

Commissioner Burnett
Sent to Regular Mailing List
With Rules and Regulations Pamphlet

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

BULLETIN NUMBER 111

March 24, 1936

NOTICE OF ISSUANCE OF PRINTED PAMPHLET
AND PROMULGATION OF RULES AND REGULATIONS
THEREIN CONTAINED.

The Commissioner announces the issuance of a printed pamphlet dated "March, 1936" containing the formal rules and regulations of the Department and instructions to licensees and applicants. All licensees and municipal clerks will receive the pamphlet without special request therefor. All other persons may obtain the pamphlet upon written request to the Department.

The formal rules and regulations therein contained are hereby promulgated, effective immediately. All previous rules and regulations, in so far as they are inconsistent or at variance with the rules and regulations contained in the printed pamphlet, are superseded. The substantive changes in the rules and the new rules promulgated are hereinafter set forth. There have been numerous modifications in form but they will not be enumerated here since they do not affect the substance of the rules.

I. Rule #3 of the Rules Governing Transfers of Licenses (Bulletin #87; Item #6) has been amended to require that applications for transfer be accompanied by a certificate from the State Tax Commissioner certifying that the transferor is not delinquent in the payment of taxes or filing of tax reports, and reads as follows:

3. Applications for transfers of licenses to other persons, or other persons and other premises, signed and sworn to by the person to whom the transfer is sought, and bearing the consent in writing to such transfer by the licensee, must be filed with the Commissioner or other issuing authority as the case may be, at or before the first insertion of the advertisement. Such applications must be accompanied by a certificate from the State Tax Commissioner (dated not more than five days prior to the date on which the application is filed) certifying that the transferring licensee is not delinquent in the payment of any tax or in the filing of any report required by the provisions of the Alcoholic Beverage Tax Act.

II. The Rules and Regulations Governing the Issuance and Use of Transportation Permits (Bulletin #36, Item #1) have been revised to read as follows:

RULES GOVERNING THE ISSUANCE OF
TRANSPORTATION INSIGNIA

1. Application for transportation insignia shall be filed directly with the State Commissioner upon a prescribed form.

2. Every licensee, except public warehouse and warehouse receipts licensees, shall be entitled to one such insignia free of charge. The charge for each additional

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insignia is \$2.00. Applications must be accompanied by the full amount of the required fee in cash, money order or certified check drawn to the order of D. FREDERICK BURNETT, Commissioner.

3. No insignia shall be issued until after the license has been issued, and in the case of a municipal retail licensee, until the issuance of the license shall have been certified to the State Commissioner by the municipal issuing authority.

4. Transportation insignia shall be issued only for commercial vehicles which, in the case of motor driven vehicles must be registered as such.

5. Transportation insignia shall be issued only for vehicles owned or leased and controlled by the licensee. Applications for transportation insignia for leased vehicles must be accompanied by a copy of the lease.

6. Transportation insignia must be affixed on the inside lower right-hand corner of the windshield of motor vehicles and on the body of all other vehicles.

7. Transportation insignia are not transferable and may be used only on the vehicle for which issued.

8. If any transportation insignia becomes marred defaced or damaged, it must be replaced at once.

9. No licensee shall sell or otherwise dispose of any vehicle to which is affixed a transportation insignia without first having removed said insignia and having notified this Department of such removal.

10. No licensee shall allow, permit or suffer any vehicle bearing a transportation insignia to be used for the transportation of any alcoholic beverages except solely for the licensee's own business in connection with and as defined in his license.

11. All transportation insignia expire on the 30th day of June following their issuance unless previously terminated by order of the Commissioner or by surrender, revocation or expiration of the license. Renewals must be applied for in the same manner as new insignia.

III. Rule #4 of the Rules Governing the Transportation of Alcoholic Beverages into New Jersey (Bulletin #39, Item #1) has been amended to reduce the amount of alcoholic beverages which may be imported for personal consumption in accordance with section 2 of the Control Act, and reads as follows:

4. Alcoholic beverages intended for personal consumption and not for sale may be brought into this State by any person to the following extent, viz.: Not exceeding 1/4 barrel (or one case containing not in excess of 12 quarts in all) of beer, ale or porter and one gallon of wine, and two quarts of other alcoholic beverages within any consecutive period of 24 hours.

IV. The Supplemental rule governing transportation of alcoholic beverages, which appeared in Bulletin #40, Item #2, has been amended to require a special permit in cases of transportation by unlicensed vehicles from licensed premises of a manufacturer or export wholesaler to a point outside this State. Such permit will also authorize transportation from a licensed public warehouse to a point outside this State. The supplemental transportation rules now read as follows:

SUPPLEMENTAL RULES GOVERNING TRANSPORTATION
OF ALCOHOLIC BEVERAGES.

1. Alcoholic beverages sold without this State, pursuant to the laws of the place of sale, by the holder of a New Jersey manufacturer's or export wholesaler's license and not intended for delivery, use or sale in New Jersey, may be transported from the licensed premises, warehouse, salesroom or office of such manufacturer or export wholesaler in New Jersey or from a licensed public warehouse, to a point outside this State in any vehicle, provided that such vehicle carries a special permit issued by the Commissioner, together with a waybill or similar document stating the names and addresses of the consignor and consignee, the nature and quantity of the alcoholic beverages being transported, the place at which they were received and the place of their destination.

2. Alcoholic beverages not intended for delivery, sale or use in New Jersey may be transported between points outside this State and piers of import located within this State in any vehicle, provided such vehicle carries a special permit issued by the Commissioner, together with a waybill, consular invoice, or similar document stating the names and addresses of the consignor and consignee, the nature and quantity of the alcoholic beverages being transported, the place at which they were received and the place of their destination.

V. Rule #4 of the Rules Governing Transportation by Railroad Carriers (See Bulletin #96, Item #2) has been amended to permit deliveries of alcoholic beverages to a licensed public warehouse for ultimate delivery outside the State or within the State to licensed manufacturers and wholesalers, and reads as follows:

4. Railroad carriers holding transportation licenses may transport alcoholic beverages from a point outside this State to a point within this State in the following cases, but not otherwise:

(a) Where the consignor or consignee of the alcoholic beverages is the holder of a New Jersey manufacturer's or wholesaler's license or a special permit issued by the Commissioner; or

(b) Where the alcoholic beverages are delivered to a licensed public warehouse for ultimate delivery without this State or within this State to licensed manufacturers and wholesalers; or

(c) Where the carrier has mailed to the Commissioner from a point not in excess of two hundred and fifty (250) miles from Newark, New Jersey, at least

forty-eight (48) hours prior to the delivery of the alcoholic beverages, a statement of the shipment, including the names and addresses of the consignor and consignee and the nature and quantity of the alcoholic beverages being transported, the shipment may be completed unless otherwise specifically directed by the Department; provided, however, that in lieu of such statement the carrier may furnish the aforesaid information by telephone or telegraph at least twelve (12) hours prior to the completion of the shipment.

VI. The rules relating to the conduct of licensees (See Bulletin #48, Items #1 and #12, and Bulletin #75, Item #1) and related rules (see Bulletin #26, Item #2; Bulletin #36, Item #5; Bulletin #47, Item #14; Bulletin #51, Item #8; and Bulletin #55, Item #13) have been compiled and read as follows:

RULES CONCERNING CONDUCT OF LICENSEES
AND USE OF LICENSED PREMISES

1. No licensee shall sell, serve, deliver or allow, permit or suffer the service or delivery of any alcoholic beverage, directly or indirectly, to any person under the age of twenty-one (21) years or to any person actually or apparently intoxicated, or allow, permit or suffer the consumption of alcoholic beverages by any such person upon the licensed premises.
2. No licensee shall sell or offer for sale at retail or deliver to any consumer, any alcoholic beverages in any municipality in which a general, municipal, primary or special election is being held, while the polls are open for voting at such election.
3. No licensee shall directly or indirectly solicit from house to house, personally or by telephone, the purchase of alcoholic beverages, nor allow, permit or suffer such solicitation.
4. No licensee shall allow, permit or suffer in or upon the licensed premises any known criminals, gangsters, racketeers, pick-pockets, swindlers, confidence men, prostitutes, female impersonators, or other persons of ill-repute.
5. No licensee shall allow, permit or suffer in or upon the licensed premises any disturbances, lewdness, immoral activities, brawls, or unnecessary noises, or allow, permit or suffer the licensed place of business to be conducted in such manner as to become a nuisance.
6. No licensee shall allow, suffer or permit any lottery to be conducted, or any ticket or participation right in any lottery to be sold or offered for sale, on or about the licensed premises.

7. No licensee shall engage in or allow, permit or suffer any pool-selling, book-making or any playing for money at faro, roulette, rouge et noir or any unlawful game or gambling of any kind, or any device or apparatus designed for any such purpose, on or about the licensed premises.

8. No licensee shall possess, allow, permit or suffer on or about the licensed premises any slot machine or device in the nature of a slot machine which may be used for the purpose of playing for money or other valuable thing.

9. No licensee, except bona fide pharmacies to the extent that they may be duly authorized by law to handle such merchandise, shall allow, permit or suffer the sale or distribution of any contraceptive or contraceptive device, either chemical or mechanical, or possess, allow, permit or suffer any mechanical device designed or used for such sale or distribution upon or about the licensed premises.

10. No licensee shall manufacture, transport, possess, sell, barter, give away, offer for sale or furnish any alcoholic beverage adulterated with methanol, alkaloids, acetone, phenols, formaldehyde, isopropyl alcohol or other poisonous substance whatsoever.

11. No licensee shall manufacture, sell, offer for sale, possess, allow, permit or suffer on or about the licensed premises any candy containing rum, cognac, brandy, cordial or other alcoholic beverage, generally known as liquored candy.

12. No licensee shall deliver within this State to any person not holding a license under the Control Act alcoholic beverages intended by such person for delivery, by gift or otherwise, to customers or prospective customers in the course of his business.

13. No licensee shall receive, possess or sell any alcoholic beverages transported into this State in violation of the Rules Governing The Transportation of Alcoholic Beverages Into New Jersey.

14. No retail distribution licensee shall permit any alcoholic beverages sold by him to be consumed on the licensed premises, nor shall he permit their containers to be opened on the licensed premises.

VII. The Rules Concerning the Size of Containers (see Bulletin #36, Item #5; Bulletin #55, Item #11; and Bulletin #97, Item #1) have been revised and read as follows:

RULES CONCERNING SIZE OF CONTAINERS OF
ALCOHOLIC BEVERAGES.

1. No sale of any alcoholic beverage for consumption off the licensed premises may be made by any retail licensee unless the bottle, receptacle or container shall contain one full pint of sixteen (16) fluid ounces, except:

- a. Beer and malt beverages, as to which no minimum standard of fill is prescribed;
- b. Distilled spirits, as to which the minimum standard of fill shall be one-tenth gallon (sometimes known as a "half-fifth," or 4/5 pint);
"Distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, gin and other distilled spirits for beverage use, including all dilutions and mixtures thereof; but not including cordials, liqueurs, cocktails, gin fizzes and such similar alcoholic beverages as may be specified by this Department from time to time;
"Beverage use" means beverage, medicinal, culinary, or any other use except for industrial purposes;
- c. Brandy and Holland gin, as to which the minimum standard of fill shall be three-fourths pint;
- d. Cordials, liqueurs, cocktails, gin fizzes, champagnes, and bottled highballs, as to which the minimum standard of fill shall be one-half pint of eight (8) fluid ounces.
- e. Wines, as to which the minimum standard of fill shall be six (6) fluid ounces.

2. No retail distribution licensee may purchase or permit delivery to him of any alcoholic beverages in containers which do not meet the foregoing minimum standards of fill.

3. No retail licensee shall purchase, possess or sell within this State any whiskey or other distilled spirits, as defined in Rule #1 hereof, in containers of less than one-tenth (1/10) gallon (sometimes known as a half-fifth or four-fifth pint); except, however, that retail licensees authorized to sell alcoholic beverages for consumption on the licensed premises may purchase, possess and sell such alcoholic beverages in containers of not more than two (2) ounces for consumption on the licensed premises, providing that said beverages are not consumed elsewhere.

4. No licensed manufacturer or wholesaler shall sell or deliver to any retail distribution licensee any alcoholic beverage in containers which do not meet the foregoing minimum standards of fill; nor shall any licensed manufacturer or wholesaler deliver to any retail licensee any whiskey or distilled spirits in containers of more than two (2) ounces and less than one-tenth (1/10) gallon (sometimes known as half-fifth or four-fifth pint).

VIII. The Rules Governing Seizure Hearings and the Rules Governing Sales of Seized Property have not heretofore appeared in the Bulletins. They read as follows:

RULES GOVERNING SEIZURE HEARINGS

1. All hearings to determine whether seized property constitutes unlawful property and shall be forfeited, shall be held at the offices of the Department of Alcoholic Beverage Control, and shall be open to the public. All applications for the return of seized property on the ground that it does not constitute unlawful property shall be made at the hearing. Where irreparable injury would result from awaiting the date set for hearing, such application may be made prior to the hearing, by verified petition, setting forth in detail the facts relied upon.

2. Within thirty (30) days from the date of seizure, but not thereafter, application for the return of property seized under section 64 may be made to the Commissioner upon payment in cash under protest, of the retail value of the seized property, or the delivery of a proper bond.

3. The forfeiture of seized property after hearing terminates all property interests therein and any proceeds therefrom, including the interests of the owner, any conditional vendor, chattel mortgagee or other lienor and all other persons. Applications addressed to the discretion of the Commissioner for the return of unlawful property or recognition of outstanding interests therein may be made as follows:

(a) At or prior to the hearing, but not thereafter, application may be made for the return of seized property by verified petition setting forth facts establishing that the claimant has acted in good faith and has unknowingly violated the Act. Where the Commissioner is satisfied that the claimant has acted in good faith and has unknowingly violated the Act, he may order the return of the property upon payment of reasonable costs incurred.

(b) At or prior to the hearing, but not thereafter, application may be made by any person having a bona fide lien upon or interest in the seized property for the recognition of the validity and priority of such lien or interest by verified petition setting forth facts establishing that the applicant has acted in good faith and had no knowledge of the unlawful use to which the property was put or of such facts as would have led a person of ordinary prudence to discover such use. Where the validity and priority of such lien or interest have been recognized and the claimant's good faith and lack of knowledge of the unlawful use or of such facts as would have led a person of ordinary prudence to discover such use have been established to the satisfaction of the Commissioner, he may order the return of the property upon payment of reasonable costs or the sale thereof and the payment of the lien or interest out of the proceeds of sale.

4. Determination by the Commissioner shall be in the form of written order, setting forth the conclusions and reasons therefor. No order directing the sale, destruction

or retention of seized property shall be executed until ten (10) days after its date in order to afford interested parties an opportunity to apply for judicial review.

RULES GOVERNING SALES OF SEIZED
PROPERTY

1. Notice of sale, of not less than two (2) days nor more than ten (10) days, of seized property shall be inserted in at least one newspaper published in the State of New Jersey. Such notice shall state that inspection of the property to be sold will be permitted upon application therefor to the Department.

2. The property to be sold shall be subject to inspection between the hours of 9:00 A. M. and 5:00 P. M. during the two days preceding the sale.

3. All sales may be adjourned from time to time with respect to all of the property to be sold or any part thereof. No advertisement of the adjourned date shall be necessary but such adjourned date shall be announced at the sale. Adjourned sales shall be subject to all rules and regulations herein contained.

4. All property to be sold, except motor vehicles, shall be first offered for sale in individual items or lots and thereafter offered for sale in bulk. Each motor vehicle shall be sold separately.

5. The Department reserves the right to reject each and every bid, in whole or in part and all sales shall be subject to such reserved right.

6. Written bids accompanied by a deposit of 25% either in cash or certified check will be received by the Department at any time within two (2) days prior to the date of sale and will be announced and considered as having been made at the sale. Each successful bidder must accompany his bid by 25% of the amount thereof in cash or certified check or both. Any deposits made by unsuccessful bidders shall be returned. Any bidder who has previously been a purchaser at a sale held by this Department and who has failed to consummate such purchase, resulting in an order of resale being made of the goods so purchased, shall be required to pay in cash or certified check the full amount of his bid.

7. All successful bids shall be submitted to the Commissioner and all bids and sales shall be subject to confirmation by the Commissioner. No sale shall be confirmed unless satisfactory evidence is furnished that the property will be used for lawful purposes. The Commissioner may in his absolute discretion withhold confirmation and such decision shall be final.

8. Within five (5) days after confirmation of any sale, the purchaser shall present tax waivers or satisfactory evidence that State and Federal Taxes have been paid on any alcoholic beverages purchased and in the event that the property purchased consists of a still or distilling apparatus shall register same with the Department of Alcoholic Beverage Control.

9. Within five (5) days after confirmation of any sale, the purchaser shall pay the balance of the amount bid and in the event that any such purchaser fails to complete his bid and purchase in every detail within the aforesaid time he shall forfeit the amount deposited on account of said bid or purchase. The property shall thereafter be resold and the defaulting bidder shall be liable for the amount of his bid less the amount of his deposit and the amount realized on the resale of such property.

10. In cases of property other than motor vehicles, after confirmation of sale and upon compliance with the provisions of Paragraph 8, and upon payment of the balance of the amount of his bid, the purchaser shall be entitled to a bill of sale which shall include the name and address of the purchaser, and shall transfer all the right, title and interest to said property as the Commissioner is empowered to transfer under and by virtue of "An Act Concerning Alcoholic Beverages" (P. L. 1933, c. 436, as amended and supplemented) and shall take possession of the property forthwith. In cases of sales of motor vehicles, after confirmation of sale and upon payment of the balance of the amount of his bid, the purchaser shall be entitled to a bill of sale, accompanied by an affidavit of a duly authorized agent of the Department of Alcoholic Beverage Control, stating the time and place of seizure, the determination by the Commissioner that said motor vehicle constitutes unlawful property, the sale thereof to the purchaser named in the bill of sale and the confirmation of said sale by the Commissioner, which said bill of sale shall transfer all the right, title and interest to said motor vehicle as the Commissioner is empowered to transfer under and by virtue of "An Act Concerning Alcoholic Beverages", (P. L. 1933, c. 436, as amended and supplemented). The said purchaser shall, after presentation to this Department of a motor vehicle registration card for said motor vehicle, be entitled to said motor vehicle. In the event the purchaser fails within five (5) days after delivery of a bill of sale to take possession of the property, a notice may be mailed to the purchaser at the address set forth in the bill of sale stating that unless possession is properly taken within five (5) days from the date of the notice, the amount paid by the purchaser and the property shall be forfeited to the State and such property shall be resold for the benefit of the State. The Commissioner may, however, in his discretion permit the purchaser to take possession of and retain the property after the expiration of the five (5) day period referred to in the notice.

11. In the event that any sale is not confirmed, the amount deposited shall be returned to the successful bidder and the property shall be resold subject to rules and regulations governing the sales of seized property.

12. All copper parts of distilling apparatus sold shall be rendered unfit for further use as such before delivery to the purchaser, provided, however, that upon good cause shown, and upon application therefor, the Commissioner may, in his absolute discretion, order the delivery of such copper parts intact where it appears that said property will be used for lawful purposes and state and federal regulations covering the same have been complied with.

A handwritten signature in cursive script, appearing to read "The Clerk / Burnett".

Commissioner