
5. The type of event for which the permit was issued;
6. The number of persons in attendance;

7. The type and quantities of alcohol purchased for the event, the dates purchased, and the place of purchase;
8. The type and quantity of alcoholic beverages remaining at the end of the event;
9. A description of the disposition of any alcohol remaining on hand at the end of the event;
10. A copy of any ticket and program used for the event; and
11. The date and the signature of a representative of the permittee.