

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
25 MARKET STREET, CN-087  
TRENTON, NEW JERSEY 08625

BULLETIN 2441

April 26, 1985

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STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
RICHARD J. HUGHES JUSTICE COMPLEX  
25 MARKET STREET, CN-087  
TRENTON, NEW JERSEY 08625

BULLETIN 2441

April 26, 1985

1. RECENT LEGISLATION - AMENDMENT TO EXCEPTION TO TWO LICENSE LIMITATION STATUTE ADDING AN INTERNATIONAL AIRPORT GROUNDS AS AN EXCEPTION (N.J.S.A. 33:1-12.32) - TEXT OF AMENDED STATUTE.

On March 5, 1985, Governor Kean signed S-1327 as P.L. 1985, c.65, thereby again amending P.L. 1962, c. 152 (N.J.S.A. 33:1-12.32) to add the grounds of an international airport as another exception to the two retail license limitation law (N.J.S.A. 33:1-12.31). This amendment will specifically permit each of the terminals at the Newark International Airport to have a separate license with the same concessionaire at each terminal.

The full text of N.J.S.A. 33:1-12.32 now reads as follows:

33:1-12.32. Exceptions

The provisions of this act shall not apply to the acquisition of an additional license or licenses or an interest therein, when such license is issued to a person for use in connection with the operation of a hotel containing at least 50 sleeping rooms, for use in connection with the operation of a bowling establishment consisting of more than 20 lanes, but only so long as the person uses the license in connection with the operation of that bowling establishment, or for use on premises within the grounds of an international airport, nor shall the provisions of this act affect the right of any person to dispose of an interest in a license or licenses by will or to the transfer of such an interest by descent and distribution.

Any additional license acquired for use in connection with a restaurant or bowling establishment consisting of more than 20 lanes or for use on premises within the grounds of an international airport, as herein authorized, shall be limited, however, to the sale of alcoholic beverages for consumption on the licensed premises only. (As amended, P.L. 1985, c. 65, effective March 5, 1985.)

2. RECENT LEGISLATION - FORMALIZATION OF TRANSFER OF A.B.C. ENFORCEMENT AGENTS TO DIVISION OF STATE POLICE - ESTABLISHMENT OF ALCOHOLIC BEVERAGE CONTROL ENFORCEMENT BUREAU IN DIVISION OF STATE POLICE AND EXTENSION OF FULL POLICE POWERS TO AGENTS (N.J.S.A. 53:1-11.3 to 11.9) - AMENDMENT OF POWERS AND DUTIES OF DIRECTOR (N.J.S.A. 33:1-4) - TEXT OF AMENDED 33:1-4.

On March 14, 1985, Governor Kean signed S-1835, sponsored by Senator Bassano, as P.L. 1985, c. 76, thereby formalizing in statute the transfer of the Alcoholic Beverage Control Enforcement Bureau from the Division of Alcoholic Beverage Control to the Division of State Police, as had been administratively done by the Attorney General

about six years ago. That law, which will be codified as N.J.S.A. 53:1-11.3 to 11.9, also extends full police powers to the Inspectors in the Bureau (N.J.S.A. 53:1-11.5) and provides that "The Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety may request the bureau to conduct an investigation relating to the enforcement of Title 33 of the Revised Statutes or any supplement thereto." (N.J.S.A. 53:1-11.6).

The amendment to N.J.S.A. 33:1-4 merely deletes "inspectors" among those whom the Director may appoint and it adds executive assistants to those appointees of the Director who have authority to enforce alcoholic beverage laws and regulations.

The full text of N.J.S.A. 33:1-4, as amended, now reads as follows:

33:1-4 Director's powers as to quarters, organization and appointment of deputies, employees, experts and counsel

The director is hereby empowered:

a. To maintain suitable headquarters for said division and such other offices and establishments within the State as he may determine necessary; to organize said division, creating such bureaus and altering them in such manner and at such times as he considers advisable.

b. To appoint and have at all times five deputy directors who shall each receive such salary as shall be approved by the director and the president of the Civil Service Commission, subject to availability of funds and who shall be removable by the director for cause, and who shall be respectively in charge of the bureaus assigned to them by the director. Each such deputy shall, before entering upon the duties of his office, if required by the director, give bond, to be approved by the director, in the sum of \$12,000.00. Deputy directors shall not be subject to the provisions of Title 11, Civil Service.

c. To appoint such clerical force and employees as he may deem necessary and fix their duties, all of whom shall be subject to the provisions of Title 11, Civil Service.

d. To appoint such investigators and executive assistants as he may deem necessary and to fix their duties and compensation. Investigators and executive assistants shall (1) not be subject to the provisions of Title 11, Civil Service, and (2) shall be removable by the director at will; provided, however, that any person who has been employed as such investigator or executive assistant for a period of three years shall serve during good behavior and shall not be removed except for cause. The director, deputies, executive assistants and investigators shall have authority to investigate, and to arrest, without warrant, for violations of this chapter committed in their presence, and shall have all the authority and powers of peace officers to enforce this chapter.

e. To appoint for short-time employment or for the purpose of performing specified expert or specialist service such experts and specialists as from time to time he shall deem necessary to carry out the provisions of this chapter, and to determine the specified duty, salary or fee and term of service. Such experts or specialists shall not be subject to the provisions of Title 11, Civil Service.

f. To appoint such counsel and other legal assistants as he shall deem necessary to carry out the provisions of this chapter and to fix their power, duties, salaries and terms of office. Such counsel and assistants shall not be subject to the provisions of Title 11, Civil Service. (As amended, L. 1985, c. 76, effective March 14, 1985.)

3. RECENT LEGISLATION - AMENDMENT TO STATUTE PROHIBITING PURCHASE OF ALCOHOLIC BEVERAGES BY UNDERAGE PERSONS TO REDUCE MANDATORY SUSPENSION OF DRIVING PRIVILEGES TO 6 MONTHS AND POSTPONING EFFECTIVE DATE OF MANDATORY SUSPENSION TO JULY 1, 1985 (N.J.S.A. 33:1-81) - TEXT OF AMENDED STATUTE.

On April 9, 1985, Governor Kean signed S-2679, as P.L. 1985, c. 113, thereby amending N.J.S.A. 33:1-81 and the amendment to that section made by P.L. 1983, c. 574 (approved January 17, 1984), which had amended N.J.S.A. 33:1-81 to provide that, in addition to the monetary penalty or jail sentence imposed for violation of the statute prohibiting purchase of alcoholic beverages by or for underage persons, a mandatory suspension or postponement of driving privileges for a period of one year would also be imposed. [See Bulletin 2434, Item 2, (March 13, 1984)]. The new law, P.L. 1985, c. 113, reduces the penalty increase provided for in P.L. 1983, c. 574 from the one year mandatory suspension or postponement of driving privileges to a six-month mandatory suspension or postponement of those privileges. It also postpones the effective date of the mandatory penalty to July 1, 1985, rather than January 17, 1984, as had been provided in P.L. 1983, c. 574. The reason for the reduction in penalty is to bring the period of suspension into conformity with the mandatory minimum period of suspension for a first offense of driving under the influence (N.J.S.A. 39:4-50).

P.L. 1985, c. 113 also contains a provision that "Any person who was convicted of a violation of R.S. 33:1-81 for an offense committed on or after January 17, 1984 through June 30, 1985 inclusive and who consequently had his motor vehicle license suspended or postponed for one year may move to have that penalty provision reviewed by the sentencing court. For good cause shown, the court is authorized to reduce that penalty and the person shall receive credit toward a new lesser period of suspension or postponement for any time already under suspension or postponement." This means that prior to July 1, 1985, any period of suspension or postponement of driving privileges is solely within the discretion of the sentencing judge. Also, any person already convicted and sentenced to a one-year suspension of driving privileges since January 17, 1984, may apply to the sentencing court for a reduction of that period of suspension and, upon a showing of good cause, the court may so reduce it.

The full text of N.J.S.A. 33:1-81, as amended, effective July 1, 1985, will be:

33:1-81. Unlawful acts by persons under legal age for purchase of alcoholic beverages; disorderly persons

It shall be unlawful for (a) a person under the legal age for purchasing alcoholic beverages to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage; or

(b) A person under the legal age for purchasing alcoholic beverages to consume any alcoholic beverage on premises licensed for the retail sale of alcoholic beverages, or to purchase, attempt to purchase or have another purchase for him any alcoholic beverage; or,

(c) Any person to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or to purchase alcoholic beverages, for another

person who does not because of his age have the right to purchase and consume alcoholic beverages.

Any person who shall violate any of the provisions of this section shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than \$100.00. In addition, the court shall suspend the person's license to operate a motor vehicle for six months or prohibit the person from obtaining a license to operate a motor vehicle in this State for six months beginning on the date he becomes eligible to obtain a license or on the date of conviction, whichever is later. In addition to the general penalty prescribed for an offense, the court may require any person under the legal age to purchase alcoholic beverages who violates this act to participate in an alcohol education or treatment program authorized by the Department of Health for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted. (As amended, P.L. 1985, c. 113, effective July 1, 1985.)

4. RECENT LEGISLATION - AMENDMENTS TO FARM WINERY LICENSE STATUTE TO PERMIT ONE ADDITIONAL SALES OUTLET AND TO ALLOW USE OF UP TO 49% OUT-OF-STATE GROWN FRUIT FOR FIRST FIVE YEARS OF THE FARM WINERY'S OPERATION TO ALLOW PRODUCTION WHILE GRAPE VINES MATURE (N.J.S.A.33:1-10,2b) - TEXT OF AMENDED STATUTE.

On April 12, 1985, Governor Kean signed S-1736 and S-1737, both of which were sponsored by Senator Dumont, as P.L. 1985, c. 130 and 131, respectively. Both chapters amend the "Farm winery license" provisions contained in N.J.S.A. 33:1-10.

P.L. 1985, c. 130, adds a provision allowing a farm winery licensee to sell fermented wines and fruit juices manufactured on the licensed premises at retail at another location other than the licensed premises. Such sales may only be for off-premises consumption. The amendment does not authorize the free tastings that are permitted on the licensed premises of the farm winery, and a fee of \$100, in addition to the farm winery license fee, is established for the additional sales outlet. Application forms for the additional outlet are available from the Licensing Bureau.

P.L. 1985, c. 131, amends the farm winery license provisions to permit the manufacture of the fermented wines and fruit juices to be made from as little as 51% (rather than 100%) grapes or fruit grown in New Jersey for the first five years of the operation of the winery. After the five years, only New Jersey grown grapes or fruit will be permitted. The purpose of the amendment is to alleviate the financial hardship that the requirement for all New Jersey grown fruit or grapes cause while the farm winery's grape vines are maturing and reaching full production. It is intended that this allowing up to 49% of out-of-state grown fruit or grapes for the limited five-year period will also encourage the production of more grapes in New Jersey and also help to reduce the oversupply of grapes being experienced in neighboring states.

The amendment contained in P.L. 1985, c. 131, also requires that the containers in which the wine is sold to consumers by the farm winery license have a label stating the percentage of New Jersey grown grapes or fruit used to produce the wines. This label may be in addition to the B.A.T.F. approved label and may state, in substance, that wines produced during 19\_\_ by the \_\_\_\_\_ Farm Winery are made from \_\_\_\_\_% New Jersey grown grapes or fruit, provided that the percentage must be at least 51%. After the farm winery has been in operation for five years, the label or the wine must state that the wine has been produced from 100% New Jersey grown grapes or fruit. The five years shall run from the date on which the farm winery license was first issued, unless the licensee can show to the satisfaction of the Director that the operation of the farm winery did not commence until a later date.

The full text of the Farm Winery License subdivision of N.J.S.A. 33:1-10, as amended, now reads as follows:

33:1-10. Class A licensees; subdivisions; fees  
Class A licenses shall be subdivided and classified as follows:

\* \* \*

Farm winery license

2b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any fermented wines and fruit juices in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 50,000 gallons per year and to sell and distribute his products to wholesalers and retailers licensees in accordance with this chapter and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and to sell at retail to consumers; provided, however, that such sale to consumers shall be made only for consumption off the licensed premises and then only when the winery at which such fermented wines and fruit juices are manufactured is located and constructed upon a tract of land owned exclusively by the holder of such farm winery license, which said tract of land shall have an area of not less than three acres and have growing and under cultivation upon said land at least 1,200 grape vines; and provided, further, that for the first five years of the operation of the winery such fermented wines and fruit juices shall be manufactured from at least 51% grapes or fruit grown in the State and that thereafter they shall be manufactured only from grapes or fruit grown in this State. The containers of all wine sold to consumers by such licensee shall have attached thereto a label stating the percentage of New Jersey grown grapes or fruit used to produce the wines and setting forth such information as shall be required by the rules and regulations of the Director of Alcoholic Beverage Control. The fee for this license shall be graduated as follows: To so manufacture between 2,500 and 50,000 gallons per annum, \$200.00; to so manufacture between 1,000 and 2,500 gallons per annum, \$100.00; to so manufacture less than 1,000 gallons per annum, \$50.00.

The holder of this license has the right to sell fermented wines and fruit juices manufactured on the licensed premises at retail for consumption off the premises at one other location other than the licensed premises for an additional fee of \$100.00.

The license granted hereunder shall authorize, subject to such rules and regulations as may be deemed necessary or appropriate by the Director of the Division of Alcoholic Beverage Control, the offering and tasting on the licensed premises of free samples of wine, to visitors and prospective retail customers.

Unless otherwise indicated for the purposes of this subsection, with respect to farm winery licenses, "manufacture" means the vinification, aging, storage, blending, clarification, stabilization and bottling of wine or juice from 100% New Jersey grown fruit.

\* \* \*

(As amended, L. 1985, c. 130 & 131, effective April 12, 1985.)

#### 5. SAMPLE OR DISPLAY PERMIT - REVISED CRITERIA AND TERMS - FACSIMILE OF NEW APPLICATION

The Division has revised the Sample or Display Permit to more realistically reflect the needs of the Industry and the purpose behind the permit. There is no longer a limit on the quantity or size which may be utilized by a solicitor for a sample, nor is the time for a permit any longer limited to two months.

This permit allows a solicitor for a wholesale licensee to carry samples of alcoholic beverage products to display such products to retail licensees, and/or to offer tastings in the quantity of not more than 50 ml. of distilled spirits, 12 oz. of beer, or 4 oz. of wine to any one individual licensee and/or his bona fide employee on the retail licensee's premises. The revised permit will be valid for a 12-month period from the date of issuance at a fee of \$25.00 per brand. Copies of the permit may be produced by the recipient wholesale distributor to be given to each solicitor carrying the product, and no additional copies of the permit need be purchased from the Division. The solicitor must sign his name and solicitor number on the copy of the permit and this copy must be carried by the solicitor.

A log must be maintained by each solicitor offering tastings that will list the name, license number and address of each retail licensee to whom samples are provided, as well as the names of any bona fide employees of the retail licensee to whom samples are provided, and the date such samples were given. The log must be produced by the solicitor upon reasonable demand by anyone authorized to enforce the alcoholic beverage control laws or regulations and must be retained by the solicitor's employer for a period of 3 years following the expiration date of the permit.

Each product intended for sample or display must be clearly marked "SAMPLE - NOT FOR SALE", or "FOR DISPLAY PURPOSES ONLY - NOT FOR SALE" in ink across the label of the container in letters not less than one-half inch in height and of proportionate width.



A reduced size facsimile of the application or Petition for Sample or Display Permit, follows. The actual form is available from the Licensing Bureau of the Division:



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

THOMAS H. KEAN  
GOVERNOR

Richard J. Hughes Justice Complex  
CN 087  
Trenton, NJ 08625  
(609) 984-2830

IRWIN I. KIMMELMAN  
ATTORNEY GENERAL  
JOHN F. VASSALLO, JR.  
DIRECTOR

PETITION FOR SAMPLE OR DISPLAY PERMIT

To: Director, Division of Alcoholic Beverage Control

Your Petitioner \_\_\_\_\_,  
(address) \_\_\_\_\_,  
holder of New Jersey License Number \_\_\_\_\_, requests a Special  
Permit for the purpose of offering samples of alcoholic beverage products to retail  
licensees on retail premises during a one year period from date of issuance.

BRAND NAME \_\_\_\_\_

BRAND REGISTRATION \_\_\_\_\_

Check One

- \_\_\_\_ Petitioner desires to assign sample bottles of the foregoing alcoholic  
beverage to Solicitors to be dispensed to Retailers and their bona fide  
employees by the drink, and only upon Retailer's licensed premises,  
OR  
\_\_\_\_ Petitioner desires to display the foregoing alcoholic beverage to  
Retailers and their bona fide employees on the Retailer's licensed  
premises.

Has this product been offered for sampling before? \_\_\_\_ Yes \_\_\_\_ No.  
If yes, when? \_\_\_\_\_.

If this product has been offered before, why is it being renewed or  
re-offered? \_\_\_\_\_

The Permit is subject to the following conditions:

Separate permits are required for each brand of alcoholic beverage to be  
sampled or displayed to Retail licensees. Solicitors transporting bottles in  
accordance with the terms of this permit shall have in their possession a copy of  
the permit bearing the signature and the solicitor's permit number of the person so  
authorized to carry the alcoholic beverage.

Each product intended for sample or display shall be clearly marked  
"SAMPLE-NOT FOR SALE", or "FOR DISPLAY PURPOSES ONLY - NOT FOR SALE" in ink across  
the label of the container, in letters not less than one-half inch in height and of  
proportionate width.

Solicitors shall maintain a record, available for inspection by those persons  
authorized to enforce the Alcoholic Beverage Law N.J.S.A. 33:1-1, et seq. of the  
name, license number and address of each Retail licensee to whom samples are  
provided, as well as the names of any bona fide employees of the Retail Licensee to  
whom samples are provided, and the date such samples were given.

The Petitioner hereby pays the permit fee of \$25.00 in the form of Check or  
Money Order, payable to the Division of Alcoholic Beverage Control.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Licensee

By: \_\_\_\_\_

6. DIRECTOR'S ADVISORY OPINION: SOCIAL AFFAIR PERMITTEES MAY HIRE REGULAR POLICE OFFICERS FOR POLICE WORK IN CONNECTION WITH CARNIVALS, FAIRS OR FESTIVALS.

The question has been presented as to whether non-profit organizations conducting carnivals, fairs or festivals are precluded from hiring regular police officers, who are regularly employed in the same municipality, by reason of holding a social affair permit authorizing the sale of alcoholic beverages at the carnival, fair or festival.

The answer to this inquiry is that such social affair permittees are not precluded from hiring regular police officers, even if regularly employed in the same municipality in which the carnival, fair or festival is being held, to perform security or crowd or traffic control functions at the event. Such police officers who are so hired, however, may not distribute, possess or sell alcoholic beverages and may only accept such employment for the carnival or fair or festival with the consent of their police superiors. The provisions of N.J.A.C. 13:2-23.31(b)3 are controlling. This advisory opinion may be considered the authorization required by that regulation.

7. NOTICE: IDENTIFICATION OF DISPLAY SERVICES THAT HAVE REGISTERED PURSUANT TO N.J.A.C. 13:2-24.12 -- NO RIGHT OF RETAILER TO DESIGNATE DISPLAY SERVICE - MAINTAINING RECORDS.

In Bulletin 2436, Item 4 (August 16, 1984) the Division identified seven (7) display companies that had properly registered their businesses with the Division through July 19, 1984. Since that time two (2) other display companies have registered pursuant to N.J.A.C. 13:2-24.12. Those new registrants follow.

<u>Registration No.</u>	<u>Name of Display Service Entity</u>	<u>Date Filed</u>
008	Heublein Wines One Colony Road Jersey City, NJ 07305	August 16, 1984
009	B.D. Visual Merchandising 485 Belmont Avenue Haledon, NJ 07508	December 4, 1984

Several inquiries have been made to the Division by suppliers, retailers and display companies concerning N.J.A.C. 13:2-24.12 which will be addressed at this time. In the placement of display and advertising material on retail licensed premises by registered display companies, it is not within the authority of a retail licensee to designate which display company it will allow access onto the licensed premises for the placement of displays. A retail licensee can reject

an offered display, but it cannot reject an offered display from one company and then accept the same display from another company. Nor can a retail licensee state that it will only accept displays booked with certain display services. The determination of what display service will be retained is the sole prerogative of the supplier or wholesaler that will pay for these services. A retailer that attempts to designate exclusive display services for itself or through a cooperative will be exercising the privileges of wholesale or supplier licensees in violation of N.J.S.A. 33:1-43 and N.J.A.C. 13:2-23.25. To the extent that a supplier or wholesaler condones or agrees to such exclusivity, that entity will also be considered in violation of N.J.S.A. 33:1-43.

A second area of inquiry involves the documentation required in connection with the placement of a display. N.J.A.C. 13:2-24.12 (c) requires the supplier or wholesaler that retains the display service and the display service to maintain records of all transactions for a three-year period. In addition, the retail licensee that receives the display must be furnished with and retain on the licensed premises a copy of the placement invoice. This display invoice should identify the display company and display, the retail licensee, license number, address and date of placement. A display company does not have to exhibit to the retailer a specific authorization from the supplier or wholesaler concerning the proposed display. The retail licensee can presume that the display company is authorized by the supplier or wholesaler to make the placement at that location, and a retail licensee will not be held administratively responsible if there is no such authorization. The retail licensee can presume authorization by reason of the display service's possession of the display material.

8. NOTICE AND WARNING TO WHOLESALE LICENSEES: RECEIVING  
PAYMENT FOR ALCOHOLIC BEVERAGES FROM OTHER THAN THE  
INVOICED RETAIL LICENSEE OR PERMITTEE PROHIBITED

A disciplinary case concerning the farm-out of a retail license has recently come before the Director and evidence in that matter disclosed that payments for alcoholic beverage purchases were not paid by the invoiced licensee of record, who was a sole proprietorship; but rather, were repeatedly and solely paid from corporate accounts of the entity to which the operation of the business had been farmed out contrary to N.J.S.A. 33:1-25, 1-26 and 1-52. The length of time this practice occurred indicates a strong probability that wholesalers knew of this illegal activity.

Class A and Class B licensees selling to retail licensees or permittees are hereby placed on notice that no payment for alcoholic beverages is to be accepted from any party other than the retail

licensee or permittee. If payment should be received from such non-licensed party or is attempted by a non-licensed party, the Class A or Class B licensee is to promptly notify the Division of the details. Such notice should be made in writing or by telephone with confirmation in writing to the attention of the Trade Practices Bureau.

Acceptance of payment from a non-licensee and failure to give notice to the Division as directed herein may result in disciplinary action against the Class A or Class B licensee for a violation of N.J.S.A. 33:1-50(d), for aiding or abetting another in the unlawful sale or distribution of alcoholic beverages.

9. DIRECTOR'S ADVISORY OPINION: MAINTAINING INVOICES BY  
SUPPLIERS OR WHOLESALERS - FORM OF RECORDS

An inquiry has been received from a wholesale licensee as to whether wholesalers may microfilm invoices rather than maintain the actual wholesaler's copy of each invoice.

The answer is affirmative. N.J.A.C. 13:2-39.2 specifies the information which must be shown on invoices or similar documents and retained "for a period of three years from the date thereof by the manufacturer or wholesaler ... at its respective licensed premises, available for inspection by agents of the director, unless the director shall have granted written permission to the manufacturer, wholesaler or retailer to keep its copies at another designated place or in another readily retrievable form."

This opinion may be considered the written permission called for by N.J.A.C. 13:2-39.2 and the approval called for by N.J.A.C. 13:2-29.4 for suppliers or manufacturers and wholesalers to maintain their copies of each invoice, delivery slip, manifest, waybill or similar document by microfilm or microfiche, or by computer, provided that a reader and printer are readily available so that a copy or the requisite information can be produced in accordance with the time schedule set forth in N.J.A.C. 13:2-29.4(b).

Nothing in this opinion shall be deemed to apply to record-keeping requirements of any other Federal or State agency other than the Division of Alcoholic Beverage Control nor to constitute approval to store or maintain records at any location other than the licensed premises.

10. NOTICE TO RETAILERS THAT THEY HAVE NO RESPONSIBILITY TO ASSURE  
THAT REBATE OFFERS HAVE NOT EXPIRED.

It has come to the attention of the Director that some retail licensees are reluctant to display or make available rebate forms for

manufacturers' rebates offered in accordance with N.J.A.C. 13:2-24.11 because they do not want the responsibility to assure that such offers have not expired and/or they fear being cited for a violation if such offers shall have expired and the forms are distributed on their premises.

Retailers have no responsibility to insure that rebate offers are not out-of-date except as is dictated by good business practice or customer relations. All rebate offers should clearly show the expiration date so that if a form is still around after the offer has expired it will be clear by its terms that the rebate offer is no longer valid.

The purpose of inspection of rebate forms recently made by Division staff members was to verify that manufacturers and suppliers making rebate offers are properly filing them with the Division as required by N.J.A.C. 13:2-24.11. No retailer will be cited for a violation by reason of having rebate forms for a rebate offer that has not been properly filed unless such retailer has actual knowledge that the offer has not been properly filed. Only the manufacturer will be cited. A wholesaler who distributes such rebate forms with the knowledge that the offer has not been properly filed may also be in violation.

Retailers should be cautious that they do not advertise the availability of a rebate offer, as allowed by N.J.A.C. 13:2-24.11, if the offer has expired or will expire during the effective dates of the advertisement. Doing so could be deemed false and misleading advertising, which is prohibited by N.J.A.C. 13:2-24.10.

11. NOTICE: TYPE OF MOTOR VEHICLE REGISTRATION REQUIRED FOR SPECIAL TRANSPORTATION PERMIT.

It has been the practice of the Division of Alcoholic Beverage Control to require Motor Vehicle registration of vehicles applying for special transportation certificates for passenger cars, station wagons and vans, to show proof that those vehicles were registered either under "Code 15" or commercially registered under Code 11. The practice of the Division of Motor Vehicles had been to permit passenger vehicles to register under Code 15, the fee for which was the same as commercially registered vehicles under Code 11. The difference, however, was that the Code 15 vehicles did not have to place the name and address of the company on the side of the vehicle.

Recently the Division of Motor Vehicles rendered an advisory opinion that it was improper to register vehicles that were being used for commercial purposes under Code 15, since that Code by statute only allowed the registration of commercial type vehicles, i.e. trucks and other vehicles of that body type, to be registered when those commercial vehicles were being used for non-commercial purposes.

At the present time, the Division of Motor Vehicles will not register any new vehicles under Code 15 when they are being used for commercial activity. It is necessary to register them as commercial vehicles. The Division of Motor Vehicles will, however, renew all vehicle registrations that are presently under Code 15. If a licensee purchases a new motor vehicle at some point within the registration period, and if the old vehicle that is being sold or traded in was registered under Code 15, it will apparently not be permitted to register the new vehicle as a commercial vehicle under Code 15 and the former plates cannot be transferred to the new vehicle.

Legislation is now being formulated that would not require passenger-type vehicles commercially registered to have their company name and address affixed to the side of the vehicle. Until it is enacted into law, however, it will be necessary that any licensee, who is applying to the Division of Alcoholic Beverage Control for a special transportation permit for a passenger-type vehicle, to insure that that vehicle is properly registered as required by the Division of Motor Vehicles.

12. NOTICE AND WARNING: MIX AND MATCH OF WINE COOLERS PROHIBITED.

It has come to the attention of the Division that some wholesalers are filing "mix and match" discounts in their Current Price Lists for wine coolers. This is not permitted.

N.J.A.C. 13:2-24.9(b) prohibits wholesale licensees from offering to sell or from selling any alcoholic beverage product in combination with a different product, with certain exceptions. The only alcoholic beverage products not included in the prohibition are malt alcoholic beverages. Since wine coolers are a wine product, they do not fall into the exception to the prohibition and therefore cannot be sold on a "mix and match" basis.

Inclusion of a "mix and match" discount offer for wine coolers in the Current Price List filed for June or thereafter will subject the wholesale licensee to being cited for a violation of N.J.A.C. 13:2-24.9(b). Any "mix or match" sale of wine coolers made at any time will also be considered violative of that regulation.

13. NOTICE TO S.B.D. LICENSEES.

When the statute governing the license provisions of the State Beverage Distributor's License was amended effective November 1, 1982, L. 1982, c.166, it contained a provision that if an S.B.D. license has not been actively used in connection with the operation of a licensed premises within a two-year period prior to the commencement date of the license period for which a renewal application is filed, the S.B.D. license shall not be renewed unless the director, for

good cause and after a hearing, authorizes a further application for renewal. This provision is codified in N.J.S.A. 33:1-11.6 and is virtually identical to the provisions of N.J.S.A. 33:1-12.39, which concerns renewals of inactive Class C or retail licenses.

After the amendment to the S.B.D. license statute in November, 1982, many wholesalers who were operating under the S.B.D. license filed applications for and obtained Limited Wholesale Licenses, but have also continued to hold the S.B.D. License.

This notice is to advise holders of State Beverage Distributor's Licenses, which have not been actively operated after June 30, 1983, that such licenses may not be renewed for the license year commencing July 1, 1985, unless a petition is filed with the director and good cause is shown so that the director will authorize the renewal application to be filed. Such petitions shall be filed with the Deputy Director of Licensing and should be filed in sufficient time to be acknowledged upon so that the renewal application, if authorized, be timely made.

In considering whether an S.B.D. license has been actively used, the licensee must be able to establish either that retail sales of malt alcoholic beverages have regularly been made or, if not used for retail purposes, that current price lists have been filed and that purchases from brewers and sales to retailers have been made under the authority of the S.B.D. license and with payments being made by the S.B.D. licensee and invoices for sales to retailers reflecting the seller as the S.B.D. licensee.

#### 14. STATE LICENSE TRANSACTIONS - MARCH 28, 1985 TO DATE.

The following transactions have taken place with reference to state-issued licenses since March 28, 1985:

LICENSE TYPE	NUMBER	STATUS
Transportation license Expressway Nationwide, Inc. 700 North High School Road Indianapolis, IN 46224	3401-20-304-001	New license issued eff. 03/28/85
Annual State Permit Chicago Prime, Inc. T/A Pennsauken Country Club Golf Club House 3800 Haddonfield Road Pennsauken, NJ 08110	3401-14-305-001	New license issued eff. 04/02/85
Plenary Wholesale license The Buckingham Corporation 333 Sylvan Avenue Englewood Cliff, NJ 07632	3400-23-016-005	Change of Corporate Structure issued eff. 04/03/85
Plenary Wholesale, Public Warehouse & Rectifier and Blender license Julius Wile Sons & Co., Inc. 580 Sylvan Avenue Englewood Cliff, NJ 07632	3400-23-028-003 3400-28-145-003 3400-15-387-001	Change of Corporate Structure issued eff. 04/03/85

LICENSE TYPE	NUMBER	STATUS
Plenary Retail Distribution license Joseph V. Martin, Jr. Route 173, R.D. #1	1025-44-008-001	No longer state issued eff. 04/08/85
Transportation license Hamilton Trucking Division of Hamilton Terminal Corp. Tripoli Street Maher Terminal Elizabeth, NJ 07201	3401-20-303-001	New license issued eff. 04/08/85
Limited Wholesale license All Brand Importers, Inc. 625 Madison Avenue New York, NY 10022	3400-25-080-002	Change of Corporate Structure issued eff. 04/15/85
Transportation license J B Williams Express, Inc. 320 Maspeth Avenue Brooklyn, NY 11211	3400-20-779-001	Surrendered & Cancelled 04/18/85

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PUBLICATION OF BULLETIN 2441 IS HEREBY DIRECTED THIS  
26th DAY OF APRIL, 1985.



JOHN F. VASSALLO, JR.  
DIRECTOR