

GOVERNING BODY INSTRUCTIONS

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

2018-2019 LICENSE TERM

The Division of Alcoholic Beverage Control is preparing for the renewal of retail licenses for the 2018-2019 license term. Any license which has been “inactive” (not open and operating) for two full license terms – **since or before June 30th 2016** 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. **Be advised that the issuing authority has no authority to renew the inactive license until a Special Ruling is received from the Director.**

In order for the Division of Alcoholic Beverage Control to process a request for a Special Ruling to authorize renewal of an inactive license under N.J.S.A. 33:1-12.39, licensees holding a license that has been inactive for more than two license terms are **required to submit a "Verified Petition Form" to the Director. A licensee may not apply for a 12.39 Special Ruling online. A "Verified Petition Form" is a form template affidavit completed and mailed to the Division** by a licensee with direct personal knowledge concerning the required facts, which is **signed and sworn to before a notary public or any other person authorized to administer oaths in the State of New Jersey.** **No Special Ruling will be granted without a "Verified Petition Form."** The “Verified Petition Form” can be found on our website at:

<http://www.nj.gov/oag/abc/regulatory-library.html>

Please note that some licensees may attempt to file their original “Verified Petition Form” (and filing fees for same) with the Issuing Authority along with their Renewal Applications. It is the responsibility of the Licensee to mail their original “Verified Petition Form” and filing fee directly to this Division, and to provide you with a COPY of their Verified Petition.

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 licenses located in your municipality which the Division records indicate have been inactive for more than two full license terms will be noted on POSSE. These licenses require a Special Ruling prior to being renewed for the 2018-2019 license term. Renewal can only be granted upon receipt of a 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 2017-2018 and 2018-2019 license terms), are not required to file a “Verified Petition Form” for the 2018-2019 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 or not to issue a Special Ruling after reviewing the “Verified Petition Form” that the licensee submits to this Division. The Verified Petition Form must state the efforts made during the preceding license term to activate the license and what reasonable possibility there is for activation during the upcoming license term. **Licensees are required to provide a copy of their “Verified Petition Form” to you, so that if you wish, you 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) 984-2830 IMMEDIATELY upon your receipt of the filing.**

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 reasonable requests for multiple terms of relief based upon appropriate evidential submissions and good cause. Therefore, one Special Ruling could provide relief for multiple license terms and avoid uncertainty about a Special Ruling in the future. Therefore, qualifying licensees are permitted to submit, and the Director will consider, petitions that request relief for the 2018-2019 and 2019-2020 license terms pursuant to N.J.S.A. 33:1-12.39.

The Special Ruling will authorize your governing body to consider renewal of the inactive license for the 2018-2019 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 Special Ruling grants relief for future license terms. For example, if a Special Ruling grants relief for the 2018-2019 and 2019-2020 license terms, the issuing authority may consider the license for renewal for the 2018-2019 license term now, and consider the license for renewal for the 2019-2020 license term next year upon receipt of a timely filed, properly completed renewal application, fees, and Tax Clearance Certificate.

There is a \$100 filing fee charged by this Division for processing Verified Petition Forms for each license term requested. If a licensee requests multiple term relief, \$100 per term must accompany the Verified Petition. The filing fee must be paid to the Division, by the licensee, either by personal check or money order. **Payment should be made to the “New Jersey Division of ABC,” and must be mailed with the “Verified Petition Form” by the licensee to this Division.** Any petitions received online or by fax or without payment will not be processed.

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, 2018 because a 12.39 Special Ruling has not yet been issued. See N.J.S.A. 33:1-12.13. **All timely filed applications (applications received by the issuing authority on or before July 30, 2018) and fees should be 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 July 31, 2018 and July 30, 2019, 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/index.html>
3. **DO NOT** approve a Resolution renewing an inactive license which requires a 12.39 Special Ruling until the licensee has received a 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/index.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 2017-2018 and 2018-2019 license terms, be sure to check that the licensee filing for renewal for the 2018-2019 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, 2018, imposed by a prior Special Ruling, by a Consent Order signed by the licensee and this Division, or imposed by a Final Decision 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 FAX (609) 292-0691 AND MAIL the following to the attention of Sheila Inverso, Licensing Bureau:
A copy of the amendment to the renewal application (pages 1, 2, and 11) completed, signed, and notarized 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 (609) 984-2830.

If you have any questions regarding the **inactive status** of licenses as listed on POSSE, you may contact Sheila Inverso at (609) 984-1508.