

STATE OF NEW JERSEY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street, Newark, N. J.

BULLETIN NUMBER 6.

December 18, 1933

71. The Control Act requires that no license shall be issued to any applicant unless he is in possession of a valid Federal Special Tax Stamp appropriate to his business. A corporate applicant appeared at this office with a Federal Special Tax Stamp and a Federal Rectifier's permit, both issued to an individual trading under a certain trade name. Since the stamp and permit were issued, this individual formed the applicant corporation which now seeks to make avail of the individual stamp and permit.

The Commissioner ruled:

"The question is whether such stamp and permit are sufficient.

"It appears from the photostatic copy that the Federal permit was issued to the individual. Nowhere does it appear that this permit is transferrable, or, if it is, that it has been in fact transferred.

"The affidavit discloses that the applicant has acted in good faith and done everything within its power to obtain a Federal permit but the fact remains that the only permit which has been issued was issued in a different name from that of the applicant.

"Therefore, without questioning the truth of the affidavit or the good faith of the affiant and taking everything strongest for the purpose of this decision in favor of the applicant, it is clear that the applicant is offering at the most merely a good excuse for non-performance as distinguished from showing performance itself of the conditions precedent to the issuance of a license under the Control Act.

"The Commissioner has neither power nor inclination to waive compliance with and full performance of any of the requirements laid down by the Legislature.

"The application will, therefore, be held pending submission of all Federal documents necessary under the Act duly made out in the name of the applicant itself and not in any other name as at present. Reasonable time will be afforded to the applicant to procure and file such supplementary documents."

New Jersey State

December 18, 1933

I am informed by Chief Inspector Myers that his investigators find that certain breweries are operating in this State without obtaining a license; that their applications are on file but have not yet been approved for failure to comply with one or more requirements; that they are assuming because they had an old 3.2 license and because they have taken some steps toward getting a license under the new Control Act that, therefore, they may operate until such time at least as their application is formally rejected.

Public notice is hereby given that such operations must cease at once. Nobody has any right to operate in any branch of the liquor business until his license shall have been actually issued. A violation of this rule will result in immediate seizure and will be cause for rejection of application.

D. FREDERICK BURNETT,
Commissioner.

December 18, 1933

Mr. John J. Meehan of my staff calls my attention to a press item to the effect that he was assigned to represent the appellant before the Appeals Board in the case of a Morris County tavern proprietor whose application was denied by the local authorities.

This is not true. Neither the Commissioner nor any of his staff will represent any appellant as against any municipality before the Appeals Board.

The facts are: John Steinhauser of Boonton wired December 12th that he had been refused a license and asked what remedy he had. This being the first instance of any appeal, I directed Mr. Meehan to write him that he could appeal to the Appeals Board; that Mr. Meehan would help him put the appeal in the form to be prescribed by the Commissioner for submission and transmission to the Appeals Board.

D. FREDERICK BURNETT,
Commissioner.

#4. I understand that several persons in the liquor business in Newark are here asking that I extend or in some way waive or give a dispensation or promise of non-interference if their places of business are kept open beyond the dead line fixed by Director of Public Safety Duffy of Newark.

Director Duffy properly set a dead line and he means what he says. It is my duty to cooperate and not interfere with him.

The applications are denied.

D. FREDERICK BURNETT,
Commissioner.

#5.

December 18, 1933

The Borough of Bernardsville telephones that they have issued so far 19 temporary retail licenses but have since decided that they have issued too many and want to reduce that number and return the fee to certain of the present licensees, and inquire as to whether they have such authority.

While under Section 37, each municipality may limit the number of retail licenses, that authority should be exercised before and not after local conclusion as to the proper number of licenses to be issued in the community. Otherwise licensees may fairly complain that in reliance upon the license they expended monies, incurred commitments, and otherwise changed their position.

Once a license has been issued and acted upon by the licensee, it is too late for the municipality to rescind it in the absence of any fraud or deceit in obtaining it. True, licenses may be suspended or revoked for cause, but there is no cause for revocation where the licensee is not at fault in any way.

When the matter of renewals comes up again on June 30th next, that is a different question. There is nothing to prevent a municipality from passing a resolution limiting the number of licenses provided it has no retrospective operation.

D. FREDERICK BURNETT,
Commissioner.