

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

BULLETIN NUMBER 53

November 30, 1934

1. REFERENDUM - SUNDAY SALES - WHEN REFERENDUM BECOMES EFFECTIVE -  
NECESSARY CERTIFICATIONS - EFFECT OF REFERENDUM

November 9, 1934

Hon. Henry Sluyter,  
Mayor, Midland Park Borough,  
Midland Park, N. J.

Dear Sir:

Your Borough Clerk has duly certified to me, pursuant to Section 44 of the Alcoholic Beverage Control Act, that at the General Election held November 6, 1934, a majority of your legal voters, voting upon the question "Shall the sale of alcoholic beverages be permitted on Sundays in this municipality?", voted "No".

You inquire:

- 1 - Whether the provision allowing licensees to sell until 1 a.m. on Sunday morning, contained in your pending ordinance, is now proper.
- 2 - When does the vote on this referendum become effective?
- 3 - Is it necessary for your municipal clerk to certify the vote to the governing body of your borough as well as the State Commissioner?
- 4 - What is necessary to carry the referendum into effect?
- 5 - Does the effect of the referendum expire at the end of three years?

The answers are as follows:

- 1 - No. When the people of your municipality voted "No" on the question as above stated, they declared their will that no sales whatsoever shall be permitted on Sundays. Sunday is, of course just twenty-four hours long. The people are taken to mean what they voted. A sale at 1 a.m. that day is a sale on Sunday and is henceforth forbidden in your municipality. A majority vote in the negative on this question means that no sale of liquor shall be made any time on Sundays. This part of the proposed ordinance must, therefore, be changed so that all selling of alcoholic beverages shall cease at midnight on Saturdays.
- 2 - The referendum became effective the moment the certification of your Borough Clerk was received by me. The statute, Section 44 provides: "If a majority of the legal voters ..... shall vote 'No', then the clerk of the governing board, body or other controlling authority of said municipality shall forthwith in writing notify the commissioner and municipal board, if any, as the case may be, having authority to issue such licenses, of the action taken by the legal voters ..... and thereupon it shall be unlawful for any person to sell alcoholic beverages in said municipality on Sundays".

The word I have underscored indicates that the referendum becomes automatically effective the moment the proper certifications of the vote are made.

New Jersey State Library

- 3 - No, not in your municipality for it has not created any municipal board as is permissive in municipalities having a population of 15,000 or more. If it had created such a board, the answer would, of course, be "yes".

The term "municipal board" in Section 44 refers to those created pursuant to Section 5. Section 44 makes a plain distinction between governing board and municipal board. This distinction is consistently maintained throughout other referenda sections of the Act, viz. Sections 41, 42 and 43. It is accentuated in Section 43 where it is provided that upon a majority vote prohibiting all sales of alcoholic beverages at retail in a given community, the municipal board is to be dissolved so that no more licenses may be issued and for its recreation, if a subsequent referendum were voted to the contrary - a ridiculous provision if governing body is synonymous with municipal board but apt and advisedly used when they are, as in fact, utterly different official bodies. Moreover, the statute contemplates by the words "if any" the possibility that there may be no such municipal board. Nor would there be any necessity or occasion for the useless procedure of the Clerk of the governing board, body or other controlling authority of a municipality certifying the result of the election to himself as the Clerk of such board, body or authority. Notice to him as Clerk of the governing body is notice to the body itself. What he knows is presumably communicated by him to the official body of which he is the Clerk. If, however, the issuance of licenses and the enforcement of the law in a given community were handled by a municipal board, separate and distinct from the governing body, then there would be necessity and occasion for the Municipal Clerk to certify the vote to that other board of which he is not the Clerk and with which he has no legal privity or relation. Where there is no municipal board, there is no legal necessity of notifying the governing board. The statute does not require it.

- 4 - Nothing additional is needed to make the referendum effective. The Control Act itself, Section 44, upon the certification of the vote, makes it "unlawful for any person to sell alcoholic beverages in said municipality on Sundays". Hence neither resolution nor ordinance is necessary to effectuate it. Section 2 of the Act makes it unlawful to sell in violation of the Act. Section 48 makes such violation a misdemeanor. The referendum has teeth.
- 5 - No. The referendum is good till cancelled. All the statute does is to forbid further referenda on the same question for three years.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

2. REFERENDUM - SUNDAY SALES - EFFECT OF VOTE IN THE NEGATIVE -  
WHEN REFERENDUM BECOMES EFFECTIVE

November 8th, 1934


Dear Mr. Burnett:

I represent the Borough of Runnemede. On Tuesday the borough had a referendum under the alcoholic beverage control act

on the question "shall the sale of alcoholic beverages be permitted on Sunday in this municipality". The result of the referendum was that 421 voted no on this question and 407 voted yes. The referendum, therefore, decided that there should be no Sunday sales in the Borough of Runnemede.

The question then was immediately raised with the closing hour on Saturday night. The borough's former regulations permitted licensees to remain open until 2 A.M. Sunday morning. It is now contended that in view of the referendum that all licensees must be compelled to close at 12 o'clock midnight on Saturday and that borough council has no right to permit them to be open until either 1 A.M. or 2 A.M. since this is contrary to the referendum, I think that council would like to permit them to remain open until 1 A.M. or 2 A.M. and that they felt the referendum specifically decided that there should be no sales on Sunday afternoon or evening.

Would you be kind enough to give me a ruling on this point, if possible, by return mail so that I in turn can advise council before the coming week end and so that the borough can comply with the law?

  
Very truly yours,  
GEORGE D. ROTHERMEL

November 9, 1934

George D. Rothermel, Esq.,  
Camden, N. J.

Dear Mr. Rothermel:

I have yours of November 8th. Herewith copy of my letter of even date to Hon. Henry Sluyter, Mayor of Midland Park Borough where similar result obtained on the same question, which answers certain inquiries made by him, which may be of interest to you and your governing Board.

No certification has been made by your Borough Clerk to me. Consequently, the referendum does not become effective until such certification is duly made. The statute says that the Clerk shall "forthwith in writing notify the commissioner of the action taken by the legal voters".

When the referendum becomes effective upon such certification, it will require that no sale of liquor shall be made at any time on Sundays. The question submitted to the electorate was not whether sales should be made on Sunday afternoon or evening or any other part of Sunday, but rather "shall the sale . . . . be permitted on Sunday". Hence, without necessity of amendment or rescission, the former regulations permitting licensees to remain open until 2 a.m. Sunday morning are automatically excinded in legal effect. It is advisable, although not necessary, that your local regulations be changed so that all selling of alcoholic beverages shall cease at midnight on Saturdays.

If you wish to make the referendum effective this coming Saturday night, have the Clerk duly certify the result of the referendum to me, send it by messenger, and I will promptly acknowledge it. I will be here on Saturday until at least 6 p.m.

The reasons for the above rulings are set forth in the above mentioned enclosure.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

3. REFERENDUM - ALL RETAIL SALES PROHIBITED - EFFECTIVE THIRTY DAYS AFTER VOTE - SPECIAL DISPOSAL PERMITS - REFUNDS SHOULD BE GIVEN

November 9, 1934

Mr. Clarence R. Scott,  
Black Horse Pike,  
Sewell, N. J. R.F.D.

Dear Sir:-

I have yours of the 7th.

If, pursuant to Section 43 of the Control Act, a municipality votes against the permission of all sales of alcoholic beverages at retail, upon the filing of proper certifications of such vote, it thereupon becomes unlawful to issue any retail licenses in that municipality and all licenses previously issued become void and inoperative 30 days after the date of the vote. Your license, therefore, expires 30 days after November 6, 1934.

If at that time you have not wholly disposed of your then stock on hand, you may apply to me for a special temporary permit to enable you to cash it in, but this permit will be conditioned so as not to conflict with the expressed wishes of the electorate on the referendum. Under no circumstances will the special permit entitle you to sell at retail after your license expires.

While no rebate on your original municipal license was expressly provided by law, there was no intention by the Legislature to forfeit the money which had been paid for a license which by its terms was to continue until June 30, 1935. Forfeitures are always strictly construed and such unfortunate results should be obviated whenever possible where the licensee has done no wrong. Consequently, I shall devise regulations governing the subject of rebates in such cases.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

4. PUBLIC BUILDINGS - POST, CAMP OR REGIMENTAL EXCHANGE OF THE NATIONAL GUARD NEED NO LICENSE FOR SALE OF ALCOHOLIC BEVERAGES BUT MAY SELL ONLY TO MEMBERS OF THE NATIONAL GUARD AND BONA FIDE GUESTS - STATE PERMISSION WILL NOT BE GRANTED FOR GENERAL SALE OF ALCOHOLIC BEVERAGES IN ARMORIES

November 10, 1934

Joseph McGonnell, Chief of Police,  
Orange, N. J.

My dear Chief:

Mr. Crogan of my staff informs me of your telephone message to the effect that Patrick Riley Post, Veterans of Foreign Wars has hired the Orange Armory for November 12, 1934, intending to conduct a dance; that it does not purpose to sell any liquor but that persons attending the dance may obtain alcoholic beverages from the National Guard Post Exchange in the Armory; that several licensees in the neighborhood have registered objections with you to such sales of alcoholic beverages in the Armory.

The State Military Board has, pursuant to its right under Section 24 of the Act, conferred permission upon the National Guard Post Exchange to sell alcoholic beverages in that Armory.

I have no objection to such permission given to the Post Exchange for that is under military discipline and control, but I must now rule that the exemption given by the Control Act to the National Guard extends only to the Post Exchange itself and permits the sale of alcoholic beverages only to members of the National Guard and their bona fide guests.

Every sale of alcoholic beverages in any public building belonging to the State requires the special permission of the State Commissioner except that the National Guard needs no such permission. I have heretofore ruled that no liquor shall be sold in any Armory by outside organizations leasing the Armory. See Re Pavlick Koster Post, Bulletin 51, Item 7 (copy enclosed). To permit sales to outside organizations and their friends by a Post Exchange, however laudable the objective of the organization and the high personal character of its members, would court the same danger that Major General Toffey sensed, and on which I based my previous ruling, i.e. that such use of the Armory might prompt insobriety in persons who for the time being are not under the control of the National Guard, but whose conduct, should trouble arise, might reflect discredit upon the military establishment.

Therefore, I refuse to permit any sales of alcoholic beverages in the Armories of this State by any camp, regimental or post exchange to persons other than members of the National Guard and their bona fide guests.

Hence, any sales made by the Post Exchange, other than to members of the National Guard and their bona fide guests, are illegal. You will take all proper measures to see that the law is strictly enforced.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

5. REVOCATION PROCEEDINGS - INCLUDE BOTH SUSPENSION AND REVOCATION PUNISHMENT RESTS IN SOUND, FAIR DISCRETION OF ISSUING AUTHORITY
- REVOCATION PROCEEDINGS - DISQUALIFICATION OF MUNICIPAL OFFICIALS TO PARTICIPATE WHEN INTERESTED IN ALCOHOLIC BEVERAGE BUSINESS
- REVOCATION PROCEEDINGS - ISSUING AUTHORITY MAY MODIFY PUNISHMENT OR REMIT PENALTY BUT MAY NOT CONDUCT REHEARING AFTER FINAL ADJUDICATION OF GUILT

November 10, 1934

Carl H. Bischoff, City Manager,  
Asbury Park, N. J.

Dear Mr. Bischoff:

Confirming telephone conversation of this morning:

1 - When, in transmitting report of local violations to your

City Clerk, I said: "I commend the institution of revocation proceedings", I meant only that such proceedings should be instituted to ascertain the truth of the charges of violation, but did not intend to recommend what penalty should be inflicted if the charges shall be proved to be true.

"Revocation proceedings" are the general name of the proceedings contemplated by Section 28 of the Act which calls for a notice of the charges preferred to be given to the licensee, a hearing thereon and punishment of either suspension or revocation. As heretofore indicated in Bulletin 52, item 9, "Punishment may be either temporary suspension of the license for a designated time or permanent revocation of the license. If the latter, it may be accompanied, if deemed proper, by an order that the licensed premises be ineligible to become the subject of any further license for a period of two (2) years."

If the charges are true, whether the punishment should be suspension, and if so how long, or revocation, and if so whether the premises be declared ineligible, rests solely in the sound, fair discretion of the issuing authority. What punishment should be administered depends on the facts.

- 2 - Forms and general suggestions as to procedure on so-called revocation proceedings, which you now understand as above means either suspension or revocation, are set forth in Bulletin 52, Items 9 to 14 both inclusive.
- 3 - Mayor Dennis and Councilman Croce should not sit in these revocation proceedings because of their interest in the alcoholic beverage business. The issuing authority sits and hears these proceedings as a judicial tribunal. Without any question in my mind as to the personal integrity of these officials, they nevertheless should not sit in judgment in a case where they are directly or indirectly interested. If the Council adjudicates the charge to be true and fixes a penalty, either suspension or revocation, it leaves it open for the licensee and his friends to think, although perhaps utterly untrue, that the decision was prompted by a desire to eliminate a competitor either wholly or for a time. The only proper way to conduct these proceedings is to have them administered by officials who have no possible interest whatsoever, direct or indirect, in the result.
- 4 - While for the sake of finality of decision and affording terminal facilities to repeated litigation, no rehearing may be held by a municipal governing body or local excise board after it has once adjudicated facts, or guilt, or innocence (see Re Hendrickson, Bulletin 47, item 10), there is nothing to prevent the mitigation of a penalty or punishment previously inflicted. It often lends to the cause of enforcement to remit a part of the penalty after the violator has been sufficiently punished and has shown genuine repentance and convinces the issuing authority by his acts as well as his words of his sincere determination thenceforth to comply with the law in all respects. Of course, if mercy is overplayed it may generate disrespect for the law and a belief that penalties imposed are mere gestures to be remitted after nominal punishment. On the other hand, justice is often accomplished by a wise and kindly mercy to first offenders, especially after partial atonement.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

6. REVOCATION PROCEEDINGS - NOT COMPLIED WITH BY EX PARTE INVESTIGATIONS OF UNSWORN WITNESSES NOT SUBJECTED TO CROSS-EXAMINATION AT OPEN HEARING

November 16, 1934

Roland H. Loog, City Clerk,  
Asbury Park, N. J.

Dear Mr. Loog:

I have yours of the 14th re Kuhlman, Inc.

The Department's policy is, in general, to refer violations by retail licensees to the municipal issuing authorities in order that they have the first opportunity of setting their own house in order.

The statute contemplates that when charges of violations are preferred, revocation proceedings will be instituted and guilt or innocence thereby determined. If, after a hearing, the local board judicially finds that the licensee is not guilty of the charges, the proceedings of course will be dismissed. If found guilty, it is then the duty of the board to determine the nature and amount of the punishment.

In the instant case it appears that no such proceedings have been instituted and there is no judicial finding of the facts. All that appears is that you, as City Clerk, and the license inspector, made an investigation and reported your opinion to the governing board that an honest mistake had been made. It may be that such is the fact. But this is not a healthy procedure. For, as against the sworn complaint of the Police Captain, there is nothing to show that the persons whom you interviewed were sworn to tell the truth, or that they were cross-examined or otherwise tested - nothing in fact except that the board without hearing any witnesses have simply adopted your opinion and that of the license inspector.

I shall therefore institute an investigation of my own to determine if the State Department should itself bring the statutory proceedings against this licensee.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

7. REVOCATION PROCEEDINGS - STATE COMMISSIONER WILL COOPERATE WITH LOCAL GOVERNING BODY IN CASE OF BONA FIDE MISTAKE BY LATTER IN FAILURE TO INSTITUTE SUCH PROCEEDINGS

November 19, 1934

Roland H. Loog, City Clerk,  
Asbury Park, N. J.

Dear Mr. Loog:

I have yours of the 17th in reply to mine of the 16th re Kuhlman Inc., and am glad to note the frank admission of

your local Board that they were mistaken in the one-sided, informal investigation that they heretofore held, but that they now purpose to institute formal revocation proceedings to determine the guilt or innocence of the licensee; that the date for hearing has been set for November 22nd at 4 p.m.

It is my desire that the governing Board of Asbury Park should handle their own local situations just as far as possible, and in view of your announced determination to reconsider and conduct a regular, thorough investigation, I am very glad to put it up to you and your Board once again, and in the meantime shall take no further steps myself.

At the hearing you will, of course, call Captain Giles and Detective Griggs as witnesses.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

8. RULES CONCERNING CONDUCT OF LICENSEES AND THE USE OF LICENSED PREMISES - GAMBLING DEVICES PER SE - WHAT CONSTITUTES - "MAGIC" BEER BARREL

November 26, 1934

Mr. Ramon B. Harrison,  
508 Fourth Street,  
Hoboken, N. J.

Dear Sir:

I have yours of the 21st enclosing picture of and advertising matter for Stephens "Magic" Beer Barrel which "donates" from 1 to 10 glasses, steins or bottles of beer, or none at all, dependent upon the deposit of a nickel in the slot, the turn of the spigot, the whirl of the dials, and the luck of the customer who in any case gets a pretzel. It is a miniature barrel described as "not a beer dispenser" but "a real booster of beer sales over the bar!"-- so fascinating, so alluring that customers 'play' it again and again".

This slot machine which instead of paying coins, pays one several or no drinks according to the luck of the customer, has every earmark of a gambling device per se. Its presence on licensed premises violates the rules.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

9. MUNICIPAL ORDINANCES - SAMPLE FORM

November 19, 1934

Hillery & Young,  
Morristown, N. J.

Gentlemen:

The sample form of municipal ordinance which follows below has been devised in order that each municipality may have

a draft upon which to build as its own individual conditions and requirements demand.

All material which is contained in parentheses is merely explanatory. That which indicates an option to be enacted in the municipality's discretion should only be included insofar as it expresses the municipality's policy.

AN ORDINANCE TO FIX LICENSE FEES, TO REGULATE THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

BE IT ORDAINED:

Sec. 1 This ordinance is for the purpose of fixing license fees and regulating the sale of alcoholic beverages in the Township of \_\_\_\_\_, County of \_\_\_\_\_, in accordance with provisions of an Act of the Legislature entitled "An Act concerning alcoholic beverages" Chapter 436 P. L. 1933, as amended and supplemented, and in accordance with the rules and regulations promulgated or to be promulgated by the State Commissioner of Alcoholic Beverage Control applicable hereto, and in accordance with the rules and regulations existing, herein or hereafter adopted by competent municipal authority not inconsistent with said Act or said rules and regulations of said State Commissioner.

Sec. 2 It shall be unlawful to sell or distribute alcoholic beverages otherwise than as provided in this ordinance and/or said Act.

Sec. 3 (alternate) The Township Committee of the Township of \_\_\_\_\_, County of \_\_\_\_\_, being the governing body of said municipality shall constitute the authority for the administration of the issuance of licenses hereunder.

(alternate) The Municipal Board of Alcoholic Beverage Control of the Township of \_\_\_\_\_, County of \_\_\_\_\_, having been duly constituted by the governing body, shall be the authority for the administration of the issuance of licenses hereunder.

Sec. 4 License Fees (see Section 13, P. L. 1933, c. 436, as amended by P. L. 1934, c. 85)

- a. Plenary retail consumption license: \$ \_\_\_\_\_ per annum.  
(minimum \$200, maximum \$2,000)
- b. Seasonal retail consumption license: \$ \_\_\_\_\_ per term.  
(must be 75% of the plenary retail consumption license fee)
- c. Plenary retail distribution license: \$ \_\_\_\_\_ per annum.  
(minimum \$100, maximum \$1,000)  
(The governing body of each municipality may by ordinance enact that this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which any other mercantile business is carried on)
- d. Limited retail distribution license: \$ \_\_\_\_\_ per annum.  
(minimum \$25, maximum \$50)

(the governing body of each municipality may by ordinance enact that no limited retail distribution license shall be granted within its municipality. The governing body may also by ordinance enact that no more than one such license may be granted to any person, corporation, partnership, limited partnership, or association in said municipality and said license shall cover only the licensed premises)

- e. Club license: \$            per annum.  
 (minimum \$50, maximum \$150)  
 (The governing body of each municipality may by ordinance enact that no club licenses shall be granted within its municipality)

Sec. 5 a. Any person who shall sell or distribute any alcoholic beverage without having complied with or in violation of any of the provisions of this ordinance shall upon conviction thereof be subject to a fine of not less than            Dollars and not more than            Dollars or imprisonment for not less than            days and not more than            days or by both said fine and imprisonment in the discretion of the court

b. Any license issued pursuant to this ordinance may be suspended or revoked for violation of any of the provisions of this ordinance or for violation of any of the provisions of said Act or of any of the rules and regulations promulgated by the State Commissioner of Alcoholic Beverage Control.

c. Any person who shall, after conviction of an offense under this ordinance, be convicted of another offense under this ordinance, such other and subsequent offense shall be punishable by a fine or imprisonment, the minimum and maximum limits of which shall be twice the limits otherwise by this ordinance imposed, or by both such fine and imprisonment, in the discretion of the court.

Sec. 6 If for any reason any section or part of any section or provision of this ordinance shall be questioned in any court and shall be held to be unconstitutional or invalid, same shall not be held to affect any other section or any part of a section or provision of this ordinance.

Sec. 7 All resolutions and ordinances fixing license fees or regulating the sale or distribution of alcoholic beverages heretofore adopted are hereby repealed and rescinded.

Sec. 8 This ordinance shall take effect            .

The following, although not fully complete, represent regulations which have been adopted by municipalities and have been approved by the Commissioner (except, of course, limitations of the number of licenses or the hours between which sales may be made, which, as explained in Bulletin 43, item 2, do not need the Commissioner's approval to be effective). They are offered solely as examples for optional inclusion between Sections 4 and 5. They represent the policies of the municipalities which saw fit to enact same and are not to date official policies of this Department. The Commissioner has not considered the expediency or policy of their exercise. Of this the municipality itself must be the judge.

State rules concerning conduct of licensees and the use of licensed premises (Bulletin 48, items 1 and 12) were promulgated on October 8 and 11, 1934, prohibiting the following: (1) the sale or delivery to, or the consumption of any alcoholic beverage upon the licensed premises by, any person under the age of twenty-one years; (2) the sale at retail or delivery to any consumer of any alcoholic beverage on General, Municipal, Primary or Special Election Days while the polls are open for voting; (3) the solicitation from house to house, personally or by telephone, of the purchase of alcoholic beverages; (4) the harboring of criminals, gangsters, swindlers, etc. or other persons of ill repute upon the licensed premises; (5) disturbances, brawls, etc. constituting a public nuisance, upon the licensed premises; (6) the conduct of lotteries or the sale of any ticket or participation right in any lottery; (7) book-making, gambling or gambling devices on or about the licensed premises; (8) the possession of slot machines or similar devices on or about the licensed premises. It is the duty of all municipal police officials to enforce these State regulations in full. Hence if local rules are adopted covering the same subject matter it is requested that the local rule repeat verbatim the wording of the State rule. This will preclude any possible legal complications arising from differences in language and also make for more effective enforcement. The incidental benefits to be derived from this similarity of wording are set forth at considerable length in the discussion of the problem contained in Bulletin 52, item 2. Their study will demonstrate the advantages to be gained. The cooperation of each municipality in this respect will be greatly appreciated.

1. Number of Licenses (See Section 37, P. L. 1933, c. 436, as amended by P. L. 1934, c. 85)  
 No more than \_\_\_\_\_ plenary retail consumption,  
 seasonal retail consumption, \_\_\_\_\_ plenary retail distribution,  
 limited retail distribution, \_\_\_\_\_ club licenses, shall  
 be in effect in this municipality at any time.  
 (The governing body of each municipality may by ordinance enact that no more than one retail license shall be granted to any person, corporation, partnership, limited partnership or association, in said municipality and that said license shall cover only the licensed premises.)

2. Hours of sale  
 No alcoholic beverages shall be sold, served, delivered, nor shall any licensee suffer or permit the sale, service or delivery of any alcoholic beverage directly or indirectly upon the licensed premises between the hours of \_\_\_\_\_ to \_\_\_\_\_ on week-days or \_\_\_\_\_ to \_\_\_\_\_ on Sundays.

The hours aforementioned shall be construed to indicate Standard Time or Daylight Saving Time during such period when each may be in effect in this municipality.

3. No license shall be issued for any premises not having a floor space of at least \_\_\_\_\_ square feet.

4. No plenary or seasonal retail consumption license shall be granted for any premises within \_\_\_\_\_ feet of any existing licensed premises.

5. No license of any class shall be issued contrary to any zoning ordinance now existing or hereafter enacted in this municipality.

6. No license of any class shall be granted for premises located within the following prescribed area:

7. No licensee shall sell, serve, or deliver, nor shall any licensee suffer or permit the sale, service or delivery of any alcoholic beverage directly or indirectly to any mental defective, habitual drunkard or intoxicated person, nor permit the same to congregate in or about the licensed premises.

8. No plenary or seasonal retail consumption license shall be issued except to hotels, restaurants or clubs.

9. No person shall be served in any room which is not open to the use of the public generally except that in hotels guests may be served in their rooms or in private dining rooms and further provided that this regulation shall not apply to club licensees. (See Bulletin 43, item 11.)

10. All premises in which alcoholic beverages are sold or dispensed, excepting those which hold club licenses, and guest rooms and private dining rooms in hotels, shall be so arranged that a full view of the interior may be had from the public thoroughfare or from adjacent rooms to which the public is freely admitted. All such premises shall be lighted sufficiently so that a full view of the interior thereof may be had at all hours from the public thoroughfare or from adjacent rooms to which the public is freely admitted. (See Bulletin 43, item 11.)

11. (a) No plenary or seasonal retail consumption or club licensee shall sell, serve or deliver any alcoholic beverages on Sundays for consumption on the licensed premises except in restaurants at tables with meals.

(b) No plenary or seasonal retail consumption or club licensee shall sell, serve or deliver on Sundays any alcoholic beverages for consumption on the licensed premises other than brewed malt alcoholic beverages or naturally fermented wines.

(c) No retail licensee shall sell, serve or deliver on Sundays any alcoholic beverages for consumption off the licensed premises. Plenary and seasonal retail consumption and club licensees may sell alcoholic beverages on Sundays only for consumption on the licensed premises in restaurants at tables with meals.

(See Bulletin 43, item 11.)

12. No Plenary or seasonal retail consumption or club licensee shall sell, serve or deliver or suffer or permit the sale, service or delivery of any alcoholic beverages for consumption on the licensed premises directly over any bar.

13. No plenary or seasonal retail consumption or club licensee shall suffer or permit any female to sell, serve or deliver any alcoholic beverage for consumption on the licensed premises nor employ any female so to do, provided, however, that this regulation shall not prohibit the employment of females only to serve alcoholic beverages directly to persons in restaurants or dining rooms at tables in conjunction with meals.

14. No exterior sign indicating that alcoholic beverages are for sale shall be erected.

15. No license of any class shall be granted to anyone who has not been a resident of this municipality for \_\_\_\_\_ years next preceding the date of application nor shall any license be issued to any corporation which has not been in existence for \_\_\_\_\_ years next preceding its date of application.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

By:  
Maurice E. Ash  
Senior Inspector.

The foregoing is neither a prescribed form nor a recommended form, but, as indicated, a mere sample or example of provisions which have been heretofore approved and now set forth for convenience of municipalities in formulating their own regulations.

D. FREDERICK BURNETT,  
Commissioner

10. RETAIL TRANSIT LICENSES - SERVICE OF BEVERAGES "WHILE IN TRANSIT" - SERVICE PERMISSIBLE PREVIOUS TO ACTUAL DEPARTURE OF TRAIN FROM STATION

November 23, 1934

Wall, Haight, Carey & Hartpence, Esqs.,  
Jersey City, N. J.

Gentlemen:

I have your letter inquiring as to whether a retail transit licensee may serve passengers on a train previous to the actual departure of the train from the railroad station.

Section 13 of the Control Act provides that the holder of a plenary retail transit license shall be entitled to sell alcoholic beverages for consumption only on railroad trains, airplanes and boats "while in transit". It seems clear that the vehicle need not be in actual motion to be in transit within the meaning of section 13 and that passengers may be served on the train at any time during the course of their journey.

As a matter of general practice, trains awaiting departure at railroad terminals and their dining cars are open to passengers for a period of time previous to the hour of departure. A person who has lawfully boarded the train with intent to remain thereon and continue to his point of destination, is clearly a passenger and may well be said to have commenced his journey.

Consequently, alcoholic beverages may be served to him on the train pursuant to the terms of the retail transit license, even though the train has not actually started in motion.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

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

11. RETAIL LICENSEES - SALE OF WINE FROM BARRELS - WHEN  
PERMISSIBLE AND WHEN NOT

D. Frederick Burnett, Commissioner.

May retailers purchase wine in barrels and in turn  
sell to the consumer from such barrels?

Yours very truly,  
10TH REGIONAL CODE AUTHORITY

By: Joseph Triner, Chairman

November 14, 1934

10th Regional Code Authority,  
Chicago, Ill.

Gentlemen:

Neither the Control Act nor any of the rules and regulations promulgated by the Commissioner restricts the maximum quantity of wine which may be purchased by the holder of a plenary retail consumption or plenary retail distribution license. Consequently, such licensees may purchase wine in barrels.

A plenary retail consumption licensee may sell wine drawn from such barrels by the glass or other open receptacle for consumption on the licensed premises. A plenary retail distribution licensee, however, may sell only for consumption off the licensed premises and then only in original containers. Sales for off premises consumption by plenary retail consumption licensees are similarly restricted to sales in original containers. Consequently, neither type of licensee may sell such wine for consumption off the licensed premises except where the entire barrel is sold.

If a retail licensee were to bottle wine drawn from barrels and sell such bottled wine, he would not only be exceeding the terms of his license, but would also be violating section 78, which prohibits a retail licensee from bottling alcoholic beverages for sale or resale.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

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

12. SPECIAL PERMITS - WHEN REQUIRED FOR SOCIAL FUNCTIONS - DUTY  
OF LANDLORD TO SEE TO IT THAT LAW IS OBSERVED ON HIS PREMISES

November 30, 1934

Isidore Dworkin, Esq.,  
68 Hudson Street,  
Hoboken, N. J.

Dear Sir:

I have your inquiry on behalf of the owner of a

building, rented out to weddings and social parties, whether organizations conducting social functions or weddings require a special permit to dispense alcoholic beverages.

If an admission fee is charged or tickets sold for an affair at which alcoholic beverages are served, it constitutes a sale just as much as if the alcoholic beverages were sold by the glass or other open receptacle. Hence, the organization sponsoring the social affair must obtain a special permit from the Commissioner.

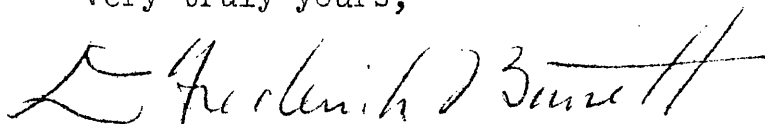
If, on the other hand, however, the alcoholic beverages are actually given away gratuitously to any adult whoever he may be who attends the function and no admission fee is charged or tickets sold, it is not a sale of alcoholic beverages but an out and out gift and no permit is required.

Should a special permit be required, application must be made to this Department by the organization sponsoring the affair and accompanied by the written approvals of the Chief of Police and Municipal Clerk of the place where the affair is held consenting to the sale of alcoholic beverages. The permit fee is \$10.00 and should also accompany the foregoing application.

To assure compliance with the law, your client when renting the building for social functions must at his own peril make sure just how alcoholic beverages may be obtained by those attending. If he is in any doubt whatsoever whether the contemplated procedure would constitute a sale under the Control Act, he should require that a special permit be produced or else written notification from the Commissioner obtained that no permit is required.

The responsibility is on your client at all times to see to it that the law is observed on his premises.

Very truly yours,



Commissioner