

Division of

**A**LCOHOLIC  
**B**EVERAGE  
**C**ONTROL

# Bulletin

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TRW Complex, Bldg. 20, 200 Woolverton Street, CN 087, Trenton, New Jersey 08625-0087

**BULLETIN 2454**

October 17, 1989

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TRW Complex, Bldg. 20, 200 Woolverton Street, CN 087, Trenton, New Jersey 08625-0087

**BULLETIN 2454**

October 17, 1989

1. **AMENDMENT TO REGULATIONS - TRANSPORTATION BY LICENSEES; TRANSIT INSIGNIA - TRANSPORTATION OF ALCOHOLIC BEVERAGES INTO, THROUGH OR OUT OF THE STATE (N.J.A.C. 13:2-20 & 21) - TEXT OF SUBCHAPTERS 20 & 21 AS AMENDED - ALSO TEXT OF RECENTLY ADOPTED N.J.S.A. 33:1-28a.**

*N.J.A.C. 13:2-20 & 13:2-21* implement *N.J.S.A. 33:1-13 & 1-28*, and they have now been amended to also implement *N.J.S.A. 33:1-28a*, which was S-1983, adopted as L. 1988, c. 67, on July 19, 1988, with an effective date of November 1, 1988. That new law reads:

33:1-28a. The Director of the Division of Alcoholic Beverage Control or, pursuant to rules and regulations, any designated agent of the director, may issue a special permit for the temporary or emergency transportation of alcoholic beverages into or out of the State in any vehicle which is not otherwise so authorized in accordance with R.S. 33:1-28. The fee for these permits shall be \$25.00 and, where a designated agent issues the permit, the agent may receive an additional surcharge in an amount to be fixed by the director.

In addition to implementing *N.J.S.A. 33:1-28a*, the amendments to *N.J.A.C. 13:2-20 & 13:2-21* make certain changes to differ the insignia requirements of Transportation Licensees from those who transport alcoholic beverages as incidents to their own licenses.

The proposals for the amendments appeared in the May 15, 1989, *New Jersey Register* [21 *N.J.R.* 1300(a) and 21 *N.J.R.* 1304(a)]. Following the comment period, during which no comments were received, the amendments were adopted without change from the original proposals and became effective upon publication in the July 17, 1989, *New Jersey Register* [21 *N.J.R.* 2045(a) and 21 *N.J.R.* 2047(a)]. Thereafter, an administrative correction to the text of *N.J.A.C. 13:2-20.2* appeared in the August 7, 1989, *New Jersey Register* [21 *N.J.R.* 2385(c)].

The full text of *N.J.A.C. 13:2-20* and *13:2-21*, as amended, follows:

SUBCHAPTER 20. TRANSPORTATION BY LICENSEES; TRANSIT INSIGNIA

13:2-20.1 Transit insignia; transportation of alcoholic beverages

No licensee shall transport alcoholic beverages into, out of, or within the State of New Jersey in any vehicle unless it is owned, leased or contracted for by the licensee. Such vehicle, while so used, shall first have issued therefor a transit insignia, special transit insignia, transportation license insignia issued pursuant to the provisions of this subchapter, or a limited transportation permit or emergency trip permit issued pursuant to the provisions of N.J.A.C. 13:2-21.

13:2-20.2 Transportation by retail licensee; delivery slip

(a) No retail licensee shall deliver or transport any alcoholic beverages into, out of, or within the State of New Jersey in any vehicle unless the driver of the vehicle has in his possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating the date of delivery, the bona fide name and address of the purchaser or consignee, and the brand, size of container, and quantity and price of each item of the alcoholic beverages being delivered or transported. The original or true copy of such delivery slip, invoice, manifest, waybill or similar document shall be retained by the licensee at his licensed premises for a period of one year from the date of delivery, and shall be available for inspection by any person authorized to enforce the provisions of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq., unless the Director shall have granted to the licensee written permission to keep such documents at another designated place.

(b) No such licensee shall peddle, barter, or otherwise sell any alcoholic beverages from any vehicle.

13:2-20.3 Transportation by State licensee with retail privileges; delivery slip or route card

(a) No State licensee privileged to sell alcoholic beverages at retail shall deliver or transport any alcoholic beverages in any vehicle, unless:

1. The driver of the vehicle has in his or her possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating the bona fide name and address of the purchaser or consignee, and the brand, size of container, quantity and price of each item of the alcoholic beverages being delivered or transported; or

2. The driver of the vehicle has in his or her possession a route card which shall contain the name, address and standing order of the customer, and the entry at the time of delivery of the date of delivery, the brand, size of container, quantity delivered and the price charged. In addition to such route cards, there must be carried in the vehicle a loading list setting forth the total quantity of alcoholic beverages loaded for delivery, indicating as to each brand loaded the total quantity of each size of container; and

3. The original or true copy of such delivery slip, invoice, manifest, waybill, route card or similar document shall be retained by the licensee at his licensed premises for a period of one year from the date of delivery, and shall be available for inspection by any person authorized to enforce the provisions of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1

et seq., unless the director shall have granted to the licensee written permission to keep such documents at another designated place.

(b) The holder of a New Jersey Plenary or Farm Winery license with retail privileges may authorize the shipment of wine purchased in person at retail on the licensed premises to a destination within this State by a parcel delivery service subject to the following terms and conditions:

1. The New Jersey Plenary or Farm Winery licensee with retail privileges must first file an application for authorization to utilize a parcel delivery service before it makes any such deliveries to consumers. The application is made on a form provided by the Division and must be accompanied by an annual fee of \$150.00. All parcel delivery service permits are for one year and expire on June 30 and must be renewed annually; and

2. The parcel delivery service must first be registered and approved by the Director. Application for approval shall be made on a form to be provided by the Division. No fee is required. Once approved, a parcel delivery service shall not be required to obtain a Transportation License under N.J.S.A. 33:1-13 or any Transit Insignia under N.J.S.A. 33:1-28 or this subchapter; and

3. An invoice must be attached to every package stating the purchaser's name, address, destination, quantity of wine being shipped and place of purchase. A copy of the original invoice must be made available for inspection by any person authorized to enforce the provisions of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq. for a period of one year at the office of the licensee; and

4. It is the duty of personnel delivering the wine for a licensee in accordance with N.J.S.A. 33:1-28.1 et seq. and this subsection to seek to determine that, at the time of delivery of wine, the party signing a delivery receipt is of legal age to purchase and consume alcoholic beverages.

(c) No such licensee shall peddle, barter, or otherwise sell any alcoholic beverage from any vehicle to any consumer.

13:2-20.4 Transportation by other State licensees, importers and manufacturers; delivery documents

(a) No manufacturer, importer or wholesaler shall deliver or transport, directly or indirectly, any alcoholic beverages into, out of, or within the State of New Jersey in any vehicle, nor shall any transportation licensee so deliver or transport alcoholic beverages for any licensee, unless the driver of the vehicle has in his or her possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating the name, address and New Jersey State assigned license number (if applicable) of the purchaser or consignee, the brand, size of container, terms of sale, quantity and price of each kind of alcoholic beverages being delivered or transported. Such document shall further bear a printed or stamped legend reading substantially as follows:

"The undersigned licensee hereby acknowledges that all of the alcoholic beverages itemized above have been ordered and were received on

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature by or for licensee)

(b) Two copies of such delivery slip, invoice, manifest, waybill or similar document shall be truly dated and signed by the licensee or his agent at the time and on the date of actual delivery of any alcoholic beverage. One copy shall be retained for a period of one year from the date thereof by the manufacturer, importer or wholesaler and the other by the purchasing licensee for a like period at its respective licensed premises, and shall be available for inspection by any person authorized to enforce the provisions of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq., unless the Director shall have granted written permission to the manufacturer, importer, wholesaler or retailer to keep its copies at another designated place.

(c) Except that with regard to the following:

1. Sales or transfers from manufacturers or importers to wholesalers or distributors, when the nature of the documentation and transaction precludes the immediate availability of all documents required in (a) and (b) above, compliance shall be deemed to have occurred when all such records are available within a reasonable time following the sale, transfer, delivery and receipt; and

2. Sales or deliveries of keg beer or ale only to retail licensees, when the nature of the documentation and transaction precludes the immediate availability of all documents required in (a) and (b) above, compliance shall be deemed to have occurred when all such records are available upon completion of the operative period of the terms of such sales which shall have been set forth and shall be consistent with the seller's Marketing Manual and Current Price List pursuant to N.J.A.C. 13:2-24.

13:2-20.5 Eligibility for transit insignia, special transit insignia or transportation license insignia

(a) No transit insignia, special transit insignia or transportation license insignia shall be issued:

1. To a bonded warehouse bottling licensee, public warehouse licensee, or warehouse receipts licensee, unless such licensee also holds a license of some type which authorizes the transportation of alcoholic beverages.

2. For any motor vehicle unless it is properly registered in New Jersey or authorized to utilize New Jersey roads in accordance with State law applicable to such vehicle.

3. For any leased vehicle or other vehicle not owned by the licensee unless said lease or other document by its terms transfers to the licensee exclusive possession, control and operation of such vehicle when utilized in connection with the licensed business. A copy of the lease or other document must be furnished with any application.

(b) No transit insignia or special transit insignia shall be issued for any solicitor's vehicle unless an agreement exists authorizing utilization of the solicitor's vehicle for purposes in furtherance of the business of the solicitor's employer.

13:2-20.6 Application; fees

(a) Application for transit insignia shall be filed with the Director upon

a prescribed form accompanied by the full fee of \$25.00 for each insignia, in cash, money order or certified check payable to the order of the Division of Alcoholic Beverage Control.

(b) Application for special transit insignia, which may be issued for passenger type vehicles and consists of a sticker that is less conspicuous than a transit insignia, shall be filed with the Director upon a prescribed form accompanied by the full fee of \$25.00 for each permit, in cash, money order or certified check payable to the order of the Division of Alcoholic Beverage Control.

(c) Application for transportation license insignia shall be filed with the Director upon a prescribed form and shall be issued at a cost of \$10.00 for each insignia, in cash, money order or certified check payable to the order of the Division of Alcoholic Beverage Control.

1. No transportation license insignia shall be required for any vehicle operated by a parcel delivery service holding a transportation license for delivery of alcoholic beverages purchased at retail to consumers unless the vehicle is primarily and substantially used at any time for transport or delivery of alcoholic beverages.

13:2-20.7 Term of transit insignia, special transit insignia or transportation license insignia; renewal

(a) All transit insignia and special transit insignia expire on August 31 following their issuance unless sooner terminated by order of the Director or by surrender or termination of the basic license under which the insignia was issued.

(b) All transportation license insignia expire on June 30 following their issuance or upon sooner termination of the underlying transportation license.

(c) Renewals must be applied for in the same manner as a new insignia.

13:2-20.8 Location of transit insignia, special transit insignia or transportation license insignia

(a) Transit insignia must be directly affixed to the exterior of the vehicle on the left side thereof, so as to be clearly visible at all times.

(b) Special transit insignia must be directly affixed to the rearmost side window on the driver's side of the vehicle. The insignia shall be placed in the lower rear corner of such window, shall be affixed from the inside facing outward and shall be clearly visible at all times.

(c) Transportation license insignia shall either be affixed to the exterior of the vehicle in the same manner as a transit insignia or otherwise visibly displayed as may be determined by the Director.

13:2-20.9 Restrictions applicable to vehicles bearing transit insignia, special transit insignia or transportation license insignia

(a) No licensee shall allow, permit or suffer any vehicle for which a transit insignia, special transit insignia or transportation license insignia is issued to be used to transport alcoholic beverages except solely for the licensee's own business.

(b) When any transit insignia, special transit insignia or transportation license insignia shall become marred, defaced or damaged, the licensee shall forthwith notify the Director in writing, so that there may be appropriate replacement, if necessary, of such insignia.

(c) Transit insignia or special transit insignia may be used only for the vehicle for which issued, provided, however, that nothing herein contained shall prohibit the transportation of alcoholic beverages by a transferee of a license in a vehicle for which a transit insignia or special transit insignia was issued to his transferor for a period not exceeding seven days subsequent to the effective date of the transfer of license to such transferee.

(d) A transportation license insignia is issued to the holder of a transportation license and may be used for any eligible vehicle under N.J.A.C. 13:2-20.5, provided the identity of the transportation license holder is indicated on the vehicle.

(e) Except as provided in (c) above, no licensee shall sell or otherwise dispose of any vehicle to which a transit insignia or special transit insignia is affixed, without having first removed said insignia and having notified the Director of such removal.

#### 13:2-20.10 Search of licensed vehicle

By acceptance of a transit insignia, special transit insignia or transportation license insignia, the licensee consents to the inspection and search of the vehicle for which such insignia is issued, without search warrant, by any person authorized to enforce the provisions of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq.

### SUBCHAPTER 21. TRANSPORTATION OF ALCOHOLIC BEVERAGES INTO, THROUGH OR OUT OF THE STATE

#### 13:2-21.1 Delivery into or out of the State

Delivery of alcoholic beverages into or shipment of alcoholic beverages out of New Jersey is prohibited unless the beverages are transported by a licensee pursuant to N.J.A.C. 13:2-20 or in a vehicle bearing or carrying a permit issued in accordance with this subchapter.

#### 13:2-21.2 Transportation for personal consumption; amount limitation: permit

(a) Alcoholic beverages intended in good faith for personal consumption and not for sale may be transported into this State from a point outside New Jersey by any person in a vehicle under his or her control, without any transportation license or permit, to the extent permitted by N.J.S.A. 33:1-2, that is not exceeding one-fourth barrel or one case containing not in excess of 12 quarts in all, of beer, ale or porter, and one gallon of wine, and two quarts of other alcoholic beverages within any consecutive period of 24 hours.

(b) Alcoholic beverages intended in good faith for personal consumption and not for sale may be transported between points within this State by any person in a vehicle under their control to the extent permitted by N.J.S.A. 33:1-2 that is, not exceeding one-half barrel, or two cases, containing not in excess of 24 quarts in all, of beer, ale or porter, and five gallons of wine and 12 quarts of other alcoholic beverages within any consecutive period of 24 hours.

(c) Transportation of alcoholic beverages intended in good faith for personal consumption in excess of the limits set forth in this section is prohibited; unless the consumer:

1. Acquires from the Division a special permit to authorize the intrastate transportation in that individual's vehicle for a fee of \$5.00 as set forth N.J.S.A. 33:1-2; or
2. Has the alcoholic beverages delivered intrastate by a New Jersey licensed alcoholic beverage transporter; or
3. Acquires from the Division a special permit to authorize the interstate transportation for a fee of \$5.00 as set forth in N.J.S.A. 33:1-2. No such permit shall be issued until the applicant establishes that there has been payment of all applicable New Jersey Alcoholic Beverage Taxes.

13:2-21.3 Transportation through New Jersey

(a) Alcoholic beverages may be transported through the State of New Jersey in any vehicle provided the following terms and conditions are met:

1. No delivery is made in New Jersey;
2. The alcoholic beverages may lawfully be sold and transported from the state of origin;
3. The driver of the vehicle possesses a bona fide, accurate waybill, bill of sale, invoice, receipt or similar document stating the name and address of the seller and buyer, the type and quantity of alcoholic beverages being transported and the places of origin and destination; and
4. The alcoholic beverages may lawfully be delivered to and received in the state of destination.

13:2-21.4 Limited transportation permit

(a) Alcoholic beverages not intended for delivery, sale or use in New Jersey may be transported from the licensed premises in this State of a manufacturer, wholesaler or public warehouse licensee, to points outside this State; or between points outside this State and piers of import or export located within the State by the holder of a New Jersey transportation license

or a limited transportation permit.

(b) Application for a limited transportation permit shall be made to the Division on a form prescribed by the Director, in duplicate, accompanied by a fee of \$200.00.

(c) A limited transportation permit has a term of one year terminating on June 30, unless sooner cancelled by the Director.

(d) The holder of a limited transportation permit cannot transport alcoholic beverages unless the vehicles have affixed thereto a limited transportation permit insignia.

(e) Limited transportation permit insignia are obtainable from the Division in the same manner, with the same eligibility requirements, transfer restrictions and insignia location as a transit insignia as set forth in N.J.A.C. 13:2-20. The cost for this limited transportation permit insignia is \$20.00 per vehicle.

#### 13:2-21.5 Emergency trip permit

(a) The Director, Division of Alcoholic Beverage Control, or any designated agent of the Director may issue a special emergency trip permit for the temporary or emergency transportation of alcoholic beverages into or out of the State in any vehicle not otherwise authorized by license or permit issued pursuant to N.J.A.C. 13:2-20 or this subchapter.

(b) An emergency trip permit shall authorize the delivery into or out of the state for a particular singular shipment identified in the permit from a specified source of origin to a specified destination.

(c) Applications for an emergency trip permit shall be on a form prescribed by the Director and may be issued by the Director or his designated agent for such purpose.

(d) The fee for an emergency trip permit is \$25.00, which shall be deposited in the State Treasury. A surcharge in an amount allowed by the Director may be collected and retained by the agent when the permit is issued by that designated agent.

(e) A designated agent shall maintain true and accurate books of account, electronically transmit to the Division at time of issuance a copy of the issued permit, remit emergency trip permit fees to the Division within seven business days after issuance, and post an adequate performance bond if required.

(f) A designated agent serves at the will of the Director and may be dismissed without cause upon 30 days notice.

#### 13:2-21.6 Prohibited transportation; seizure of unlawful property

No alcoholic beverages shall be transported into, through or out of the

State except in accordance with this subchapter. Alcoholic beverages transported in violation of this subchapter and the vehicle containing the same, are unlawful property and are subject to seizure and forfeiture by the Director in accordance with N.J.S.A. 33:1-66.

13:2-21.7 Search of vehicle

By acceptance of a special permit issued pursuant to this subchapter for the transportation of alcoholic beverages in excess of the quantities authorized by law, or a limited transportation permit, or an emergency trip permit, the holder of the permit consents to the inspection and search of the vehicle for which such permit is issued, without search warrant, by any person authorized to enforce the provisions of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq.

**2. EMERGENCY TRIP PERMITS - DESIGNATION OF AND ISSUANCE BY AGENT.**

Pursuant to N.J.S.A. 33:1-28a and N.J.A.C. 13:2-21.5 (*Item 1, this bulletin*), the Director has designated The Cummins Transportation Services, Inc., an agent to issue Emergency Trip Permits.

When a trucker, who is not the holder of a Transportation License or the operator of a truck without appropriate Transportation License Insignia or Limited Transportation Permit Insignia (*cf. N.J.A.C. 13:2-21.4; Item 1, this bulletin*), is required to pick-up or deliver alcoholic beverages coming into or going out of New Jersey at a licensed New Jersey premises or at a licensed public warehouse, and the hauling of alcoholic beverages by such trucker is not done on a regular basis, an Emergency Trip Permit may be obtained, prior to the pick-up or delivery, either directly from the offices of the Division of Alcoholic Beverage Control, or through the designated agent.

The Emergency Trip Permit issued for the Director by the designated agent, The Cummins Transportation Services, Inc., may be applied for through the Cummins' "FAX" network. The permits may be obtained by truckers from their own terminals throughout the country if they have a credit account with Cummins. Or they may be ordered by truckers for pick-up at truck stops that are linked with the Cummins' "FAX" network, with payment being made at such truck stop. Cummins' toll-free telephone number, which can be utilized to order an Emergency Trip Permit, is 1-800-233-5588.

Where the Emergency Trip Permit is obtained through the designated agent, the Director has authorized a surcharge not to exceed \$14.00, in addition to the New Jersey State Permit Fee of \$25.00.

There are a number of truck stops in New Jersey that are part of the Cummins' network and where Emergency Trip Permits may be obtained. They include:

International Motor Plaza, 130 Route 17 North & South,  
Mahwah, NJ (201) 529-1922.

Jersey Truck Center (Texaco), U.S. 1, Exit 15 East & Route 9,  
South Kearney, NJ (201) 344-7538

Johnny's Truck Stop, I-78, Exit 12, Clinton, NJ (201) 735-  
4545.

Pilot Truck Stop, I-295, Exit 2B, Carneys Point, NJ (201)  
(609) 299-5700.

Sandman Plaza, I-295 & State Highway 206, Bordentown, NJ  
(609) 298-4400.

Travelers Plaza (Unocal 76), I-295 & Mt. Royal, Exit 18A,  
(609) 423-5500.

Truck Stops of America/Columbia, I-80 & N.J. 94, Columbia,  
NJ (201) 496-4124.

In addition to these New Jersey truck stops, truck stops located in other states, and which are part of the Cummins' network, may also be utilized to obtain the permits. This is especially useful in the case of alcoholic beverages coming into New Jersey since the permit must be in the possession of the trucker while transporting the beverages in the State of New Jersey.

Of course, Emergency Trip Permits may still be ordered directly from the Division of Alcoholic Beverage Control by mail if the plans for the trip are firm sufficiently far in advance to permit time for mail and processing of the permit. No surcharge is charged for any permit issued directly by the Division.

Users of Emergency Trip Permits are reminded that the permits are designed for infrequent business in the transportation of alcoholic beverages. Any regular transportation of alcoholic beverages into or out of New Jersey should be entitled by a Transportation License or by a Limited Transportation Permit.

### 3. NOTICE TO CONSUMPTION LICENSEES: USE AND SALE OF PRE-MIXED DRINKS.

The Division has permitted retail consumption licensees to pre-mix drinks under certain conditions and on limited occasions. A pre-mixed drink, for purposes of this notice, will refer to an alcoholic beverage drink prepared in advance by a licensee and at some unknown later time served when a patron actually orders the drink for his individual consumption. It has been suggested that prior *Bulletin* items and related statutes and regulations are a source of confusion in this area. This *Bulletin* item will discuss pre-mixed drinks, the use of temporary storage containers, the validity of automatic systems for pre-mixing and dispensing such drinks and a concluding

summary of the Division's current requirements concerning pre-mixed drinks.

Any evaluation of this concept must recognize the provisions of *N.J.S.A. 33:1-2*, which provides in relevant part, that "(i)t shall be unlawful to ... mix, process, bottle or distribute alcoholic beverages in this State, except pursuant to and within the terms of a license, or as otherwise expressly authorized under this chapter; but any drink actually intended for immediate personal consumption may be mixed by any person...."

Notwithstanding a possible strict interpretation concerning the mixing of any drink only "for immediate personal consumption", the Division has long recognized and allowed pre-mixing of holiday drinks that would be impractical to mix on an individual basis. See, for example, *Bulletin 70, Item 8* (April 15, 1935), which was the first of many rulings wherein the Director allowed licensees to prepare pre-mixed "Easter egg-nogs" for later service to customers for a limited time period during the Easter holidays.

*Bulletin 2114, Item 3* (September 6, 1973), more recently reiterated the Division policy to allow pre-mixed drinks to be used by retail consumption licensees for drinks other than holiday "egg-nogs" not intended for immediate service. In that *Bulletin*, the *N.J.S.A. 33:1-2* requirement that the mixed drink be "...intended for immediate personal consumption", was recognized and interpreted to require pre-mixed cocktails to be consumed during the same day they are pre-mixed. If not used, they must be destroyed prior to the commencement of the licensee's next business day.

*Bulletin 2114, Item 3* also focused on the prohibition contained in *N.J.S.A. 33:1-2* against "bottling" without the appropriate license. The primary concern expressed is that pre-mixing of cocktails by retail licensees and placing them in enclosed jugs or bottles would constitute bottling in violation of the law. The policy of the Division prior to *Bulletin 2114, Item 3* was to require that the pre-mixed cocktails be placed only in open pitchers or decanters and not in any kind of enclosed bottle or jug. A recognition developed, however, that "open pitchers and decanters are difficult to pour from and foreign substances may drop into them". Accordingly, for the protection of consumers, that *Bulletin* item provided that pre-mixed cocktails could be placed in sealed receptacles of any type, except those previously used to hold alcoholic beverages. No licensee can refill an originally purchased and labeled alcoholic beverage container.

*Bulletin 2114* did not address a problem that arises with the use of a sealed receptacle for pre-mixed drinks, namely, that such a receptacle would be included in the definition of a "container" under *N.J.S.A. 33:1-1(e)*:

"'Container'. Any glass, can, bottle, vessel or receptacle of any material whatsoever used for holding alcoholic beverages, which container is

covered, corked or sealed in any manner whatsoever."  
(emphasis supplied)

*N.J.S.A.* 33:1-88 imposes certain labeling requirements for alcoholic beverages in "containers":

"Any alcoholic beverage in any keg, barrel, can, bottle, flask or similar container shall, in any proceeding under the chapter which this act supplements, be deemed prima facie an illicit beverage where the container (1) does not bear any label describing its contents, or (2) bears a label which does not truly describe its contents...."

The related regulation, *N.J.A.C.* 13:2-23.23, further provides:

"No retail licensee shall possess, have custody of, or allow, permit or suffer in or upon the licensed premises any alcoholic beverage...in any keg, barrel, can, bottle, flask or similar container which:

1. Does not bear any label describing its contents; or
2. Bears a label which does not truly describe its contents..."

These labeling requirements are discussed in *Bulletin 2427, Item 1* (July 27, 1982) and are specifically addressed as they relate to pre-mixed drinks. The minimum labeling requirements for containers holding pre-mixed drinks include: identification of types, brand and quantities of alcoholic beverages in the mix; a general description of other nonalcoholic ingredients in the mix; and an approximation of the alcohol content in the individual drink that will be served to the consumer. This labeling requirement is firmly supported by State policy regarding consumption of alcoholic beverages as stated in *N.J.S.A.* 33:1-3.1(b):

"b. The Legislature hereby finds and declares as the public policy of this State and the legislative purpose of Title 33 the following:

- (1) To strictly regulate alcoholic beverages to protect the health, safety and welfare of the people of this State...
- (4) To protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages..."

*Bulletin 2427, Item 1* also discusses the use of an automatic or electronic system to dispense pre-mixed drinks from a sealed container. In keeping with policy concerns already set forth, it is noted that *N.J.A.C.* 13:2-23.22(b) mandates that consumers must be provided with certain minimum information when distilled alcoholic

beverages are dispensed from an automatic system:

"On premises where either an electronic or automatic system is being used, which provides for the dispensing of distilled alcoholic beverages in a barroom, and the label on the container from which the beverage is drawn is not visible to a consumer at the bar, then some alternative device must be used to indicate to the consumer the brand being dispensed."

Applying the automatic system requirements for distilled alcoholic beverages by analogy to containers from which pre-mixed drinks will be dispensed, it is readily apparent that the consumer should, at the minimum, be provided with some alternative device to ascertain the contents of the drink.

The following, therefore, is a summary of the requirements relating to pre-mixed drinks as they have been promulgated by the Division:

1. A licensee authorized to provide drinks for on-premises consumption may pre-mix drinks for later consumption on the premises and retain the pre-mixed drinks for consumption by patrons. Any pre-mixed drinks not consumed during the day they are pre-mixed must be destroyed prior to the commencement of the licensee's next business day.
2. In addition to the requirements in paragraph 1, the licensee must affix a label to any open or sealed container of pre-mixed drinks describing its contents. The minimum label requirements are:
  - a) Identification of the type(s) and brand(s) of alcoholic beverage(s); and
  - b) Identification of all other ingredients by generic or brand name; and
  - c) An approximation of the percentage by volume of alcohol that each drink will contain at the time of service to a consumer.
3. In the event that pre-mixed drinks are dispensed through automated systems, including fountains, electronic systems and pressurized systems, the label requirements described above, or its equivalent, must also be conspicuously displayed where the consumer ordering the pre-mixed drink may see it.
4. Under no circumstances may a licensee use as the container for the pre-mixed drink a previously filled and emptied originally labelled alcoholic beverage container.

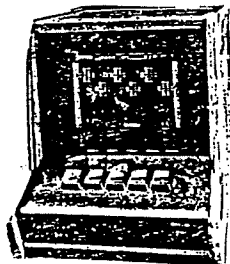
Any prior *Bulletin* items or rulings inconsistent with the expressions contained herein shall be considered superseded without the need for specific reference.

#### 4. VIDEO POKER AND OTHER SIMILAR TYPE MACHINES - ADDITIONAL EXCEPTIONS TO BAN.

As was noted in *Bulletin 2452, Item 6* (September 15, 1988), in *Bulletin 2430, Item 3* (March 31, 1983), notice was given that video machines which resemble games of cards, dice, roulette, etc., are not permitted in liquor licensed premises in New Jersey as they are violative of N.J.A.C. 13:2-23.7(a)4. In *Bulletin 2434, Item 9* (March 13, 1984), the ban was reiterated, but certain exceptions were granted where the machine is an entertainment device in the true sense of the word rather than a gaming device. In that 1983 *Bulletin* item, four exceptions were identified; three were added in *Bulletin 2435, Item 4* (April 19, 1984); and two more were added in *Bulletin 2437, Item 4* (December 27, 1984); and four additional ones were included in *Bulletin 2452, Item 6* (September 15, 1988).

Two more exceptions have recently been added:

#### Video card game exception #014 (May 30, 1989):



Re: "Super Duper Casino"  
Copyright 1986-89  
Version 15.4  
by:  
U.S. Games, Inc.  
4025 Pleasantdale Road  
Atlanta, Georgia 30340

#### Games included:

1. Draw Poker
2. Blackjack
3. Craps
4. Seven Card Stud
5. U.S. Slots
6. Chariot Race
7. Rush Hour
8. Brick Break I
9. Brick Break II
10. Wizard of Words
11. U.S. Trivia
12. Sex Trivia I
13. Sex Trivia II
14. Sports Trivia
15. Entertainment Trivia

#### Video card game exception #015 (June 28, 1989):



Re: Super Pit Boss  
Copyright 1988  
by:  
Merit Industries,  
P.O. Box 5004  
Bensalem, PA 19020

#### Countertop Model

#### Games included:

1. Bonus Blackjack
2. Roll Them Bones
3. Joker Poker
4. Super 7-Stud
5. Off To The Races
6. Super Trivia
7. Sex Trivia
8. Super Phraze Craze
9. 50's Trivia
10. 60's Trivia
11. 70's Trivia
12. 80's Trivia

5. DISQUALIFICATION BY REASON OF CRIMINAL CONVICTION - FINDING OF ELIGIBILITY - DISCUSSION OF MORAL TURPITUDE: IN THE MATTER OF THE ELIGIBILITY OF MBG.

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

In the Matter of the Eligibility of:

MBG : FINDING OF ELIGIBILITY  
:

The applicant, MBG, seeks an advisory opinion whether or not he is precluded by N.J.S.A. 33:1-25 from association with the alcoholic beverage industry in this State by reason of his conviction of a crime.

On September 21, 1982, MBG entered a plea of guilty to Accusation A-6-82-S, charging a violation of N.J.S.A. 48:13A-10(a), which provides that "No person shall monopolize, or combine or conspire with any other person to monopolize, trade or commerce in any relevant market, located in whole or in part in this State, for the solid waste collection business or the solid waste disposal business." Mr. G's specific plea was as follows: "I did conspire to monopolize trade and commerce in relevant markets in the State of New Jersey for the solid waste collection business, by agreeing to abide by industry concepts known as property rights and grievance proceedings which were effectuated through the New Jersey Trade Waste Association in violation of N.J.S.A. 48:13A-10 and N.J.S.A. 48:13A-12(a) and against the peace of this State, the Government and Dignity of same." Documentary submissions by the applicant have demonstrated that Mr. G was the chief operating officer of ----- Company, Inc., which purchased certain disposal contracts with the approval of the Public Utility Commission and which became part of and abided by the rules and practices of the New Jersey Trade Waste Association, although such practices were violative of the law and constituted criminal activity under the statute.

I have also reviewed the presentence report and memorandum which preceded Mr. G's sentencing on April 22, 1983, to an eighteen month suspended prison sentence, three years probation, a fine of \$10,000, and 1,000 hours of community service. I find nothing in the report or in the sentencing transcript which would demonstrate that the conduct of Mr. G as enunciated in the accusation contained the element of moral turpitude.

"Moral turpitude has been defined as: 'An act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow man or to society in general contrary to the accepted and customary rule of right and duty between man and man.'

Bouvier's Law Dictionary (Rawle 3rd ed.), Volume 2, page 2347." Re: Case No. 566, A.B.C. Bulletin 698, Item 4, February 21, 1946.

Mr. G and his company acted in accordance with practices which were approved by the Public Utility Commission and which were standard in the the industry. Such practices in themselves have no intrinsic evil and only become illegal by virtue of statutory law intended to promote competition within the waste disposal industry. Economic pressures made it virtually impossible for Mr. G not to conform to industry and Public Utility Commission approved practices. I have also noted the comment of the sentencing Judge that it did not appear that Mr. G was one of the prime movers in the organization of the New Jersey Trade Waste Association and promoting the conspiracy, although he participated in it. This lends credence to my finding that the crime to which Mr. G pled guilty did not involve the element of moral turpitude.

It is only conviction of a crime involving moral turpitude that disqualifies a person from association with the alcoholic beverage industry in New Jersey. *N.J.S.A. 33:1-25*. Mere conviction of a crime which does not involve moral turpitude does not result in such disqualification.

Having analyzed the facts underlying the conviction in accordance with the principles laid down in *Division of Alcoholic Beverage Control v. McNally*, 91 *N.J. Super* 509, 518 (*App. Div.* 1966), and for the reasons set forth above, it is my opinion and finding that the conviction of MBG for violation of the provisions of *N.J.S.A. 48:13A-10(a)* and *48:13A-12(a)*, for which he was sentenced on April 22, 1983, does not constitute conviction of a crime involving moral turpitude under *N.J.S.A. 33:1-25* so as to disqualify him from association with the alcoholic beverage industry in the State of New Jersey. MBG is not disqualified and no order removing a criminal disqualification for the conviction as aforesaid is required.

s/John F. Vassallo, Jr.  
JOHN F. VASSALLO, JR.  
DIRECTOR

Dated: October 29, 1987

#### 6. NOTICE REGARDING A.B.C. BULLETIN SUBSCRIPTIONS.


In *Bulletin 2451*, Item 5 (December 31, 1987), notice was given that subscriptions to *A.B.C. Bulletins* for 1987 were being extended through 1988. Those subscriptions have also been extended through 1989 and will cover this *Bulletin* (the first in 1989) and any others that might be published this calendar year.

Beginning with the first *Bulletin* in 1990, subscriptions will require renewal (unless started in 1989) and they will cover ten (10) *Bulletins*. Therefore, to start or renew *Bulletin* subscriptions after 1989, a check or money order for \$25.00, payable to the Division of

Alcoholic Beverage Control, should be sent along with the subscriber's name and full mailing address to: Division of Alcoholic Beverage Control (Attention: ABC Bulletin Subscription Service), CN-087, Trenton, NJ 08625-0087.

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PUBLICATION OF BULLETIN 2454 IS HEREBY DIRECTED THIS  
17TH DAY OF OCTOBER, 1989.

  
\_\_\_\_\_  
JOHN F. VASSALLO, JR.  
DIRECTOR