



STATE OF NEW JERSEY

ALCOHOLIC BEVERAGE CONTROL STUDY COMMISSION

1984 ANNUAL REPORT

DECEMBER 31, 1984

Senator Catherine A. Costa,
Chairman

Leo Bromley,
Vice-Chairman
Norman S. Feldman,
Vice-Chairman

Aggie Szilagyi
Research Associate
Office of Legislative Services
Room 347
State House Annex
Trenton, N.J. 08625

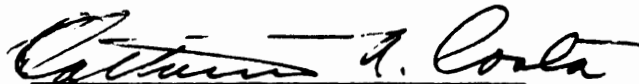
PROPERTY OF
NEW JERSEY STATE LIBRARY
100 N. 2ND ST.
TRENTON, NJ 08646


December 31, 1984

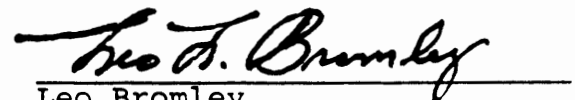
Governor Thomas H. Kean
President of the Senate
Speaker of the General Assembly
Members of the Legislature

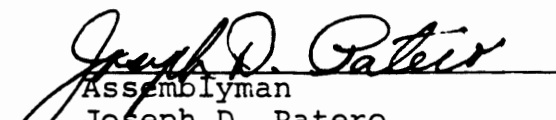
Ladies and Gentlemen:

The Alcoholic Beverage Control Study Commission, created by Joint Resolution No. 4 of 1982 and reconstituted by Joint Resolution No. 7 of 1984, hereby respectfully submits its report for the year of 1984 in compliance with the provisions of its enabling resolution.


Senator Catherine A. Costa
Chairman


Norman S. Feldman
Vice-Chairman

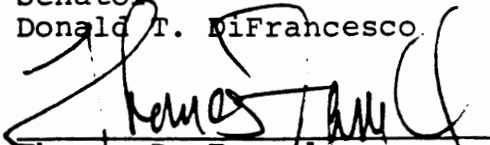

Leo Bromley
Vice-Chairman


Assemblyman
Joseph D. Patero


Assemblyman
John W. Markert

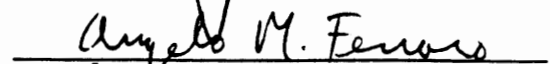

Senator
Donald T. DiFrancesco


J. Ross Bevis


Thomas D. Farrell

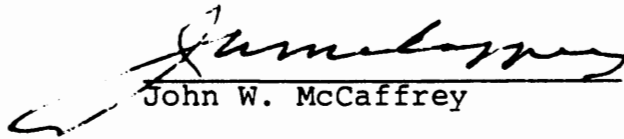

Anthony N. Frattini

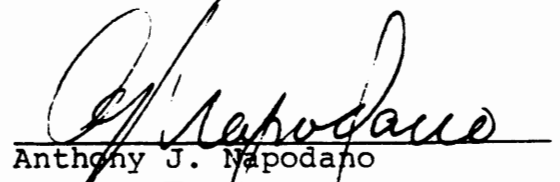

Major Edward R. Martin

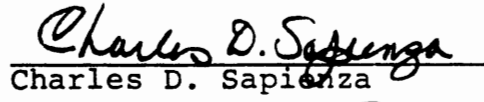

Angelo M. Ferrara

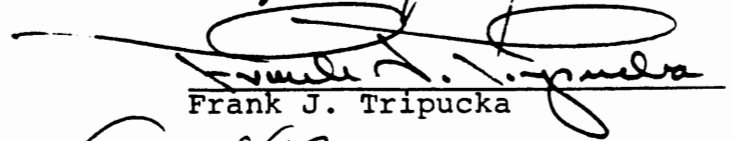

John J. Garrity


William E. Jerlat


John W. McCaffrey


Anthony J. Napodano


Charles D. Sapienza


Frank J. Tripucka


John F. Vassallo, Jr.

December 31, 1984

Governor Thomas H. Kean
President of the Senate
Speaker of the General Assembly
Members of the Legislature

Ladies and Gentlemen:

I am pleased to transmit with this letter the report of the Alcoholic Beverage Control Study Commission for the year of 1984.

The Alcoholic Beverage Control Study Commission began its mandated study in June of 1983. The objective of its study is to modernize the statutes and administrative regulations which control the alcoholic beverage industry in this State. Since June of 1983, the members of the commission have conducted the study with a complete understanding of the seriousness of the task undertaken and with a determination to achieve results which will benefit state and local governments, the alcoholic beverage industry and the citizens of this State.


Included within the pages of this report is a summary of the activities and progress of the commission from January 1, 1984 to December 31, 1984. This report describes the background of the commission, the course of its study and the decisions made by the members of the commission. A summary of the action of the four subcommittees within the commission is also included.

My colleagues, Senator DiFrancesco, Assemblyman Patero and Assemblyman Markert, have provided invaluable leadership to the commission by chairing its individual working units -- the licensing, law enforcement and trade practices subcommittees. Their leadership together with the dedication and expertise of the members have combined to create an excellent and productive study commission.

The members of this commission greatly appreciate the interest shown, and the contributions made, by the members of the alcoholic beverage industry to the work of the commission. I urge all members of the industry who are concerned with its stability and who depend on an efficient system of control to continue to contribute their time and effort to make the work of the commission a success.

Serving as chairman has been a rewarding experience because of the opportunity to work with the prominent and talented members of the commission. They are a highly professional, dedicated and experienced group who have provided their best efforts to the work before them. I am truly impressed by the caliber of the members of this commission and, as chairman, I will ensure that this report is but the first of many future reports which will provide a significant contribution to the future of the alcoholic industry in this State.

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine A. Costa". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Senator Catherine A. Costa
Chairman
Alcoholic Beverage Control
Study Commission

December 31, 1984

Governor Thomas H. Kean
President of the Senate
Speaker of the General Assembly
Members of the Legislature

Ladies and Gentlemen:

On June 8th, 1984, Senator Catherine A. Costa was elected Chairman of the Alcoholic Beverage Control Study Commission. The members of the Commission were delighted to learn of her appointment as a member of the Commission, particularly because of the experience which she is bringing as a former Freeholder of Burlington County for ten years, her expertise as a Consumer Advocate and her Legislative credentials of having served in both the Assembly and the Senate. She assumed the role of chairman in a most positive manner and we are indebted to her for initiating a disciplined schedule of meetings which are responsible for our accomplishments in the year 1984. We are looking forward to the continued positive leadership role she will play. The other three legislative appointed members, Senator DiFrancesco and Assemblymen Markert and Patero, have also displayed invaluable leadership in their chairing of the three formal sub-committees.

The members of the Commission wish to express their appreciation to John F. Vassallo, Jr., the Director of the Division of Alcoholic Beverage Control and to Major Edward R. Martin, the designee of Colonel Clinton L. Pagano, Sr., Superintendent of the New Jersey Division of State Police. Director Vassallo has been particularly helpful for his invaluable contributions to the deliberations of the Commission, sharing with us his experience and expertise in the matters under discussion and for initiating the commission request for a supplemental budget appropriation for the Division of Alcoholic Beverage Control in the annualized sum of \$320,000 to enable the hiring of eleven additional personnel for the administration of regulatory affairs. The Trade Practices Sub-Committee has endorsed this request which was ratified by the full Commission.

Aggie Szilagyi has continued as the Research Associate from the Office of Legislative Services designated to supplement the work of the Commission. The Members wish to express to her their appreciation for her able and artful evaluation of the Legislative mandate and for helping develop long range programs for its implementation. Her unselfish dedication should not go unrecognized. She has been the cohesive force during these formative first two years and the Commission owes much to her for the staff leadership role she has exhibited.

Sincerely,



Leo Bromley
Vice-Chairman
Alcoholic Beverage Control
Study Commission



Norman Feldman
Vice-Chairman
Alcoholic Beverage Control
Study Commission

MEMBERS OF THE ALCOHOLIC BEVERAGE CONTROL STUDY COMMISSION

1. Senator Catherine A. Costa, Chairman appointed by the President
11 W. Broad Street of the Senate
Burlington, N.J. 08016
(609) 387-9378
(609) 667-1230
2. Senator Donald T. DiFrancesco appointed by the President
1906 Westfield Avenue of the Senate
Scotch Plains, N.J. 07076
(201) 322-5500
3. Assemblyman Joseph D. Patero appointed by the Speaker
240 S. Main Street of the General Assembly
Manville, N.J. 08835
(201) 725-7833
4. Assemblyman John W. Markert appointed by the Speaker
363 Old Hook Road of the General Assembly
Westwood, N.J. 07675
(201) 666-0881
5. J. Ross Bevis appointed by the Governor
15 Suffolk Lane (representing the general
Princeton Junction, N.J. 08550 public)
(609) 799-2853 (home)
(609) 984-4284
6. Leo Bromley appointed by the President
310 Orange Road of the Senate and Speaker
Montclair, N.J. 07042 of the General Assembly
(201) 746-5088 (Executive Director of the
New Jersey Liquor Stores
Association)
7. Major Edward R. Martin designee of Colonel Clinton L.
Division of State Police Pagano, Sr.
P.O. Box 7068 (State law enforcement
Trenton, N.J. 08625 official)
(609) 882-2000
8. Thomas Farrell appointed by the Governor
Vice President & General Counsel (representing the casino
Harrah's Atlantic City, Inc. industry)
P.O. Box 988
Atlantic City, N.J. 08404
(609) 266-0606

9. Norman S. Feldman, Vice Chairman
P.O. Box 519
Kearny, N.J. 07032
(201) 624-6444
appointed by the President
of the Senate and Speaker
of the General Assembly
(alcoholic beverage wholesaler)
10. Angelo M. Ferrara
38 Hickory Road
Nutley, N.J. 07110
(201) 667-2535
appointed by the Governor
(local law enforcement
official)
11. Anthony N. Frattini
165 Perry Street
Dover, N.J. 07801
(201) 366-8127
appointed by the President
of the Senate and Speaker
of the General Assembly
(formerly with the Division
of Alcoholic Beverage Control)
12. John J. Garrity
941 Whitehorse-Mercerville Road
Trenton, N.J. 08610
(609) 585-5900
appointed by the President
of the Senate and Speaker
of the General Assembly
(Executive Director of the
Beer Wholesalers' Association
of New Jersey)
13. William E. Jerlat
15 Terhune Avenue
Lodi, N.J. 07644
(201) 779-3271
appointed by the President
of the Senate and Speaker
of the General Assembly
(representing the New
Jersey Licensed Beverage
Association)
14. John W. McCaffrey
708 Bendermere Avenue
Interlaken, N.J. 07712
(201) 531-7392
(609) 392-7600 (Trenton)
appointed by the President
of the Senate and Speaker
of the General Assembly
(representing the New Jersey
Conference of Mayors and
Anheuser Busch)
15. Anthony J. Napodano, Esq.
629 Amboy Avenue
Edison, N.J. 08837
(201) 738-8444
appointed by the President
of the Senate and Speaker
of the General Assembly
(Shop Rite Liquor Stores)
16. Charles D. Sapienza
N.J. Wine & Spirits Whole-
salers' Association
25 Commerce Drive
Cranford, N.J. 07016
(201) 272-4831
appointed by the President
of the Senate and Speaker
of the General Assembly
(Executive Director of the
New Jersey Wine & Spirits
Wholesalers' Association)

- | | | |
|-----|---|--|
| 17. | Frank J. Tripucka
11 Getty Avenue
Paterson, N.J. 07503
(201) 278-6000 | appointed by the President
of the Senate and Speaker
of the General Assembly
(beer distributor) |
| 18. | John F. Vassallo, Jr., Director
Division of Alcoholic
Beverage Control
Richard J. Hughes Justice Complex
3rd Floor
Trenton, N.J. 08625
(609) 984-2830 | designated by enabling leg-
islation |

STAFF TO THE COMMISSION

Aggie Szilagyi
Research Associate
Office of Legislative Services
Room 347
State House Annex
Trenton, N.J. 08625
(609) 292-5526

MEMBERS OF THE SUBCOMMITTEES

Licensing

Assemblyman J. Patero, Chairman
T. Farrell
W. Jerlat, Vice-Chairman
J. McCaffrey
A. Napodano

Law Enforcement

Senator D. DiFrancesco, Chairman
J. R. Bevis
N. Feldman, Vice-Chairman
A. Ferrara
A. Frattini
Major E. Martin

Trade Practices

Assemblyman J. Markert, Chairman
L. Bromley
J. Garrity, Vice-Chairman
C. Sapienza
J. Vassallo

Ad Hoc Subcommittee on Legislative Intent

L. Bromley
N. Feldman
A. Napodano
C. Sapienza
J. Vassallo

Senator C. Costa: ex-officio member
of all subcommittees

TABLE OF CONTENTS

	<u>PAGE</u>
Letter of Transmittal.....	i
Letter from Senator Catherine A. Costa, Chairman of the Commission.....	ii
Letter from the Vice-Chairmen.....	iii
Members of the Commission.....	iv
Members of the Subcommittees.....	v
Table of Contents.....	vi
I. Background.....	1
II. Subcommittee Meetings.....	4
III. Commission Meetings.....	16
IV. Recommendation.....	23

APPENDICES

A. Letter from the Director of the Division of Alcoholic Beverage Control....	34
Letter from John J. Garrity.....	36
B. Letter from the Director of the Division of Alcoholic Beverage Control....	37
C. Joint Resolution No. 4 of 1982.....	38
Joint Resolution No. 16 of 1983.....	40
Joint Resoluiton No. 5 of 1984.....	41
Joint Resolution No. 7 of 1984.....	42

I. BACKGROUND

On July 28, 1982, Governor Thomas H. Kean signed Joint Resolution No. 4 of 1982, creating a fifteen member commission to study existing statutes and administrative regulations concerning the alcoholic beverage industry.

J.R. 4 of 1982 was enacted so that a valuable public purpose would be served by the review of the underlying principles for the State's control of the manufacture, distribution, sale and consumption of alcoholic beverages. These underlying principles were first established by the Legislature on December 6, 1933 with the passage of the Alcoholic Beverage Law, P.L. 1933, c. 436 (now N.J.S.A. 33:1-1 et seq.).

The resolution instructed the commission to study and evaluate the statutes and administrative regulations affecting the manufacture, distribution, sale and consumption of alcoholic beverages; to ascertain if existing legal controls are appropriate, effective and continue to serve their intended purpose; and to determine if revisions of the statutes and administrative regulations are necessary, practical and feasible. In short, the purpose of the commission as stated in J.R. 4 of 1982 was to modernize the statutes, as set forth generally in Title 33 of the New Jersey Statutes (N.J.S.A. 33:1-1 et seq.), and administrative regulations relating to alcoholic beverage control, as set forth in Title 13 of the New Jersey Administrative Code (N.J.A.C. 13:2-1.1 et seq.). In addition, the commission is to review all other statutes and regulations which pertain to the alcoholic beverage industry.

-2-

Title 33 of the New Jersey Statutes provides a fairly comprehensive directive to the Division of Alcoholic Beverage Control (A.B.C.) in the Department of Law and Public Safety. Although certain specific requirements are established for licensees and there are mandatory policies that the A.B.C. must uphold, Title 33 delegates to the A.B.C. broad regulatory authority over the alcoholic beverage industry. Since 1933, the A.B.C. and other State agencies have promulgated a vast array of administrative regulations affecting virtually every aspect of the alcoholic beverage industry. In light of the social attitudes and economic conditions of the 1980's, a comprehensive review of the statutory and regulatory controls over alcoholic beverages was deemed necessary.

The commission was instructed by J.R. 4 of 1982 to convey to the Legislature its findings and recommendations within six months after the date on which the resolution was signed by the Governor. The commission was also to issue its final report to the Legislature and expire one year after the date on which the resolution was signed by the Governor. Unfortunately, due to a delay in the appointment of members, the commission did not organize and hold its first meeting until June 28, 1983, just one month before the commission as an entity was due to expire according to J.R. 4 of 1982. Consequently, Joint Resolution No. 16 of 1983 was enacted on October 26, 1983 in order to extend the term of the commission to January 1, 1984 and to increase the membership to 16 members.

-3-

The 1983 report of the commission recommended that the term of the commission be extended to December 31, 1987 to provide the commission with a reasonable time period within which to continue and complete its comprehensive study. On March 19, 1984, the Governor signed Joint Resolution No. 5 and Joint Resolution No. 7 of 1984. J.R. 7 reconstituted the commission and extended its term to December 31, 1987; J.R. 5 increased the membership of the commission by two for a total of 18 members.

II. SUBCOMMITTEE MEETINGS

The commission is composed of four working units: the law enforcement subcommittee, the licensing subcommittee, the trade practices subcommittee, and the ad hoc subcommittee on legislative intent.

Law Enforcement Subcommittee

The law enforcement subcommittee held meetings on July 10, 1984 and on August 6, 1984. The subcommittee reviewed the following bills pending before the Legislature and made suggestions to the full commission for its consideration.

Assembly Bill 43, sponsored by Assemblyman Hollenbeck. This bill exempts social hosts from civil liability for injuries caused by adult consumers of alcoholic beverages served by the host. The subcommittee recommended endorsement of the bill because it is a necessary and appropriate legislative response to the New Jersey Supreme Court decision of Kelly v. Gwinnett, 96 N.J. 538 (1984), which held that a social host may be held liable for injuries caused by an adult consumer of alcoholic beverages served by the host. This bill recognizes that an adult consumer of alcoholic beverages is primarily responsible for his own actions.

Assembly Bill 144 OCR, sponsored by Assemblyman Villane. This bill provides increased penalties when a person under 21 years of age violates the law by purchasing alcoholic beverages. The subcommittee recommended endorsement subject to the following proposed amendments. Amend the bill to: a. require a person convicted of a violation to perform community service in addition to paying a \$250.00 fine and forfeiting driving privileges for one year; and b. levy a \$250.00 penalty on a parent or guardian of a person under 18 years of age only if the parent or guardian actually knew that the underaged person committed the violation.

The subcommittee determined that this bill is a necessary and appropriate response to the problem of persons under 21 years of age who purchase and consume alcoholic beverages in violation of the law. The proposed amendment to provide for 10 days of community service is viewed as a more memorable penalty for an underaged person than just a fine of \$250.00, which is most likely paid by the parents of the underaged person anyway. The amendment to levy a \$250.00 penalty on a parent or guardian of a person under 18 years of age only if the parent or guardian actually knew that the underaged person committed a violation would be a more practical and clearer requirement for the imposition of liability on a parent or guardian than the one set forth in the bill.

-6-

Assembly Bill 1024, sponsored by Assemblyman Hendrickson. This bill makes the purchase of an alcoholic beverage by a person under the legal drinking age of 21 years a crime of the fourth degree. The subcommittee recommended demurral because the present penalty of a disorderly persons offense for the violation is adequate. The penalty should not be upgraded to an indictable criminal offense.

Assembly Bill 1983, sponsored by Assemblyman Patero.

This bill restores the defense of a written representation as to age made to a seller by a buyer representing that he (the buyer) is of the legal age to purchase alcoholic beverages. The subcommittee recommended endorsement of the bill.

The defense of a written representation was deleted from the statutes by P.L. 1983, c. 565 enacted on January 17, 1984. The defense should be restored because it is important that an alcoholic beverage licensee be able to defend himself against a charge that he sold alcoholic beverages to an under-aged person by showing that the buyer attested in writing that he was of the legal age to purchase alcoholic beverages.

Assembly Bill 2052 Aca, sponsored by Assemblyman Markert, and Senate Bill 1835 OCR, sponsored by Senator Bassano.

These identical bills codify the transfer of inspectors from the Division of Alcoholic Beverage Control to the Division of State Police, formally establishing the Alcoholic Beverage Control Enforcement Bureau within the Division of State Police.

-7-

The subcommittee recommended endorsement because these bills are a necessary and appropriate step to statutorily recognize the transfer, by executive order, of the Alcoholic Beverage Control Enforcement Bureau to the Division of State Police several years ago.

Senate Committee Substitute for Senate Bills 112 and 227, sponsored by Senator Bubba, and Assembly Bill 311, sponsored by Assemblyman Franks. Both bills deal with the posting of signs on premises where alcoholic beverages are sold at retail to inform the public of the tolerance levels for the consumption of alcohol and the penalties for drunk driving. The subcommittee recommended demurral on the bill.

Based on a discussion of the need for educating the public through the posting of informational signs, the effectiveness of such posted signs and the current efforts of and programs sponsored by the alcoholic beverage industry for the education of the public on the use of alcohol, the subcommittee determined that requiring the posting of informational signs by statute was not necessary at this time. Other effective means to educate the public are already available.

Senate Bill 278, sponsored by Senator Hagedorn. This bill provides an exemption to current law to allow a passenger in the living area of a motor home to consume alcoholic beverages while the vehicle is being operated. The subcommittee recommended endorsement of this bill as a logical extension of present law which already exempts passengers on charter buses and in limousines from the prohibition of consuming alcoholic beverages in a moving vehicle.

The subcommittee is currently drafting a schedule of appropriate monetary penalties for violations of the alcoholic beverage statutes and administrative regulations by licensees. The schedule would eliminate suspension or revocation of an alcoholic beverage license as the only statutory penalty which may be imposed under N.J.S.A. 33:1-31 against a license for a violation. As soon as a preliminary draft is completed, the subcommittee will meet to consider it.

Licensing Subcommittee

The licensing subcommittee held meetings on August 3, 1984 and on October 16, 1984. The subcommittee reviewed the following bills pending before the Legislature and made suggestions to the full commission for its consideration.

Assembly Bill 661 OCR, sponsored by Assemblyman Marsella. This bill permits the sale of alcoholic beverages in limousines under a retail transit license. The subcommittee made no recommendation on this bill but, rather, referred the bill to the full commission for discussion. The subcommittee's discussion did not result in a clear position on the bill.

Assembly Bill 669, sponsored by Assemblyman Foy. This bill defines "hotel" and "motel" in the section of the statutes that concerns the issuance of plenary retail consumption licenses as an exemption to the population limitation on the number of licenses in a municipality. The subcommittee recommended endorsement of this bill because it will clarify that hotels and motels must be primarily in the business of renting

rooms to transients and not to long-term tenants. The current section of law which the bill amends contains no definition of "hotel" or "motel".

Senate Bill 192, sponsored by Senator Costa. This bill permits plenary winery licensees and farm winery licensees to sell wine and other alcoholic beverages at retail, for consumption on the premises, in connection with the operation of a restaurant. The subcommittee recommended endorsement provided that the bill is amended to define the term "restaurant". The subcommittee determined that this bill would facilitate the growth of New Jersey wineries into viable business enterprises. The amendment to define the term "restaurant" is necessary in order to provide licensees with clear guidelines as to the facilities they must establish and operate in order to qualify for this added privilege.

Senate Bill 1327, sponsored by Senator Lipman. This bill exempts the holders of plenary retail consumption licenses at international airports from the two license per person limitation in the statutes. The subcommittee recommended endorsement of the bill. The purpose of this bill is to alleviate the problem experienced by the retail sellers of alcoholic beverages at Newark Airport. The problem was a result of the expansion of the airport.

The subcommittee also recommended that the sponsor be strongly urged to change "50 sleeping rooms" to "100 guest sleeping rooms" in the bill. The subcommittee wanted

the sponsor to amend the bill so that the provision in N.J.S.A. 33:1-12.32, the section of law which creates exemptions to the two-license limitation, would be consistent with N.J.S.A. 33:1-12.20, the section of law which creates an exemption to the population limitation on the issuance of licenses.

Senate Bill 1736, sponsored by Senator Dumont. This bill permits holders of farm winery licenses to sell at retail fermented wine and fruit juice manufactured on the licensed premises for consumption off the licensed premises at one location other than the licensed premises.

The subcommittee recommended endorsement provided that the bill is amended to permit the sale at one other location only if the municipality approves and subject to compliance with the local hours of sale. This bill would facilitate the distribution and sale of wine produced with New Jersey grown fruit in the State's urban areas. The subcommittee determined that the amendments above were necessary to ensure that a licensee complies with the hours of sale of the municipality where the second premises are established and that a licensee establishes the second premises only with the approval of the municipality where it is to be located. This amendment would preserve the concept of home rule.

Senate Bill 1737, sponsored by Senator Dumont. This bill permits holders of farm winery licenses to use 49% out-of-state grapes during the first five years of production. The subcommittee recommended endorsement because this bill is an appropriate attempt to encourage the production of grapes and wines in this State by allowing the partial use of out-of-state grapes during the first five years of a winery's production.

The subcommittee also recommended that a technical change be made to N.J.S.A. 33:1-10 to clarify the intent of its provisions and that the fee for a limited distillery license be increased to \$5,000.00 from \$3,000.00 to bring the fee into line with other class A licenses. A recommendation was also made to reallocate N.J.S.A. 33:1-72 and N.J.S.A. 33:1-75 within Title 33 of the New Jersey Statutes in order to group sections of law dealing with similar topics together.

The subcommittee discussed the need to create two new license types: one license to be required for those who ship bulk alcoholic liquids into this State for conversion into packaged goods and the other license to be required for those who ship packaged alcoholic beverages into this State for sale to wholesalers. A proposal to create these two license types will be drafted for the subcommittee and, at that time, the subcommittee will continue its discussion of the issue. These two new licenses would provide greater control over the importation of alcoholic beverage into this State.

The subcommittee discussed the need to change the current one-year alcoholic beverage license to a five-year license in order to alleviate the yearly administrative burden on municipalities and the Division of Alcoholic Beverage Control. A proposal to create a five-year license term will be drafted for the subcommittee and, at that time, the subcommittee will continue its discussion of the issue.

Trade Practices Subcommittee

The trade practices subcommittee held meetings on August 8, 1984 and October 24, 1984. The subcommittee reviewed the following bills pending before the Legislature and made suggestions to the full commission for its consideration.

Assembly Bill 550, sponsored by Assemblyman Herman. This bill permits an alcoholic beverage license to be used as security for a lien created by a banking institution. The subcommittee recommended demurral for the same reasons expressed in the Governor's veto message to Assembly Bill 1203 of 1982, a bill which was identical to A 550.

A 550 would imply a property right in an alcoholic beverage license. However, a license does not constitute a property right but a privilege which can be revoked by the State for any violation of the terms of the license. If a property right in an alcoholic beverage license is implied, the existing regulatory and procedural practices of the Division of Alcoholic Beverage Control could not be sustained.

Assembly Bill 1983, sponsored by Assemblyman Patero.

This bill restores the defense of a written representation as to age made to a seller by a buyer that he (the buyer) is of the legal age to purchase alcoholic beverages. The subcommittee recommended endorsement of this bill to affirm the endorsement of the law enforcement subcommittee.

Senate Bill 517 2nd OCR, sponsored by Senator Lesniak.

This bill would prohibit plenary wholesale licensees from purchasing or selling a brand of an alcoholic beverage unless the licensee is authorized by the brand owner. The subcommittee recommended endorsement of the bill.

This bill would provide the Division of Alcoholic Beverage Control with complete control over alcoholic beverages from the time of their importation into the State until they are sold at retail. This bill would ensure the orderly distribution of alcoholic beverages in New Jersey and would be an additional help in the assessment, collection and auditing of taxes imposed on alcoholic beverages by the State and collected at the wholesale level.

Senate Concurrent Resolution 116, sponsored by Senator Orechio. This resolution establishes a Commission on Alcoholic Beverage Liability to study the duties, responsibilities and liabilities of private servers of alcoholic beverages. The subcommittee recommended endorsement of the resolution as an appropriate and necessary response to the New Jersey Supreme Court decision in Kelly v. Gwinnett, 96 N.J. 538 (1984), which held that a social host may be held liable for injuries caused

-14-

by adult consumers of alcoholic beverages served by the host. The commission created by this resolution will provide recommendations for a needed legislative response in the area of social host liability.

Assembly Bill 2404, sponsored by Assemblyman Gallo. This bill prohibits the manufacture, distribution, sale or purchase of an alcoholic beverage with an alcohol content of more than 120 proof. The subcommittee requested that the sponsor hold the bill until amendments are drafted by the subcommittee and approved by the commission.

The subcommittee chairman selected a sub-group of four members to meet with the Director of the Division of Alcoholic Beverage Control to provide input into the process of developing administrative regulations dealing with the problem experienced by some wholesalers who sell alcoholic beverages at prices recommended by suppliers.

In addition, the subcommittee also discussed the need for a budget increase for the Division of Alcoholic Beverage Control for the remainder of 1984 exclusively for the hiring of additional personnel for the administration of regulatory and trade practice affairs. The subcommittee recommended that the commission endorse a supplemental appropriation and asked the director to provide the commission with an estimated breakdown of the division's need for the appropriation.*

* See Appendix B

-15-

Ad Hoc Subcommittee on Legislative Intent

The ad hoc subcommittee on legislative intent met on June 27, 1984 and September 14, 1984 in order to formulate a statement of policy and legislative purpose to be incorporated within the provisions of Title 33 (intoxicating liquors) of the New Jersey Statutes and used to regulate the alcoholic beverage industry as that industry exists today.

The subcommittee was formed in order to fulfill the recommendation of this commission made in the 1983 annual report. That recommendation stated that "the legislative policy underlying Title 33 of the New Jersey Statutes should be reviewed and precisely articulated in a statement which must be incorporated into Title 33. Future recommendations of the commission and future additions to and amendments of the statutes and administrative regulations could then be firmly based on a direct statement of legislative purpose."

The commission determined that in order to effectively pursue its mandate as set forth in Joint Resolution No. 4 of 1982, the commission should examine the public purpose underlying the control of alcoholic beverages in light of social attitudes and economic conditions which exist in the 1980's. A statement of policy and legislative purpose as drafted by the ad hoc subcommittee in fulfillment of the recommendation made in the 1983 report was approved by the commission on November 1, 1984 and introduced in the Legislature as Assembly Bill 2898 by Assemblymen Patero and Markert and as Senate Bill 2399 by Senators Costa and DiFrancesco.

III. COMMISSION MEETINGS

The Alcoholic Beverage Control Study Commission met on June 8, 1984, July 13, 1984, August 10, 1984, November 1, 1984 and December 14, 1984.

At the June 8, 1984 meeting the commission members elected Senator Costa as the Chairman of the commission and Senator Costa appointed Leo Bromley and Norman Feldman as Vice-Chairmen.

After review and discussion of the recommendations of each subcommittee, the commission made the following decisions to:

Endorse Assembly Bill 43, sponsored by Assemblyman Hollenbeck. This bill exempts social hosts from civil liability for injuries caused by adult consumers of alcoholic beverages served by the host. The commission endorses this bill as a necessary and appropriate legislative response to the New Jersey Supreme Court decision of Kelly v. Gwinnett, 96 N.J. 538 (1984), which held that a social host may be held liable for injuries caused by adult consumers of alcoholic beverages served by the host. The bill recognizes that an adult consumer of alcoholic beverages is primarily responsible for his own actions.

Endorse Assembly Bill 144 OCR, sponsored by Assemblyman Villane, with amendments. This bill provides increased penalties when a person under 21 years of age purchases alcoholic beverages. The commission endorses this bill as a necessary and appropriate response to the problem of persons under 21 years of age who purchase and consume alcoholic beverages in violation of the law.

The commission recommends that an amendment be made to allow a court to impose 10 days of community service against a violator instead of imposing a fine of \$250.00.

Community service may be a more memorable penalty than a fine of \$250.00, which is most likely paid by the parents of the underaged person anyway. The commission also recommends that section 3, which would allow for a fine to be imposed against the parents or guardian of an underaged person, be deleted.

Demur on Assembly Bill 550, sponsored by Assemblyman Herman. This bill permits an alcoholic beverage license to be used as security for a lien created by a banking institution. The commission demurs on this bill for the same reasons expressed in the Governor's veto message on Assembly Bill 1203 of 1982, a bill which was identical to A 550.

A 550 would imply a property right in an alcoholic beverage license. However, a license does not constitute a property right but a privilege which can be revoked by the State for any violation of the terms of the license. If a property right in an alcoholic beverage license is implied, the existing regulatory and procedural practices of the Division of Alcoholic Beverage Control could not be sustained.

Endorse Assembly Bill 661 OCR, sponsored by Assemblyman Marsella. This bill permits the sale of alcoholic beverages in limousines pursuant to a plenary retail transit license. The commission determined that the amendments to present law made by the bill are an appropriate extension of the category of plenary retail transit licenses and that limousine operators

should be allowed in this manner to legally sell alcoholic beverages to their passengers.

Endorse Assembly Bill 669, sponsored by Assemblyman Foy. This bill defines "hotel" and "motel" in the section of the statutes that concerns the issuance of plenary retail consumption licenses as an exemption to the population limitation on the number of licenses in a municipality. The commission endorses this bill in order to clarify that hotels and motels must be primarily in the business of renting rooms to transients and not to long-term tenants. The current section of law which the bill amends contains no definition of "hotel" or "motel".

Demur on Assembly Bill 1024, sponsored by Assemblyman Hendrickson. This bill makes the purchase of an alcoholic beverage by a person under the legal drinking age of 21 years a crime of the fourth degree. The commission members feel that the present penalty of a disorderly persons offense for this violation is adequate. The penalty should not be upgraded to an indictable criminal offense.

Endorse Assembly Bill 1983, sponsored by Assemblyman Patero. This bill restores the defense of a written representation as to age made to a seller by a buyer representing that he (the buyer) is of the legal age to purchase alcoholic beverages. The defense of a written representation was deleted from the statutes by P.L. 1983, c. 565 enacted on January 17, 1984. The defense should be restored because it is important that an alcoholic beverage licensee be able to defend himself against

-19-

a charge that he sold alcoholic beverages to an underaged person by showing that the buyer attested in writing that he was of the legal age to purchase alcoholic beverages.

Endorse Assembly Bill 2052 Aca, sponsored by Assemblyman Markert, and Senate Bill 1835 OCR, sponsored by Senator Bassano. These identical bills codify the transfer of inspectors from the Division of Alcoholic Beverage Control to the Division of State Police, formally establishing the Alcoholic Beverage Control Enforcement Bureau within the Division of State Police. These bills are a necessary and appropriate step to statutorily recognize the transfer, by executive order, of the Alcoholic Beverage Control Enforcement Bureau to the Division of State Police several years ago.

Demur on Senate Committee Substitute for Senate Bills 112 and 227, sponsored by Senator Bubba, and Assembly Bill 311, sponsored by Assemblyman Franks. Both bills deal with the posting of signs on premises where alcoholic beverages are sold at retail to inform the public of the tolerance levels for the consumption of alcohol and the penalties for drunk driving. Based on a discussion of the need for educating the public through the posting of informational signs, the effectiveness of such posted signs and the current efforts of and programs sponsored by the alcoholic beverage industry for the education of the public on the use of alcohol, the commission determined that requiring the posting of informational signs by statute was not necessary at this time. Other effective means to educate the public are already available.

Endorse Senate Bill 278, sponsored by Senator Hagedorn.

This bill provides an exemption to current law to allow a passenger in the living area of a motor home to consume alcoholic beverages while the vehicle is being operated. The commission endorses this bill as a logical extension of present law which already exempts passengers on charter buses and in limousines from the prohibition of consuming alcoholic beverages in a moving vehicle.

Endorse Senate Bill 517 2nd OCR, sponsored by Senator

Lesniak. This bill would prohibit plenary wholesale licensees from purchasing or selling a brand of an alcoholic beverage unless the licensee is authorized by the brand owner. The commission endorses this bill in order to provide the Division of Alcoholic Beverage Control with complete control over alcoholic beverages from the time of their importation into the State until they are sold at retail. This bill would ensure the orderly distribution of alcoholic beverages in New Jersey and would be an additional help in the assessment, collection and auditing of taxes imposed on alcoholic beverages by the State and collected at the wholesale level.

Endorse Senate Bill 1327, sponsored by Senator Lipman.

This bill exempts the holders of plenary retail consumption licenses at international airports from the two license per person limitation in the statutes. The purpose of this bill is to alleviate the problem experienced by retail sellers of alcoholic beverages at Newark Airport. The problem was a result of the expansion of the airport.

Endorse Senate Bill 1737, sponsored by Senator Dumont.

This bill permits holders of farm winery licenses to use 49% out-of-State grapes during the first five years of production. The commission endorses this bill because it is an appropriate attempt to encourage the production of grapes and wines in this State by allowing the partial use of out-of-state grapes during the first five years of a winery's production.

Endorse Senate Concurrent Resolution 116, sponsored

by Senator Orechio. This resolution establishes a Commission on Alcoholic Beverage Liability to study the duties, responsibilities and liabilities of private servers of alcoholic beverages. The commission endorses this resolution because it is an appropriate and necessary response to the New Jersey Supreme Court decision in Kelly v. Gwinnell, 96 N.J. 538 (1984), which held that a social host may be held liable for injuries caused by adult consumers of alcoholic beverages served by the host. The commission created by this resolution will provide recommendations for a needed legislative response in the area of social host liability.

In addition to the positions taken above, the commission recommends that the intent of N.J.S.A. 33:1-10 (class A licenses) should be clarified by an amendment inserting the word "licensed" before the word "persons" as used in the phrase "...to sell and distribute without his State to any persons pursuant to the laws of the place of such sale and distribution...". The commission also recommends that the fee for a limited distillery license be increased to \$5,000.00

from the current \$3,000.00 to bring the fee into line with other class A licenses.

The commission recommends the reallocation of N.J.S.A. 33:1-75 (special permits for the home manufacture of wines for personal consumption) and N.J.S.A. 33:1-72 (sale of warehouse receipts) to more appropriate locations within Title 33 of the New Jersey Statutes in order to logically organize the sections within the title and to facilitate their use.

At the November 1, 1984 meeting, the commission discussed and approved a final version of the statement of policy and legislative purpose. The statement was incorporated into a bill and introduced on November 19, 1984 as Assembly Bill 2898, sponsored by Assemblymen Patero and Markert, and as Senate Bill 2399, sponsored by Senators Costa and DiFrancesco.

The commission also discussed on November 1st the recommendation of the trade practices subcommittee to endorse the need for a supplemental appropriation to the Division of Alcoholic Beverage Control exclusively to hire additional personnel for the administration of regulatory and trade practice affairs within the alcoholic beverage industry. On December 14, 1984, the commission acknowledged the receipt of a letter from the director setting forth an estimated breakdown of the need for an increased appropriation of \$320,300.00. The members of the commission recognize the need for additional regulatory personnel within the division and, therefore, endorse an appropriation of \$320,300.00 for the use described in the director's letter.*

* See Appendix B

IV. RECOMMENDATION

The Alcoholic Beverage Control Study Commission strongly recommends that Senate Bill 2399, sponsored by Senators Costa and DiFrancesco, and its identical counterpart, Assembly Bill 2898, sponsored by Assemblymen Patero and Markert, be promptly considered and passed by the Legislature and signed into law by the Governor.*

The mandate of the commission as set forth in Joint Resolution 4 of 1982 is to conduct a comprehensive review of the statutory and regulatory controls over alcoholic beverages in light of present day social attitudes and economic conditions. The present system of alcoholic beverage control began in 1933 following the repeal of national prohibition and the passage of the Alcoholic Beverage Law, P.L. 1933, c. 436 (now N.J.S.A. 33:1-1 et seq.).

In addition, the commission is required to ascertain if the existing legal controls are appropriate, effective and continue to serve their intended purpose.

As a major step toward fulfilling this mandate, the commission has examined the public purpose underlying the control of alcoholic beverages in light of the social attitudes and economic conditions which exist in the 1980's. Necessarily, the commission has reviewed the statements of legislative policy in Title 33 of the New Jersey Statutes and the judicial interpretations of that policy. From this review has emerged

* See Appendix A for dissenting statements.

-24-

the policy statement in Senate Bill 2399 and Assembly Bill 2898 which defines the objectives for alcoholic beverage control pursuant to which the statutes and administrative regulations should be updated, amended and drafted in the future.

The incorporation of the statement of policy and legislative purpose, set forth in Senate Bill 2399 and Assembly Bill 2898, into Title 33 of the New Jersey Statutes is an essential step toward the valuable public purpose to be accomplished in the review of the principles underlying the State's control of the manufacture, distribution, sale and consumption of alcoholic beverages and the development of recommendations for the improvement of the control of the alcoholic beverage industry.

-25-

SENATE, No. 2399

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 19, 1984

By Senators COSTA and DiFRANCESCO

Referred to Committee on Law, Public Safety and Defense

AN Act concerning the public policy and legislative purpose for the control of alcoholic beverages in this State, amending R. S. 33:1-3, P. L. 1938, c. 208, P. L. 1956, c. 110, P. L. 1939, c. 87, and supplementing Title 33 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. R. S. 33:1-3 is amended to read as follows:

2 33:1-3. [The Department of Alcoholic Beverage Control, estab-
3 lished as a State department by section 3 of the act entitled "An
4 act concerning alcoholic beverages," passed December 6, 1933 (L.
5 1933, c. 436, p. 1180), as amended and supplemented, is continued.
6 The chief executive of the department shall be the State Commis-
7 sioner of Alcoholic Beverage Control, hereinafter in this chapter
8 designated as the "commissioner." His term shall commence
9 December 6, 1933, and shall terminate on April 1, 1940, but he shall
10 serve until his successor has been elected and qualified. His suc-
11 cessor shall be elected by a joint session of the Legislature for a
12 term of seven years beginning on April 1, 1940, and every seven
13 years thereafter. The commissioner shall receive compensation at
14 the rate of \$16,500.00 per annum. Before entering upon the dis-
15 charge of his duties, he shall give bond to the State of New Jersey,
16 to be approved by the Governor, as to form and sufficiency, in the
17 sum of \$30,000.00.]

18 It shall be the duty of the [commissioner] *Director of the Divi-*
19 *sion of Alcoholic Beverage Control in the Department of Law and*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics thus is new matter.

20 *Public Safety* to supervise the manufacture, distribution and sale
21 of alcoholic beverages in such a manner as to [promote temperance
22 and eliminate the racketeer and bootlegger] *fulfill the public policy*
23 *and legislative purpose of this act as expressed in section 4 of P. L.*
24 *, c. (C.) (new pending before the Legislature*
25 *as this bill).*

26 [The first State Commissioner of Alcoholic Beverage Control
27 shall be D. Frederick Burnett, of the village of South Orange, in
28 the county of Essex, who shall hold said office until April 1, 1940,
29 or until his successor is elected and qualified as aforesaid.

30 Any vacancy in said office shall be filled by a joint session of the
31 Legislature for the unexpired term only.]

1 2. Section 5 of P. L. 1956, c. 110 (C. 33:1-39.2) is amended to
2 read as follows:

3 5. The Director of the Division of Alcoholic Beverage Control
4 shall, in accordance with R. S. 33:1-39, make and promulgate such
5 rules and regulations with respect to sales by licensees selling to
6 consumers relative to the following subjects as will assist in prop-
7 erly supervising the alcoholic beverage industry[,] and preventing
8 discrimination in the alcoholic beverage industry [and promoting
9 temperance]:

10 (a) Gifts of things of value in connection with or as an induce-
11 ment to the purchase of malt alcoholic beverages,

12 (b) Combination sales of malt alcoholic beverages of different
13 brands, of different manufacturers, of different names or trade
14 names, or combination sales of any alcoholic beverages and other
15 merchandise,

16 (c) Publication and maintenance of prices at which malt alcoholic
17 beverages may be sold within recognized trading areas or below
18 which malt alcoholic beverages may not be sold within such areas.

1 3. Section 5 of P. L. 1939, c. 87 (C. 33:1-93) is amended to
2 read as follows:

3 5. The [State Commissioner] *Director of the Division of Alco-*
4 *holic Beverage Control* is hereby vested with power to promulgate
5 such rules and regulations on the following subjects as will assist
6 in properly supervising the [liquor] *alcoholic beverage* industry
7 [and promoting temperance]: (a) *maximum discounts, rebates,*
8 *free goods, allowances and other inducements to retailers by manu-*
9 *facturers, wholesalers and other persons privileged to sell to re-*
10 *tailers; (b) gifts and deliveries of money, products and other things*
11 *of value by manufacturers, wholesalers, other persons privileged*
12 *to sell to retailers, their stockholders, officers, directors and em-*
13 *ployees, to retailers, their stockholders, directors, officers and em-*

14 ployees; (c) maintenance and publication of invoice prices, dis-
15 counts, rebates, free goods, allowances and other inducements; and
16 (d) such other matters as may be necessary to fulfill the restric-
17 tions embodied in this act.

1 4. (New section) a. Title 33 of the Revised Statutes (R. S. 33:1-1
2 et seq.) shall be known and may be cited as the "New Jersey
3 Alcoholic Beverage Control Act."

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

6 (1) To strictly regulate alcoholic beverages to protect the health,
7 safety and welfare of the people of this State.

8 (2) To foster moderation and responsibility in the use and con-
9 sumption of alcoholic beverages.

10 (3) To protect the collection of State taxes imposed upon alco-
11 holic beverages.

12 (4) To protect the interests of consumers against fraud and mis-
13 leading practices in the sale of alcoholic beverages.

14 (5) To protect against the infiltration of the alcoholic beverage
15 industry by persons with known criminal records, habits or asso-
16 ciations. Participation in the industry as a licensee under this act
17 shall be deemed a revocable privilege conditioned upon the proper
18 and continued qualification of the licensee.

19 (6) To provide a regulatory framework for the alcoholic bever-
20 age industry that permits and encourages competition.

21 (7) To provide a regulatory framework for the alcoholic bever-
22 age industry that permits and encourages trade stability.

23 (8) To maintain a three-tier (manufacturer, wholesaler, retailer)
24 distribution system.

25 (9) To maintain primary municipal control over the retailing
26 of alcoholic beverages.

27 (10) To prohibit unreasonable discrimination in the sale of alco-
28 holic beverages to retail licensees.

1 5. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to incorporate into Title 33 of the Revised Statutes a statement of public policy and legislative purpose upon which the control of alcoholic beverages in this State is to be based.

This bill is based upon the work and recommendations of the Alcoholic Beverage Control Study Commission created by Joint

4

Resolution No. 4 of 1982. In its 1983 annual report, the commission recommended that the public policy and legislative purpose underlying Title 33 of the Revised Statutes should be reviewed and precisely articulated in a statement to be incorporated into Title 33. Pursuant to that recommendation, the commission reviewed the public policy underlying the control of alcoholic beverages in light of the social attitudes and economic conditions which exist in the 1980's. After its review, the commission drafted and adopted the statement set forth in section 4 of this bill.

ASSEMBLY, No. 2898
STATE OF NEW JERSEY

INTRODUCED NOVEMBER 19, 1984

By Assemblymen PATERO and MARKERT

AN Act concerning the public policy and legislative purpose for the control of alcoholic beverages in this State, amending R. S. 33:1-3, P. L. 1938, c. 208, P. L. 1956, c. 110, P. L. 1939, c. 87, and supplementing Title 33 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. R. S. 33:1-3 is amended to read as follows:

2 33:1-3 [The department of alcoholic beverage control, established
3 as a state department by section three of the act entitled "An act
4 concerning alcoholic beverages," passed December sixth, one thou-
5 sand nine hundred and thirty-three (L. 1933, c. 436, p. 1180), as
6 amended and supplemented, is continued.

7 The chief executive of the department shall be the state com-
8 missioner of alcoholic beverage control, hereinafter in this chapter
9 designated as the "commissioner". His term shall commence upon
10 the sixth day of December, one thousand nine hundred and thirty-
11 three, and shall terminate on the first day of April, in the year
12 one thousand nine hundred and forty, but he shall serve until his
13 successor has been elected and qualified. His successor shall be
14 elected by a joint session of the legislature for a term of seven
15 years beginning on the first day of April, one thousand nine hundred
16 and forty, and every seven years thereafter. The commissioner shall
17 receive compensation at the rate of \$16,500 per annum. Before
18 entering upon the discharge of his duties, he shall give bond to
19 the state of New Jersey, to be approved by the governor, as to form
20 and sufficiency, in the sum of \$30,000.]

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics thus is new matter.

- 30 -

2

21 It shall be the duty of the [commissioner] *Director of the Di-*
22 *vision of Alcoholic Beverage Control in the Department of Law*
23 *and Public Safety* to supervise the manufacture, distribution and
24 sale of alcoholic beverages in such a manner as to [promote
25 temperance and eliminate the racketeer and bootlegger] *fulfill the*
26 *public policy and legislative purpose of this act as expressed in*
27 *section 4 of P. L. c. (C.) (now pending before*
28 *the Legislature as this bill).*

29 [The first state commissioner of alcoholic beverage control shall
30 be D. Frederick Burnett, of the village of South Orange, in the
31 county of Essex, who shall hold said office until the first day of
32 April, one thousand nine hundred and forty, or until his successor
33 is elected and qualified as aforesaid.

34 Any vacancy in said office shall be filled by a joint session of the
35 legislature for the unexpired term only.]

1 2. Section 5 of P. L. 1956, c. 110 (C. 33:1-39.2) is amended to
2 read as follows:

3 5. The Director of the Division of Alcoholic Beverage Control
4 shall, in accordance with R. S. 33:1-39, make and promulgate such
5 rules and regulations with respect to sales by licensees selling to
6 consumers relative to the following subjects as will assist in
7 properly supervising the alcoholic beverage industry[,] and pre-
8 venting discrimination in the alcoholic beverage industry [and pro-
9 moting temperance]:

10 (a) Gifts of things of value in connection with or as an induce-
11 ment to the purchase of malt alcoholic beverages,

12 (b) Combination sales of malt alcoholic beverages of different
13 brands, of different manufacturers, of different names or trade
14 names, or combination sales of any alcoholic beverages and other
15 merchandise,

16 (c) Publication and maintenance of prices at which malt alco-
17 holic beverages may be sold within recognized trading areas or
18 below which malt alcoholic beverages may not be sold within
19 such areas.

1 3. Section 5 of P. L. 1939, c. 87 (C. 33:1-93) is amended to read
2 as follows:

3 5. The [State Commissioner] *Director of the Division of Alco-*
4 *holic Beverage Control* is hereby vested with power to promulgate
5 such rules and regulations on the following subjects as will assist
6 in properly supervising the [liquor] *alcoholic beverage* industry
7 [and promoting temperance]: (a) maximum discounts, rebates,
8 free goods, allowances and other inducements to retailers by manu-
9 facturers, wholesalers and other persons privileged to sell to re-

- 31 -

3

10 tailers; (b) gifts and deliveries of money, products and other things
11 of value by manufacturers, wholesalers, other persons privileged to
12 sell to retailers, their stockholders, officers, directors and employees,
13 to retailers, their stockholders, directors, officers and employees;
14 (c) maintenance and publication of invoice prices, discounts, re-
15 bates, free goods, allowances and other inducements; and (d) such
16 matters as may be necessary to fulfill the restrictions embodied in
17 this act.

1 4. (New section) a. Title 33 of the Revised Statutes (R. S. 33:1-1
2 et seq.) shall be known and may be cited as the "New Jersey Alco-
3 holic Beverage Control Act."

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

6 (1) To strictly regulate alcoholic beverages to protect the health,
7 safety and welfare of the people of this State.

8 (2) To foster moderation and responsibility in the use and
9 consumption of alcoholic beverages.

10 (3) To protect the collection of State taxes imposed upon alco-
11 holic beverages.

12 (4) To protect the interests of consumers against fraud and
13 misleading practices in the sale of alcoholic beverages.

14 (5) To protect against the infiltration of the alcoholic beverage
15 industry by persons with known criminal records, habits or associ-
16 ations. Participation in the industry as a licensee under this act
17 shall be deemed a revocable privilege conditioned upon the proper
18 and continued qualification of the licensee.

19 (6) To provide a regulatory framework for the alcoholic bever-
20 age industry that permits and encourages competition.

21 (7) To provide a regulatory framework for the alcoholic bever-
22 age industry that permits and encourages trade stability.

23 (8) To maintain a three-tier (manufacturer, wholesaler, retailer)
24 distribution system.

25 (9) To maintain primary municipal control over the retailing
26 of alcoholic beverages.

27 (10) To prohibit unreasonable discrimination in the sale of
28 alcoholic beverages to retail licensees.

1 5. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to incorporate into Title 33 of the Revised Statutes a statement of public policy and legislative purpose upon which the control of alcoholic beverages in this State is to be based.

This bill is based upon the work and recommendations of the Alcoholic Beverage Control Study Commission created by Joint Resolution No. 4 of 1982. In its 1983 annual report, the commission recommended that the public policy and legislative purpose underlying Title 33 of the Revised Statutes should be reviewed and precisely articulated in a statement to be incorporated into Title 33. Pursuant to that recommendation, the commission reviewed the public policy underlying the control of alcoholic beverages in light of the social attitudes and economic conditions which exist in the 1980's. After its review, the commission drafted and adopted the statement set forth in section 4 of this bill.

APPENDICES



A.

State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY DIVISION OF ALCOHOLIC BEVERAGE CONTROL

THOMAS H. KEAN
GOVERNOR

OFFICE OF THE DIRECTOR
Richard J. Hughes Justice Complex
CN 087
Trenton, NJ 08625
(609) 984-3230

IRWIN I. KIMMELMAN
ATTORNEY GENERAL

JOHN F. VASSALLO, JR.
DIRECTOR

December 31, 1984

Governor Thomas H. Kean
President of the Senate
Speaker of the General Assembly
Members of the Legislature

Dear Ladies and Gentlemen:

This letter is being submitted as a supplement to the Alcoholic Beverage Control Study Commission 1984 Annual Report, dated December 31, 1984, to clarify my position on the report of the Commission.

Although the transmittal shows that I have joined in the report of the Commission, I feel that it is necessary to clarify my position on one matter which is included in the recommendations, and that is regarding the incorporation of the statement of policy and legislative purpose into bill form (as has been set forth in S-2399 and A-2898) at this time.

My understanding of the purpose of the Study Commission, stemming from my recommendation of the same at the time of my confirmation hearings in 1982, was that it would look to updating and possibly rewriting the intoxicating liquors law of the state and the alcoholic beverage control law as is presently contained in Title 33 of the Revised Statutes of New Jersey. The preparation by the current session of the Alcoholic Beverage Control Study Commission of the statement of policy and legislative purpose is, in my opinion, a good beginning and sets forth a basic policy on which to review the existing law and rewrite it for revision at some time in the future. I was a member of the Ad Hoc Committee that drafted the statement of policy and legislative purpose and it was my understanding that it was being done with a view to the future and not with the intent of superimposing such a statement of policy on to the existing law, which is being recommended in the Study Commission 1984 Annual Report.

There are certain elements contained in the statement of policy and legislative purpose, such as the word "unreasonable" in item number 10 which would, if the existing statutes had to be read and interpreted in the light of the superimposed legislative purpose, cause a good deal of conflict and confusion in their application. In this specific example, R.S. 33:1-89, et seq.,

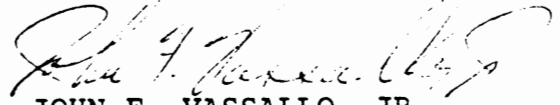
December 18, 1984

Page 2

would be in an apparent conflict.

I, therefore, while concurring with the overall report, note my reservation about the recommended use of the statement of policy and legislative purpose as has been developed by the Study Commission during its 1984 meetings.

Respectfully submitted,



JOHN F. VASSALLO, JR.
DIRECTOR, DIVISION OF
ALCOHOLIC BEVERAGE CONTROL

JFV:lg



Beer Wholesalers' Association Of New Jersey

941 WHITEHORSE - MERCERVILLE ROAD • TRENTON • N.J. 08610
(609) 585-5900

JOHN J. GARRITY
Executive Director

Dec. 17, 1984

Ms. Aggie Szilagyi
Alcoholic Beverage Control Study Commission
Room 347, State House Annex
CN 042
Trenton, N. J. 08625

Dear Aggie:

While I can accept the proposal citing the Study Commission's recommendation for a revised Declaration of Policy and Legislative Intent, in good conscience, I must object to the word "unreasonable" in item 10.

Item 10 reads - "To prohibit unreasonable discrimination in the sale of alcoholic beverage to retail licenses."

Conversely this means that reasonable discrimination will be lawful. How does one interpret what is reasonable discrimination on price and services to retailers? Current ABC rules and regulations are structured around the precept that discrimination between retail accounts by wholesalers is unlawful.

It would be preferable to delete the word "unreasonable" and leave it to the determination of the enforcement authorities should the need to deal with it arise.

In summary, I support the proposal, but object to the word "unreasonable" being a part of item 10.

Sincerely,

John J. Garrity
Executive Director

JJG/cv
cc: Senator Costa

B.



State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

THOMAS H. KEAN
GOVERNOR

OFFICE OF THE DIRECTOR
Richard J. Hughes Justice Complex
CN 087
Trenton, NJ 08625
(609) 984-3230

IRWIN I. KIMMELMAN
ATTORNEY GENERAL

JOHN F. VASSALLO, JR.
DIRECTOR

TO: Aggie Szilagyi
Office of Legislative Services

FROM: Director John F. Vassallo, Jr.

DATE: November 26, 1984

Pursuant to the information requested of me by the Alcoholic Beverage Study Commission at the meeting in Atlantic City on November 1, 1984, I wish to advise that the estimated breakdown for an annual special appropriation which would give more regulatory personnel to the division is as follows:

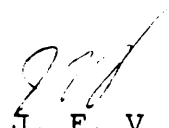
<u>No. of Employees</u>	<u>Title</u>	<u>Range-Step</u>	<u>Amount 12/22/84</u>
3	Executive Asst. III	M-26 4 (\$29,280.)	\$ 87,840.
4	Executive Asst. IV	M-22 4 (\$24,100.)	96,400.
4	Clerical (GMIP (Benchmark)	\$15,500	62,000.
-	Deputy Director (SAC Request)	M-30 to M-35	<u>10,000.</u>
<hr/>			
11	Sub-Totals		\$256,240.
	Line item Operating Accounts @ 25%		<u>64,060.</u>
	Total		\$320,300.

Among the Executive Assistants that would be employed would be accountants, lawyers and at least one person to handle publications and communications to the industry, which has become nearly non-existent due to decline in personnel. This is an area which is extremely vital and yet is now impossible.

Please express to the commission my thanks for its concern over the additional personnel that are needed for us to effectively regulate and work with the alcohol beverage industry in New Jersey.

Thank you.

JFV:lg


J. F. V.

Joint Resolution No. 4, *approved July 26, 1982*

1982 Senate Joint Resolution No. 21

A JOINT RESOLUTION creating a commission to study the statutes and regulations concerning the alcoholic beverage industry.

WHEREAS, The Legislature finds that the underlying principles for the State's control of the manufacture, distribution, sale and consumption of alcoholic beverages were established by legislation adopted in 1933; that under this basic mandate, the Division of Alcoholic Beverage Control has promulgated a vast array of rules affecting virtually every aspect of the alcoholic beverages industry; and

WHEREAS, In light of changing social and economic attitudes and conditions, a comprehensive review of the statutory and regulatory controls over alcoholic beverages would serve a valuable public purpose; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. There is established an Alcoholic Beverage Control Study Commission to consist of 15 members to be appointed as follows:

a. Two from among the members of the Senate, by the President of the Senate, and shall not be of the same political party;

b. Two from among the members of the General Assembly, by the Speaker of the General Assembly, and shall not be of the same political party;

c. Six citizens of the State, to be appointed jointly by the President of the Senate and the Speaker of the General Assembly who shall be representatives of the alcoholic beverage industry, and no more than three of whom shall be of the same political party;

d. Three citizens of the State, to be appointed by the Governor, including a representative of a local law enforcement agency, the casino industry and the general public, and no more than two of whom shall be of the same political party; and

e. The Director of the Division of Alcoholic Beverage Control, ex officio, or his designee and the Superintendent of the New Jersey Division of State Police, ex officio, or his designee. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. It shall be the duty of the commission to study and evaluate the statutes and regulations affecting the manufacture, distribution, sale and consumption of alcoholic beverages to ascertain whether the existing legal controls are appropriate, effective and continue to serve their intended purposes or whether revisions of the laws or regulations are necessary, practical and feasible.

3. The commission shall organize as soon as possible after the appointment of its members and shall elect a chairman from among its members. The chairman shall appoint a vice-chairman from among its members. The commission may appoint a secretary who need not be a member of the commission.

4. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purpose, and to employ counsel, stenographic and clerical assistants and incur traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for its purposes.

5. The commission may meet and hold hearings at any place or places as it shall designate during the sessions or recesses of the Legislature and shall report within 6 months of the effective date of this joint resolution its findings and recommendations to the Legislature and issue its final report after 12 months of the effective date of this joint resolution, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

6. The commission shall have all of the powers provided by the provisions of chapter 13 of Title 52 of the Revised Statutes.

7. This joint resolution shall take effect immediately and shall expire 1 year following enactment.

1983 Assembly Joint Resolution No. 3032

A JOINT RESOLUTION concerning the commission to study the statutes and regulations relating to the alcoholic beverage industry and amending Joint Resolution No. 4 of 1982.

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of Joint Resolution No. 4 of 1982 is amended to read as follows:

1. There is established an Alcoholic Beverage Control Study Commission to consist of **[15]** 16 members to be appointed as follows:

a. Two from among the members of the Senate, by the President of the Senate, and shall not be of the same political party;

b. Two from among the members of the General Assembly, by the Speaker of the General Assembly, and shall not be of the same political party;

c. **[Six]** *Seven* citizens of the State, to be appointed jointly by the President of the Senate and the Speaker of the General Assembly who shall be representatives of the alcoholic beverage industry, and no more than **[three]** *four* of whom shall be of the same political party;

d. Three citizens of the State, to be appointed by the Governor, including a representative of a local law enforcement agency, the casino industry and the general public, and no more than two of whom shall be of the same political party; and

e. The Director of the Division of Alcoholic Beverage Control, ex officio, or his designee and the Superintendent of the New Jersey Division of State Police, ex officio, or his designee. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. Section 5 of Joint Resolution No. 4 of 1982 is amended to read as follows:

5. The commission may meet and hold hearings at any place or places as it shall designate during the sessions or recesses of the Legislature and shall report **[within six months of the effective date of this joint resolution]** its findings and recommendations to the Legislature and issue its final report **[after 12 months of the effective date of this joint resolution]**, *by January 1, 1984*, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

3. Section 7 of Joint Resolution No. 4 is amended to read as follows:

7. This joint resolution shall take effect immediately and shall expire **[one year following enactment]** *January 1, 1984*.

4. This joint resolution shall take effect immediately.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.
Matter printed in italics *thus* is new matter.

P. L. 1984, Joint Resolution No. 5, *approved March 19, 1984*

1984 Assembly Joint Resolution No. 15

A JOINT RESOLUTION concerning the commission to study the statutes and regulations relating to the alcoholic beverage industry and amending Joint Resolution No. 4 of 1982.

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of Joint Resolution No. 4 of 1982 is amended to read as follows:

1. There is established an Alcoholic Beverage Control Study Commission to consist of **[16]** *18* members to be appointed as follows:

a. Two from among the members of the Senate, by the President of the Senate, and shall not be of the same political party;

b. Two from among the members of the General Assembly, by the Speaker of the General Assembly, and shall not be of the same political party;

c. **[Seven]** *Nine* citizens of the State, to be appointed jointly by the President of the Senate and the Speaker of the General Assembly **[who]**, *seven of whom* shall be representatives of the alcoholic beverage industry, *two of whom shall be representatives of the general public* and no more than **[four]** *five* of whom shall be of the same political party;

d. Three citizens of the State, to be appointed by the Governor, including a representative of a local law enforcement agency, the casino industry and the general public, and no more than two of whom shall be of the same political party; and

e. The Director of the Division of Alcoholic Beverage Control, *ex officio*, or his designee and the Superintendent of the New Jersey

Division of State Police, *ex officio*, or his designee. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. This joint resolution shall take effect immediately but shall remain inoperative until either one of the joint resolutions now pending before the Legislature as Assembly Joint Resolution No. 23 of 1984 and Senate Joint Resolution No. 13 of 1984 is enacted into law.

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.
Matter printed in italics *thus* is new matter.

P. L. 1984, Joint Resolution No. 7, approved March 19, 1984

1984 Assembly Joint Resolution No. 23

A JOINT RESOLUTION to reconstitute the commission created to study the statutes and regulations concerning the alcoholic beverage industry.

BE IT RESOLVED by the Senate and General Assembly of the State of New Jersey:

1. The commission to study the statutes and regulations concerning the alcoholic beverage industry, created by Joint Resolution No. 4 of 1982, is reconstituted with the same membership, powers and duties as heretofore provided.

2. The commission shall make recommendations which it deems proper and shall prepare and submit to the Legislature and the Governor reports which it deems necessary, accompanying its recommendations and reports with any legislative bills which it may desire to recommend for adoption by the Legislature.

In addition to the recommendations and reports made by the commission during the course of its term until its expiration on December 31, 1987, the commission shall submit an annual report, no later than December 31 of each year, to the President of the Senate, the Speaker of the General Assembly, and the Governor, describing the activities and accomplishments of the commission.

If the commission determines in 1987 that the termination date of December 31, 1987 should be extended, a recommendation to that effect may be submitted to the President of the Senate, Speaker of the General Assembly and the Governor. The recommendation shall be submitted by September 1, 1987 and shall state the reasons for the commission's decision to make the recommendation.

3. This joint resolution shall take effect immediately and shall expire on December 31, 1987.

