STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

IN THE MATTER OF THE EXTENSION
OF ALL 2014-2015 MUNICIPALLY
ISSUED PLENARY RETAIL LICENSES
AND STATE-ISSUED LICENSES AND
PERMITS THROUGH FRIDAY,
SEPTEMBER 18, 2015

ORDER AUTHORIZING EXTENSION OF
2014-2015 LICENSES THROUGH FRIDAY,
SEPTEMBER 18, 2015

BY THE DIRECTOR:


The Division of Alcoholic Beverage Control (the "Division") works closely with municipal issuing authorities concerning the annual renewal of plenary retail licenses. Pursuant to N.J.S.A. 33:1-25 and N.J.S.A. 33:1-12.13 and its implementing regulations at N.J.A.C. 13:2-2, licensees currently file renewal applications with a municipal issuing authority on forms prescribed by the Director, and submit to the municipality the full annual license fee and an additional $200.00 statutory State filing fee payable to the Division. For renewal applications, the Director publishes a general notice of application in the newspapers that are circulated in the counties in which the licensees' premises are located. See N.J.A.C. 13:2-2.6. If there are any objections to the renewal of an application, the municipal issuing authority holds a hearing; if there are no objections, the applications are presented to the municipal issuing authority, and if approved, the approval is reduced to a resolution. See N.J.A.C. 13:2-2.7 through -2.9. The municipal issuing authority then
forwards the approved applications, resolutions and State fees to the Division.

The Division oversees the administration of the annual license renewal process to ensure that it is done in a uniform and efficient manner, and that this process fulfills the declared public policy and legislative purpose of N.J.S.A. 33:1-3.1. At the present time, license renewal applications are processed by both the municipal issuing authority and the Division in paper format. This is an obviously outdated and inefficient process. In order to modernize the Division’s processes and to create a more responsive and efficient license renewal procedure, the Division is implementing a “paperless” electronic renewal system, beginning with the 2015-2016 license term that starts on July 1, 2015. This new system, known as POSSE ABC, requires the full participation of the approximately 9,120 plenary retail licensees, the 531 municipal issuing authorities, and the Division.

Likewise, the ABC Act provides the authority to the Division to issue and renew wholesale licenses and all of their associated permits, as well as manufacturing licenses and their associated permits. These “State-issued” licenses include Plenary Wholesale, Limited Wholesale, Wine Wholesale, State Beverage Distributor licenses, as well as Craft Distillery, Plenary Distillery, Restricted Brewery, Wine Blending, Plenary Brewery, Limited Brewery, Rectifier and Blender, Plenary Winery, Farm Winery, Out of State Winery, Transportation, Public Warehouse, Additional Warehouse or Sales Room, Warehouse Receipts, Bonded Warehouse Bottling, Instructional Wine-making Facility, Broker, and Special Permit for a Golf Facility Licenses. Associated Permits include, but are not limited to, Plenary Retail Transit, Annual State Permittees (known as “Concessionaire’s Permits”), as well as Omnibus, Gratuitous Gifts and Samples, Product Information, Charitable Donations, Sampling, Consumer Tasting, Charitable and Civic Events, Sacramental Wine, Transportation Insignias, Winery Salesrooms/Retail Outlets, Marketing Agent,
Solicitor and Transit Insignia permits (Collectively, "State-issued Licenses and Permits").

While all of the foregoing "State-issued" licenses and permits do not require the interaction of the local municipality (since the State is the issuing authority), the same concerns outlined below apply to the renewal of the approximately 400 wholesale licenses and the thousands of other licenses and permits due for renewal by July 1, 2015. Therefore, in an abundance of caution, I am including them in this Order.

The new electronic licensing system represents a sea change in how municipal issuing authorities and the Division will renew the licenses. Under the new system, licensees will be given an access code, and will be required to enter their application data electronically. The retail licensee renewal applications will be reviewed and processed by the municipal issuing authorities and the Division in accordance with the instructions set forth in Schedule A, which is attached hereto and incorporated herein. All State-issued Licenses and Permits will be reviewed, processed and renewed by the Division in accordance with the instructions set forth in Schedule B, which is attached hereto and incorporated herein. With this new system in place, the Division will have the capability to receive, review and store license renewal data electronically, which will greatly assist it in fulfilling its statutory duties under N.J.S.A. 33:1-12.13, N.J.S.A. 33:1-18, N.J.S.A. 33:1-25 and N.J.S.A. 33:1-26.

The launch of the new electronic licensing system will begin on June 4, 2015. All holders of plenary retail licenses and State-issued Licenses and Permits are expected to renew their licenses for the 2015-2016 license term electronically. However, due to the compressed amount of time provided and the potential for technical difficulties, the Division anticipates that some licensees may not be able to effectuate the renewal of their liquor licenses by July 1, 2015. Accordingly, the Director has determined to issue this Order to extend the 2014-2015 license term and to permit
certain licensees to continue to operate until they successfully renew their licenses for the 2015-2016 license term, but no later than September 18, 2015. A retail licensee may avail itself of this relief only if the municipal issuing authority receives (1) both the full annual municipal fee and the State filing fee, and (2) the licensee’s Alcoholic Beverage Retail License Clearance Certificate from the Division of Taxation as required by N.J.S.A. 33:1-17.1 (known as a “Tax Clearance Certificate”). A State-issued licensee or permittee may avail itself of this relief only if the Division (1) receives the full annual fee due to the State, and (2) the licensee has provided the appropriate Tax Clearance Certificate, where applicable. In effect, the Division is providing a “grace period” for the “paper” portion of the renewal process, for those licensees who have paid their fees and obtained their Tax Clearance Certificate.

The decision to issue this Order has been made for several reasons that take into account potential unforeseen contingencies. First, POSSE ABC involves the Division’s inauguration of a new electronic licensing system, which may have unanticipated problems that the Division will need to address. Second, the governing bodies or boards of municipal issuing authorities may have limited meetings scheduled or may have busy agendas, and may not be able to complete the renewal process prior to July 1, 2015. Third, municipal issuing authorities may need additional time to decide and hold hearings regarding specific licenses. Finally, and perhaps most importantly, this Order is intended to prevent a potential interruption in the sale and service of alcoholic beverages in the State of New Jersey, and to accommodate the needs of the industry, the Division, and municipal licensing authorities during this time of transition.

The Director has ample authority to issue this Order. Pursuant to N.J.S.A. 33:1-39, the Director has the broad authority to issue special rulings and findings “as may be necessary for the proper regulation and control of the manufacture, sale and distribution of alcoholic beverages and
the enforcement of [the ABC Act] ...” The Supreme Court interpreted this provision to include the Director’s explicit, as well as inherent, powers to ensure a stable and well-regulated alcoholic beverage industry. See Heir v. Degnan, 82 N.J. 109, 121 (1980). Without question, modernizing the licensing system to utilize 21st century technology, and allowing for a limited “grace period” for the paper portion of the renewal process, if the transition to electronic licensing has unanticipated glitches fits within the Director’s almost “limitless” powers. See R&R Marketing, LLC v. Brown-Forman Company, 158 N.J. 170, 176 (1999); Joseph H. Reinfeld, Inc. v. Schieffelin & Co., 94 N.J. 400, 412 (1983). This authority to craft appropriate remedies to address unique situations has been recognized by the Supreme Court as part of the Director’s implied authority to deal fairly with holders of alcoholic beverage licenses. Circus Liquors Inc. v. Governing Body of Middletown Township, 199 N.J. 1, 19-21 (2009).

By way of example, the Director has used his broad authority to extend licenses beyond the June 30th expiration date in certain circumstances where a municipal issuing authority has not acted upon a license renewal application. Pursuant to N.J.S.A. 33:1-74 and N.J.A.C. 13:2-2.10(b), the Director has the authority to issue ad interim or temporary permits that allow a licensed business to continue to operate until the application has been acted upon. In promulgating N.J.A.C. 13:2-2.10(b), the Director exercised his authority to “provide for contingencies where it would be appropriate and consonant with the spirit of this chapter to issue a license but the contingency has not been expressly provided for ...” See N.J.S.A. 33:1-74.

In light of the foregoing statutory authority and precedent, the issuance of an Order extending plenary retail licenses and State-issued Licenses and Permits until September 18, 2015 to give the parties sufficient time to complete license renewals under the new electronic licensing system is consistent with the explicit and implicit authority of the Director to ensure trade stability
and to provide uniform and effective administration of the renewal and licensing procedure.

Accordingly, if a plenary retail licensee or holder of a State-issued License or Permit is not able to complete the renewal of its respective license using POSSE ABC on or before June 30, 2015, it is on this day of May, 2015,

ORDERED, that all plenary retail licenses, issued and renewed for the 2014-2015 license term by a municipal issuing authority, shall be extended, where necessary, until renewal or until September 18, 2015, whichever occurs first, pursuant to the terms and conditions set forth in Schedule A which is attached hereto and incorporated herein; and

IT IS FURTHER ORDERED, that all State-issued Licenses and Permits, issued and renewed for the 2014-2015 license term by the Division, shall be extended, where necessary, until renewal or until September 18, 2015, whichever occurs first, pursuant to the terms and conditions set forth in Schedule B which is attached hereto and incorporated herein; and

IT IS FURTHER ORDERED, no license, whether plenary retail or State-issued, shall be extended under this Order until and unless the licensee shall pay all municipal and/or State license fees and shall pay all required State taxes, where applicable; and

IT IS FURTHER ORDERED, no license shall be extended under this Order if the municipal issuing authority has notified and informed the Division that it seeks a hearing to deny renewal or place special conditions upon the license effective July 1, 2015. In those cases, the appeal shall follow the procedures set forth in N.J.S.A. 33:1-22; and

IT IS FURTHER ORDERED, the Director may issue additional Orders to clarify and address problems not anticipated by this Order.

______________________________
MICHAEL I. HALFACRE
DIRECTOR
SCHEDULE A
IMPORTANT NOTICE TO LICENSEES FOR THE 2015-2016 RENEWAL PROCESS
RENEWAL GRACE PERIOD

The Director of the New Jersey Division of Alcoholic Beverage Control (ABC) has issued an Order that all licenses and permits shall be provided with a grace period to allow Licensees and Municipal Clerk/Secretaries to acclimate to the new online licensing system. While the new system will be in place and ready to accept renewals prior to June 30, 2015, in order to accommodate the need for training and familiarization with the system, the Director is taking the precaution of extending the normal June 30th filing deadline to September 18, 2015 to avoid confusion, errors, and the possibility of licenses not being renewed in a timely fashion. A full text of the Order will be available on the Division’s web page at www.nj.gov/oag/abc.

Licensees can begin using the new system on June 4, 2015. You will be able to register and renew your 2015-2016 licenses online through POSSE, the new ABC Licensing System. We strongly encourage all licensees to take advantage of the online system to expedite the renewal process.

PLEASE NOTE THE FOLLOWING:

IN ACCORDANCE WITH THE DIRECTOR’S MAY 5, 2015 ORDER:

EVERY LICENSEE MUST PAY THEIR MUNICIPAL FEE PRIOR TO JUNE 30TH. (Bring a copy of this renewal notice with you.)

EVERY LICENSEE MUST ESTABLISH THEIR (DIVISION OF TAXATION) TAX CLEARANCE PRIOR TO JUNE 30TH.

DETAILED INSTRUCTIONS ON BECOMING A REGISTERED USER AND RENEWING YOUR LICENSE ONLINE ARE ATTACHED. ONLINE TUTORIALS WILL BE AVAILABLE TO ASSIST YOU AS WELL AS HELP TEXT WITHIN THE LICENSING SYSTEM.

KEEP CHECKING THE ABC WEB SITE FOR LINKS AND FUTURE NOTICES/UPDATES!
INSTRUCTIONS FOR RENEWAL OF RETAIL LICENSES
FOR THE 2015-2016 LICENSE TERM

The label in the upper right hand corner includes your authorization code which is needed to register online to become a User. Visit the ABC Home page www.nj.gov/oag/abc for a link to ABC POSSE Licensing System. Click on the link and follow the instructions. Use the access code on the label above to complete the registration process.

Please note that all Plenary Retail Licenses have been extended to September 18, 2015 by Order of the Director regardless of when they were transferred. If this license has recently transferred and you are no longer the licensee of record please ignore this letter. If you hold multiple licenses and receive multiple renewal letters you will only need one of the access codes; disregard all others. All of your licenses will be associated to you by the system.

Note: IF Division records currently reflect you are required to Petition the Director for 12.39 Relief your notice will be stamped here in red “12.39 Special Ruling Required”. (See Item B for instructions)

Note: IF Division records currently reflect this license is to be treated as a conflict of interest your notice will be stamped here in red “Conflict”. (See Item C for instructions)

Note: IF Division records reflect you failed to file your 2014-2015 renewal application your notice will be stamped here in red “Not Renewed for 2014-2015 License Term Renewal Not Authorized for 2015-2016 License Term. (See Item F for instructions)
A. Once you have registered you will be able to verify all of your license information and complete the renewal process which includes payment of your $200 State renewal fee. **If you haven’t already paid your municipality fee as instructed, you must do so immediately; before June 30, 2015.**

B. The renewal question regarding whether your license is being actively used at an operating premise must be answered. If your license is inactive, indicate the last date on which it was actively used.

If your license became inactive on or before June 30, 2013, you are required to file a Petition for a Special Ruling with the Division pursuant to N.J.S.A. 33:1-12.39.

A copy of the procedure for licensees to petition for 12.39 relief can be obtained from your Municipal Clerk/ABC Secretary or from the Division’s web site at [www.nj.gov/oag/abc](http://www.nj.gov/oag/abc).

C. The question regarding “does the applicant or any other person mentioned in this application, or any person having a beneficial interest in the licensed business, hold office in the unit of government issuing authority” must be answered with “yes” or “no.”

If yes, you will be required to insert the name of the individual(s), title(s) of office and the municipality. Pursuant to N.J.S.A. 33:1-20 and N.J.A.C. 13:2-4.1 et seq the renewal of this license will be treated as a conflict license. The Director of the Division of Alcoholic Beverage Control will consider renewal.

D. If facts about your license have changed since you last filed a full 12-page application (i.e., trade name, mailing address, new officers, shareholders, managers, etc.) you will be able to report such changes separate from your renewal.

E. Be advised that your local governing body may not act upon the renewal of your license until the municipality has received your *Alcoholic Beverage Retail License Clearance Certificate* from the Division of Taxation.

During the first week of June, you should check with your municipal issuing authority to inquire as to whether they received a renewal clearance certificate for your license and if they have not you should contact the Division of Taxation immediately. Questions regarding a clearance certificate should be directed to your case worker at the Division of Taxation or by visiting the nearest Regional Office to your business.

F. This information only applies to licensees whose renewal notice has been stamped “Not Renewed for 2014-2015 License Term – Renewal Not Authorized for 2015-2016 License Term.” A licensee who has not filed a renewal application for the 2014-2015 license term along with the municipal and state filing fees must apply for a 12.18 Special Ruling.
Pursuant to N.J.S.A. 33:1-12.18, a licensee who fails to file its renewal application and pay the annual fees on or before July 30 of the year beginning the license term for which renewal is sought (July 30, 2014 for the 2014-2015 license term), a 12.18 Special Ruling is required. The statute permits a licensee to petition the Director within one year (until July 30 of the year ending the license term for which renewal is sought) following the expiration of the license period (July 30, 2015 for the 2014-2015 license term) and request a Special Ruling to permit the filing of an application for a new license upon failure to timely renew.

A copy of the procedure for licensees to petition for 12.18 relief can be obtained from your Municipal Clerk/ABC Secretary or from the Division’s web site at www.nj.gov/oag/abc.

G. Only in exceptional cases will a paper filing be an acceptable method of renewal. Not filing online could delay your renewal. Please contact your Municipal Clerk for instructions.

If you have questions concerning the renewal process, please contact your Municipal Clerk or A.B.C. Secretary for assistance.

Questions concerning POSSE ABC should be directed to the Division of ABC at 609-984-2830.
SCHEDULE B
INSTRUCTIONS FOR RENEWAL OF STATE ISSUED LICENSES
FOR THE 2015-2016 LICENSE TERM

The Director of the New Jersey Division of Alcoholic Beverage Control (ABC) has issued an Order that all licenses and permits shall be provided with a grace period to allow Licensees to acclimate to the new online licensing system. While the new system will be in place and ready to accept renewals prior to June 30, 2015, in order to accommodate the need for training and familiarization with the system, the Director is taking the precaution of extending the normal June 30th filing deadline to September 18, 2015 to avoid confusion, errors, and the possibility of licenses not being renewed in a timely fashion. A full text of the Order will be available on the Division’s web page at www.nj.gov/oag/abc. Please continue to check our site for any updates or notices.

ALL WHOLESALE ASSOCIATED PERMITS AS WELL AS WINERY OUTLET/SALESROOMS ARE ALSO INCLUDED IN THIS GRACE PERIOD OF SEPTEMBER 18, 2015.

Commencing June 4, 2015, licensees will be able to register on the system and renew their 2015-2016 licenses online through POSSE, the new ABC Licensing System. We strongly encourage all licensees to take advantage of the online system to further expedite the renewal process. Please renew your license as soon as possible!!

YOU WILL NEED TO BECOME A REGISTERED USER ON OR AFTER JUNE 4, 2015. YOUR LOG IN ACCESS CODE IS LOCATED ON THE LABEL IN THE UPPER RIGHT HAND CORNER. GO TO THE ABC WEB PAGE AT www.nj.gov/oag/abc, CLICK ON THE POSSE LINK LOCATED IN THE MIDDLE OF THE PAGE. FOLLOW THE LOG ON INSTRUCTIONS. ENTER YOUR ACCESS CODE IN THE APPROPRIATE AREA. LICENSES ELIGIBLE FOR RENEWAL WILL BE DISPLAYED.

ONLINE TUTORIALS AND HELP TEXT WITHIN POSSE WILL BE AVAILABLE TO ASSIST YOU. WE SUGGEST THAT YOU TAKE ADVANTAGE OF THESE WHILE YOU START ON THE NEW SYSTEM.
Please read these online renewal filing instructions:

A. If other facts about your license have changed since you last filed a full 12-page application (i.e., trade name, mailing address, new officers, shareholders, managers, etc.), contact the Division to obtain the appropriate application to report such change. Changes which require transfer of a license, such as the relocation, expansion or reduction of a licensed premises, dissolution or creation of a partnership or a change in the entity that holds the license may not be reported as part of the renewal application but must be treated as a separate matter.

B. NOTICE TO ALL PLENTARY RETAIL TRANSIT AND ANNUAL STATE PERMITTEES also known as CONCESSIONAIRES: Be advised that the Division may not act upon the renewal of your license until the Division has verified that your company has received Alcoholic Beverage Retail Tax Clearance from the Division of Taxation. Questions should be referred to your Regional Tax Office or by contacting the Division of Taxation’s Retail Tax Unit at 609-292-0043.

LICENSEES THAT NEED TO ESTABLISH TAX CLEARANCE WITH THE DIVISION OF TAXATION MUST DO SO PRIOR TO JUNE 30, 2015.

C. NOTICE TO ALL CRAFT DISTILLERY, PLENTARY DISTILLERY, RESTRICTED BREWERY, WINE BLENDING, PLENTARY BREWERY, LIMITED BREWERY, RECTIFIER AND BLENDER, PLENTARY WHOLESALE, LIMITED WHOLESALE, WINE WHOLESALE, AND OUT OF STATE WINERY LICENSEES: The Division may not act upon the renewal of your license until the Division has received a photocopy of your Beverage Tax Bond. This document may be uploaded with your renewal application or sent to the Division via regular mail at Division of Alcoholic Beverage Control, Wholesale Unit, P.O. Box 087, Trenton, New Jersey 08625.

Please note that Beverage Tax Bond renewal applications are sent directly to you from the Division of Revenue. All completed Beverage Tax Bond renewals must be sent directly to Ms. Gail Idlett, Division of Revenue, P.O. Box 252, Trenton, New Jersey 08646. Please contact Ms. Idlett with any questions on your Tax Bond at 609-633-0979.

D. NOTICE TO ALL STATE BEVERAGE DISTRIBUTOR, PLENTARY WINERY, AND FARM WINERY LICENSEES: Be advised that the Division may not act upon the renewal of your license until the Division has verified that your company has received Alcoholic Beverage Retail Tax Clearance from the Division of Taxation. Questions should be referred to your Regional Tax Office or by contacting the Division of Taxation’s Retail Tax Unit at 609-292-0043.

LICENSEES THAT NEED TO ESTABLISH TAX CLEARANCE WITH THE DIVISION OF TAXATION MUST DO SO PRIOR TO JUNE 30, 2015.

In addition, the Division may not act upon the renewal of your license until the Division has received a photocopy of your Beverage Tax Bond. This document may be uploaded with your renewal application or sent to the Division via regular mail at Division of Alcoholic Beverage Control, Wholesale Unit, P.O. Box 087, Trenton, New Jersey 08625.
Please note that Beverage Tax Bond renewal applications are sent directly to you from the Division of Revenue. **All completed Beverage Tax Bond renewals must be sent directly to Ms. Gail Idlett,** Division of Revenue, P.O. Box 252, Trenton, New Jersey 08646. Please contact Ms. Idlett with any questions on your Tax Bond at 609-633-0979.

E. **NOTICE TO ALL TRANSPORTATION, PUBLIC WAREHOUSE, ADDITIONAL WAREHOUSE OR SALESROOM, WAREHOUSE RECEIPTS, BONDED WAREHOUSE BOTTLING, INSTRUCTIONAL WINEMAKING FACILITY, BROKER, AND SPECIAL PERMIT FOR A GOLF FACILITY:** There are no special requirements for specific renewal questions pertaining to your license; please renew as soon as possible.

F. The following permits included with your renewal applications are extended to expire on September 18, 2015. Continue to check the ABC WEB PAGE at [www.nj.gov/oag/abc](http://www.nj.gov/oag/abc) for updates regarding the renewal or issuance of the following permits during Release 2 of the new online ABC Licensing System.

- Omnibus Permit [OMB]
- Gratuitous Gifts Permit [GG]
- Gratuitous Samples Permit [SP]
- Product Information/Introduction Permit [PI]
- Charitable/Trade Donations Permit [DON]
- Sampling Permit [GS]
- Consumer Tasting Permit for Wholesale Licensees [CTW]
- Charitable and Civic Event Sampling Permit for Restricted Brewery Licensees [CCR]
- Charitable and Civic Event Sampling Permit for Limited Brewery Licensees [CCL]
- Sacramental Wine Permit [SC]
- Transportation License Insignias [TL] (transportation licensees only)
- Winery Salesrooms/Retail Outlets (plenary winery, farm winery, and out of state winery licensees only)
- Marketing Agent Permit [MA]
- Solicitor Permit [SOL] (expires August 31, 2015 - extension to be determined)
- Transit Insignia [TI] (expires August 31, 2015 - extension to be determined)

Please note that no licensee may engage in alcoholic beverage activity after **June 30, 2015** September 18, 2015 without a renewed license for the 2015-2016 license terms. Please do not wait until then to renew; renew as soon as possible to avoid a lapse in your license privilege which could result in an enforcement action.

Please notify the Division of Alcoholic Beverage Control in writing if you do not plan to renew this license.

If you have any questions concerning the renewal process, please contact Rosemary Bonney at 609-984-2673 or Tia Johnson at 609-984-2754.