

STATE OF NEW JERSEY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street,

Newark, N.J.

BULLETIN NUMBER 27.

May 14, 1934

1. LICENSES - REVOCATION - DIRECT PROCEEDINGS BY THE STATE.

May 3, 1934.

Hon. Thomas Williams,  
Mayor,  
Elizabeth, N.J.

Dear Mayor Williams:

Herewith copy of release of even date. Therein you will find notice of revocation against a retail licensee located in your municipality.

I mention this for two reasons:

- 1 - To invoke your cooperation and through you that of all other law enforcing agencies in your municipality in presenting all the evidence and determining the truth of the charges made. To that end you and all other said officials are cordially urged to attend and participate in the hearing.
- 2 - To assure you that the institution of such proceedings directly by the State is not, without more, to be construed as any reflection upon you, said officials or your municipality.

Although the power to revoke any license resides in the Commissioner, the policy of its exercise will be, in general, to refer all such matters in the first instance to the municipalities themselves. Where the complaint, however, comes from the Governor, or the Federal Government, or the State Tax Department, or a County Prosecutor, or a municipal official or any other coordinate law enforcing authority, I purpose in general to handle those proceedings direct, rather than refer such complainants to a municipal tribunal unless, of course, proceedings shall have been instituted by the local authorities on their own initiative.

Thus, as you will see in the instant release, revocation proceedings have been instituted by this Department on complaint of the Federal Government without first referring the matter to your local authorities.

Thanking you for your cooperation, I am

Very truly yours,

D. Frederick Burnett,  
Commissioner.

New Jersey State Library

2.

## CONTAINERS - SALE OF BEER IN PAILS OR CARTONS

May 5, 1934.

Sidney Simandl, Esq.,  
24 Branford Place,  
Newark, N. J.

Dear Mr. Simandl:

I have your letter inquiring whether plenary retail consumption licensees may sell draught beer for consumption off the licensed premises by the pail or in the present vogue waxed paper containers.

The real question to be decided is whether a strict or liberal construction is to be placed upon the statutory permission granted to such licensees "to sell all alcoholic beverages in original containers for consumption off the licensed premises."

The evils attendant upon the sale of hard liquor in open containers for consumption off the licensed premises and consequent breaking of bulk and incidental rebottling are evident. The provisions of Section 13 of the Control Act were intended to eliminate them. Similar evils, however, have not accompanied the sale of draught beer for off premises consumption and the practice of purchasing such beer in paper or metal containers for consumption off premises has always been considered economically and socially acceptable.

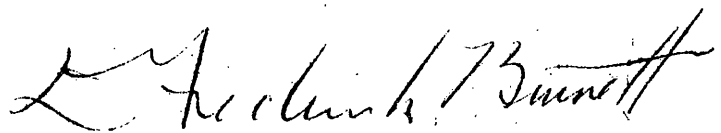
Control should not be perverted into unreasonable restraint. In construing the provisions of the Control Act, the chief objective should be the correction of the evils sought to be obviated and the consummation of the ends sought to be gained by the Legislature.

It is common knowledge that, except for bottled goods which constitute but a minor fraction of such sales, the original containers of beer and ale are wooden kegs or barrels. Out of sheer necessity, draught beer must be retailed in some other receptacle. It was not the Legislative intent to confine the sale of beer for off premises consumption either to bottled or to barreled beer. The statutory words must be read in the light of established usages and customs. Temperance in home consumption is promoted by a liberal construction in this case.

Accordingly, it is ruled that plenary retail consumption licensees may sell draught beer for consumption off the licensed premises by the pail or in metal, paper or similar cartons or containers.

Very truly yours,

D. Frederick Burnett,  
Commissioner.



Commissioner

## 3. LICENSES - CLOSING HOURS - DAYLIGHT SAVING TIME

May 5, 1934.

E. LeRoy Grant, City Clerk,  
Beverly, N. J.

Dear Sir:

I have your letter advising that the City of Beverly, by resolution, limited the hours of sale from 7 a.m. till 12 midnight, and inquiring: "Please advise how daylight saving will affect the hours - are they to be regarded as Standard, namely, 7 to 1 a.m. Daylight Saving Time? Also Sunday sales are prohibited and if the hours are as above stated, would Sunday be observed under Standard time?"

Daylight Saving Time is a convention adopted by municipalities, if at all, because of the popular will. A municipal ordinance or resolution adopting it will make such time applicable to closing and prohibited hours for sale of alcoholic beverages unless express exception is made. Hence if your municipality has adopted Daylight Saving Time, the closing hour will be midnight Daylight Saving Time although it is but 11 p.m. Standard time. Whatever is the official time in your community applies to licensees.

Very truly yours,

D. Frederick Burnett,  
Commissioner.

## 4. LICENSES - FEES - SIXTH CLASS COUNTIES

May 5, 1934

Mary A. Tindall, Borough Clerk,  
Seaside Heights, N.J.

Dear Madam:

I have yours of the 2nd inquiring if license fees collected from applicants of Seaside Heights by Judge Conover are to be turned over to the Borough of Seaside Heights or does the County get the fees.

Section 6, as amended, in nowise deprives municipalities of the fees in respect to retail licenses. It merely transfers the powers and duties imposed upon issuing officials in and for each municipality in sixth class counties to the Judge of the Court of Common Pleas. The County therefore does not get the fees. The Judge, of course, will in due time account to each municipality.

In order to provide for necessary assistance, an amendment is now pending which provides that the Judge of the Court of Common Pleas in each sixth class county "shall appoint such assistants, whether clerical or otherwise, as he shall deem necessary to properly aid him in carrying out the provisions of this act. The Board of Chosen Freeholders of any such county is authorized and directed to establish a fund or account from which the expenses of administration and inquiry hereunder shall be paid. In the granting of a license, the judge shall charge against the municipality for which a license or licenses shall be granted such proportionate share of the cost incurred hereunder and shall remit the sum so charged and collected, to the County Treasurer, it being

the intent of this section that the county shall be reimbursed in full for all moneys advanced in accordance with the provisions of this section, and the license fees received less the cost of administration shall be remitted to the proper financial officer of the municipality for which such license or licenses are granted."

Very truly yours,

D. Frederick Burnett,  
Commissioner

5. LICENSES - ARTIFICIAL NAMES - FORBIDDEN NAMES.

May 7th, 1934.

Mr. Jacob Budenstein,  
134 South Columbia Place,  
Atlantic City, N. J.

Dear Sir:

I have yours of April 12th and have to advise you that rules and regulations are being drawn forbidding anybody using a name which states or makes it seem, sound, or in any way convey the impression that the business is State owned, operated, or in any other respect official.

The name "State Liquor Store" is a good example. There is no doubt as to the impression conveyed. I am, therefore, forced to prohibit its use.

If your application for license in that name has already been approved by the issuing authority, the Commissioner will direct that the prohibited name be satisfactorily changed within ten (10) days from date hereof, else the license will automatically lapse.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner

BY \_\_\_\_\_  
B. Carlton Brown,  
Inspector-in-Chief.

6. LICENSES - EMPLOYEES - FEMALE BARTENDERS AND WAITRESSES

May 7, 1934

Vincent P. Keuper, Esq.,  
Kinmonth Building,  
Asbury Park, N. J.

Dear Sir:-

I have your inquiry as to whether there is anything in the State rules and regulations forbidding the use of girls as waitresses in saloons.

I have approved in several instances municipal regulations forbidding women bartenders and waitresses, but have not yet adopted a statewide rule.