

**DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

IN THE MATTER OF INCREASING)	SPECIAL RULING 2023-04
ACCESS TO THE ALCOHOL-)	
BEVERAGE INDUSTRY FOR THOSE)	ALLOWING AN OPTIONAL
CONVICTED OF A CRIME)	INSTALLMENT-PAYMENT PLAN FOR
INVOLVING MORAL TURPITUDE BY)	THE INITIAL \$100.00 FEE FOR AN
ALLOWING FOR INSTALLMENT)	APPLICATION FOR A
PAYMENTS FOR THE INITIAL-)	REHABILITATION- EMPLOYMENT
APPLICATION FEE.)	PERMIT.

BY THE DIRECTOR:

As part of the Office of the New Jersey Attorney General’s objective to advance racial and economic justice, the Division of Alcoholic Beverage Control (the “Division”) has reviewed its permits in order to identify and eliminate any undue barriers to those who seek to participate in the alcoholic-beverage industry, particularly justice-involved individuals and those who have recently been released from a period of incarceration and seeking employment.

With the authority conferred by N.J.S.A. 33:1-39 to issue special rulings, the Division has determined that the \$100.00 initial fee for an Application for a Rehabilitation Employment Permit (“Petition”), due in total at the time of filing, may limit the number of individuals who have access to the permit, and it herewith establishes an installment-payment plan for this fee to mitigate the burden visited on economically disadvantaged applicants.¹

¹ The full title of the application itself is “Petition for Removal of a Criminal Disqualification or an Application for a Rehabilitation Employment Permit.” The Removal of a Criminal Disqualification, a distinct type of statutory relief, see N.J.S.A. 33:1-31.2; N.J.A.C. 13:2-15.1, does not qualify for and is not part of the filing-fee relief established in this Special Ruling.

Under the requirement of N.J.S.A. 33:1-25, “No license of any class shall be issued . . . to any person who has been convicted of a crime involving moral turpitude.” Further, any person who fails to qualify as a licensee cannot be employed in or connected in any business capacity with a licensee in the alcoholic-beverage industry. N.J.S.A. 33:1-26.

What constitutes a crime involving moral turpitude for the purpose of criminal disqualification in the alcoholic-beverage industry is very fact specific. Using the classification of offenses in N.J.S.A. 2C:1-4, the Division gives “consideration to the particular facts of each case in determining the applicant’s qualifications.” A.B.C. Bulletin 2, Item No. 8 (1933). “Turpitude is a conclusion based on or an inference derived from the facts of a given case.” State, Div. of Alcoholic Beverage Control v. McNally, 91 N.J. Super. 513, 516 (App. Div. 1966) (quoting A.B.C. Bulletin 45, Item No. 18 (1934)); see also A.B.C. Bulletin 293, Item 10 (1939) (explaining that “a conviction for commercialized gambling may or may not constitute conviction of a crime involving moral turpitude, depending upon the circumstances of the particular case.”). With a conviction for a crime involving moral turpitude, license disqualification follows. N.J.S.A. 33:1-25.

This disqualification, however, is not without limits. That is, the individual convicted of a crime of moral turpitude seeking employment in the alcoholic-beverage industry or seeking an interest in a liquor license or permit may file a Petition for relief from the disqualification. An applicant who is seeking immediate employment in the alcoholic-beverage industry may apply for a Rehabilitation Employment Permit.² This Permit is available to those applicants who have not

² The available statistics in the Division disclose that for 2019, 45 Petitions were opened and 37 closed; for 2020, 11 were opened and 34 closed; and for 2021, 15 were opened and 25 closed. On December 31, 2019, the Division had 71 Petition applications pending; on December 31, 2020, 48 applications were pending; and on December 31, 2021, 38 applications were pending. This sample period is undoubtedly distorted by the impact of the pandemic on the labor market.

yet satisfied the statutory five-year period for “acting in a law-abiding manner” that is required for a Removal of a Criminal Disqualification. N.J.S.A. 33:1-31.2. Under this Permit,

(a) Any person convicted of a crime involving moral turpitude may apply to the Director, in the manner and form prescribed by the Director, for a rehabilitation employment permit. Whenever that application is made and it appears to the satisfaction of the Director that such person’s employment in the alcoholic beverage industry will not be contrary to the public interest, the Director may, in the exercise of sound discretion, issue such employment permit.

[N.J.A.C. 13:2-14.6(a).]

The Rehabilitation Employment Permit is renewable annually. N.J.A.C. 13:2-14.7(a).

While the Petition is pending during the required comprehensive background investigation of the applicant, the Division may issue a Temporary Work Letter. This limited but immediate form of relief is defined as follows:

(b) Upon the proper filing of an application and proof of promised employment, the Director may, in the exercise of sound discretion, issue the applicant temporary work letters not to exceed 90 days at any one time, authorizing employment upon a specified licensed premises pending determination on the application for a permit.

(c) A Temporary Work Letter may be issued if the applicant demonstrates[,] to the Director’s satisfaction, that the applicant has behaved in a law abiding manner and has not engaged in and will not participate in any conduct detrimental to the integrity of the alcoholic beverage industry or the public interest. The final determination shall be in the sole discretion of the Director.

[N.J.A.C. 13:2-14.6(b) and (c).]

The initial application for a Petition as well as the annual renewal of it must include a fee of \$100.00.

The Division’s recognizes that the initial \$100.00 fee due in total at filing for a Rehabilitation Employment Permit may operate as a barrier to those seeking employment in the

alcoholic-beverage industry. Applicants who have been recently released from incarceration may be without the financial means to cover the costs of the permit due to a lack of regular employment or limited or no financial resources to draw on. To address this economic impediment, the Division is establishing an installment-payment plan for those experiencing such economic difficulties.

The installment-payment plan shall involve the payment of an initial \$25.00 application fee for the Petition, with the \$75.00 balance payable thereafter in quarterly (i.e., every three months) installments. Failure to make any of these installment payments shall be deemed an administrative withdrawal by the applicant. (The Division retains the discretion to further relax – and, in the Director’s discretion, to waive in the case of indigency, see N.J.A.C. 13:2-14.6(a) and (b) -- this requirement when the applicant presents extraordinary circumstances for nonpayment.) The relief being granted in this Special Ruling is for the first application for a Rehabilitation Employment Permit only. Thereafter, if a Rehabilitation Employment Permit is renewed, full payment of the \$100.00 fee is required, based on the Division’s understanding that the permit holder is gainfully employed and is able to make this payment. (The Division retains the discretion to relax or waive this requirement for an applicant if extraordinary circumstances warrant it.) If a permit holder obtains an expungement from a court, then the crime of moral turpitude is sealed in the Computerized Criminal History; thus it is no longer a factor in the permit-holder’s employment, and ABC will no longer require renewal of the permit. A timely renewal application will result in a Permit valid from January 1 to December 31.

As noted above, while the extensive background investigation for a Rehabilitation Employment Permit is taking place within the Division, an applicant with promised employment may seek a Temporary Work Letter. In these circumstances, the Division conducts an abridged investigation (with contact of a parole or probation officer if the applicant was under supervision

within the previous two years and contact with the police department of the municipality where the proposed employment is located), and, if the information obtained is satisfactory, it then issues a Temporary Work Letter that allows the applicant to work (often with certain conditions imposed by the Division) in the alcoholic-beverage industry.

A Temporary Work Letter is valid for up to three months and is renewable at the request of the applicant. If a Temporary Work Letter with a three-month duration is issued, then the applicant is required to use its renewal dates as the deadlines for the payment-installment plan. In other words, after the initial payment of \$25.00 with the Petition, \$25.00 must be paid for the first three renewals of the Temporary Work Letter to satisfy the full \$100.00 filing fee. If a Temporary Work Letter is issued on a month-to-month basis, then \$25.00 must be paid monthly at renewal until the \$100.00 fee is satisfied. Any failure to make an installment payment at renewal of the Temporary Work Letter, whatever the term, will be deemed an administrative withdrawal of the Petition and Petitioner's Temporary Work Letter will therefore not be re-issued. (Here, too, the Division retains the discretion to relax or waive this requirement when the applicant presents extraordinary circumstances for nonpayment.) Similarly, should the letter holder obtain an expungement of their record from a Court, the letter requirement will no longer apply.

The Division will only accept money orders for any of these payments.

The Division retains the right to modify or eliminate the terms of this Special Ruling if warranted by changed circumstances.


JAMES B. GRAZIANO
DIRECTOR

DATED: January 30, 2023