

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
25 MARKET STREET: CN 087
TRENTON, NEW JERSEY 08625

BULLETIN 2438

FEBRUARY 20, 1985

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
RICHARD J. HUGHES JUSTICE COMPLEX
25 MARKET STREET; CN 087
TRENTON, NEW JERSEY 08625

BULLETIN 2438

February 20, 1985

1. RECENT LEGISLATION - CODIFYING OF PRIMARY SOURCE AND BRAND
REGISTRATION - AMENDING N.J.S.A. 33:1-2 - TEXT OF AMENDED STATUTE.

On December 28, 1984, Governor Kean signed S-517 (A-335), thereby codifying New Jersey's primary source and brand registration policies, which had been covered by N.J.A.C. 13:2-25 and 13:2-33. The new law, P.L. 1984, c. 233, which is an amendment to N.J.S.A. 33:1-2, is effective 30 days after enactment, or January 27, 1985. As of that date, N.J.S.A. 33:1-2 will read as follows (N.B. Sections b, c, d and e are new sections):

33:1-2. a. It shall be unlawful to manufacture, sell, possess with intent to sell, transport, warehouse, rectify, blend, treat, fortify, mix, process, bottle or distribute alcoholic beverages in this State, except pursuant to and within the terms of a license, or as otherwise expressly authorized, under this chapter; but any drink actually intended for immediate personal consumption may be mixed by any person; and alcoholic beverages intended in good faith to be used solely for personal consumption may be transported in any vehicle from a point within this State to the extent of, not exceeding 1/2 barrel or two cases containing not in excess of 24 quarts in all, of beer, ale or porter, and five gallons of wine and 12 quarts of other alcoholic beverages within any consecutive period of 24 hours, and, by the owner thereof, in a vehicle other than that of the holder of a transportation license, from a point outside this State to the extent of, not exceeding 1/4 barrel or one case containing not in excess of 12 quarts in all, of beer, ale or porter, and one gallon of wine and two quarts of other alcoholic beverages within any consecutive period of 24 hours; provided, however, that except pursuant to and within the terms of a license or permit issued by the director, no person shall transport into this State or receive from without this State into this State, alcoholic beverages where the alcoholic beverages are transported or received from a state which prohibits the transportation into that state of alcoholic beverages purchased or otherwise obtained in the State of New Jersey. If any person or persons desire to transport alcoholic beverages intended only for personal consumption in quantities in excess of those above-mentioned, an application may be made to the director who may, upon being satisfied of the good faith of the applicant, and upon payment of a fee of \$5.00 issue a special permit limited by such conditions as the director may impose, authorizing the transportation of alcoholic beverages in quantities in excess of those above-mentioned.

b. A holder of a Class B license under R.S. 33:1-11 shall not sell or deliver for sale in New Jersey any brand of alcoholic beverage for resale in this State unless the alcoholic beverage is acquired from the brand owner, or his authorized agent, or a wholesale licensee designated as the registered distributor by the brand owner, or his authorized agent.

c. No licensee shall knowingly sell, offer for sale, deliver, receive or purchase, for resale in this State, any alcoholic beverage, including private label brands owned by a retailer and exclusive brands owned by a manufacturer or wholesaler and offered for sale or sold by such manufacturer or wholesaler exclusively to one New Jersey retailer or affiliated retailer, unless the brand owner or his authorized agent files with the Director of the Division of Alcoholic Beverage Control a brand registration schedule containing such information as the director shall by rule or regulation require.

d. Each person who files a brand registration schedule, and amendments thereto shall pay a filing fee to cover the reasonable costs incurred by the director in connection with the filing, but not in excess of \$10.00 per filing. Any registration may be suspended or revoked in the same manner as an alcoholic beverage license for any violation of Title 33 of the Revised Statutes and the rules and regulations promulgated thereto.

e. Nothing contained in this section shall be deemed to limit or modify the prohibition against discrimination in the sale of any nationally advertised brand of alcoholic beverages to currently authorized wholesalers as set forth in P.L. 1966, c. 59 (C.33:1-93.6 et seq.) nor shall this section be deemed to require the sale to anyone other than authorized retailers of private label brands which are owned by a retailer or exclusive brands which are owned by a manufacturer or wholesaler and offered for sale or sold by the manufacturer or wholesaler exclusively to one retailer, or affiliated retailer, in this State.

Particular attention is called to the second sentence in subparagraph d of the new statute which provides that "Any registration may be suspended or revoked in the same manner as an alcoholic beverage license for any violation of Title 33 of the Revised Statutes and the rules and regulations promulgated thereto." This is a new provision in the law.

Other provisions of the new statute will be discussed in detail in Item 3, this bulletin, below.

2. READOPTION OF DIVISION REGULATIONS: SUBCHAPTERS 17, 19 AND 31 READOPTED ON DECEMBER 11, 1984.

The following Division of Alcoholic Beverage Control Regulations were readopted on December 11, 1984:

N.J.A.C. 13:2-17 (Appeals)

N.J.A.C. 13:2-19 (Disciplinary Proceedings)

N.J.A.C. 13:2-31 (Seizure Hearings)

Several amendments were made to these procedural regulations in order to conform them to the provisions of the Administrative Procedures Act, where applicable. Notices of Proposed Readoption with Amendments were published in the New Jersey Register on November 5, 1984 as PRN 1984-604, 606 and 605, at 16 N.J.R. 2954 through 2962. No comments were received concerning any of the proposed readoptions or amendments, and they were adopted without change by the Director on December 11, 1984, and filed on December 17, 1984 as R. 1984 d. 608 (Subchapter 17), R. 1984 d. 606 (Subchapter 19), and R. 1984 d. 602 (Subchapter 31).

(c) 1984 Brand Registrations, filed on FORM BRF 80-1 ABC 12/83-1, pursuant to the criteria set forth in Bulletin 2433, Item 4 (December 14, 1983) and Bulletin 2434, Item 6 (March 13, 1984), for which the annual filing fee was waived because the registrant submitted an affidavit that the sale of over 25 standard cases was not reasonably expected for the registration year, will suffice as the brand registration under the new statute, PROVIDED that the filing was by the brand owner or the authorized agent of the brand owner (including private label and exclusive brands) AND that the \$10.00 filing fee must now be paid. The Division will soon be billing the registrants of these products and such fees will be required to be paid within 45 days of such billing or the registration will be deemed void, and then a new registration will be required before the product may be sold or purchased by any licensee.

FORMS AND FEES

With the 1984 Brand Registrations, the Division successfully undertook a mammoth task of computerizing brand registrations. This task was assisted by the use of the Brand Registration Form and further assisted when registrants carefully and accurately completed the forms pursuant to instructions. Unfortunately, this was not always the case.

The Division also assigned a five digit Brand Registration File No. to each registration filed. Each registrant receives the duplicate copy of the filed schedule showing the number in the upper right hand corner. This number should be utilized in all regards with the brand (and it may be required to be shown on future price listings). This number must appear on all amended brand registration schedules.

The Brand Registration schedule or form has now been revised and the only form to hereafter be utilized is Form BRF 80-1 ABC 2/85-2. A reduced-size replica of the revised form, together with a replica of the instruction sheet, appears at the end of this item. The actual 8" x 11½" form to be utilized can be obtained from the Trade Practices Bureau, Division of Alcoholic Beverage Control, CN 087, Trenton, NJ 08625 - telephone: (609) 984-2795. As noted in the instructions, photo copies of the full size form may be submitted, especially in the case of numerous filings.

Form BRF 80-1 ABC 2/85-2, whether for an original filing or an amendment, must be submitted in duplicate. The duplicate will be returned to the registrant with the Brand Registration File Number. A copy of B.A.T.F. Form 1649 (label approval) must be attached to each original filing.

A non-refundable fee of \$10.00 must accompany each original or new brand registration schedule that is filed. Whenever any change occurs in any of the information on the original brand registration schedule, including but not limited to deletions of or additions to the authorized distributors, a form must be filed within 10 days of the change and it must be accompanied by a \$7.00 non-refundable fee. All checks should be payable to the "Division

The full texts of N.J.A.C. 13:2-17, 19 and 31, as readopted with Amendments, appeared in the New Jersey Register on January 7, 1985, at 17 N.J.R. 91 through 93.

3. BRAND REGISTRATION - NOTICE TO WHOLESALERS, DISTILLERS, BREWERS, VINTNERS, IMPORTERS AND SUPPLIERS: REVISED PROCEDURES FOR FILING AND AMENDING BRAND REGISTRATIONS.

[N.B. This notice supersedes the notices previously given at Bulletin 2433, Item 4 (December 14, 1983) and Bulletin 2434, Item 6 (March 13, 1984).]

As a result of the recent amendments to N.J.S.A. 33:1-2 (see Item 1, this bulletin, above), there are several changes in the brand registration procedures. N.J.A.C. 13:2-33 is the regulation governing the content of the brand registration schedule and the details of the filing. That regulation is presently in the process of being amended to conform procedurally with the new statute. The basic changes in the regulation will include elimination of the annual filing and inclusion of filing fees--\$10.00 for an original filing and \$7.00 for an amendment to an existing filing--and the requirement that a copy of B.A.T.F. Form 1649 (label approval) once again be furnished with the brand registration.

The other significant change in the regulation will be the elimination of N.J.A.C. 33:2-33.1(b)3, which has previously allowed any wholesaler, with the Director's approval, to register a brand in the event that the owner of the brand did not register it or did not designate an agent to register it. The new statute only allows registration to be accomplished by the brand owner or the authorized agent of the brand owner, and so the provision must be eliminated, and has effectively been eliminated by the statute.

STATUS OF PREVIOUSLY FILED BRAND REGISTRATION SCHEDULES

The new statute only requires a one-time filing for each separate product and an amended filing when a change occurs. Therefore, it will generally not be necessary to file a new brand registration schedule if one was filed for 1984. The specific guidelines are as follows:

(a) 1984 Brand Registrations, filed on FORM BRF 80-1 ABC 12/83-1, pursuant to the criteria set forth in Bulletin 2433, Item 4 (December 14, 1983), AND for which the \$10.00 fee was paid, will be deemed the brand registration required under the new statute (Item 1, this bulletin, above), PROVIDED that the filing was by the brand owner or the authorized agent of the brand owner (including private label and exclusive brands).

(b) All 1984 or prior brand registrations made pursuant to the presently existing N.J.A.C. 13:2-33.1(b)3, and approved by the director, are void as of January 28, 1985. Wholesalers, however, who were registered under such section, may have a reasonable time, not exceeding 60 days, to deplete inventory obtained prior to the January 28, 1985, date.

INSTRUCTIONS - BRAND REGISTRATION FORM, BRF 80-1 ABC 2/85-2

N.J.S.A. 33:1-2,b provides that a wholesale licensee shall not sell or deliver for sale in New Jersey any brand of alcoholic beverage for resale in New Jersey unless it is acquired from the brand owner or the authorized agent of the brand owner, or from another wholesale licensee who has been designated as a registered distributor by the brand owner or by the authorized agent of the brand owner. N.J.S.A. 33:1-2,c provides that no licensee shall knowingly sell, offer for sale, deliver, receive or purchase, for resale in New Jersey, any alcoholic beverage (including private label and exclusive brands) unless the brand owner or the authorized agent of the brand owner files with the Director of the Division of Alcoholic Beverage Control a brand registration schedule.

The specific items to be included in the brand registration schedule are listed in N.J.A.C. 13:2-33.1. They include:

1. The full and correct brand or trade name of the beverage alcohol product;
2. Its nature and type;
3. Its age or vintage and proof or percentage of alcoholic content when stated on the label;
4. The sizes of standard packaging and the standard number of unit containers per standard case;
5. The date of label approval granted by the Federal Bureau of Alcohol, Tobacco and Firearms (B.A.T.F.), together with a copy of the B.A.T.F. Form 1649;
6. The names and license numbers of each New Jersey Class B licensee designated to be an authorized distributor of the product at wholesale;
7. The full name, address, telephone number, taxpayer identification number and New Jersey license number (if any) of the filer; and
8. An indication whether the schedule is an original filing or an amendment to an existing one.

N.B. This form is to be used to file a brand registration schedule. You may, however, photocopy it and submit photocopies. If there are multiple filings to be made, and some or all contain identical information, that information, including the signature, may be submitted by photocopy and need not be original.

SPECIFIC INSTRUCTIONS FOR COMPLETING THE FORM

1. This brand registration form has been designed as a means to computerize records. The spacing is dictated by the computer, which requires that all information, whether numeric or alphabetic, be provided by the use of a single space for a single character. The sole exception is with regard to "Standard No. of Containers Per Case" wherein the entire number must be entered in the space provided.
2. If the required information consists of more letters than space allows, print as many as will fit in the spaces provided, and eliminate the rest.
3. Nature - e.g. Whiskey, Gin, Vodka, Rum, Tequila, Cordial, Liqueur, Wine, Malt, Brandy, etc.
4. Type - e.g. Blended, Straight, Bordeaux, Rose, Table White, Brut Champagne, Schnapps, Creme Sherry, Whiskey Sour, Margarita, Napoleon, Lager, Dark, etc.
5. Proof or alcohol percentage - Indicate proof (Distilled Spirits) or percentage of alcohol content (wines and malt alcoholic beverages) (Only required if listed on the product label).
6. Age or vintage - Enter age as stated on bottle or vintage year. Each vintage year requires a separate brand registration schedule to be filed. If age or vintage is not stated, indicate "NA" (not applicable).
7. N.J. ABC License No. - Make certain license number is accurate.
8. "This Brand Registration is filed by" - Check either "Brand Owner" or "Authorized Agent", not both.
9. Brand Registration Form must be filed in duplicate.
10. Facsimiles of signatures will be accepted, and forms or completed portions may be photocopied.
11. Submit a copy of the B.A.T.F. Form 1649, (label approval), with all original filings.
12. A fee of \$10.00 is to accompany each original brand registration filing, and a fee of \$7.00 is to accompany each amendment to a filing. Checks should be payable to "Division of Alcoholic Beverage Control". Fees must be submitted with filings.
13. Amendments must be filed within 10 days after any change occurs. The amendment should have the number assigned to the original brand registration filing noted in the space near the lower right-hand corner of the form.

Forms should be filed with, and questions addressed to the Trade Practices Bureau, Division of Alcoholic Beverage Control, CN 087, Trenton, New Jersey 08625. The telephone number is (609) 984-2830.

4. NOTICE REGARDING REVISED TWELVE-PAGE LICENSE APPLICATION.

A revised twelve-page application form has been adopted for applying for and reporting all license transactions. It is printed on NCR paper to eliminate the need for carbon paper.

The substance of the application form is essentially the same, although some new questions have been added, and some questions and instructions have been rephrased for clarity.

The charge for the new form remains at \$3.00 each. Any municipality that wishes to exchange old application forms for the new ones may forward them to the Licensing Bureau of the Division of Alcoholic Beverage Control and they will be exchanged at no charge.

When completed applications are forwarded to the Division of Alcoholic Beverage Control, the cardboard backing should be re-stapled if the staples had been removed for typing.

Deputy Director Harold F. Damon, Jr., Licensing, is happy to answer any questions that may arise in using the new form. He may be reached at (609) 984-2736.

5. STATE LICENSE TRANSACTIONS - JANUARY 1, 1985 TO DATE

The following transactions have taken place with reference to state issued licenses since January 1, 1985:

LICENSE TYPE	NUMBER	STATUS
Limited Wholesale license Mine of Japan Import, Inc. 22 Riverview Drive Wayne, NJ 07470 From: 21-59 Borden Avenue Long Isl. City, NY 11101	3401-25-105-002	Place to Place trans iss. eff. 01/09/85
Plenary Retail Transit Tambo III, Inc. Boat Miss Tambo No. 288300 208 Harvard Avenue Pt. Pleasant, NJ 08742	3400-13-365-001	Surrendered & Cancelled 01/18/85
Transportation license Putnam Transfer and Storage Co. 1705 Moxahala Avenue Zanesville, OH 43701	3401-20-291-001	New license iss. eff. 01/22/85
Plenary Retail Consumption license Kabob, Inc. Route 130 Burlington, NJ 08016	0305-33-013-004	No longer State iss. 02/04/85
Transportation license Michael Skubisz 62 Evergreen Street Waldwick, NJ 07463	3401-20-293-001	New license iss. eff. 02/06/85
Plenary Wholesale license Modern Beverages, Inc. Squankum Yellowbrook Road Farmingdale, NJ 07727	3401-23-294-001	New license iss. eff. 02/06/85
State Beverage Distributors license Midland Beverage Company, Inc. 546 Midland Avenue Saddle Brook, NJ 07662	3400-19-548-003	Person to Person trans. iss. eff. 02/11/85
From: Alexander J. Kuzicki T/A Midland Beverage Co. 546 Midland Avenue Saddle Brook, NJ 07662	3400-19-548-002	
State Beverage Distributors license Patricia A. Settini 1701 Valley Road Ocean, NJ 07712 From: P.O. Box 2255 Eiberon, NJ 07740	3400-19-265-006	Place to Place trans. iss. eff. 02/15/85
State Beverage Distributors license RKL, Inc. Berkshire Valley Road Oak Ridge, NJ 07438 From: Anthony Esposito Berkshire Valley Road Oak Ridge, NJ 07438	3400-19-216-004 3400-19-216-003	Person to Person trans. iss. eff. 02/20/85

6. APPOINTMENT OF NEW DEPUTY DIRECTOR.

On February 4, 1985, John W. Markert was sworn in as a Deputy Director of the Division of Alcoholic Beverage Control. He has been assigned to head the Trade Practices Bureau, and replaces John J. Sinsimer who resigned effective January 4, 1985. Deputy Director Markert's telephone number is 609-984-2795.

PUBLICATION OF BULLETIN 2438 IS HEREBY DIRECTED THIS

20TH DAY OF FEBRUARY, 1985.



JOHN F. VASSALLO, JR.
DIRECTOR