

STATE OF NEW JERSEY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street,

Newark, N. J.

BULLETIN NUMBER 12.

January 29, 1934

#1 The Honorable D. Frederick Burnett, Commissioner of
Department of Alcohol Beverages,
744 Broad Street,
Newark, N. J.

My dear Mr. Burnett:

We ministers, pastors of Churches representing the largest number of members in the downtown section of the Borough of Keyport, desire respectfully to call your attention to the fact that there are two places in the Borough dispensing of liquor under temporary licenses much less than 200 feet from Churches, as "an orderly person would walk from door to door". Up to the present time neither of these places have a waiver from the nearby churches accompanying their license application.

These places are the Monmouth Wine and Liquor Co., Inc., at the corner of Broad and Front Sts. Emanuel Einziger is listed as President. The other one is in the name of Edward H. Cohen, Broad Street. Mr. Cohen made his application for number 30 Division St., which is the other end of the lot. If he changed the application to Broad Street, I am told that it was done after the public council meeting. It is public knowledge that these places are less than 200 feet of the churches, and we have called attention of that fact to members of the council and they each acknowledge that these two places are within the dead-line, but after waiting weeks they have shown no disposition to recall the licenses.

With us it is a matter of principal. We want to see to it that the liquor business in the State, and especially in our community, starts out in obedience to the law.

We would like to have these places closed. And to be assured that they could not receive their permanent licenses. The facts are misrepresented in each of their former applications, and we do not feel that after such misrepresentation they could be trusted to obey the law in the future.

Thanking you for any immediate attention you may give the matter, we are,

Yours sincerely,

(Signed) D. Roe Haney, Pastor of
Calvary Methodist Episcopal Church

(Signed) William R. Rossell, Pastor of
First Baptist.

(Signed) Allison P. Mershon, Pastor
Presbyterian Church.

January 25, 1934

Borough Council,
Borough of Keyport,
Keyport, N. J.

Gentlemen:

Herewith copy of letter signed jointly by D. Roe Haney,

Pastor of Calvary Methodist Episcopal Church; Wm. R. Rossell, Pastor of First Baptist Church, and Allison B. Mershon, Pastor of the Presbyterian Church, which is self-explanatory.

If what these men say is true, and they claim that you have admitted it, the law is being violated and it is your immediate duty to revoke the temporary license in every such instance.

It is my duty to enforce the law and I purpose to do so, but before taking any proceedings against you, now call upon you to certify the full facts to me forthwith, your purposed action to correct the situation and to make final report in the premises.

Very truly yours,

D. Frederick Burnett,
Commissioner

encl.
DFB:k

#2

Jan. 25, 1934

D. Frederick Burnett,
Commissioner of Alcoholic Beverage Control,
Trenton, N. J.

Dear Mr. Burnett:

Kindly advise as to ruling on beverage licenses issued to Volunteer Fire Companies, and if a Borough Council may issue a license for services rendered by a Volunteer Company to a community. Also, if the minimum fee of \$350.00 applies to Volunteer Fire Companies.

Will appreciate a prompt reply.

Very truly yours,

(Signed) George F. Kearns,
Mayor,
Borough of North Haledon, N.J.

January 27, 1934

Hon. George F. Kearns, Mayor
Borough of North Haledon,
North Haledon, N. J.

Dear Mr. Kearns:

I have yours of the 25th.

A Borough Council has no right to issue a license to a volunteer fire company unless it pays the same license fee as any other person or corporation or association. The statutory minimum fee, of course, applies to volunteer fire companies as well as anybody else.

Very truly yours,

D. Frederick Burnett,
Commissioner

DFB:k

#3

January 25, 1934

Honorable D. Frederick Burnett
State Commissioner of Alcoholic Beverage Control
National Newark and Essex Banking Building
Newark, N. J.

Dear Commissioner:

I have been asked by the Town of West Orange to obtain a ruling from you with respect to the following:

A licensee holding a plenary retail distribution license in West Orange, desires to know whether under the license he may sell bottled beer by the case to storekeepers holding similar licenses. The licensee in question was the holder of a whole-sale distribution license under the former beverage act which permitted the sale of 3.2 beer. He had acquired a number of stores as customers to whom he sold beer. The business is not large enough to warrant his taking a limited wholesale license, and yet he would like to continue to sell to his former store customers, provided that that can be legally done. Subsection 2 of Section 12 seems to place no limitation on the quantities of alcoholic beverages or the persons to whom the same may be sold.

I have examined the rulings issued by you at various times, and I am unable to find that you have ever passed upon this particular point. I would appreciate receiving your interpretation of the law.

Thanking you I am

Yours respectfully,

(signed) ALFRED J. GROSSO

AJG:EP

B

January 27, 1934

Alfred J. Grosso, Esq.,
Orange National Bank Bldg.,
Orange, N. J.

Dear Mr. Grosso:

I have yours of the 25th.

I have had to answer the situation covered by your letter several times in the negative, but as you say, there has been no formal ruling set forth in the Bulletin, so I will do so herewith.

The reason for the ruling is set forth in my report to the Governor and Legislature of January 15, 1934, viz.:

"There has been some urge by self-interested parties but not by the public or consumers for a new type of license to be called a Vendor's license which would permit, similar to the old beer act, a licensee to buy beers and wines in bulk from the manufacturer and to re-bottle and sell direct to both retailer and to consumer. The proposition is disapproved. It involves a destructive breakdown of the whole statutory scheme of licensing. In effect it allows a wholesaler to unfairly

compete with retailers. There is no necessity for such a license under the ample powers and classifications provided by the present law. The applicant must take his choice of either the wholesale or retail business and engage in only one. To say that it provides for distribution in territory which could not be covered by breweries is beside the point, because the situation is adequately covered by the present retail distribution licensees who can, and do provide all needed service to the communities, urban or rural, as required."

Attorney Jacob Glickenhau of Newark conferred with me this last week. He said that these men who sell bottled beer cannot make a profit by merely selling beer to retail stores, neither can they make a profit if they sell beer direct to the consumer; that it is only by a combination of the two that they can make a living and hence they want to do both wholesaling and retailing.

It doesn't seem to me that this is fair to our present retail distributors. They have the right to sell to the consumer but they cannot sell to a store, for sale to a store implies that it is to be resold by the store and that would make them wholesalers. The question of the difference between a retailer and a wholesaler under our law is not the quantity of the merchandise sold, but rather the purpose for which it is sold. If it is sold for the purpose of resale, that makes it a wholesale sale.

Every retail distributor licensed under the laws of New Jersey has the right to sell beer in case lots to consumers. Why then should a new class of license be created which will enable men who sell bottled beer to sell to both consumer and to stores? Economically it is unsound on its face because the stores can buy just as cheaply from the brewery as anyone else.

The object of the Control Act is to regulate the trade and not to mix and confuse matters so that anybody can go as he pleases. If the consumer wants beer in case lots delivered to his home he can get it from our present licensed retail distributors. We must be just as fair to those distributors as to any other class of licensee. To say that a certain retail distributor is not availing himself of the privilege, as, for instance, one of the general cigar stores, is entirely beside the point because there are other retail distributors who are supplying the demand and are glad to do so.

There is a great deal of misconception and error prevalent on this subject. For instance, the Red Bank Register, in an editorial, says "The Legislature appropriated \$5000 for an investigation and report by a liquor commission, and if the findings of this body had been carried out the present trouble would have been avoided". That is distinctly and entirely untrue. The McCarter Commission very firmly and properly created the distinction between wholesaling and retailing and would not have permitted this confusion, permission for which is sought, and is hereby denied.

Very truly yours,

D. Frederick Burnett,
Commissioner

DFB:k

#4

January 27, 1934

Dennison Manufacturing Co.,
1015 Chestnut St.,
Philadelphia, Pa.

Gentlemen:

I have your letter of the 25th inquiring whether there will be any requirement that the price be stated on every bottle of liquor sold.

I attended conference held by the Federal Alcoholic Control Administration yesterday in Washington, and they have a tentative requirement that such indicated price must be on the label. There was a vigorous protest.

I do not agree at all with such requirement. I believe that, while well intentioned, it is an arbitrary interference with the law of supply and demand, and that reasonable competition demands a fair latitude of price range. Furthermore, I think it is futile and misleading and will be capitalized by unscrupulous retail licensees. The price which is fixed on the label will be a top, outside price. All the licensee has to do in order to give the prospective customer the impression that he is getting a bargain is to make the retail price less than the printed label price. All that accomplishes in the long run is to deceive the consumer into thinking that he is getting more for his money than he really is.

I, therefore, have no intention whatsoever of making that a requirement of labeling and, furthermore, shall protest the requirement to Mr. Choate and the Commission of which he is the Chairman, for the reasons above expressed.

Very truly yours,

D. Frederick Burnett,
Commissioner

G-

State of New Jersey
Executive Department
The Secretary to the
Governor

January 16, 1934

My dear Mr. Burnett:

In re the appeal of Samuel Goldsmith of Newark v. City of Newark, which you forwarded with your letter of the 9th instant, this Board concurs in your opinion that the case should not be considered for appeal until final action has been taken by the issuing authority.

In view of the fact that the City of Newark has advised that it will be governed by your ruling as to the amount of rebate, if any, to be made to Mr. Goldsmith, we shall consider the case as falling within your jurisdiction until final action is consummated in the local administrative board, at which time, should the status of evidence so warrant, we shall consider the matter of appeal.

Very truly yours,
John J. Toohey, Jr.
Secretary

Honorable D. Frederick Burnett
744 Broad Street
Newark, New Jersey

Alcoholic Beverage Appeals
Board

#6.

RULES CONCERNING PERMANENT LICENSES

1. Plenary Retail Consumption Licenses shall be in the following form:

This License Expires June 30, 1934

STATE OF NEW JERSEY

No. C _____

(Name of Municipality)

PLENARY RETAIL CONSUMPTION LICENSE

Pursuant to an Act of the Legislature of the State of New Jersey entitled, "An Act concerning alcoholic beverages", passed December 6, 1933, a license is hereby granted to

(Name of Licensee)

to sell at _____

(Describe Licensed Premises)

in the above named Municipality, 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.

Above named licensee may deliver alcoholic beverages in any vehicle owned by the licensee but such delivery must be solely in connection with the licensee's own business as above authorized; provided, however, any vehicles while so used must be marked in the manner prescribed for all vehicles authorized to transport alcoholic beverages under a transportation license, as may be provided in rules and regulations now or later prescribed by the State Commissioner of Alcoholic Beverage Control.

This license will expire June 30, 1934, and is subject to each Act hereinafter mentioned and all amendments and supplements to either of them and may be revoked before that date for any violation of the Act first above recited, or of the Act entitled "An Act imposing taxes upon the sale of alcoholic beverages and providing for the collection thereof", approved December 4, 1933, or any amendment or supplement to either of said Acts, or for any violation of any rules or regulations now or later prescribed by either the State Commissioner of Alcoholic Beverage Control or by the State Tax Commissioner pursuant to either of said Acts, or of any amendment or supplement to either of them or for any violation of any of the conditions expressed in this license.

It is also subject to the following special conditions if any are herein set out:

Dated: _____, 1934.

(Name of Municipality)

Fee paid on application: \$ _____ (or Municipal Board)

Municipal Corporate Seal

(Municipal Officer or Agent)

2. Plenary Retail Distribution Licenses shall be in the following form:

This License Expires June 30, 1934

STATE OF NEW JERSEY

No. D _____

(Name of Municipality)

PLENARY RETAIL DISTRIBUTION LICENSE

Pursuant to an Act of the Legislature of the State of New Jersey entitled, "An Act concerning alcoholic beverages", passed December 6, 1933, a license is hereby granted to

(Name of Licensee)

to sell at _____

(Describe Licensed Premises)

in the above named Municipality, for consumption OFF the licensed premises, but only in original containers.

Above named licensee may deliver alcoholic beverages in any vehicle owned by the licensee but such delivery must be solely in connection with the licensee's own business as above authorized; provided, however, any vehicles while so used must be marked in the manner prescribed for all vehicles authorized to transport alcoholic beverages under a transportation license, as may be provided in rules and regulations now or later prescribed by the State Commissioner of Alcoholic Beverage Control.

This license will expire June 30, 1934, and is subject to each Act hereinafter mentioned and all amendments and supplements to either of them and may be revoked before that date for any violation of the Act first above recited, or of the Act entitled "An Act imposing taxes upon the sale of alcoholic beverages and providing for the collection thereof", approved December 4, 1933, or any amendment or supplement to either of said Acts, or for any violation of any rules or regulations now or later prescribed by either the State Commissioner of Alcoholic Beverage Control or by the State Tax Commissioner pursuant to either of said Acts, or of any amendment or supplement to either of them or for any violation of any of the conditions expressed in this license.

It is also subject to the following special conditions if any are herein set out:

Dated: _____, 1934.

(Name of Municipality)

Fee paid on application: \$ _____

(or Municipal Board)

Municipal Corporate Seal

(Municipal Officer or Agent)

3. Consumption licenses shall carry the prefix letter C, thus: "C 123" and be consecutively numbered beginning with #1.
4. Distribution licenses shall carry the prefix letter D, thus: "D 123" and be consecutively numbered beginning with #1.
5. The Issuing Authority of each municipality shall cause above license forms to be printed respectively in bound books, similar to a check book or stock certificate book, one book for consumption licenses and the other for dis-

tribution licenses. Each license form shall have a stub bound permanently in the book and detachable therefrom via perforation. The stubs of both books shall be printed in the following manner:

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

6. 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.
7. The numbers of permanent licenses need not correspond with the numbering of temporary licenses. They should be numbered in the order of actual issuance.
8. 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.
9. 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.
10. In both 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 the municipality shall have created a municipal board to issue licenses or not. The name of the licensee, the description of the licensed premises, the date of the license and the fee paid on application is 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.
11. 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.
12. 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 permanent 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.

13. 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.
14. 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.

D. FREDERICK BURNETT,
Commissioner

New Jersey State Library