

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street,

Newark, N. J.

BULLETIN NUMBER 36.

June 22, 1934.

1. RULES AND REGULATIONS GOVERNING ISSUANCE AND USE OF
TRANSPORTATION PERMITS

1. Every licensee and every applicant for a license who may desire to transport alcoholic beverages shall immediately file on vehicle report forms, furnished by this Department, a complete list of commercial vehicles for which transportation permits are desired. Municipal licensees will file this report direct with their municipal issuing authority. State licensees will file report with this Department.

Municipal Issuing Authorities will immediately forward these reports to the State Commissioner. All reports must be complete and properly filled in and made out in duplicate.

2. Passenger vehicles cannot be used for the transportation of alcoholic beverages unless they have commercial or X license plates, except:

- A. A person in good faith may transport without license and without transportation permit for personal consumption in any vehicle, alcoholic beverages to the extent of, not exceeding, one-half barrel (or two cases containing not in excess of twenty-four quarts in all) of beer, ale or porter, and five gallons of wine and twelve quarts of other alcoholic beverages within any consecutive period of twenty-four hours.
- B. A person having a special permit from the Department may transport alcoholic beverages in any vehicle to the extent and subject to the conditions of the permit without any transportation permit.

3. Thereafter, each person so reporting and when and if his license shall be actually issued is entitled to receive from this Department one transportation permit without cost. Each additional vehicle so used shall bear a separate permit which will be furnished at a fee of \$2.00 each. Certified check or money order, payable to "D. Frederick Burnett, Commissioner" in payment for all transportation permits in excess of the one furnished without charge must accompany the vehicle report.

4. The transportation permit shall be placed on the lower, right hand corner of the windshield of each motor vehicle and on the body of a horse-drawn vehicle.

5. Every person having a transportation permit shall immediately notify this Department if the permit on any vehicle becomes marred in any way whatsoever, so that same may be at once replaced with a new permit for which a charge of \$2.00 will be made.

6. Every person having a transportation permit shall immediately notify this Department of the sale or other disposition of any vehicle to which is affixed such permit, so that the permit may be at once removed by this Department.

7. No vehicle, although bearing a transportation permit, may be used by any licensee or by any other person nor shall any licensee allow, permit, or suffer any vehicle to be used by any person for the transportation of alcoholic beverages,

except for the sole purpose of the licensee's own business in connection with and as defined in his respective license. Thus, a Plenary Retail Distribution Licensee may transport alcoholic beverages in his own vehicle, provided the vehicle while so used bears a transportation permit, but even then such vehicle may be used only in connection with the licensee's own business as defined in his license. The permit is, therefore, not a general transportation license but merely a form of transit insignia to identify the particular licensee and his limited privileges. Violation of this rule is not only a breach of these regulations but is also a violation of law and constitutes a misdemeanor and will result not only in revocation of license but also in the institution of criminal proceedings. In short, a transportation permit as distinguished from a transportation license is merely a personal privilege granted to a licensee, pursuant to Section 25 of the Control Act, to deliver alcoholic beverages in his own vehicle solely, however, for his own business in connection with and as defined in his respective license, without possessing a transportation license.

8. These rules and regulations are effective immediately.

Dated: June 9, 1934.

D. Frederick Burnett,
Commissioner

2. NEW AMENDMENT OF SECTION 22 - ALIENS - CITIZENSHIP OF CORPORATE STOCKHOLDERS.

The first paragraph of Section 22 has been amended by Chap. 194, P.L. 1934 to read:

"22. Applicants for licenses shall answer such questions and make such declarations as shall be prescribed by rules and regulations. No retail license shall be issued to a natural person unless he is a citizen of the United States and shall have been a resident of the State of New Jersey for at least five years continuously immediately prior to the submission of the application. No license of any class shall be issued to any individual who is an alien; to any person under legal age; or to any person who has been convicted of a crime involving moral turpitude or who has committed two or more violations of this act. In case of applications by corporations, except applications for club licenses, the names and addresses of, and the amount of stock held by, all stockholders holding one (1) or more per centum of any of the stock thereof, of all officers and of all members of the board of directors must be stated in the application, and if one or more of such officers or members of the board of directors or any holder directly or indirectly, whether through an intermediary corporation or otherwise, of ten (10) per centum or more in beneficial interest of the capital stock of the corporation would fail to qualify as an individual applicant in all respects, except as to citizenship, residence [and] or age, no license of any class shall be granted."

Italicized words are new. The bracketed word is deleted by the new amendment.

The purpose of the amendment was to remove the requirement of citizenship of stockholders in respect to corporations seeking licenses to conduct alcoholic beverage activities in New Jersey.

This is effective immediately.

3. NEW AMENDMENT OF SECTION 22 - RULES CONCERNING OTHER
EVIDENCE IN LIEU OF PHOTOSTATIC COPIES OF
FEDERAL STAMPS.

Section 22 has been further amended to read "A photostatic copy of all federal licenses, permits and/or stamps necessary to the lawful conduct of the business for which a State license is sought and which relate to alcoholic beverages, or other evidence in lieu thereof satisfactory to the commissioner, must accompany the license application," etc.

The underscored words are new. The object of this amendment was to dispense with the requirement of photostatic copies of Federal license permits and/or stamps if the State requirements in this respect should prove contrary, as has been alleged, to the Federal law. Until that point is finally decided and until further notice, the Commissioner rules that:

1. Issuing officials may dispense with the presentation of such photostatic copies.
2. In lieu thereof, an official receipt of the Federal Collector of Internal Revenue will be satisfactory providing that it indicates that the Federal fee has been paid for such stamps as are required in respect to the type of license for which application is made and that such fee covers the period from July 1, 1934 to June 30, 1935.
3. When such satisfactory evidence is thus produced, licenses may be issued and delivered providing, of course, that all other requirements have been met.

Dated: June 15, 1934.

D. Frederick Burnett,
Commissioner.

4. UNCHILLED BEER - WHAT CONSTITUTES

June 11, 1934

Dear Commissioner:

As we understand it, anyone holding a State Beverage Distributors License could sell nothing but bottle beer, since all draft beer must be kept cold, (if it is allowed to get warm the taste will change in five or six hours depending on the temperature). This seems somewhat unfair if the man is spending \$500.00 for the license. Only in rare instances could a distributor make enough money on bottle beer to warrant taking out such a license. However, if such is the law, we will apply for the limited wholesale license until such time as a change is made.

Very truly yours,

JACOB HORNUNG BREWING COMPANY

June 15, 1934

Jacob Hornung Brewing Company,
Philadelphia, Pa.

Gentlemen:

I have yours of the 11th. The State Beverage Distributors License created by Chap. 177, P.L.1934 does not in terms refer to bottled beer. It does expressly confine the sales they make, whether to licensed retailers or to consumers, to "un-

chilled" beer. This does not mean that the beer must never have been chilled at any time, but rather that at the time of the sale, the licensee is selling nothing but unchilled beer. He may buy it chilled, but he must sell it unchilled. If, as a practical matter, this results in such licensee being able to sell nothing but bottled beer, I am sorry if you purpose to sell draught beer, but such is the law, and to do so, you will have to take out such license which does not limit the kind of beer to be sold.

The answer to your last paragraph is that a new bond must be furnished, effective July 1st.

Very truly yours,

D. Frederick Burnett,
Commissioner

June 15, 1934.

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

Dear Sir:

We are applicants for the State Beverage Distributors License. We handle draught beer which we purchase in barrels from the brewery. When this beer is loaded up at the brewery the temperature of same is between 35 and 40 degrees in order to accomplish the barreling. As soon as this barrel beer is loaded upon the trucks the temperature of the beer within the barrel starts rising. By the time delivery is made if it was necessary to use this beer it would have to be iced by the retailer.

There are times when we do not receive deliveries for several days as we have enough stock on hand. During this time it is absolutely necessary to keep this beer which we have in stock from getting warm. Barrel beer is not pasteurized such as bottle beer and if the barrel beer is not kept at a certain temperature it will become sour and spoiled. We therefore, keep it cool to preserve the beer as beer. The temperature at which this beer is preserved is not as low a temperature as is necessary for the retailer to procure in order to make the beer fit for consumption. Further, the temperature at which we preserve the beer does not render the beer fit for consumption unless it is run thru coils and cased in ice by the retailer. The retailer has to chill the beer in order to make it fit for his customers to drink. We merely maintain the beer so as to preserve it, not to make it fit for immediate consumption.

We also wish to call your attention to the fact that in the winter time we have to preserve the beer in a warm place in order that it should not attain so low a temperature that it would become spoiled.

We therefore, respectfully request that you favor us with a ruling as to whether or not draught beer maintained in the above circumstances may be sold under the State Beverage Distributors License.

Very truly yours,
Victor Brodsky
Nectar Bottling Works
214 Webster Ave., Jersey City, N.J.
Beer Distributors Ass'n of N.J.

June 16, 1934

Nectar Bottling Works,
214 Webster Ave.,
Jersey City, N. J.

Gentlemen:

I have yours of the 15th. The State Beverage Distributors License created by Chap. 177, P.L.1934, includes draught as well as bottled beer. The beer must be sold "in original containers only". It makes no difference whether they be bottles or barrels. The real emphasis is placed on the requirement that the beer when sold must be "unchilled".

The same term occurs in Section 13 of Chap. 85, P.L. 1934, providing for the Limited Retail Distribution License.

I know in the latter case from the debate in both Senate and Assembly that the term "unchilled" was used to distinguish such beer from that which had been iced and was ready for immediate consumption. "Chilled" is used to indicate the palatable degree of coolness; "unchilled" to denote the absence thereof.

I must assume that the Legislature meant to use the term in the same sense in the Distributors License. The avowed object of that Act was to restore to the Beer Distributor the former status he occupied before Prohibition and during the term of the 3.2 beer act. The facts you state indicate the normal procedure which obtained before Prohibition in respect to barreled beer.

From these facts, as you state them, it appears that barreled beer is cooled and kept cool for the sake of preservation only; that such preservative temperature is higher than the temperature necessary to make beer fit for consumption and therefore palatable; that beer thus sold to the retailer thereafter has to be chilled to make it fit to drink. You do not say so, but I take it that if it were sold to the consumer, he would have to, so to speak, "put it on ice".

If such be the facts, it would follow that what you are selling is unchilled beer. Whether it is or not is a question of fact to determine in each case.

Very truly yours,

D. Frederick Burnett,
Commissioner

5. RULES CONCERNING THE SIZE OF CONTAINERS OF ALCOHOLIC BEVERAGES

For the sake of uniformity and to coordinate the New Jersey rules with the regulations relating to standards of fill recently promulgated by the Federal Alcohol Control Administration, and superseding all previously dated rules affecting this subject-matter, the following rules are hereby promulgated:

- 1 - Effective midnight June 30, 1934, no sale of any alcoholic beverage for consumption off the licensed premises may be made by any retail licensee unless the bottle, receptacle or container shall contain one full pint of sixteen (16) fluid ounces, except:
 - a. Beer and malt beverages, as to which no minimum standard of fill is prescribed;

- b. Distilled spirits, as to which the minimum standard of fill shall be one-tenth gallon (sometimes known as a "half-fifth", or a 4/5 pint);

"Distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, gin and other distilled spirits for beverage use, including all dilutions and mixtures thereof; but not including cordials, liqueurs, cocktails, gin fizzes and such similar alcoholic beverages as may be specified by this Department from time to time;

"Beverage use" means beverage, medicinal, culinary, or any other use except for industrial purposes;

- c. Brandy and Holland gin, as to which the minimum standard of fill shall be three-fourths pint;
- d. Cordials, liqueurs, wines, cocktails, gin fizzes, champagnes, and bottled highballs, as to which the minimum standard of fill shall be one-half pint of eight (8) fluid ounces.
- 2 - Effective immediately, no retail distribution licenses may purchase or permit delivery to him of any alcoholic beverages other than in accordance with these rules, nor shall he permit any alcoholic beverages sold by him to be opened or consumed on the licensed premises.
- 3 - The above minimum standards of fill and of sale apply solely to retail sales for off-premises consumption. Alcoholic beverages in undersized containers may be sold by manufacturers or wholesalers to retailers holding any type of consumption license and may also be sold by such retailers for consumption on the licensed premises.

Dated: June 17, 1934.

D. Frederick Burnett,
Commissioner

6. STATE BEVERAGE DISTRIBUTOR'S LICENSE - ENTITLED TO PRIVILEGES OF WHOLESALER.

June 16, 1934

Julius Rosenberg, Esq.,
23 Broadway,
Camden, N. J.

Dear Sir:

I have your telegram inquiring as to whether State Beverage Distributor's License permits sale to another holder of a similar license.

Since this is a hybrid license and permits sales both to licensed retailers and to consumers, it partakes in part of the nature of a wholesale license and therefore such sales are permissible.

Very truly yours,

D. Frederick Burnett,
Commissioner

7. SPECIAL PERMITS - PLENARY CONSUMPTION LICENSES - NOT ISSUABLE WHERE MINORS ARE CONCERNED

June 15, 1934

Polish National Alliance,
Scouts Group 419,
432 Hall Avenue,
Perth Amboy, N. J.

Gentlemen:

I have yours of the 12th requesting special permit for the sales of alcoholic beverages at your purposed picnic on August 5th. Under ordinary circumstances, I would grant the special permit for the day, but since you have, as you say, 228 boys and girls in your group, I cannot see my way clear to issue any permit. The law forbids the sale of any alcoholic beverages to minors.

Regretting that I cannot be of service to you under the circumstances, I am

Very truly yours,

D. Frederick Burnett,
Commissioner

8. NEW AMENDMENT OF SECTION 22 - REVISED RULES CONCERNING OTHER EVIDENCE IN LIEU OF PHOTOSTATIC COPIES OF FEDERAL STAMPS.

Supplementing and revising Notice of June 15, 1934 concerning the requirement of Section 22 of the Control Act re photostatic copies of Federal stamps:

The Department has been informed today by the Collector of Internal Revenue at Camden that shipment of all Federal special tax stamps will have been completed by Saturday, June 23rd; that shipments of such stamps to New Jersey will be the first to be made; that such stamps should be in the hands of all Collectors of Internal Revenue in New Jersey not later than Monday, the 25th.

The Department has also been informed today by the Honorable J. T. Collidge, Acting Secretary of the Treasury, that Section 5430 of the Federal Statutes provides that a proper officer of the United States may grant permission to make photographs of permits and stamps, and that in order to meet the emergency with which New Jersey is confronted, the Treasury Department purposes to have the Commissioner of Internal Revenue issue appropriate regulations authorizing one or more designated photographers in the State of New Jersey to photostat the necessary permits and stamps required by the provisions of the New Jersey law; that such photostatic copies are to be made under such rules and regulations as the Commissioner of Internal Revenue may prescribe; that the regulations necessary to accomplish this procedure are being prepared.

Accordingly, the State Commissioner of Alcoholic Beverage Control rules that:

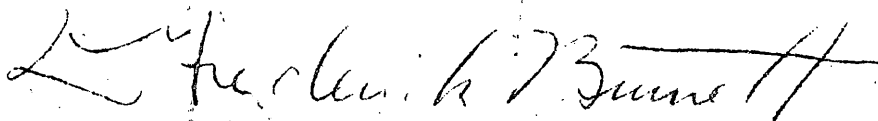
- 1 - Photostatic copies of all Federal licenses, permits and/or stamps necessary to the lawful conduct of the business for

which a State license is sought, and which relate to alcoholic beverages may, but need not necessarily, accompany the license application. Applicants shall see to it that such photostatic copies so submitted are made pursuant to such rules and regulations as the Commissioner of Internal Revenue may prescribe. Notice will be given by the undersigned Commissioner of the designated photographers and of the rules and regulations concerning photostatic copies as soon as the same are promulgated by the Commissioner of Internal Revenue.

- 2 - In the absence of such photostatic copies and in lieu thereof, municipal issuing officials shall accept either one of the following alternatives:
 - A. Presentation by the applicant of the proper Federal stamp itself for inspection and approval. After examining and passing upon the stamp, issuing officials, or their duly authorized clerks, will make signed notation of the fact of such presentation and approval upon the application, which notation shall show the nature and number of the stamp, the expiration date, the name of the Collector issuing the same and his District, and the name and address of the party to whom the stamp was issued.
 - B. Presentation by the applicant of an official receipt of the Federal Collector of Internal Revenue, indicating that the Federal fee has been paid for such stamp as is required in respect to the type of license for which application is made, and that such fee covers the period from July 1, 1934 to June 30, 1935.
- 3 - When such satisfactory evidence of compliance with Section 22 is thus produced, licenses may be issued and delivered, providing, of course, that all other requirements have been met.

9. BULLETIN ITEMS - CERTAIN ITEMS SUPERSEDED.

Rules concerning other evidence in lieu of photostatic copies of Federal stamps set forth in Bulletin 36, Item 3 are superseded by Bulletin 36, Item 8.



Commissioner