

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
744 Broad Street, Newark, N. J.
BULLETIN NUMBER 3

December 6, 1933.

SUBJECT:

SUGGESTIONS and INSTRUCTIONS to Municipal License Issuing Authorities:

1. May a Municipality issue a two month temporary license? Ans.: No. Must it issue a full license expiring midnight June 30, 1934?
Ans.: Yes.

You must receive with application the full pro rated annual license fee. Such fee pays in full permanent as well as temporary license fee. Be sure to pro rate on a per diem basis. Do not use rough fractions. Bulletin #2 Item 5 gives you exact instructions on how to pro rate.

2. Even though you receive the full license fee for the seven month period, your Municipality has the right to suspend or revoke licenses at any time during that period. The Commissioner will advise you later as to the amount to be returned on revocation.

3. If retail stores located outside of New Jersey are delivering retail orders to customers in New Jersey, for example, Gimbel Bros. in New York delivering purchases to a customer in Newark, are they required to have a New Jersey transportation license? Yes. Require your municipal Police to enforce this.

4. Require the Police of your Municipality to stop transportation of alcoholic beverages by anyone who does not have a transportation license or a N. J. distillers, brewers, rectifiers, wholesalers and retailers license (who have the right to transport under their license in their own trucks alcoholic beverages). Trucking companies and all others who do not hold one of the above licenses must have a New Jersey transportation license.

5. Your application blanks, question 15, require that photostatic copy of applicant's Federal Special Tax Stamp be submitted with application. Someone has circulated false impression that this is illegal because photographing or copying Government Excise Stamps is counterfeiting. This is not accurate. The U. S. Department of Internal Revenue in Washington in a ruling to Commissioner Burnett, says that photostatic copies of Special Tax Stamps can be made as they are not excise stamps but are a license to sell. Washington is so certifying to the Commissioner.

6. Under Bulletin #2, Item 15 the regulation requiring photostating is waived temporarily in the issuance of temporary licenses.

7. Re Section 76 of the statute: The Commissioner cannot waive this requirement but he may interpret it. Where licensed premises are within 200 feet of a church or public school, in addition to those specific exemptions embodied in the statute, such as hotels, clubs, etc., he rules that this section was intended

for the benefit of the church or public schoolhouse, and therefore if all church or churches which are within the 200 ft. limit consent to the operation of the licensed premises by signing a proper and duly authenticated consent and filing same with the issuing authority, the license may be issued. So with a public schoolhouse providing the proper body having it in their power to file such consent, do so, of course, in each instance before license is issued. The consent must be authenticated by an affidavit which shall show (1) that the person or persons signing the consent on behalf of the church or public schoolhouse are duly and fully authorized to execute and deliver such consent; (2) that no other consent is needed by any other person or group of persons, or board or body whatsoever. The consent must show on its face that the person or persons signing the consent are familiar with section 76 of the Act concerning alcoholic beverages and that, notwithstanding the protection afforded to churches and public schoolhouses, the requirement of the statute is waived and that he or they consent to the application for license, naming such applicant. The consent must incorporate by reference the specific application both as to date and as to kind. A copy of a consent which was today approved by Commissioner Burnett will be sent you by next bulletin.

8. As to the manner of measuring the 200 ft.: 200 ft. does not necessarily mean an air line from the nearest point of one building or plot of ground to the nearest point of another. The spirit of the law and not the letter is to govern. Hence we will not take the nearest point of the building or the nearest point of the ground on which the licensed premises are situated but we will take the entrance of the licensed premises, for one point, for that is substantially what the law had in mind. Since we are dealing with ordinary human problems as distinguished from geometrical designs, we are going to work it out in the ordinary way that any good citizen himself would do if he were walking from the schoolhouse or church to the licensed premises. Therefore, for the other point, we will start from the entrance of the school or church which is nearest to the entrance to the licensed premises and ascertain the shortest way an ordinary reasonable person would walk on the street from the school or church to the licensed premises. Such person would not be a jay walker and cross streets on the diagonal but rather at right angles. If the distance he would walk when thus measured is more than 200 ft. I shall rule that it does not come within the prohibition of Section 76.

As regards both schoolhouses and church properties, the illustration I have given above refers to the entrance of the school or church on the one side and the entrance to the tavern on the other. So far as the tavern is concerned, that is right. But especially in the case of a school, if we regard the tavern as the terminus of the 200 ft. walk and the school as the beginning, the beginning point will be the nearest point of the schoolhouse grounds, if those schoolhouse grounds are used as a playground or otherwise devoted to the actual use of the children.

In all cases where there is any question about the 200 ft. requirement, the applicant shall be required to submit a map or sketch showing exact measurements of every salient detail.

The above are merely illustrations and are not intended to constitute final formulation of a rule but rather to serve for your guidance in presently determining the application of the statutory prohibition. If in any doubt, submit your questions in writing to the Commissioner and he will try to give you a definite answer at earliest moment provided full, accurate and complete detail is submitted.

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A parochial or private school does not come within the prohibition of section 76 which mentions only a public school.

9. You will note that section 26 prohibits the sale of alcoholic beverages for beverage purposes in drug stores. This means that a drug store may no longer sell bottles of whiskey on "prescription" as formerly. They may purchase and use alcoholic beverages only for the compounding of physicians prescriptions and for the preparation of mixtures and medicines, unfit for use as beverages. Sale by a drug store in any other manner requires a retail license. Prescriptions which are not bona fide but fraudulent or mere subterfuges or shams will in due course be investigated and appropriate action taken as in case of any other violation.
10. Some retail licensees are under the false impression that they must make a bond to the State. This is not so.

D. FREDERICK BURNETT
COMMISSIONER