

STATE OF NEW JERSEY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street,

Newark, N. J.

BULLETIN NUMBER 33.

June 4, 1934

1. RULES GOVERNING PROCEDURE ON ISSUANCE OF MUNICIPAL
RETAIL LICENSES.

- (1) The Issuing Authority of each municipality shall cause license forms to be printed in bound books, similar to a check book or stock certificate book, one book for each type of license. Each license form shall have a stub bound permanently in the book and detachable therefrom via perforation. The stubs of all books shall be printed in the following manner:

License No. _____
Name _____
Licensed Premises _____
Date of Issue _____
Fee Paid _____
Received by _____
Special conditions, if any _____

- (2) No license shall be delivered until actual receipt therefor is signed in the stub of the appropriate license book by the licensee or his agent duly accredited to the reasonable satisfaction of the Issuing Authority.
- (3) The numbers of new licenses need not correspond with the numbers of expiring licenses. They should be numbered consecutively in the order of actual issuance.
- (4) All stubs must be filled out to correspond exactly with the essential facts shown on the face of each particular certificate, including special conditions, if any.
- (5) All stubs must be carefully preserved for subsequent audit by the State Commissioner of Municipal Accounts and not destroyed until his release in writing is first obtained.
- (6) In all licenses the name of the municipality shall be printed thereon according to its exact corporate name, thus: "Township of Livingston". This is true irrespective of whether or not the municipality shall have created a municipal board to issue licenses. The name of the licensee, the description of the licensed premises, the date of the license and the fee paid on application are to be filled in, either by typewriter or ink, upon the license and the stub. The corporate seal of the municipality is to be affixed to each license at the place indicated.
- (7) Each license shall be signed either in the name of the municipality or of the municipal board, whichever is the issuing authority. It shall also bear the actual signature, at the place indicated, of such municipal officer or agent as the governing board or body of the municipality or the municipal board, as the case may be, shall have designated to sign and to deliver such licenses in its behalf. In Cape May and Ocean Counties, licenses shall be signed by the respective Judge of the Court of Common Pleas.

- (8) No license shall be signed, issued or delivered by any person unless and until expressly directed to do so by a special resolution of the Issuing Authority, which resolution shall among other things, (1) specifically name the person, association, firm or corporation adjudged thereby to be entitled to a license, and the kind thereof, (2) fix the location of the licensed premises, and (3) order issuance and delivery of such license by such municipal officer or agent as the Issuing Authority shall, thereby or by some previous resolution, designate to sign and deliver such license in its behalf.
- (9) Each Issuing Authority shall make or cause to be made daily certification, in duplicate, to the State Commissioner of Alcoholic Beverage Control, 744 Broad Street, Newark, of all licenses issued during each preceding business day, which certification shall set forth: (1) Name of Licensee, (2) License number, (3) Kind of License, (4) Date of issue, (5) Fee charged, and (6) Special Conditions, if any.
- (10) Each such daily certification shall be accompanied by a true copy of the special resolution of the Issuing Authority directing the issuance of each such license so certified. Where licenses are issued by the governing board or body of a municipality, the copy of the resolution shall be attested as true by the municipal clerk. Where licenses are issued by a municipal board, such attestation shall be made by the person specially designated for that purpose by resolution of the municipal board.
- (11) In Cape May and Ocean Counties, the duties under these rules of the Issuing Authority shall be performed by the respective Judge of the Court of Common Pleas. Certification under the hand of said Judge, or by his duly authorized agent in that behalf, will suffice.

2. BULLETIN ITEMS - CERTAIN ITEMS SUPERSEDED.

Rules concerning permanent licenses set forth in Bulletin 12, item 6 are superseded by Bulletin 33, item 1, effective immediately

3. REVISED RULES APPLICABLE TO ALL STATE LICENSES EXCEPT TRANSPORTATION AND PUBLIC WAREHOUSE LICENSES FOR ADVERTISING "NOTICE OF INTENTION" TO APPLY FOR A LICENSE.

- (1) Notice of Intention shall be published in the following form:

- NOTICE -

Take notice that _____
(Name in full)

intends to apply to the State Commissioner of Alcoholic Beverage Control for _____ license
(Type of License)

for premises situated at _____
(No. Street City)

and to maintain a warehouse at _____
(No. Street City)

and to maintain a salesroom at _____
(No. Street City)

Objections, if any, should be made immediately in writing

to:

D. Frederick Burnett, Commissioner, 744 Broad St., Newark, N.J.

(Signed) _____
(Name of Applicant)

(Present Residence)

(2) "Type of License" in the above form means the name or kind of license applied for, which must be strictly according to the statutory language. For instance, Plenary, Wholesale, etc.

(3) Where applicant is a corporation, the names and residences of all officers and all directors who have no other named office, and the names and residences of all stockholders holding one (1%) or more per centum of any of the stock of said corporation, must be stated in the advertisement as part of "Name of Applicant".

(4) Where applicant is a partnership, the name of the partnership and the names and residences of all partners must be stated in the advertisement, as part of "Name of Applicant".

(5) The notice of intention, fully filled out as above, shall be published once a week, for two (2) weeks successively, in a newspaper printed in the English language, published and circulated in the municipality in which the licensed premises are located. If, however, there shall be no such newspaper, then such notice shall be published in a newspaper printed in the English language, published and circulated in the county in which the licensed premises are located.

(6) Not later than the first insertion of advertisement the applicant shall in writing request the Commissioner to fix a date for hearing whereupon the Commissioner will fix such date, and the hour, and place, and thereafter if any written objection, duly signed by a bona fide objector to the issuance of such license, is lodged, afford a hearing to all parties and immediately notify the applicant of the date, hour and place thereof. No hearing need be held if no such objection shall be lodged, or if the Commissioner shall, after the requisite statutory investigation, have determined not to issue a license to such applicant.

(7) The date fixed for such hearing shall be not less than two (2) days after the second insertion shall have been published, and should not be more than seven (7) days. For good cause the Commissioner in the exercise of sound and fair discretion may fix a date for hearing later than said seven (7) days or may adjourn the hearing.

(8) The Commissioner will, immediately upon receipt of a written objection, acknowledge it and inform the objector of the date, hour and place fixed for hearing, and invite the objector to be present with his witnesses and counsel.

(9) Proof of publication of Notice of Intention to apply for license shall be substantially in the following form:

STATE OF NEW JERSEY }
 } SS.
COUNTY OF }

_____, of full age, being duly sworn

according to law, on his oath says:

That he is a _____, employed by _____
 _____ (name
 of newspaper), which is a newspaper printed in
 the English language, published and circulated in _____
 _____ (Name of
 municipality or county); that a Notice of Intention, of which
 the annexed notice is a true copy, was published once a week for
 two (2) weeks successively in the said _____;
 _____ (name of newspaper)
 and that the first insertion was on the _____ day of _____
 _____, 1934, making two (2) insertions in all.

Sworn and subscribed to
 before me this _____
 day of _____, 1934.

 (Signature of officer administering oath)

 (Title of such officer)

4. BULLETIN ITEMS - CERTAIN ITEMS SUPERSEDED.

Item 3 supra supersedes previous rules in respect to same
 subject matter as concerns all State licenses.

5. CONTAINERS - SALE OF BEER BY THE BARREL.

The Nassau Beer Garden
 126 Nassau Street,
 Princeton, N. J.

May 23, 1934.

Dear Sir:

While I have not had an occasion to sell beer or ale in quarter
 or half barrels, I should like to enquire if I may do so under
 my license and the present laws. If not, what procedure must
 I take to be able to sell in such quantities if the occasion
 arises?

I am also somewhat in the dark as to whether or not I may de-
 liver goods for consumption off the premises to the consumers
 residence, place of business, etc. Kindly advise what the law
 allows.

Also, are breweries allowed to sell to retail consumers?

Very truly yours,

Thomas R. J. O'Kane

May 25, 1934

Mr. Thos. R. J. O'Kane,
 Princeton, N. J.

Dear Sir:

As the holder of a plenary retail consumption license,

you may sell alcoholic beverages in any quantity that you please, providing that you sell to consumers and unless there is an express regulation against it, for instance, undersized containers. There is no objection to your selling beer or ale in quarter, half or whole barrels.

You may deliver goods sold by you for consumption off the premises to consumer's residence or place of business anywhere in the State of New Jersey.

Breweries are not allowed to sell to consumers.

Very truly yours,

D. Frederick Burnett,
Commissioner.

6. LICENSES - EXPIRATION - RENEWALS.

City of Salem, New Jersey,
May 23rd, 1934.

Dear Mr. Burnett:-

In your bulletin, No. 27, note is taken of what you wrote relative to present licensees making application for renewal of their licenses.

You say that an applicant must go through the same procedure as was required to obtain his present license, and mention advertising, investigation, hearing and all the other requisites.

Are we clerks to take this to mean that the present licensees must file the same form of blank as originally? To one not versed in the law, it would seem needless since the municipality already has on file blanks fully prepared, in most instances by counsel. In Salem City, for instance, the status of the present licensees has not changed, except they are older in years.

Very truly yours,

W. B. Dunn.

May 25, 1934

William B. Dunn, City Recorder,
Salem, N. J.

Dear Mr. Dunn:

The law requires the procedure each year in order that the same care shall be exercised year after year in licensing those only who have proved themselves worthy. Hence the renewed publication with opportunity to object, the investigation down to date and other requisites.

There is additional reason this year because of the many changes made by the recent amendments. These will be incorporated in a new application blank now in process of preparation and which will be promulgated shortly in the Bulletin.

Very truly yours,
D. Frederick Burnett,
Commissioner

7. LICENSES - OTHER MERCANTILE BUSINESS - WHAT CONSTITUTES.

Millville, N.J.,
May 23, 1934

Dear Sir:

I have a plenary retail consumption license and have also been selling gasoline. I understand that after July 1st it is no longer lawful to sell gasoline or have any other mercantile business on the licensed premises.

I shall discontinue the sale of gasoline, but would like to be advised if I can retain a gasoline pump on the premises for my own use, providing I don't sell. I have several cars in business.

R. P. Stanley.

May 25, 1934.

Mr. R. P. Stanley,
Millville, N. J.

Dear Sir:

You are correctly advised that after July 1st it will no longer be lawful for you as a retail consumption licensee to sell gasoline on the licensed premises. Sec. 13, as amended, expressly provides that such license "shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business (except the keeping of a hotel or restaurant, or the sale of cigars and cigarettes at retail as an accommodation to patrons, or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages) is carried on."

To sell gasoline is to carry on a mercantile business. It must therefore be discontinued.

But there is nothing to prevent retention of a gasoline pump on the premises providing that it is maintained exclusively for your personal use and that no sales of gasoline whatsoever are made.

D. Frederick Burnett
Commissioner

8. LICENSEES - VEHICLES - LEASED VEHICLES.

May 24, 1934

Frederic M. P. Pearse, Esq.
744 Broad Street,
Newark, N. J.

Dear Sir:

Acknowledgment is hereby made of your letter inquiring whether a licensee may deliver alcoholic beverages in vehicles which are owned by him outright or under conditional sale, or possessed under lease.

Section 25 of the Control Act provides that a licensee may deliver alcoholic beverages in his "own vehicles" for his own business in connection with his license without possessing a transportation license. A vehicle purchased by a licensee outright or under conditional sale is clearly his own vehicle. Whether a vehicle possessed by a licensee under lease is his own vehicle, is more troublesome.

The adjudicated cases which discuss the meaning of the word "own" are not dispositive. Each decision has been placed upon the manifested intent of the particular statute involved.

Where a vehicle is in the possession and under the exclusive control of a licensee under a lease for a substantial period of time, it may properly be considered as his own within the contemplation of Section 25. Within the foregoing limitation would fall the currently popular Operating and Maintenance Contract, under which trucks are leased to licensed breweries for a stated period, generally three years, at a rental which includes a service charge and a mileage charge. The trucks are driven by brewery employees acting under exclusive instructions from the brewery. Under such an arrangement the lessor is not to be considered as a transporter within the Control Act, and the brewery need not be the holder of a transportation license.

Where, however, the arrangement contemplates that employees of the lessor shall operate the trucks pursuant to directions from their employer, the lessor is, in substance, engaged in the transportation of alcoholic beverages and must be the holder of a transportation license. Here the lessee may not invoke Section 25, for the vehicle can in no proper sense be said to be his "own".

Situations involving facts variant from those discussed above, should await determination when they arise.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

By:
Nathan L. Jacobs,
Counsel-in-Chief

9. LICENSES - REFUSAL OF MUNICIPAL AUTHORITIES TO ISSUE - APPEALS

May 25, 1934

Dear Sir:

I have yours of the 24th in which you ask for a personal interview to explain the reasons which you allege are back of the refusal of the municipal authorities to issue a license to you.

Such personal interview would avail nothing because I cannot fairly consider the merits of any situation without giving both sides opportunity at the same time to present their opposing views.

The proper procedure for you is to make your application to the local authorities and if refused, to appeal. That

will afford you full opportunity to present your claim in open court. If it appears after full hearing that error has been committed or injustice done, appropriate action will then be taken.

Very truly yours,

D. Frederick Burnett,
Commissioner.

10. PUBLIC BUILDINGS - NECESSITY FOR LOCAL LICENSE AS WELL AS SPECIAL PERMIT.

May 27, 1934

Mr. William L. Hoffman,
State House,
Trenton, N. J.

My dear Mr. Hoffman:

I have yours of the 22nd applying for permission from me to sell bottled beer with the lunches you serve in the State House at Trenton.

Your application amounts to an application for a consumption license and should, therefore, be addressed to the Trenton Municipal Board of Alcoholic Beverage Control. I know that you realize this because you say that the prospective trade would, in general, be limited to State officials and employees, and would not be sufficiently extensive to afford a municipal license, and so you applied to me basing your application upon Sec. 39 of Chap. 436, P.L.1933.

That section prohibits all sales of alcoholic beverages made in any public building belonging to or under control of the State or any political sub-division thereof except as to the National Guard and except as permitted by the Commissioner. It confers no power upon the Commissioner, as distinguished from the local licensing authorities, to issue a consumption license to you. All it does is to delegate discretion to the Commissioner to permit such sales in State or municipal buildings, by a person otherwise duly licensed.

Properly construed, its operation would be illustrated in your own case, viz.: If you applied to the Trenton Board for a consumption license, they could not issue it to you because of Sec. 39 except the permission of the Commissioner was also obtained.

If you will make your application to the Trenton Board and they are willing to grant it, subject to such permission, I will then be glad to investigate the facts and determine whether and to what extent, if any, the discretion should be exercised.

Very truly yours,

D. Frederick Burnett,
Commissioner

11. SIXTH CLASS COUNTIES - POWER OF MUNICIPAL GOVERNING BODIES TO FIX LICENSE FEES HAS BEEN ABROGATED.

Brick Township, Laurelton, New Jersey,
May 22nd, 1934

Dear Sir:

Since the change in the law, authorizing Judge

Conover to issue all licenses for Alcoholic Beverages in Ocean County, may I ask whether or not has he the power to fix the license fee, or does the governing body the Township Committee of this Township still have the say as to what the fee shall be?

The reason I ask you this question is that our Township Committee made the fee \$400.00 per year, and they now realize that it is too high, and would like to change it to the minimum \$200.00 if they have the right.

W. E. Haines, (Clerk)

May 26, 1934

W. E. Haines, Clerk,
Brick Township,
Laurelton, N. J.

Dear Mr. Haines:

Section 18 provides that it shall be the duty of the governing board or body of each municipality, except in such municipalities as shall have created municipal boards, to administer the issuance, within their respective municipalities, of all licenses other than those issued by the State Commissioner. It further provides that the issuing authorities constituted by this Section are sometimes referred to in the Act as "other issuing authorities".

Section 13 provides that the fees for licenses issued by the municipality shall be fixed by the governing board or body of the municipality in which the licensed premises are situated.

Section 6, which applies only to counties of the sixth class, provides that all powers conferred upon issuing officials in and for each municipality shall reside in and be performed by the Judge of the Court of Common Pleas of such County.

Since the governing body of your Township was an issuing authority previous to the amendment of Section 6, I must hold that the power to fix the license fee for your municipality has been transferred and now resides in the Judge of the Court of Common Pleas of Ocean County.

Very truly yours,

D. Frederick Burnett,
Commissioner

12.

LICENSES - BOATS - WHEN NECESSARY

May 31, 1934

Mr. George-Fitzsimmons,
Box 353,
Highlands, N. J.

Dear Sir:

I have your letter inquiring whether any license is

necessary to sell beer from a small motor launch on navigable waters; also does a deep sea fishing boat need a license to sell beer.

The answer is yes in both cases. All boats selling alcoholic beverages and which dock in New Jersey must have a retail transit license. This is true both on the Atlantic seaboard and the Hudson and Delaware rivers so far as the boundaries are concerned, and it is therefore true as to all boats which ply the inland waters of this State.

Thus, because your boat docks in New Jersey, it will have to have a license if you purpose to sell alcoholic beverages. So excursion boats plying the Hudson River and making stops in New Jersey must have a license.

Very truly yours,

D. Frederick Burnett,
Commissioner

13. CLUB LICENSES - GUESTS - BONA FIDE

May 31, 1934

Mr. John William Pugh,
Great Notch, N. J.

Dear Sir:

Herewith Rules and Regulations Governing Club licenses. You will see therefrom that the Post cannot sell alcoholic beverages under a club license to the public generally. If this is what is desired, a plenary retail consumption license must be taken out. Subterfuges will not be tolerated. A person who attends an affair which is open to the public generally is not to be classified as a bona fide guest.

Very truly yours,

D. Frederick Burnett,
Commissioner

New Jersey State Library

June 1, 1934

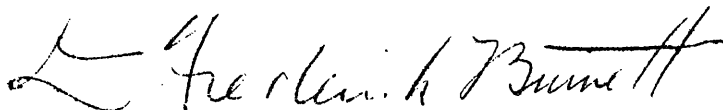
14. RULES CONCERNING MISLEADING TRADE NAMES.

Certain licensees have adopted coined names conveying implication of official connection or sponsorship such as "New Jersey Alcoholic Beverage Co."; "State Liquor Store", etc. Such names are misleading and improperly convey to the general public the impression that these licensees are being operated by the State of New Jersey or are, in some special way, officially connected with the State.

Other licensees have adopted names which are misleading with respect to the type of business conducted by the licensee. For example: --- Distillers, Inc. do not distill any products; The --- Brewing Company does no brewing whatsoever.

The following rules are, therefore, promulgated effective June 30, 1934:

1. No licensee of any class shall use any corporate name, trade name, or other name, sign or symbol, which is calculated to or may convey the false impression that the licensee is owned or operated by or enjoys some special official sanction from the United States Government, the State of New Jersey or any municipality thereof.
2. No licensee of any class shall use any corporate name, trade name, or other name, sign or symbol, which is calculated to or may mislead the general public to believe the licensee is conducting any operations or business pertaining to Alcoholic Beverages other than the operations or business actually being conducted by the licensee.
3. Violation of the provisions of either of the preceding paragraphs shall be cause for revocation.



Commissioner