

GOVERNING BODY INSTRUCTIONS

RENEWAL OF INACTIVE LICENSES PURSUANT TO N.J.S.A. 33:1-12.39

2020-2021 LICENSE TERM

The Division of Alcoholic Beverage Control (“Division”) is preparing for the renewal of retail licenses for the 2020-2021 license term. Any license which has been “inactive” (not open and operating) for two full license terms – **since or before June 30th 2018** may NOT BE RENEWED UNLESS the Director issues a Special Ruling allowing the issuing authority to consider renewal N.J.S.A. 33:1-12.39 (“12.39 Special Ruling”). **Be advised that the issuing authority has no authority to renew the inactive license until a 12.39 Special Ruling is received from the Director.**

In order for the Division to process a request for a 12.39 Special Ruling to authorize renewal of an inactive license, licensees holding a license that has been inactive for more than two license terms are **required** to email in PDF format a "Verified Petition Form" to the Director and pay the required fee(s). The Verified Petition Form is a form template affidavit completed and emailed to the Division by a licensee with direct personal knowledge concerning the required facts and is signed and certified to by the licensee. The Verified Petition Form can be found on our website at: <http://www.nj.gov/oag/abc/regulatory-library.html>

No Special Ruling will be granted without a completed Verified Petition Form and payment of filing fee(s). NO PAPER PETITIONS AND/OR FEES WILL BE ACCEPTED.

The licenses located in your municipality that have been inactive for more than two full license terms will be noted on POSSE. These licenses require a 12.39 Special Ruling prior to being renewed for the 2020-2021 license term. Renewal can only be granted upon receipt of a 12.39 Special Ruling by the Director, a timely filed renewal application, fees (both municipal and State), and Tax Clearance Certificate. **PLEASE NOTE** that licensees who previously received multi-term relief (i.e., a Special Ruling granting relief for the 2019-2020 and 2020-2021 license terms), are **not** required to file a Verified Petition Form for the 2020-2021 license term. **However, they must file a renewal application for the 2020-2021 license term.** These licenses may be considered for renewal according to the relief granted in the last Special Ruling issued. If your records reflect information that is different than the information listed in POSSE, please contact the Division to correct any discrepancies.

The Director determines whether to issue a 12.39 Special Ruling after reviewing the Verified Petition Form that the licensee submits to this Division. **Licensees are required to provide a copy of their Verified Petition Form to the local issuing authority, so that it can provide comments (either negative or positive) to the Division. Due to the high volume of petitions received by the Division and in order to expedite processing, if you wish to be heard with regard to a petition from a licensee, please contact Counsel to the Director’s Office of**

the Division at (609) 376-9760 IMMEDIATELY upon your receipt of the filing. Please note the Verified Petition Form must not be attached to renewal applications when sent to our Licensing Bureau. Renewal Applications are processed by the Division's Licensing Bureau, while Verified Petition Forms are processed by the Counsel to the Director.

The Director has the authority to grant relief for more than one license term at a time. Upon submission of a Verified Petition Form and a non-refundable filing fee of \$100 per license term, the Director may consider requests for up to **two terms only** (2020-2021 and 2021-2022) of relief based upon appropriate evidential submissions and good cause. Therefore, qualifying licensees are permitted to submit, and the Director will consider, petitions that request relief for the 2020-2021 and 2021-2022 license terms pursuant to N.J.S.A. 33:1-12.39. If a licensee is requesting relief for **prior** terms (e.g., 2017-2018, 2018-2019, etc.), this two term limitation will not apply.

The Special Ruling will authorize your governing body to consider renewal of the inactive license for the 2020-2021 term, and during future renewal periods you may consider any additional license terms stated in the Ruling. The local issuing authority may not renew the license for any future license terms at this time, even if the 12.39 Special Ruling grants relief for future license terms. For example, if a 12.39 Special Ruling grants relief for the 2020-2021 and 2021-2022 license terms, the issuing authority may consider the license for renewal for the 2020-2021 license term now, and consider the license for renewal for the 2021-2022 license term next year upon receipt of a timely filed, properly completed renewal application, fees, and Tax Clearance Certificate.

Please note the following instructions with respect to the renewal procedure for the licenses on the attached list:

1. **DO NOT REJECT** a license renewal application and renewal fee for an **inactive license** submitted on or before July 30, 2020 (**NOW October 30, 2020** per Director's Order due to COVID-19) because a 12.39 Special Ruling has not yet been issued. See N.J.S.A. 33:1-12.18. **All timely filed applications (applications received by the issuing authority on or before July 30, 2020 (NOW October 30, 2020 per Director's Order due to COVID-19) and fees should processed** in the same manner in which you process all license renewal applications and fees.
2. If a licensee files a renewal application and fees between October 31, 2020 and July 30, 2021, you must accept renewal applications and fees. However, a license **may not** be renewed by your governing body prior to receiving a Special Ruling pursuant to N.J.S.A. 33:1-12.18 from the Division. A copy of the instructional letter which outlines the procedure to petition for relief pursuant to N.J.S.A. 33:1-12.18 is included on the Division's website: <http://www.nj.gov/oag/abc/regulatory-library.html>

3. DO NOT approve a Resolution renewing an inactive license which requires a 12.39 Special Ruling until the licensee has received a 12.39 Special Ruling authorizing consideration for renewal.
4. **ADVISE the licensee to file a Verified Petition Form with the Division.** Advise licensees of the \$100 filing fee per license term requested required to accompany a Verified Petition Form. **The Verified Petition Form and an instructional letter for licensees concerning the petition process pursuant to N.J.S.A. 33:1-12.39 is available on the Division's website: <http://www.nj.gov/oag/abc/regulatory-library.html>**
5. If the licensee received a two (2) year “**fire/casualty**” ruling last year pursuant to N.J.S.A. 33:1-12.39 which authorized renewal for the 2019-2020 and 2020-2021 license terms, be sure to check that the licensee filing for renewal for the 2020-2021 license term is the same licensee that renewed last year. If the license has been transferred in the last year to someone other than the licensee who actually suffered the fire/casualty loss, then the new licensee must petition the Division pursuant to N.J.S.A. 33:1-12.39 before your local governing body can renew the license.
6. SPECIAL CONDITIONS

If the license was subject to a Special Condition requiring activation by June 30, 2020, imposed by a prior Special Ruling, by a Consent Order signed by the licensee and this Division, or imposed by a Final Conclusion and Order by the Director, **DO** give licensees their renewal application and inform them to contact this Division regarding the status of their license. However, make certain that the licensees know that unless they petition the Director, request that the Special Condition be vacated, and receive a written Special Ruling, their license will presumptively lapse and cease to exist for failure to activate as required by the prior Special Ruling. (Should the Division determine NOT to grant authorization, you will be so informed and advised to pass a Resolution which reflects that the license has lapsed for failure to activate as required by the Special Ruling, a copy of which must be submitted to the Division's Licensing Bureau).

7. ADVISE THE DIVISION of any licenses which have been inactive for two or more full license terms that are not indicated on POSSE, due to:
 - 1) Licensee's failure to list the correct inactive date on license application; or
 - 2) The Division's failure to capture inactive date stated on license application; or

- 3) The license's short "activation" periods in which it attempts to avoid the requirements of N.J.S.A. 33:1-12.39. Unless a license is operated with the ability and intent to remain active in a regular and continuing fashion, it has not been activated and should be listed as inactive; or
 - 4) Any other information you may have regarding the inactive status of the license.
8. ADVISE all licensees who hold an inactive license that they are required by law to receive a Tax Clearance Certificate from the Division of Taxation prior to being renewed. Questions regarding a clearance certificate should be directed to their case worker or by visiting the nearest Taxation Regional Office to their business.
 9. ADVISE THE DIVISION if a license on the attached list has become ACTIVE. **If a license has become active, and is open and operating**, please EMAIL the following to the attention of the Licensing Bureau: A copy of the amendment to the renewal application (pages 1, 2, and 11) completed, signed, and certified to by the licensee. Question 2.6A should be checked "YES". Also, advise as to the date the license became active.

If you have any questions regarding the **procedure for filing Verified Petitions** for inactive licenses, please contact Counsel to the Director's office at (609) 376-9760.

If you have any questions regarding the **inactive status** of licenses as listed on POSSE, you may contact your Agency Service Representative at (609) 984-2830.
