

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 781

NOVEMBER 7, 1947.

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STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 781

NOVEMBER 7, 1947.

1. LABELING - EXPLANATION AS TO WHY LABELS FOR MALT ALCOHOLIC BEVERAGES DO NOT CONTAIN SAME DATA AS WHISKEY LABELS - HEREIN ALSO OF DESIRABILITY OF UNIFORMITY IN STATE AND FEDERAL LABELING REGULATIONS IN FIELD OF ALCOHOLIC BEVERAGES.

September 8, 1947

Mr. A. D. B. _____
Bloomfield, N. J.

My dear Mr. B. _____:

You point out that whiskey labels specify the alcoholic content and also whether the item is a straight or blended whiskey, etc., whereas beer labels do not contain similar information. You therefore urge that, for the benefit of the buyer, beer labels should specify the alcoholic content and the aging period and also what you call the "body of the beer".

The Federal authorities have adopted comprehensive labeling regulations as to alcoholic beverages moving in interstate or foreign commerce. For the sake of uniformity, this Department has ruled that the same regulations shall apply to labeling of alcoholic beverages moving only in intrastate commerce in New Jersey. Many states in the country have taken exactly similar action for the purpose of trying to establish one general set of labeling regulations for the nation.

Those regulations expressly require that whiskey labels shall set forth the alcoholic content and the other data to which you refer. However, they make no such provision as to malt alcoholic beverages but merely require that the label must show the name of the bottler or importer, specify the net contents, and state what class of malt alcoholic beverages is in the container, e.g., "beer", "ale", "stout" or "porter". Seemingly, the Federal regulations (which we and various other states follow as above described) do not treat labels for malt alcoholic beverages as stringently as labels for whiskey because of the fact that malt alcoholic beverages do not have the variety of composition which can go into whiskey and because of the further fact that the alcoholic content in malt alcoholic beverages is comparatively small -- e.g., generally no more than 4% by volume in beer and somewhat higher in the case of ale, stout or porter. In any event, thus far the Federal authorities have apparently not found it necessary to require that labels for malt alcoholic beverages set forth the alcoholic content and the other detailed information required in the case of whiskey. Nor have we, although having contemplated the matter from time to time, found sufficient urgency for such labeling at the expense of adding onto the Federal requirements and thus destroying the uniformity between state and Federal requirements which we feel is desirable in labeling.

However, wholly apart from our attitude in the past, the question you raise is deserving of serious review on our part at this time. Accordingly, should the Federal regulations remain as they presently are, we plan to reexamine this entire matter with a view toward the advisability of adopting a regulation in New Jersey requiring labels on malt alcoholic beverages being sold in this State to contain more detailed information than is presently the case.

Very truly yours,
ERWIN B. HOCK
Commissioner.

October 9, 1947

Mr. A. D. B. _____
Bloomfield, N. J.

Dear Mr. B. _____:

Acknowledgment is made of your letter of September 17, 1947, with which you transmitted copy of a letter written to Governor Driscoll, containing certain suggestions with respect to more informative labeling for bottled beer. Your letter quotes a portion of a communication directed to you by Commissioner Hock of the New Jersey Department of Alcoholic Beverage Control, outlining the Department's position with respect to the questions you have raised. It may be pointed out that I recently had occasion to confer with both Commissioner Hock and Governor Driscoll in Atlantic City, at the time of the conference of monopoly state administrators, and that the subject of your letter was discussed at that time. I am sending Commissioner Hock a copy of this letter for his further information.

The suggestions you have made reflect a broad understanding of branding practices generally and indicate that you have given considerable thought to labeling in the alcoholic beverage field. The same points you raise have been given careful consideration by me and my predecessors in this work over a period of several years, having been the subject of research on the part of labeling experts and technicians employed by the Government, or having been the subject of public hearings at various times. It has been the Government's conclusion, as a result of these studies, that it is neither feasible nor altogether desirable to require the inclusion of these extra items of information on beer labels. I am outlining below in some detail the bases on which these conclusions were reached.

Your first suggestion is that beer labels should bear statements of alcoholic content. At present, an Act of Congress, the Federal Alcohol Administration Act, specifically prohibits the use of alcoholic content statements on beer labels, except where required by state law (a few states require such statement as a means of administering their revenue statutes, different rates of taxes being imposed for malt beverages above and below a given figure). The Congressional enactment in this regard reflected the attitude both of the administrative branch of the Government and of the brewing industry itself. It was the opinion of those having studied the matter that beer should be presented to the public as a beverage of moderation rather than as an alcoholic drink having intoxicating properties, and it was believed that this presentation could best be made by avoiding any references to alcohol on labels. Regulations which have been adopted pursuant to public hearings to carry out the purposes of the law have, therefore, not only prohibited specific statements of alcoholic content but have also precluded the use of any numerals, designs or devices which may be mistaken by the consumer as references to alcoholic content or intoxicating qualities. I am inclined to think that it is still in the public interest to pursue this policy and it is my understanding that the brewing industry itself would be strongly opposed, for these reasons, to a requirement that the alcoholic strength of its products be stated on bottle labels.

From the consumer's standpoint, I believe that very little would be accomplished by requiring exact statements of alcoholic content to appear on labels. Reports which are submitted to the Bureau by breweries every month show, among other things, the quantity of beer produced and its alcoholic strength; and I note from an examination of several of these monthly reports that there is very little variation in the alcoholic content of the beer currently being marketed. While

some beers run as low as 3% and some as high as 4% of alcohol by weight, nearly all of them run around the average of 3.5%. You will thus note that even those which are extremely high or low in alcohol only vary from the average about one-half of one per cent, while the departure from the average in most cases would be measured by one or two-tenths of a per cent. It hardly seems worthwhile from the consumer's standpoint to require statements containing such exact information as to alcoholic content. We can, I believe, quite properly take the position that alcoholic content is a very nearly uniform characteristic of beer and that the variations are so slight as to be of no consequence to the consumer.

You have also suggested that labels should carry some information regarding the period during which beer has been aged. It is undisputed, of course, that the matter of age is of great importance in the case of products such as whiskey and brandy, which are usually unpalatable when unaged and which normally improve in quality as the aging period is increased. However, the situation with beer is quite different. Bureau records reveal that no beer is aged for a very long period and that the general practice in this regard is also reasonably uniform. At the present time, it appears from statistics which I have recently examined that brewers are usually aging their beer from three to five weeks, with an average of four weeks. Such variation as there is in this regard would probably come about, at least to some extent, as a result of fluctuations in demand for brewers' products. If a brewer sells less beer than he has anticipated, it is obvious that his beer will remain in storage longer than he had planned; and if his sales exceed his expectations, it is equally obvious that he will withdraw his product from his storage tanks more rapidly than he had anticipated, with the result that the aging period is reduced.

Since the average period of aging is four weeks and since the variation from this period, either above or below, is normally no more than one week, it hardly seems desirable, from the consumer's standpoint, to require labels to carry exact information as to the storage period, as, for example, 27 days, 32 days, etc. Bureau chemists and organoleptic experts who have examined a great many samples of beer during the past several years are agreed that there is no perceptible difference in the taste or other characteristics of beers aged, for example, three and five weeks. Since there is no noticeable difference, it would seem that no purpose would be served by requiring the different ages to be stated on the labels; and it may even be argued that such statements under these circumstances would be misleading, since the consumer would naturally expect a 32-day beer to be superior to a 27-day beer. It may further be pointed out that since the brewer, from a practical standpoint, could hardly arrange to bottle all his beer at the same age because of variations in demand, he would constantly have to be changing his labels, involving added expense which the consumer in the end would have to pay. Such a requirement would also necessitate a general revamping of brewery storage plants and possibly make it necessary for the Government to station men regularly at brewery premises in order that the accuracy of age statements on beer labels could be properly policed. I believe you will agree that the benefits to the consumer from such a requirement, questionable as they are, would hardly justify the additional trouble and expense which the requirement would involve both for the brewery and the Government.

You further suggest that beer labels should contain some statements as to the body of the beer, by which I understand you are referring to the extract or solid matter contained in the product. Beer averages around $4\frac{1}{2}\%$ to 5% extract but there is more variation in this regard than in the case of alcoholic content or age. We have found some beers

to contain as little as $2\frac{1}{2}\%$ solids while some go as high as $6\frac{1}{2}\%$. I doubt, however, if this is a matter in which the average consumer would be interested and I have some question as to whether the statement of residual solid content could be made in a manner which would not be confusing, at least to a substantial number of consumers. The amount of extract in a beer, of course, determines whether it is a light or heavy beer, or, in other words, just what the beer tastes like. Some brewers aim at a light-bodied beer, just as some whiskey distillers aim at the production of light-bodied whiskeys, while others produce beers of heavier bodies, depending upon what the individual brewer thinks the public preference in his locality or market may be. I am inclined to feel, however, that it is better for the public to judge this characteristic of beer on taste, rather than on label statements which may not be easily understood. If a given consumer dislikes a heavy beer and prefers a light one, he will presumably settle on a brand which pleases his particular taste and avoid buying those which he finds unsuitable.

I appreciate very much your writing me about these matters and giving me an opportunity to explain the Government's position on them to you. I shall be pleased to hear from you again at any time.

Very truly yours,
Carroll E. Mealey
Deputy Commissioner of Internal Revenue
U. S. Treasury Department.

October 15, 1947

Carroll E. Mealey, Deputy Commissioner,
of Internal Revenue
U. S. Treasury Department
Washington 25, D. C.

Dear Commissioner Mealey:

I have yours of October 9th enclosing copy of your letter of the same date to A. D. B. of Bloomfield, N. J., explaining why Federal regulations do not require beer labels to specify alcoholic content, or period of age, or ingredients making up the so-called "body of the beer".

In view of such explanation, I am inclined, at present writing, to the position that New Jersey, for the sake of uniformity, should not add to the Federal regulations concerning labeling of malt alcoholic beverages.

Sincerely yours,
ERWIN B. HOCK
Commissioner.

2. RETAIL LICENSEES - ADVERTISING - "WELCOME WAGON SERVICE" PLAN, DESCRIBED HEREIN, BARRED TO LIQUOR ESTABLISHMENTS SINCE INVOLVING PROHIBITED SOLICITATION AND GIFT MAKING.

October 3, 1947

Dear Sir:

Our records show that you hold a plenary retail distribution license for premises at the above address where you apparently operate a combination grocery and liquor store.

In your letter of September 30th, you ask whether it is permissible for you to participate, along with other merchants, in a plan put forward by "The Welcome Wagon Service Co." This company employs a representative to call upon newcomers in the neighborhood and to acquaint them with the shopping facilities and services of the various merchants participating in the plan. In addition, each merchant is to offer a "small gift of welcome" to the newcomers. You state that, since your combination store handles a line of Italian groceries, you would like to make your gift a package of such groceries.

It is not permissible for you to engage in this plan. Under Rule 3 of State Regulations No. 20, no retail licensee may, by personal visits or by use of the telephone, solicit from house to house in connection with the possible sale of alcoholic beverages, nor may he permit anyone to engage in such solicitation on his behalf. The above described activity of the representative in question in visiting newcomers under your authorization and calling their attention to your combination liquor and grocery store constitutes a type of canvassing or solicitation which is prohibited by the Rule.

Moreover, as the holder of a plenary retail distribution license, you are prohibited by Rule 20 of State Regulations No. 20 from furnishing any gift to any actual or prospective customer in your licensed business except advertising novelties of purely nominal value (Re Liebesman, Bulletin 219, Item 7). Your proposed gift does not fall within this exception and, hence, is barred by the Rule.

In view of these Rules, which are designed for the benefit of the liquor industry as well as the public, your participation in the type of scheme in question would constitute violations punishable by suspension or revocation of your license.

Very truly yours,
ERWIN B. HOCK
Commissioner.

3. PRACTICES UNDULY DESIGNED TO INCREASE CONSUMPTION - SALE OF ALCOHOLIC BEVERAGES BY THE DOWN-DEPOSIT AND LAY-AWAY PLAN PROHIBITED.

October 8, 1947

Gentlemen:

You hold a plenary retail distribution license for your liquor store at the above address, and you ask whether you may advertise the following:

"A small deposit will secure any item until Xmas."

The answer is that you may not. Liquor is not the type of commodity for which the public should be encouraged to lay down advance deposits and to bind itself to future purchase. On the basis of sound public policy, I am opposed to any dedication of funds to a retail liquor dealer for future purchase of alcoholic beverages. The pursestrings of the family or of the individual should be kept open for the day-to-day purchase of more needful items.

Your proposed scheme constitutes an undesirable type of merchandising of liquor, and is a practice unduly designed to increase the consumption of alcoholic beverages. Hence, by virtue of R. S. 33:1-39, I heroby specially rule that neither you nor any other retail licensee shall engage in the above type of scheme or in any advertisement thereof.

Very truly yours,
ERWIN B. HOCK
Commissioner.

4. FAIR TRADE - PRICE ADVERTISING OF PRODUCTS NOT PRICE-FIXED - PRIVATE AND EXCLUSIVE BRANDS DEFINED TO EXCLUDE THOSE OWNED OR USED IN COMMON BY MORE THAN ONE RETAILER.

ADVERTISING - JOINT ADVERTISING BY RETAILERS MUST SPECIFY NAMES AND ADDRESSES OF ALL.

October 15, 1947.

Louis B. Englander, Esq.
Newark 2, N. J.

My dear Mr. Englander:

I have been considering your letter of September 11th and our discussion of several weeks ago dealing with the Department's special ruling as to price-advertising of alcoholic beverage items not on the so-called Fair Trade list.

Under this ruling, non-Fair Trade items may not be price-advertised in any way, directly or indirectly, in any newspaper or other publication, or in any circular or handbill, or in any mailing piece. The only exception is with respect to "private brands owned or controlled by a retailer or exclusive brands confined to or distributed by one retailer." See Bulletin 775, p. 1.

Your letter concerns this exception. You indicate that there are several retailers, successors to "Franklin Stores", who jointly own or have common right to use certain brand names handed down to them from the said "Franklin Stores", and you further indicate that these retailers follow a non-competitive merchandising policy as to these items. You urge that these brands should be viewed as "private brands" falling within the above exception.

Although you do not name the retailers in question, I take it, from advertisements which I have seen in the newspapers under the trade name of "Franklin", that these retailers are David Englander and Estelle Englander, t/a Franklin Hamilton Liquor Co., 859 Elizabeth Ave., Elizabeth; Irvington Liquor Co., t/a Franklin Liquor, 1397 Springfield Ave., Irvington; and Hall Liquor Co., t/a Franklin Liquor, 2041 Springfield Avenue, Union Township.

Although fully mindful of your arguments, which you ably presented when at the Department, I nevertheless regret to say that I cannot accept your view that the brands in question fall within the above exception. That exception is specifically restricted to brands which are handled by a single retailer in New Jersey. Even if the several retailers in question are successors to a single prior retailer and even if they legally own or have common usage of certain brand names derived from that retailer and can legally adopt non-competitive policies with respect thereto, they still remain individual retailers and do not constitute a single retailer.

The exception in question was created because of two reasons -- (1) the restriction against price-advertising of the non-Fair Trade items is to prevent undesirable trade practices between retailers, which practices do not prevail to the same extent in the case of brands being handled by a single retailer in the state; and (2) the said exception is concrete and simple to administer.

To extend the exception in any way to include alleged instances where several retailers have common ownership or usage of a brand would open up a door which might well defeat the general restriction. It would be of no help to say that these retailers would not be competing with each other since this would involve considerable and difficult investigation in each instance and would create problems not warranted by the value of the exception and which would merely bog down the efficient enforcement of the general restriction.

Hence I must reach the conclusion that the brands which you have in mind are not "private" or "exclusive" brands within the above exception and that the exception should not be extended to include them. It is my present opinion that this ruling would still prevail even if the several retail concerns in question had exactly the same constituency, i.e., exactly the same persons being interested to the same extent in each concern. However, this precise point need not here be decided since there is no claim that such facts prevail, and it is my understanding that there is not an exact identity of interests in the retail establishments in question.

By the same token, I may also point out that, since the brands in question do not constitute private or exclusive brands, the wholesale prices for them should be filed with this Department by the manufacturing or wholesaling licensee who is selling these items to these retailers. See Bulletin 426, Item 1. Please advise us as to the licensee selling these items to the retailers so that we may make sure that the wholesale prices are being filed.

There is one further question which I must discuss. I have observed that the three retailers in question advertise jointly under the caption or trade name of "Franklin" and that they merely list their addresses but not their names in such advertisements. The Department has no present objection to joint or cooperative newspaper advertising by several retail licensees. See Bulletin 323, Item 6. However, the advertisements of the retailers in question since not listing their names convey the erroneous inference that the stores located at the specified addresses are all in the hands of a single owner. To overcome any such possible inference, I hereby specially rule that, where these or any other retailers advertise in this joint or cooperative way, they must specify their full names and addresses. Cf. Bulletin 323, Item 6, supra.

Very truly yours,
ERWIN B. HOCK
Commissioner

5. LICENSED PREMISES - "BIG CITY ALLEY ROLL", DESCRIBED HEREIN, CONSTITUTES BAGATELLE OR PINBALL MACHINE - BARRED BY RULE 7 OF STATE REGULATIONS NO. 20.

October 14, 1947.

Seacoast Distributors Inc.
Newark 5, N. J.

Gentlemen:

You have inquired whether a machine called "Big City Alley Roll" is permissible at taverns in New Jersey.

The machine is about 3' high, 2' wide and 6' long and has an automatic scoreboard. On insertion of a coin, several wooden balls about 2" in diameter become available to the player, who is to roll them by hand down the playing surface toward various holes which are located therein. Six such holes are arranged in a pattern just beyond the middle of the playing surface, three being colored and three uncolored. There is also a series of seven holes, all colored, located across the far end of the machine. Each ball scores in accordance with the hole or holes into which it lands. Before each roll, the scoreboard flashes a color which means that the holes of that color will register a premium score.

There is an added feature. The three uncolored holes in the above mentioned pattern of six bear a metal strip. When the ball lands in any of these three holes, it rests on the metal strip and registers a score in accordance with that hole and it is then automatically "kicked" out of the hole by the strip and continues its travel on the board. If it then lands in another hole with one of these "kickers", the same process is repeated. The ball continues in motion until it drops into a hole without a "kicker".

Rule 7 of State Regulations No. 20 prohibits any so-called bagatelle or pinball machine at taverns or other licensed premises in New Jersey. I deem that the above machine comes within this prohibited category. The aspect whereby the ball, once leaving the player's hands, and being beyond his control, can go through a series of multiple scoring by rolling into the holes with the "kickers", brings the machine within the prohibited category.

For convenience of all concerned, I may point out that, in the Department's interpretation of the Rule in question, it may generally be said that any machine like the above where the ball, after leaving the player's control, may engage in multiple scoring while in its line of travel, constitutes a bagatelle or pinball machine within the meaning of the Rule.

In view of the foregoing, I must advise that no licensee in this state may allow the machine in question to be located in his establishment on penalty of having the license suspended or revoked.

Very truly yours,
ERWIN B. HOCK
Commissioner.

6. ADVERTISING - CARTOONS UNDULY ATTRACTIVE TO CHILDREN DISAPPROVED.

October 24, 1947

Artists' Union, Inc.
Milwaukee 13, Wisconsin.

Gentlemen:

Recently one of your sales representatives, Richard J. Levin, of 1833 Widener Place, Philadelphia, Pa., appeared at this Department and submitted to us a series of 52 cartoons made up by your company. These cartoons are humorous in tone and depict animals dressed up and acting and talking like humans in the well-known Walt Disney tradition. Each cartoon has an attendant catch or gag line.

Mr. Levin informed us that you wish to know if retail liquor dealers in New Jersey may buy the privilege of using this series of cartoons, one cartoon a week, in their advertisements in newspapers or circulars.

This Department has been properly hesitant about allowing use of cartoon advertising in the field of alcoholic beverages in New Jersey for the simple reason that cartoons may easily tend to be unduly appealing to youngsters, who should not be drawn to liquor advertisements for a source of amusement. Hence, whatever cartoon advertising has been allowed thus far has been on a wholly temporary basis subject to cancellation at any time, and with sharp restriction as to the type of cartoon which may be used. We may point out, by way of a single example, that no character in the comic strips may be used.

As to your cartoons, which show animals dressed up and talking and acting in humorous vein like people, it is clear that, whether or not so intended, they will have an undue attraction for youngsters. We all know that the fanciful domain where animals look, talk and act like humans is especially beloved by the children. It has no proper place being mixed up with advertising of such items as alcoholic beverages in which children should have no part. There are plenty of other ways in which the liquor trade can advertise.

Moreover, your series of cartoons is apparently designed to last for a year. As already indicated, the Department, in giving clearance for even the limited types of cartoon advertising presently allowed, is restricting such clearance to short terms so that, should it be necessary to eliminate entirely this kind of advertising, the parties may not complain of long term commitments.

In view of the foregoing, the Department herewith disapproves of your series of cartoons for proposed use in alcoholic beverage advertising in New Jersey, whether by retailers or wholesalers or manufacturers.

Very truly yours,
ERWIN B. HOCK
Commissioner.

7. APPELLATE DECISIONS - FRIEDMAN v. EAST NEWARK, SCOTT AND COLTRE; JOHNSTON; SPINELLI.

MOLLIE FRIEDMAN,)	
)	
Appellant,)	
)	
-vs-)	ON APPEAL
)	CONCLUSIONS AND ORDER
MAYOR AND COUNCIL OF THE BOROUGH)	
OF EAST NEWARK, and JAMES SCOTT)	
and NICHOLAS COLTRE; WILLIAM)	
JOHNSTON, and JOHN B. SPINELLI,)	
)	
Respondents)	

Matthew Krafte, Esq., Attorney for Appellant.
 Gerald A. Caruso, Esq., Attorney for Respondent Borough of East Newark.
 Leo S. Carney, Esq., Attorney for Respondents Scott and Coltre, and Johnston.
 Russel E. Greco, Esq., Attorney for Respondent Spinelli.

BY THE COMMISSIONER:

This is an appeal from the action of respondent Mayor and Council in granting plenary retail distribution licenses to respondent Johnston for premises at 106 Central Avenue; to respondents Scott and Coltre for premises at 162 Central Avenue; and to respondent Spinelli for premises at 210 Central Avenue, Borough of East Newark. The licenses were granted on March 31, 1947, and hence the provisions of Ch. 24, P. L. 1947 do not apply.

Appellant alleges in substance that no hearing was held upon a written objection alleged to have been filed on her behalf and that the action of the Mayor and Council was erroneous because said licenses were granted without regard for the issue of public necessity and convenience and constituted an abuse of discretion by the local issuing authority.

Appellant, the only person objecting to the additional licenses, holds a plenary retail distribution license for premises at the corner of Sherman Avenue and Second Street. At the time these additional licenses were granted, she held the only plenary retail distribution license outstanding in the Borough.

Respondent Johnston filed his application on February 13, 1947. Respondent Spinelli filed his application on February 17, 1947. At a meeting of the Mayor and Council held on March 3, 1947, appellant's husband presented a petition to the issuing authority objecting to the issuance of further licenses. Respondents Scott and Coltre filed their application on March 17, 1947. As noted, the three additional licenses were granted at a meeting of the Mayor and Council held on March 31, 1947.

I am not impressed by the explanation that no notice of a hearing upon the petition was given to appellant or her husband because the applicants did not advertise until after the aforesaid petition was filed. The local issuing authority had knowledge of the petition and should have scheduled a hearing thereon in accordance with Rules 6 and 7 of State Regulations No. 2. Under the circumstances I might remand the case for further hearing. It appears, however, that the case has been fully presented on appeal and, hence, I shall decide the case on its merits.

The Borough of East Newark is a small, highly industrialized community. It is approximately one-half mile in length and one-quarter mile in width. According to the 1940 census, the Borough had a population of 2,273 and its present population is estimated to be about 3,000. Nearly half of the area of the Borough is occupied by industrial plants employing at least 5,000 people. The evidence shows that fifteen plenary retail consumption licenses are in existence in the Borough.

Each of the three members of the licensing committee testified at the hearing. Councilman W. Thompson testified that he formerly conducted a fish business at 208 Central Avenue and that half of his customers were transients. He stated that:

"In so far as the applications were concerned, I felt we could use them in our small Borough. At the time it was growing and I could foresee it will continue to grow ***. They have my version of approximately 5,000 employees, and we have approximately 3,000 in the Borough and transient trade is going through continually. And most of this trade has occasion at some time to stop and buy in any of the stores that we have, whatever they have for sale."

Councilman Gleeson testified that Central Avenue is a main artery; that the Borough is growing, and that he felt there was a need for the additional licenses. Councilman J. Thompson testified that he formerly conducted a luncheonette business on Central Avenue; that about forty per cent of his customers were "outsiders", and that public convenience would be met by the establishment of the three additional licenses on Central Avenue. The five members of Council who were present at the meeting, including the three members of the licensing committee, voted to grant the licenses.

Were I a member of the local issuing authority, I would probably have voted to deny some or all of these three licenses in such close proximity to each other. However, the Borough at one time had two plenary retail distribution licenses; appellant's premises are 600 feet from Central Avenue, and a very large number of persons are employed in industrial plants located in the Borough. Under all the circumstances I cannot say that respondent issuing authority abused the discretion granted by R. S. 33:1-19 and R. S. 33:1-24.

The result reached above does not necessarily mean that I have no alternative except to affirm the issuance of the three additional licenses. R. S. 33:1-38 provides that, upon appeal, the Commissioner may make "all findings, rulings, decisions and orders as may be right and proper and consonant with the spirit of this chapter."

Respondent Johnston operates an exclusive liquor store, and as to his license I shall affirm the action of respondent Mayor and Council.

Respondents Scott and Coltre are not operating, although they have obtained a renewal of their license. An inspection of their premises disclosed an open doorway connecting said premises with a "neighborhood" candy store apparently operated by a relative of respondent Coltre. A candy store/catering to children is not a proper place for a license. If, within ten (10) days from the date of these Conclusions, proof is presented to me by said respondents that this doorway has been permanently closed, I shall enter an order affirming the action of respondent Mayor and Council; otherwise, I shall enter an order reversing the issuance of the license and cancelling the renewal thereof.

Respondent Spinelli operates an ice cream parlor. The awning upon his premises contains the words "Ice Cream Parlor" and a sign on the window reads "We make our own ice cream." An ice cream parlor catering to children is not a proper place for a license. In Licovsky v. Bloomfield, Bulletin 41, Item 7, the Commissioner said:

"Confectionery stores and ice cream parlors are peculiarly attractive for the continued attendance and congregation of children in connection with purchases for their own purposes. Grocery and delicatessen stores, although visited by children in connection with purchases of particular articles for their parents for home delivery, do not come within such classification."

If respondent Spinelli presents proof to me, within ten (10) days from the date of these Conclusions, that he has removed the exterior sign or signs designating his premises as an "Ice Cream Parlor", and gives me his written assurance that he will hereafter permanently discontinue the sale of ice cream for on-premises consumption, I shall enter an order affirming the action of respondent Mayor and Council; otherwise, I shall enter an order reversing the issuance of the license and cancelling the renewal thereof.

Accordingly, it is, on this 28th day of October, 1947,

ORDERED that the action of respondent Mayor and Council of the Borough of East Newark, in issuing a plenary retail distribution license to William Johnston for premises 106 Central Avenue, East Newark, be and the same is hereby affirmed.

It is further

ORDERED that decision be reserved until entry of further order herein as to the licenses issued to James Scott and Nicholas Coltre, and to John B. Spinelli.

ERWIN B. HOCK
Commissioner.

8. DISCIPLINARY PROCEEDINGS - PERMITTING BOOKMAKING ON LICENSED PREMISES IN VIOLATION OF RULE 7 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against)

FRANK HADFIELD)
7 Park Avenue)
Paterson, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-140, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)
-----)

James J. Murner, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded not guilty to a charge alleging that, on July 9, 10, 11 and 12, 1947, he permitted and suffered bookmaking and gambling on his licensed premises, in violation of Rule 7 of State Regulations No. 20.

An ABC agent testified that on July 9, 1947, he placed a horse bet with the defendant's bartender in the presence of defendant, who was sitting at the bar. He also observed the defendant place a bet with a patron, subsequently identified as "Scully". Upon his return the next day, the agent received from the bartender an envelope containing the money he had won on the bet and, in addition, placed another bet with the bartender. On July 11, 1947, the agent returned to the premises and informed the bartender that the horse he had chosen the day before had been "scratched", and asked for a return of the money wagered. The bartender referred him to "Scully", who returned the money to the agent. On July 12, 1947, in the defendant's presence, the agent again placed a bet with the bartender. On this latter occasion, another agent testified that, when he indicated that he also desired to make a wager, the bartender referred him to a person sitting at the bar, with whom the agent then placed a bet.

The defendant, although admitting his presence on the licensed premises on the first and last occasions testified to as aforesaid, entered a complete denial of all the activities referred to by the agents.

A review of the record leaves me with no doubt that the agents testified in accordance with what actually occurred on the defendant's licensed premises on the four days in question and I therefore find the defendant guilty as charged.

In September 1940, the defendant pleaded guilty to a similar violation before the local authority and received a three-day penalty. It is only the lapse of seven years between the two violations that induces me to restrict the penalty herein to a suspension for a period of thirty days. Cf. Re Hayden & DiPaola, Bulletin 710, Item 8, where an almost identical violation, with no prior record, resulted in a twenty-day suspension.

Accordingly, it is, on this 27th day of October, 1947,

ORDERED that Plenary Retail Consumption License C-140, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Frank Hadfield, for premises 7 Park Avenue, Paterson, be and the same is hereby suspended for a period of thirty (30) days, commencing at 3:00 a.m. November 3, 1947, and terminating at 3:00 a.m. December 3, 1947.

ERWIN B. HOCK
Commissioner.

9. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - FALSE ANSWER IN APPLICATION - CLUB NOT IN ACTIVE OPERATION FOR AT LEAST THREE YEARS PRIOR TO SUBMITTING APPLICATION - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against)

CLUB ESQUIRE, JR.)
703 Chestnut Street)
Camden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-43 for the licensing year 1946-47, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

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Albert J. Klein, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded not guilty to a charge alleging that, in its application filed for the 1946-47 licensing year, it falsely stated that it had been in active operation for at least three years prior to submitting the said application. The notice of charges also called upon the defendant to show cause why its license should not be cancelled for the same reason.

From written statements obtained from the president and secretary of the defendant club, both submitted in evidence, it appears that only two of the twelve members of the club were not inducted into military service, and that during the war years and at least until January 1946, the defendant was not in active operation as required by Rule 3 of State Regulations No. 7. Testimony given by several other members of the club at the hearing is not inconsistent with the statements made by the aforesaid officers of the club.

I find the defendant guilty as charged.

Although the defendant has not renewed its license for the current licensing year, the license held by it for the 1946-47 licensing year will be revoked (see Rule 1 of State Regulations No. 16), thus rendering the defendant mandatorily ineligible from receiving a liquor license for a period of two years from the date hereof. R.S. 33:1-31. In view of this disposition, the rule to show cause will be dismissed.

Accordingly, it is, on this 28th day of October, 1947,

ORDERED that Club License CB-43, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden for the licensing year 1946-47 to Club Esquire, Jr., for premises 703 Chestnut Street, Camden, be and the same is hereby revoked.

ERWIN B. HOCK
Commissioner.

10.

ACTIVITY REPORT FOR OCTOBER, 1947

ARRESTS:

Licensees and employees - - - - -	3	Bootleggers - - - - -	7
Total number of persons arrested - - - - -		10	

SEIZURES:

Still - 50 gallons or under - - - - -	1
Over 50 gallons - - - - -	1
Brewed malt beverages - gallons - - - - -	120.58
Illicit alcohol - gallons - - - - -	172.00
Distilled alcoholic beverages - gallons - - - - -	.68
Wine - gallons - - - - -	407.32
Motor vehicles - cars - - - - -	2

RETAIL LICENSEES:

Total number of premises inspected - - - - -	987
Total number of premises where alcoholic beverages were gauged - - - - -	638
Total number of bottles gauged - - - - -	10,855
Total number of premises where violations were found - - - - -	54
Total number of violations found - - - - -	83
Type of violations found:	
Illicit liquor - bottles - - - - -	31
Improper beer taps - - - - -	1
Gambling devices - - - - -	2
Other mercantile business - - - - -	3
Prohibited signs - - - - -	3
Regulations 38 Sign not posted - - - - -	7
Unqualified employees - - - - -	25
Other violations - - - - -	5
Probable fronts - - - - -	4

STATE LICENSEES:

License applications investigated - - - - -	22
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COMPLAINTS:

Complaints assigned for investigation - - - - -	307
Complaints investigated, reviewed and closed - - - - -	328
Investigations completed - not closed administratively - - - - -	11
Investigations assigned, not yet completed - - - - -	202

LABORATORY:

Analyses made - - - - -	55
"Shake-up" cases (alcohol, water and artificial color) - bottles - - - - -	5
Liquor found to be not genuine as labeled - bottles - - - - -	17

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - -	10
Persons fingerprinted for non-criminal purposes - - - - -	228
Identification contacts made with other enforcement agencies - - - - -	189
Motor vehicle identifications via N. J. State Police Teletype - - - - -	6

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -	21
Violations involved:	
Sale during prohibited hours - - - - -	7
Permitting gambling on premises (dice) - - - - -	1
Sale to minors - - - - -	7
Mislabeled beer taps - - - - -	1
Permitting bookmaking on premises - - - - -	3
Sale to intoxicated persons - - - - -	1
Permitting slot machines on premises - - - - -	2
Cases instituted at Department - - - - -	19
Violations involved:	
Fraud and front - - - - -	7
Permitting immoral activity on premises - - - - -	1
Possessing illicit liquor - - - - -	5
Permitting pin-ball machines on premises - - - - -	1
Conducting business as a nuisance - - - - -	1
Permitting slot machines on premises - - - - -	1
Hindering investigation - - - - -	1
Sale to minors - - - - -	1
Permitting bookmaking on premises - - - - -	1
Sale to non-members by clubs - - - - -	1
Permitting female impersonators on premises - - - - -	1
Unqualified employees - - - - -	1
Permitting hostesses on premises - - - - -	1
Cases brought by municipalities on own initiative and reported to Department - - - - -	2
Violations involved:	
Licensee working while drunk - - - - -	1
Sale to intoxicated persons - - - - -	1
Permitting brawls on premises - - - - -	1

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held - - - - -	37
Appeals - - - - -	9
Seizures - - - - -	6
Disciplinary proceedings - - - - -	15
Eligibility - - - - -	7

PERMITS ISSUED:

Total number of permits issued - - - - -	1,977
Employment - - - - -	125
Disposal of alcoholic beverages - - - - -	204
Solicitors - - - - -	165
Special wine - - - - -	894
Social affairs - - - - -	481
Miscellaneous - - - - -	108

ERWIN B. HOCK,
Commissioner

11. STATE LICENSES - NEW APPLICATION FILED.

Harold S. Laden
T/a Harold S. Laden & Company
Room 2531, 12 South 12th St.
Philadelphia, Pa.

Application for Warehouse Receipts License filed October 27, 1947.

ERWIN B. HOCK
Commissioner.

12. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

BRIDGEWAY HOTEL CORPORATION)
T/a BRIDGEWAY HOTEL)
207 Bridgeboro Street)
Riverside, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-7 issued by the)
Township Committee of the)
Township of Riverside.)

-----)
Defendant-licensee, by Mary K. Wessel, Secretary-Treasurer.
William F. Wood, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant pleads non vult to a charge alleging that on September 24, 1947 it possessed an illicit alcoholic beverage, to wit, a 4/5 quart bottle of "Canadian Club Blended Canadian Whisky", which was not genuine as labeled, in violation of R. S. 33:1-50.

On September 24, 1947, an ABC agent seized the bottle in question when his field tests disclosed that the contents of said bottle were not genuine as labeled. Subsequent analysis of the contents of the bottle by the Department chemist disclosed differences in characteristics between the alcoholic beverage described on the label and that contained in the bottle.

In view of the fact that defendant has no previous adjudicated record, I shall suspend its license for a period of fifteen days. Five days will be remitted for the plea, leaving a net suspension of ten days. Re Grandinetti, Bulletin 774, Item 2.

Accordingly, it is, on this 31st day of October, 1947,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Riverside to Bridgeway Hotel Corporation, t/a Bridgeway Hotel, for premises 207 Bridgeboro Street, Riverside, be and the same is hereby suspended for ten (10) days, commencing at 1:00 a.m. November 10, 1947, and terminating at 1:00 a.m. November 20, 1947.

Erwin B. Hock
Commissioner.