

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

BULLETIN NUMBER 50

October 29, 1964

1. LICENSEES - PHYSICAL INCAPACITY; TURPITUDE - PARDON; SALES TO MINORS; LICENSED PREMISES - WHAT CONSTITUTES; MISCELLANEOUS QUESTIONS ANSWERED

D. Frederick Burnett, Commissioner.

Dear Sir:-

There are a number of questions that come up now and then over which there is a difference of opinion on the part of the police and the members of the Board of Alcoholic Beverage Control on which we would appreciate a ruling from you.

(1) We have two licensees who are physically incapacitated to operate their business. There is no member of their family competent to take over the business and the returns are not sufficient to justify the appointment of someone to manage it. They desire to know if there is some special permit that they could secure from the State Commissioner whereby they would be allowed to dispose of their business with as little loss as possible.

(2) Will a pardon operate in favor of an applicant for alcoholic beverage license who has been convicted and served time for a crime involving moral turpitude?

(3) Are retail alcoholic beverage distributors permitted to sell chilled or iced bottled beer for consumption off the premises?

(4) Can a retail consumption licensee sell alcoholic beverages to a parent or other adult relative for children or minors to consume on the premises?

(5) Can a retail consumption licensee sell alcoholic beverages to a married woman under twenty-one years of age even if she is accompanied by her husband? Would the husband, under the circumstances, be required to make the purchase?

(6) Is it permissible for a retail consumption licensee whose place of business is located on one-half of a double lot to serve alcoholic beverages by the glass for consumption on the adjoining vacant lot under the designation of a beer garden?

(7) Can a retail consumption licensee extend his business by taking in any part of an adjoining building or grounds in the rear of an adjoining building for the purpose of serving food and alcoholic drinks without taking out an additional license?

(8) Can a retail consumption licensee sell alcoholic beverages by the glass to be consumed off the premises by occupants of an automobile parked nearby or allow some purchaser to take it out to serve them?

New Jersey State Library

(9) Several restaurant proprietors who have an alcoholic beverage license are making a practice of serving wedding dinners on Sundays at which alcoholic beverages, claimed to be purchased and brought to the wedding dinner by the guests, is consumed during the wedding festivities. Have they a right to do this?

(10) There are a number of retail consumption licensees in this City who devote little or no time to personally conducting their business, leaving it to the care of either a manager or bartender while the licensee devotes his time to some other business or vocation, which seems to indicate that the applicant is not the real owner of the place. Could you advise us what to do in such cases?

(11) Are minors allowed to dance in saloons or rooms adjoining saloons even though they are not served alcoholic beverages? The idea seems to be to increase trade by having young girls as dance partners for males who frequent the saloons.

(12) Is it permissible for an unlicensed club located over a retail consumption licensed place to have a stairway entrance leading from saloon to club? This condition provides an opportunity to violate the after hours and Sunday closing rules.

(13) Can any number of adult persons contribute equally to the purchase of a half barrel of beer and take it to one of their homes and consume it without taking out a club license to do so?

Very truly yours,
Edith H. Moore,
Secretary

October 10, 1934

Edith H. Moore, Secretary,
Board of Alcoholic Beverage Control,
City Hall,
Trenton, N. J.

Dear Mrs. Moore:-

I have your letter containing various inquiries under the Control Act and they are answered herewith seriatim:

(1) The fact that a licensee has become physically incapacitated will not permit a transfer of the license. Section 23 prohibits the transfer of any licenses. The licensee, if he desires to discontinue the business immediately, may apply to the Commissioner for a special permit authorizing him to dispose of his stock in bulk to another retailer, a wholesaler, etc.

(2) A person who has been convicted of a crime involving moral turpitude and thereafter obtains a complete pardon from the Court of Pardons, is not disqualified to hold a license. Chancellor Walker in In re: Court of Pardons, 3 N.J.Misc. 585 (1925), states that:

"The effect of the pardon is to make the offender a new man, to acquit him of all forfeitures annexed to that offense for which he obtains his pardon, not so much to restore his former, as to give him a new, credit and capacity."

(3) Section 13 of the Control Act provides that plenary retail distribution licensees may sell any alcoholic beverages for consumption off the licensed premises, but only in original containers. Accordingly, the holder of a retail distribution license may sell chilled bottled beer for consumption off the premises.

(4 & 5) The following rule was promulgated under date of October 3, by the Commissioner:

"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 allow, permit or suffer the consumption of alcoholic beverages by any such person upon the licensed premises."

Under this rule, a licensee may not sell alcoholic beverages to a parent for delivery to and consumption by a minor on the licensed premises. Similarly, a retail licensee may not sell alcoholic beverages to a husband for delivery to and consumption by his minor wife on the licensed premises.

(6 & 7) Section 23 of the Control Act provides that the operation and effect of every license is confined to the licensed premises. Where a licensed place of business is located in a building situated on one-half of a double lot, the licensee may not sell alcoholic beverages on the adjacent lot. Similarly, a licensee may not sell alcoholic beverages in a building adjacent to the licensed premises.

(8) Section 13 of the Control Act provides that a plenary retail consumption licensee may sell alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle and also may sell alcoholic beverages in original containers for consumption off the licensed premises. Consequently, a retail consumption licensee may not sell alcoholic beverages by the glass to be consumed off the licensed premises.

(9) There are no state regulations pertaining to sales on Sunday and control over this subject rests with the municipal issuing authorities subject to referendum. A municipality might, in the first instance, adopt a regulation prohibiting not only sales by licensees on Sunday, but also the consumption of any alcoholic beverages on licensed premises on Sunday. Such a regulation, if approved by the Commissioner, would effectively deal with the practice mentioned by you whereby licensees permit customers to bring alcoholic beverages with them on Sunday and consume such alcoholic beverages on the licensed premises.

(10) There is no state regulation prohibiting a licensee from entrusting the care of the licensed premises to another person. If it appears from all of the pertinent facts that such other person is the real owner, then proceedings should be taken to revoke the license.

(11) There is no state regulation prohibiting minors from being present in licensed premises and dancing therein, and control over this subject rests with the respective municipal issuing authorities. The Commissioner will be pleased to consider any proposed regulations you desire to adopt in this connection.

(12) There is no state regulation forbidding a licensee from maintaining a stairway from the licensed premises to an unlicensed club upstairs. Your suggestion that such a stairway tends to enable avoidance of municipal regulations with respect to Sunday sales and hours of closing, may be well taken. You may submit for the Commissioner's approval, any proposed regulations which will aid you in the enforcement of your regulations pertaining to Sunday sales and hours of closing, as well as other municipal regulations.

(13) Nothing in the Control Act nor in the rules and regulations promulgated by the Commissioner prohibits a group of adult persons from contributing equally to the purchase of a half barrel of beer and the consumption of such beer at the home of one of such persons.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

By: Nathan L. Jacobs,
Chief Deputy Commissioner
and Counsel

2. LICENSED PREMISES - CONDITIONS IMPOSED

October 19, 1934

George Pellettieri, Esq.,
Trenton, N. J.

Dear Sir:- Re: Giuliano vs. Municipal Board of Alcoholic
Beverage Control of Trenton

On August 13, 1934, the Commissioner entered an order reversing the respondent's denial of the application in the above entitled matter "on the express condition that appellant permanently close the two side doors of the licensed premises prior to the sale of any alcoholic beverages therein". This condition was included pursuant to the offer of counsel for the appellant, made at the hearing on the appeal, to keep the side doors permanently closed. Application is now made for a modification of the condition, permitting the opening of one of the side doors.

Whether the Commissioner has jurisdiction to grant such modification need not be determined for the application must be denied on the grounds hereinafter stated:

(1) The testimony at the hearing on appeal established that while the door now sought to be opened is 219.4 feet from the entrance door of a public school, it is only 134.4 feet from the gate leading thereto. The opening of the side door would be in violation of section 76 of the Control Act within the ruling contained in Bulletin #43, Item #11.

(2) Even in the absence of the prohibition contained in section 76, no modification of the condition would be allowed by the Commissioner in view of respondent's policy against the issuance of licenses near schools, which was sustained in Staciowicz vs.

Municipal Board of Alcoholic Beverage Control of Trenton, Bulletin #35, Item #10.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

By: Nathan L. Jacobs,
Chief Deputy Commissioner
and Counsel

3. APPELLATE DECISIONS - MADDOCK VS. TRENTON

J. FRANK MADDOCK,
Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF TRENTON,
Respondent.

ON APPEAL
CONCLUSIONS

Perlman & Lerner, Esqs., by Sol Phillips Perlman, Esq., Attorneys
for Appellant
Romulus P. Rimo, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from respondent's action in denying appellant's application for a plenary retail consumption license for premises located at 491 Southard St., Trenton.

Respondent contends that the application was properly denied because appellant is personally unfit to receive a license. At the hearing it appeared that appellant was convicted at least three times of violating the Federal Prohibition Act. He was raided on numerous other occasions and alcoholic beverages confiscated. The last of these raids occurred as recently as July 23, 1934, at a time when the sale of alcoholic beverages had been legalized. Cf. Orofino vs. Township Committee of the Township of Millburn, Bulletin #45, Item #15. He was also raided on numerous occasions for the possession of slot machines, and although not convicted, he admits that he had such machines in his place of business.

In view of the foregoing circumstances, it cannot be said that respondent was unreasonable in determining that appellant was personally unfit to receive a license. See Moss & Convery vs. Municipal Board of Alcoholic Beverage Control of Trenton, Bulletin #29, Item #12.

The action of respondent Board is affirmed.

D. FREDERICK BURNETT,
Commissioner

Dated October 20, 1934

4. APPELLATE DECISIONS - COHEN VS. TRENTON

HARRY COHEN,
-vs-
MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF TRENTON,
Respondent.

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ON APPEAL
CONCLUSIONS

William A. Moore, Esq., Attorney for Appellant.
Romulus P. Rimo, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from respondent's action in denying appellant's application for a plenary retail consumption license for premises located at #118 East Front Street, Trenton, New Jersey, for the period expiring June 30, 1935.

Respondent contends that the application was properly denied because appellant is personally unfit to have a license. On a prior appeal, the Commissioner sustained respondent's action in denying appellant's application for the period expiring June 30, 1934, on the ground that respondent's factual determination with reference to appellant's personal fitness was not unreasonable in view of appellant's prior conduct as indicated by a police report of the Trenton Police Department. Cohen vs. Municipal Board of Alcoholic Beverage Control of Trenton, Bulletin #35, Item #3. Respondent rests its present contention solely on the testimony taken at the prior appeal.

At the hearing of the present appeal, however, several new considerations were presented which were not brought out at the prior appeal and which, if they had been brought out, would have led to a contrary result therein. The President of respondent Board now testifies that appellant is a fit person to receive a license and that he had conducted his business properly under a 3.2 beer license. A number of other persons testified to appellant's good character. Furthermore, both members of respondent Board who were called as witnesses now admit that licenses have been issued for the current license period to persons whose police records were similar to appellant's. By so doing, respondent must be deemed to have determined that such police records were not sufficiently serious, standing alone, to mark an applicant as personally disqualified. Respondent cannot successfully assert that a police record which does not debar other applicants from receiving licenses should, without more, debar appellant. While licenses are a privilege, they do not go by favor. See Sullivan vs. Township Committee of the Township of Ocean, Bulletin #38, Item #14.

In view of the favorable character evidence now produced by appellant and the unreasonable discrimination displayed by respondent in not treating uniformly all applicants of the same class respondent's contention cannot be sustained.

Respondent also contends that the application was properly denied by virtue of its resolution of May 31, 1934, limiting the number of plenary retail consumption licenses to be issued in

Trenton to 250, and the issuance of the allotted number. For the reasons set forth in Central Restaurant, Inc. vs. Municipal Board of Alcoholic Beverage Control of Trenton, Bulletin #44, Item #5, this contention cannot be sustained.

The action of respondent Board is reversed.

D. FREDERICK BURNETT,
Commissioner

Dated: October 20, 1934

5. PLENARY RETAIL CONSUMPTION LICENSEES - SALES FOR OFF-PREMISES CONSUMPTION - MUST BE MADE IN ORIGINAL, STAMPED AND SEALED CONTAINERS

October 23, 1934

John F. Murray, Deputy Chief,
Police Department,
Perth Amboy, N. J.

Dear Sir:

I have yours of October 7th in which you ask for ruling concerning sales by Plenary Retail Consumption Licensee for off-premises consumption, viz.:

The customer asks for a pint bottle of a particular brand. The dealer has nothing smaller than a quart bottle in stock. He thereupon pours off half the quart and sells the other half to be taken off the premises in the quart bottle.

The Act provides that (Section 13) "the holder of this license shall be entitled, subject to rules and regulations, to sell for consumption on the licensed premises any alcoholic beverages by the glass or other open receptacle, and also to sell all alcoholic beverages in original containers for consumption off the licensed premises;".

By "original container" the Act contemplates an original sealed unopened package and not a package that has been opened and a portion of the contents removed.

The refilling of bottles constitutes one of the major control problems. The practice of selling partially filled bottles could be readily abused by an unscrupulous dealer. If unsealed partially filled containers are allowed to be sold for off-premises consumption, there is nothing to prevent the licensee from selling them partially filled with liquors that may not have been either legally manufactured or properly tax paid.

Therefore, I must rule that only those receptacles which are in fact the original containers and on which the stamps and seals have not been broken, can be sold for consumption off the licensed premises.

Your conclusion that the sale in question constituted a violation, was correct.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

6. CLUB LICENSES - PUBLIC AFFAIRS - USE OF GRILL BY OTHER ORGANIZATIONS UNDER SPECIAL PERMIT

October 15, 1934

H. Parks Greer,
20 Central Avenue,
Madison, New Jersey.

Dear Sir:

Yours on behalf of B.P.O. Elks Lodge No. 1465, a club licensee, received. You ask the following questions:

1. What are the privileges of a guest that I may take to the club as far as the purchase or consumption of beverages is concerned and may ladies be considered guests?
2. If the club runs a public affair such as a dance can the ones not members have the privilege of purchasing beverages or must we obtain a special permit for this occasion?
3. What is the proper procedure to obtain a special permit?
4. If the Lodge rents the ballroom to another organization in our town or gives them permission to use it without a fee and would like also to let them use our grill for the purchase of beverages who must obtain the special permit; for example, we have given the Democratic Club of Madison permission to use our ballroom for a dinner dance on Nov. 1st and would like also to grant them the privilege of purchasing beverages from our grill, these beverages to be sold by the Elks Lodge and to some who attend who will not be members of the club. Who must obtain the special permit, the Democratic Club or the Elks Lodge? The Democratic Club in no way handles any beverages themselves.
5. If the Elks Club should consider taking out the regular plenary license could we limit the purchase to members only on special occasions?

You are advised as follows:

1. Under a club license alcoholic beverages may be sold only to bona fide club members and their guests. Guests are those persons expressly invited to the club by one or more of its members. Ladies as well as gentlemen may be guests. Alcoholic beverages may be served to and purchased by such guests.
2. Should the club conduct an affair open to the public generally, alcoholic beverages may not be sold or served under the club license to those attending. See Bulletin #35, Item #13. The persons attending such an affair cannot in any proper sense be termed "guests". Hence a special permit from the Commissioner will have to be sought.
3. To obtain such permit submit an application to the Commissioner setting forth the following information:
 - (a) Name and address of the organization.
 - (b) A brief statement of its purpose.
 - (c) Length of time it has been in existence.
 - (d) Number of active members.
 - (e) Number of members under the age of 21 years.

- (f) Kind of affair for which permit is sought.
- (g) Is it for members only, or will the public generally be admitted?
- (h) Will admission be by ticket or otherwise? State method of admission.
- (i) Date on which affair will be held.
- (j) Hours during which alcoholic beverages will be dispensed.
- (k) Kind of alcoholic beverages sought to be sold.
- (l) Who is to dispense the alcoholic beverages? State fully all facts as to how the beverages are to be sold and served.
- (m) Are minors to be admitted? If so, on what terms? Will alcoholic beverages be sold or served to minors?
- (n) What kind of a license is held by applicant? State its kind and number and by whom issued.
- (o) Who gets or participates in the net proceeds of the affair? State fully the complete disposition of the proceeds.
- (p) Any other facts pertinent to the issuance of such permit.

Accompanying said application submit the written approvals of the chief of police and municipal clerk of the place where the affair is to be held consenting to the sale of alcoholic beverages. Also submit an application fee of \$10.00. If the permit is granted, applicant will be advised of the fee and the foregoing sum credited thereto.

4. You are correct in assuming that if the Lodge should rent the ballroom to another organization, a special permit will be required in order to purchase beverages at your grill, and this is true whether you let them have the use of your rooms with or without a fee. Application for such permit must be made by the organization to whom the ballroom is rented - in the instant case by the Democratic Club of Madison. If the application is granted, the special permit will include the right to purchase beverages from the Elks' grill, should the other organization so desire and the Elks consent. I will grant this permission as a practical matter, although there are technical objections in that your club will profit incidentally by the sale of beverages to non-members and persons not really guests, which sales are normally prohibited under your club license. The other alternative would require the permittee to purchase its own beverages through outside channels and set up its own bar in the club's ballroom. Aside from the inconvenience and practical hardship on the permittee of such an arrangement, it is less unseemly and conduces to better control to allow the use of the club's own bar which thus keeps the traffic under your club's own management and supervision. After all it is your premises and your club home which is being used. Therefore, despite the incidental profit, I will grant such permission in cases where commercial profit is not the primary purpose of the transaction.
5. Should your club secure a plenary retail consumption license you would not be obliged to admit anyone to your grill; but, on the other hand, the public could be admitted at any time the club so chose.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

7. RETAIL LICENSEES - MAY NOT SELL FOR PURPOSE OF RESALE -
APPLICATION OF RULE TO PICNIC GROVES

October 26, 1934

Dear Mr. -----:

You inquire whether the owner of a picnic grove may obtain a retail license to sell to organizations and associations holding picnics in his grove so that the alcoholic beverages may be resold by such organizations to those attending.

Under the Control Act the owner of a picnic grove may secure a license to sell alcoholic beverages at a refreshment stand in his grove. He may sell, however, at retail only.

The person on whose behalf you inquire, however, desires to sell not to consumers but to organizations and associations who will resell to consumers. This would be a sale by a retail licensee for the purpose of resale. I ruled in Bulletin #13, Item #2 that such a wholesale transaction by a retail licensee is prohibited.

It follows, therefore, that he cannot, by obtaining a retail license, accomplish that which he seeks to do. There would, however, be no objection to selling direct to those attending the picnic providing the purchase price is paid by the individual consumer.

If the organizations desire to sell alcoholic beverages they can make application to me for a special permit. In such case the owner of the grove would need no liquor license.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

8. LICENSES - LOST LICENSES - PROCEDURE

October 26, 1934

Wilder M. Rich, City Manager,
Hackensack, N. J.

Dear Mr. Rich:

I have your letter informing that the license of New Bridge Country Club, Inc. has been surreptitiously taken from its frame on the wall and stolen, destroyed or otherwise lost, and inquiring the necessary procedure.

The issuing authority should require an affidavit by the licensee certifying that the license has been stolen, destroyed or otherwise lost, and furnishing full detail of the facts so far as within the affiant's knowledge or means. If satisfied of the truth of the affidavit, the issuing authority should order the issuance to the licensee of a certified copy of the original license. This copy can be readily made up from the stub of the original license and then certified by the clerk or secretary of the issuing authority as being a true copy of the original. Appropriate notation should be made on the stub of the license book of the issuance of such certified copy.

I am prescribing a certified copy rather than a duplicate original because thereby all practical difficulties of using two different certificates in your bound license book to represent

the same license and of accounting for the certificate and for the statutory fee received by the municipality are entirely obviated and the proper auditing of the municipal accounts is thereby expedited.

The certified copy of the original license is as valid and effective as the license itself. The rights have heretofore been conferred. The license or the certified copy is merely the evidence of the right.

Whether your municipality may charge for the certified copy depends entirely on the law governing your particular municipality as to which you will have to consult your own municipal council. There is no authority given in the Alcoholic Beverage Control Act to enable you to make any such charge.

The licensee should be instructed to surrender the certified copy if, perchance, the original is subsequently found or returned. No harm can be done in any event by the issuance of the certified copy because the license is good only in favor of the person particularly named and only at the licensed premises therein described.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

9. DISTILLERY LICENSE - PURCHASE OF BRANDY FOR MERE PURPOSE OF
RESALE - NOT ALLOWABLE UNDER LICENSE NOR WILL SPECIAL PERMIT
BE ISSUED

October 26, 1934

Gentlemen:

Yours of October 16th received, wherein you request permission to purchase under your Limited Distillery License, 200 barrels of applejack brandy from another distiller for the purpose of bottling and supplying your distributors, because your own supply of aged brandy is depleted, and your new supply too green for distribution.

Under your Limited Distillery License, the holder is entitled to manufacture not in excess of a specified quantity, as expressed in said license, any alcoholic beverages distilled from fruit juices, and rectify, blend, treat and mix, and to distribute and sell his said products to wholesalers and retailers. The Act therefore requires that the licensee sell only his products. The purchase of alcoholic beverages from others for the mere purpose of resale does not constitute "selling his products", but is a wholesale transaction. It follows therefore that you cannot adopt this practice under your license.

The trouble with your application is that you desire to buy these 200 barrels merely for the purpose of resale, i.e. to transact a wholesale business. If you wish to go into the wholesaling business there is nothing to prevent your taking out a wholesale license and having that along with your limited distillery license. Then you can freely buy and sell such apple brandy as you please and supply your trade accordingly. Hence, I cannot grant any special permit for a situation which is clearly provided for by the Act itself, and which you are open to follow upon paying the duly prorated fee.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

10. LIMITED WHOLESALE LICENSEES - NO RIGHT TO MAKE SALES
EXCEPT TO NEW JERSEY LICENSEES - WAREHOUSE PRIVILEGES
ACCORDINGLY LIMITED TO SAME PURPOSES

October 26, 1934

Gentlemen:

Your inquiry is received, whether a warehouse license may be issued permitting the temporary storing of alcoholic beverages in transit from your brewery in Brooklyn to points in Pennsylvania.

Since you are the holder of a limited wholesale license, sales may be made only to New Jersey retail and wholesale licensees. Sales outside of New Jersey are prohibited. It follows, therefore, that under your license you may not sell for delivery in Pennsylvania.

You state that sales are made in Pennsylvania and consummated in your brewery in Brooklyn; that the beer is transported from Brooklyn to Orange merely to facilitate delivery because the transportation to Pennsylvania cannot be effected in one trip; that by effecting a stop over at Orange, this difficulty can be overcome and Pennsylvania purchasers may call for their beer at the Orange depot, or it can be shipped by common carrier; and that only beer which has already been ordered will be delivered to the warehouse if a warehouse license is granted.

Under your limited wholesale license you are entitled to maintain a warehouse but that warehouse must be used in connection with the business authorized by your license. Hence, such a warehouse could not be used for the temporary storage of alcoholic beverages in transit from New York to Pennsylvania.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

11. ALCOHOLIC BEVERAGES DISTINGUISHED FROM ALCOHOL - HENCE NOT WITHIN
THE EXEMPTIONS OF SECTION 27 - ALTHOUGH WITHIN THE EXEMPTIONS OF
SECTION 26 - RULES CONCERNING TRANSPORTATION OF ALCOHOLIC BEVER-
AGES APPLIED

October 26, 1934

Hon. Mabel Walker Willebrandt,
739 Shoreham Building,
Washington, D. C.

Dear Madam: Re: Fruit Industries Limited

Receipt of your letter of September 19th is hereby acknowledged, wherein you inquire whether an out-of-state licensee may sell alcoholic beverages to New Jersey food product manufacturers and manufacturing druggists without obtaining a license in this State.

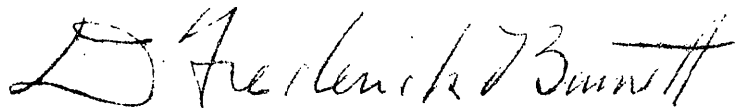
With respect to sales to food product manufacturers, Section 27 of the Control Act provides that no provision thereof shall apply to alcohol intended for and actually used in the manufacture and sale, among others, of food products when they are unfit in fact for beverage purposes. The term "alcohol", however, was used

advisedly to mean that one product only and not all alcoholic beverages. Hence, while alcohol to be used in the manufacture of food products is exempt from the provision of the Control Act, alcoholic beverages are not. Therefore, such manufacturers, being consumers of alcoholic beverages, may purchase only from State licensees duly authorized to sell at retail. Under rules and regulations promulgated July 2, 1934 and effective July 9, 1934, a copy of which is enclosed, alcoholic beverages may not be imported by consumers except in their own vehicles and within the limitations therein set forth or under authority of special permits. It follows, therefore, that your client may not sell alcoholic beverages direct to food product manufacturers.

With respect to sales to manufacturing druggists, Section 26 of the Control Act provides that druggists and pharmacists duly registered under the laws of New Jersey may purchase and use alcoholic beverages for the compounding of physicians' prescriptions and for the preparation of mixtures and medicines unfit for use as beverages, without first obtaining a license. This section advisedly uses the term alcoholic beverages instead of merely alcohol. It further provides that purchases may be made of wholesale licensees. Hence druggists are in a position similar to that of retail licensees, as distinguished from consumers, and this without the requirement of any license. So far, so good. But under the above mentioned rules, alcoholic beverages may not be imported by retail licensees. It follows, therefore, that your client may not sell wines or other alcoholic beverages direct to manufacturing druggists.

Should your client desire to do business direct with either of the groups mentioned, it is suggested that application be made for a New Jersey wholesale license.

Very truly yours,



Commissioner

New Jersey State Library