

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
744 Broad Street, Newark, N. J.

BULLETIN 333

JULY 17, 1939.

1. REPORT OF DISCIPLINARY PROCEEDINGS AGAINST MUNICIPAL LICENSEES
CONDUCTED DIRECTLY BY THE DEPARTMENT.

July 7, 1939

To: D. Frederick Burnett, Commissioner.
From: Emerson A. Tschupp, Attorney

Period Covered

July 1, 1938 to June 30, 1939.

SUMMARY

Cases Instituted

219

Disposition:

Discontinued and referred to municipality	1
License revoked	4
License surrendered	1
License suspended	165
Dismissed	7
Pending	41
Awaiting entry of order of suspension	
after guilty plea entered before	
hearing	5
Decision reserved	27
Awaiting hearing	9
	<u>41</u>

219

The foregoing 219 cases involved 281 separate violations, as set forth below, comparing with a total of 34 cases involving 48 violations for the fiscal year 1937-38. Of the total number, 78 were Fair Trade cases in municipalities scattered throughout the State; 94 involved other charges against Newark licensees; 19 other charges against West New York licensees, and the balance against licensees scattered throughout the State but conducted at the Department because the complaint had been made by a coordinate law enforcement agency (e.g., the Federal Alcohol Tax Unit); or the license had been issued directly by the Commissioner because a member of the municipal issuing authority was interested therein; or the municipal authority had requested that the particular case be conducted by the Department. Penalties preceded by an asterisk were imposed in cases where one or more additional charges were involved, and no separate penalty was imposed on the separate charges.

1. Sale of Alcoholic Beverages at Cut Rates in Violation of Fair Trade Regulations.

Total number of charges brought

78

Disposition:

License suspended 66

Periods covered:

40 days	1
30 "	1
20 "	2
10 "	35
*10 "	2
5 "	25
	<u>66</u>

Pending 12

Awaiting entry of order of suspension after guilty plea entered before hearing	5
Heard, decision reserved	5
Awaiting hearing	2
	<u>12</u>

2. Sale of Alcoholic Beverages During Hours Prohibited by Municipal Ordinance, Resolution, Regulation or Referendum, Including Obstruction of Public View.Total number of charges brought 45Disposition:

License suspended 38

Periods covered:

*Balance of term	3
20 days	1
15 days	2
10 "	10
5 "	22
	<u>38</u>

Dismissed 1

Discontinued and referred to municipality 1

Pending 5

Heard, decision reserved 2

Awaiting hearing 3
53. Gambling, Slot Machines and Lotteries on Licensed Premises.Total number of charges brought 23Disposition:

License surrendered 1

License suspended 16

Periods covered:

10 days	2
*10 "	1
7 "	1
5 "	10
3 "	2
	<u>16</u>

Dismissed 1

Pending 5

Heard, decision reserved 3

Awaiting hearing 2
5

4. Employment of Female Bartenders, Waitresses and Other Prohibited Female Employees (Except Hostesses - See No. 12).

Total number of charges brought 20

Disposition:

License revoked	2
License suspended	14
Periods covered:	
*Balance of term	1
*40 days	1
10 "	1
*10 "	1
8 "	1
5 "	7
3 "	2
	<u>14</u>
Pending	4
Heard, decision reserved	3
Awaiting hearing	<u>1</u>
	4

5. Sale or Service of Alcoholic Beverages to Minors

Total number of charges brought 18

Disposition:

License suspended	13
Periods covered:	
*40 days	1
30 "	2
20 "	2
15 "	3
10 "	2
*10 "	1
5 "	2
	<u>13</u>
Dismissed	3
Pending	2
Heard, decision reserved	1
Awaiting hearing	<u>1</u>
	2

6. Employment of Persons Ineligible to Hold a License by Reason of Age, Residence, Citizenship or Prior Conviction of Crime Involving Moral Turpitude.

Total number of charges brought 14

Disposition:

*License revoked	1
License suspended	4
Periods covered:	
*40 days	1
5 "	1
*5 "	1
2 "	1
	<u>4</u>
Dismissed	3
Pending	6
Heard, decision reserved	5
Awaiting hearing	<u>1</u>
	6

7. Possession of Illicit Alcoholic Beverages

<u>Total number of charges brought</u>	13
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Disposition:

License suspended	11
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Periods covered:

Balance of term	1
90 days	1
60 "	1
30 "	8
	<u>11</u>

Pending, decision reserved	2
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8. Fraud, Misrepresentation, False Statement, Etc. in Application for License, Including Operation as a Front for Another.

<u>Total number of charges brought</u>	14
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Disposition:

License revoked	1
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*License surrendered	1
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License suspended	4
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Period covered:

Balance of term	4
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Dismissed	1
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Pending, decision reserved	7
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9. Permitting Prostitutes, Lewdness, Immoral Activities and Female Impersonators upon the Licensed Premises.

<u>Total number of charges brought</u>	10
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Disposition:

License revoked	1
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*License revoked	1
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License suspended	3
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Periods covered:

90 days	1
30 "	1
20 "	1
	<u>3</u>

Dismissed	1
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Pending, decision reserved	4
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10. Sale or Service of Alcoholic Beverages to Intoxicated Persons

<u>Total number of charges brought</u>	7
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Disposition:

*License revoked	1
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License suspended	1
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Period covered:

*Balance of term	1
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Dismissed	2
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Pending, decision reserved	3
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11. Bingo Games Permitted in Barroom.Total number of charges brought

6

Disposition:

License suspended

5

Period covered:

5 days

5

Pending, decision reserved

1

12. Employment of Hostesses in Violation of Municipal Regulation.Total number of charges brought

5

Disposition:

*License revoked

2

License suspended

2

Periods covered:

60 days

1

30 "

1

Pending, decision reserved

1

13. Possession of Chilled Beer by Limited Retail Distribution Licensee.Total number of charges brought

4

Disposition:

License suspended

4

Periods covered:

30 days

1

25 "

1

20 "

1

10 "

1

14. Sale of Alcoholic Beverages Beyond Scope of License (Excluding Sale to Non-members by Club Licensee - See No. 24).Total number of charges brought

3

Disposition:

*License revoked

1

License suspended

1

Period covered:

10 days

1

Dismissed

1

15. Mislabeling Beer TapsTotal number of charges brought

3

Disposition:

License suspended

3

Period covered:

3 days

3

16. Sale of Alcoholic Beverages on Election Day, Including Licensed Premises Open in Violation of Local Regulation.Total number of charges brought 3Disposition:

License suspended 2

Period covered:

10 days 2

Pending, decision reserved 1

17. Permitting Known Criminals or Persons of Ill Repute upon Licensed Premises.Total number of charges brought 2Disposition:

*License revoked 1

Dismissed 1

18. Violation of Special Ruling.Total number of charges brought 2Disposition:

License suspended 1

Period covered:

15 days 1

Dismissed 1

19. Permitting Unnecessary Noise on Licensed Premises.Total number of charges brought 2Disposition:

License suspended 1

Period covered:

5 days 1

Dismissed 1

20. Giving Discounts on Sale of Alcoholic Beverages for Off-Premises Consumption.Total number of charges brought 2Disposition:

License suspended 1

Period covered:

*10 days 1

Pending, decision reserved 1

21. Unlawful Transportation of Alcoholic Beverages.Total number of charges brought 2Disposition:

License suspended 1

Period covered:

5 days 1

Pending, awaiting hearing 1

22. Permitting Licensed Premises to be Conducted as a Nuisance.

Total number of charges brought 1

Disposition:

Dismissed 1

23. Sign violations

Total number of charges brought 1

Disposition:

License suspended 1

Period covered:

5 days 1

24. Sale of Alcoholic Beverages to Non-members by Club Licensee.

Total number of charges brought 1

Disposition:

License suspended 1

Period covered:

*5 days 1

25. Distribution of Indecent Advertising Matter.

Total number of charges brought 1

Disposition:

Pending, decision reserved 1

26. Hindering an Inspection or Investigation.

Total number of charges brought 1

Disposition:

Pending, decision reserved 1

Respectfully submitted,

Emerson A. Tschupp,
Attorney.

2. REPORT ON DISCIPLINARY PROCEEDINGS AGAINST LICENSEES TRANSMITTED BY THE DEPARTMENT TO MUNICIPAL ISSUING AUTHORITIES.

July 7, 1939

To: D. Frederick Burnett, Commissioner
 From: Emerson A. Tschupp, Attorney

Period Covered

July 1, 1938 to June 30, 1939

SUMMARY

Cases Transmitted 382

Disposition:

Withdrawn and instituted at Department	2
License revoked	10
License surrendered	5
License transferred	1
License not renewed	1
License suspended	265
Sentence suspended	11
Licensee reprimanded	1
Charges dismissed	30
Pending	56
Heard, decision reserved	14
Awaiting hearing	42
	<u>56</u>

382

The foregoing 382 cases involved 420 separate violations, as below set forth. In the previous fiscal year of 1937-38, there were transmitted a total of 329 cases involving 422 violations. Penalties preceded by an asterisk were imposed in cases where one or more additional charges were involved, and no separate penalty was imposed on the separate charges.

1. Sale of Alcoholic Beverages During Hours Prohibited by Municipal Ordinance, Resolution, Regulation or Referendum, Including Obstruction of Public View.

Cases Transmitted 142

Disposition:

*License revoked	2
License surrendered	2
License suspended	113
Periods covered:	
30 days	2
28 "	1
15 "	4
14 "	1
10 "	3
7 "	2
*7 "	2

6 days	4	
5 "	46	
*5 "	4	
4 "	9	
3 "	19	
*3 "	4	
2 "	6	
1 day	5	
*1 "	1	
	<u>113</u>	
License transferred		1
Sentence suspended		2
*Licensee reprimanded		1
Dismissed		8
Pending		13
Heard, decision reserved	3	
Awaiting hearing	<u>10</u>	
	13	
		<u>142</u>

2. Gambling, Slot Machines and Lotteries on Licensed Premises.

Cases Transmitted

54

Disposition:

Withdrawn and instituted at Department

License revoked	1
*License revoked	1
*License surrendered	2
License suspended	1
	38

Periods covered:

30 days	1
*30 "	1
*24 "	1
*21 "	1
15 "	2
10 "	1
*10 "	3
9 "	1
7 "	1
*7 "	1
6 "	1
5 "	9
*5 "	3
3 "	4
*3 "	3
2 "	4
1 day	<u>1</u>
	38

Sentence suspended		1
Dismissed		4
Pending		6
Heard, decision reserved	3	
Awaiting hearing	<u>3</u>	
	6	
		<u>54</u>

3. Sale of Alcoholic Beverages on Election Day

Cases Transmitted

47

Disposition:

License not renewed

1

License suspended

20

Periods covered:

*15 days

2

10 "

2

*10 "

3

*7 "

1

5 "

5

3 "

7

20

Sentence suspended

3

Dismissed

6

Pending

17

Heard, decision reserved

4

Awaiting hearing

13

17

474. Possession of Illicit Alcoholic BeveragesCases Transmitted

42

Disposition:

Withdrawn and instituted at Department

1

*License revoked

1

License suspended

35

Periods covered:

Balance of term

1

30 days

5

*30 "

1

25 "

2

24 "

1

*21 "

1

20 "

4

18 "

1

15 "

5

*15 "

1

10 "

1

*10 "

1

7 "

1

5 "

9

3 "

1

35

Dismissed

1

Pending, awaiting hearing

4

42

5. Fraud, Misrepresentation, False Statement, etc. in Application for License, Including Operation as a Front for Another.

Cases Transmitted

32

Disposition:

Withdrawn and instituted at Department	1
License revoked	5
*License revoked	2
License suspended	10
Periods covered:	
*Balance of term	1
30 days	1
*24 "	1
15 "	2
10 "	1
5 "	1
3 "	3
	<u>10</u>
Dismissed	3
Pending	11
Heard, decision reserved	3
Awaiting hearing	8
	<u>11</u>

32

6. Employment of Persons Ineligible to Hold a License by Reason of Age, Residence, Citizenship, or Prior Conviction of a Crime Involving Moral Turpitude.

Cases Transmitted

19

Disposition:

Withdrawn and instituted at Department	1
*License revoked	1
License surrendered	1
*License surrendered	1
License suspended	10
Periods covered:	
10 days	1
7 "	2
*7 "	2
3 "	1
*3 "	3
*1 day	1
	<u>10</u>
Sentence suspended	1
*Licensee reprimanded	1
Dismissed	2
Pending, awaiting hearing	1
	<u>19</u>

7. Sale of Alcoholic Beverages Beyond Scope of License (Excluding Sale to Non-Members by Club Licensee - See No. 10)

Cases Transmitted

10

Disposition:

License suspended	8
Periods covered:	
*Balance of term	1
15 days	1
*15 "	1
10 "	1
*10 "	1
*7 "	1
5 "	1
*5 "	1
	<u>8</u>

Dismissed
Pending, awaiting hearing

1
1
10

8. Mislabeled Beer TapsCases Transmitted

12

Disposition:

License suspended

9

Periods covered:

16 days

*15 "

*10 "

5 "

*5 "

3 "

*3 "

2 "

1
1
1
1
1
1
1
2
9

Sentence suspended

2

Dismissed

1
12

9. Possession of Chilled Beer by Limited Retail Distribution Licensee.Cases Transmitted

12

Disposition:

License surrendered

1

License suspended

11

Periods covered:

15 days

10 "

*10 "

5 "

*5 "

1
5
2
2
1
11

12

10. Sale of Alcoholic Beverages to Non-members by Club Licensees.Cases Transmitted

9

Disposition:

License suspended

1

Period covered:

3 days

1

Sentence suspended

1

Dismissed

1

Pending

6

Heard, decision reserved

2

Awaiting hearing

4

6

9

11. Permitting Prostitutes, Lewdness, and Immoral Activities, and Female Impersonators upon the Licensed Premises.

Cases Transmitted 7

Disposition:

*License revoked 2

License suspended 4

Periods covered:

30 days 2

*21 " 1

10 " 1

4

Dismissed

1

12. Hindering an Investigation or Inspection.

Cases Transmitted 6

Disposition:

License suspended 3

Periods covered:

*15 days 1

*10 " 1

3 " 1

3

Dismissed

1

Pending, awaiting hearing

2

6

13. Bingo Games Permitted in Barroom.

Cases Transmitted 5

Disposition:

Sentence suspended 1

Dismissed 3

Pending, decision reserved 1

5

14. Unlawful Transportation of Alcoholic Beverages

Cases Transmitted 4

Disposition:

License suspended 3

Periods covered:

Balance of term 1

1 day 2

3

Pending, awaiting hearing

1

4

15. Sign Violations.

Cases Transmitted 4

Disposition:

License suspended 3

Periods covered:

*15 days 1

*5 " 1

*3 " 1

3

Dismissed

1

4

16. Employment of Hostesses in Violation of Municipal Regulation, Including Service of Alcoholic Beverages to Women at Bars.

Cases Transmitted

4

Disposition:

License suspended 4
Periods covered:

*7 days

1

5 "

1

*3 "

1

2 "

1

4

17. Sale or Service of Alcoholic Beverages to Intoxicated Persons.

Cases Transmitted

3

Disposition:

License suspended 3
Periods covered:

*18 days

1

*5 "

1

*1 day

1

3

18. Permitting Brawls on Licensed Premises.

Cases Transmitted

3

Disposition:

License suspended 1

Periods covered:

*18 days

1

Dismissed

1

Pending, awaiting hearing

1

3

19. Sale of Contraceptives on Licensed Premises.

Cases Transmitted

2

Disposition:

License suspended 1

Period covered:

*3 days

1

Dismissed

1

2

20. Permitting Licensed Premises to be Conducted as a Nuisance.

Cases Transmitted

1

Disposition:

License suspended 1

Period covered:

*18 days

1

21. Conduct of Other Mercantile Business by Consumption Licensee.

Cases Transmitted

1

Disposition:

Dismissed 1

22. Permitting Unnecessary Noise on Licensed Premises.Cases Transmitted

1

Disposition:

Dismissed

1

Respectfully submitted,
Emerson A. Tschupp,
Attorney.

3. MINIMUM OR COVER CHARGES - IMPROPER TO LEVY SUCH CHARGES WITHOUT FAIR NOTICE TO THE PARTY SOUGHT TO BE SUBJECTED THERETO.

Dear Sir:

Will you kindly inform me as to whether there is a law or ruling covering the advertising of minimum or cover charges. The question arose when, after being served a round of drinks, our party was informed that there was a minimum-per-person charge. Being that we were told after the drinks were served and said charge was not advertised anywhere on the premises, we objected to paying same.

Will you kindly let me know whether or not we were justified?

Sincerely,
(Miss) _____

July 6, 1939

My dear Miss _____:

There is nothing in the alcoholic beverage law or the State Regulations requiring the advertising of minimum or cover charges.

Neither is there anything authorizing a licensee to exact minimum or cover charges without bringing the matter to the attention of the customer. If what you say is the truth and the whole of it your objection was justified.

Enclosed is copy of Re Shingler, Bulletin 272, Item 1, in which a similar practice against good business ethics was condemned and in which I pointed out that while there is no formal rule there are remedies to effect a cure for such an unfair practice.

If you will give me the name of the licensee who imposed the minimum charge without properly advertising it, I will see that he is warned to discontinue the practice.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

4. NEW LEGISLATION - ALCOHOL - SALES TO CONSUMERS - RETAIL LICENSEES
SHALL NOT SELL OR POSSESS ALCOHOL AND NO PERSON SHALL SELL ALCOHOL
AT RETAIL TO CONSUMERS EXCEPT PURSUANT TO SPECIAL PERMIT ISSUED BY
STATE COMMISSIONER.

Assembly Bill No. 217 was approved by Governor Moore on July 11, 1939 and thereupon became Chapter 173, P. L. 1939.

This supplement is therefore effective immediately. It reads:

"AN ACT concerning alcoholic beverages, and supplementing chapter one of Title 33 of the Revised Statutes.

"BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

"1. No retail licensee shall sell, offer for sale or possess in or upon the licensed premises nor shall any person sell or offer for sale at retail to consumers any alcohol for any purpose, except pursuant to and within the limitations of a special permit issued by the State Commissioner of Alcoholic Beverage Control.

"2. Any person who sells or offers for sale, or any retail licensee who sells, offers for sale or possesses alcohol in violation of this act shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00), or by imprisonment of not less than thirty (30) days and not more than three (3) years, or by both fine and imprisonment in the discretion of the court.

"3. Nothing herein contained shall apply to the sale or possession of alcohol which is not intended for beverage purposes and has been denatured or otherwise rendered unfit in fact for beverage purposes, nor with the possession of alcohol for the actual manufacture of United States Pharmacopoeia and National Formulary preparations and for the compounding of physicians' original prescriptions by pharmacists registered by the Board of Pharmacy of the State of New Jersey under the laws of the State of New Jersey, who are owners or managers of pharmacies registered with the Board of Pharmacy and operated under unlimited permits issued by the Board of Pharmacy of the State of New Jersey.

"4. This act shall take effect July first, one thousand nine hundred and thirty-nine."

D. FREDERICK BURNETT,
Commissioner.

July 12, 1939.

5. ALCOHOL - SALES TO CONSUMERS - SPECIAL PERMITS - TO WHOM
ISSUABLE - OBJECTIVES OF THE NEW LEGISLATION.

July 11, 1939

Dear Sir:

Up until this week we have referred patients of physicians requiring pure grain alcohol for external use to the licensed liquor firm of Frankel & Nelson, 372 Main Street, East Orange. This firm now advises us that they have been informed they can no longer supply this article.

Kindly let us know where we can refer a patient to get pure alcohol when the so-called rubbing alcohol will not answer the purpose.

Yours very truly,
Gillbard's Drug Stores, Inc.,
Henry E. Freytag,
President.

July 12, 1939

Gillbard's Drug Stores, Inc.,
553 Main St.,
East Orange, N. J.

Att: Henry E. Freytag, President.

Gentlemen:

I have yours of the 11th.

Bill 217 has become Chapter 173, P.L. 1939, effective July 11, 1939. Enclosed is copy.

You will note that the statute exempts alcohol unfit in fact for beverage purposes and alcohol used by registered pharmacists in the manufacture of U.S.P. and N.F. preparations and the compounding of physicians' original prescriptions.

You will observe that the licensed liquor firm has been misinformed when it says that it can no longer supply pure grain alcohol. It may providing it applies for and receives a special permit to do so.

The same privilege is likewise open to you as a pharmacist even though you have no liquor license, provided that you too obtain such a special permit.

Forms of application and of such special permits are being devised and will be ready shortly.

The objective of the legislation is to wipe out, as far as possible, illicit activity in the home manufacture and rectification of alcoholic beverages. Interference with the legitimate use of grain alcohol for family and therapeutic purposes will be reduced to the minimum necessary to the exercise of a proper control over a commodity inherently susceptible to misuse.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

6. UNLAWFUL PROPERTY - COMPOUNDS DESIGNED FOR HOME MANUFACTURE OF ALCOHOLIC BEVERAGES - WARNING.

July 11, 1939

Ace High Products Co.,
Brooklyn, N. Y.

Gentlemen:

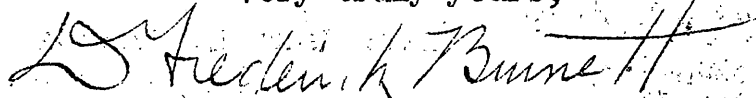
On or about June 8, 1939, a messenger left two full one-ounce bottles, one labeled "Ace High Imitation Rye Extract", the other labeled "Ace High Imitation Anisette Extract", at this Department, with the request that their contents be analyzed. With them was left your card bearing the address used above.

Copy of the analysis is enclosed.*

Your attention is called to, and you are hereby warned of, R. S. 33:1-66 (Control Act, Section 64(d)), which declares certain substances unlawful property and subject to seizure and inflicts heavy penalties.

You are further warned that under State Regulations 20, Rule 18, no licensee may lawfully sell or permit any such extracts as yours upon licensed premises.

Very truly yours,



Commissioner.

*The analysis showed that the rye extract had an alcoholic proof of 60.40; the anisette a proof of 120.80.

Menoth G. Battista, the Department's Graduate Chemist, reported:

"Sample A-6126 is a flavoring extract artificially colored. As is, it is unfit as an alcoholic beverage. It is soluble in alcohol and water, making a palatable alcoholic beverage having the taste and aroma similar to rye whiskey, making it fit for beverage purposes.

"Sample A-6127 is a flavoring extract having anise flavoring. As is, it is unfit as an alcoholic beverage. It is soluble in alcohol and water, making a palatable alcoholic beverage having the flavor, taste and aroma similar to anisette, making it fit for beverage purposes."