

STATE OF NEW JERSEY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street,

Newark, N. J.

BULLETIN NUMBER 13.

February 1, 1934

#1 Telegram:

1934 Jan. 31 AM 10 10

D. Frederick Burnett Esq
744 Broad St

We have a protest against a big hotel license by church whose entrance is just across the street from hotel, which was not a licensed place when law was passed.

Do the words - "Licensed Premises" in section seventy six mean a place already licensed when law was approved or can we make this temporary license permanent. An immediate reply is requested.

Camden Board of Alcoholic Beverage Control
Otto E. Braun Secretary.

January 31, 1934

Otto E. Braun, Secretary,
Camden Board of Alcoholic Beverage Control,
Camden, N. J.

"Licensed Premises" does not mean place already licensed when law was approved but a place licensed pursuant to the present law stop Hence under section 76 if hotel owned or its management was in actual possession on December sixth last of the building for which the license is sought the permanent license may be issued notwithstanding hotel is within proscribed distance of church.

D. Frederick Burnett, Commissioner.

#2

January 31, 1934

Hon. George W. Grimm, Jr.,
Deputy, Beverage Tax Division,
744 Broad Street,
Newark, N. J.

Dear Mr. Grimm:

I have your request for a ruling as to the right of a retail consumption licensee who, on running short of a commodity, say a bottle of rye, went to the next tavern to buy a bottle to supply his trade.

My first impression was that there was nothing against it as the express prohibitions of the Act are levelled against a retailer engaging in either manufacturing or wholesaling and vice versa (Sec. 23, 40).

New Jersey State Library

Upon reflection, I am convinced that while there is no express prohibition, it is implied. A wholesaler is defined, (Sec. 1) as any person who sells for the purpose of re-sale either to a licensed wholesaler or to a licensed retailer. Hence, a sale by one retailer to another for the purpose of re-sale makes him a wholesaler. The fact that the sale was made for accommodation is beside the point for it is a prohibited sale. A retailer has no right to sell to any one except a consumer. Neither did the retailer who ran short have any right to buy from another retailer.

One manufacturer may sell to another. So a wholesaler may sell to another. But, the analogy does not hold good when it comes to one retailer selling to another. For the very moment a retailer sells to another for the purpose of re-sale, he is no longer a retailer but a wholesaler. The statute expressly forbids that a retailer may hold a wholesaler's license (Sec. 23). Section 40 forbids that he shall be interested directly or indirectly in any wholesale project.

I therefore rule that the sale you describe was made contrary to law.

Very truly yours,

D. Frederick Burnett,
Commissioner.

DFB:MC

#3

January 31, 1934.

Wm. J. Hennessy, Clerk,
Municipal Beverage Control Board,
42 Campbell Street,
Rahway, N. J.

Dear Sir:

I have yours of the 30th inquiring:

"Is it permissible for a retail distributor to sell liquor etc. to a party holding a retail consumption license, to be resold by him over the counter or does he have to buy from a wholesaler."

It is not permissible for a retail distributor to sell liquor to a retail consumption licensee for reasons expressed in my letter of even date to Hon. George W. Grimm, Jr., copy of which is herewith enclosed.

It is not necessary that a retail consumption licensee buy from a wholesaler but he may also buy from any licensed manufacturer as well, i.e. he may buy direct from a brewery, winery, distillery or blender.

Very truly yours,

D. Frederick Burnett
Commissioner.

DFB:L

#4

The Commissioner declined to issue a license for the reasons following:

"Dear Sir:

I have the unpleasant duty of informing you that I have decided, after careful consideration, to decline your application for a plenary wholesale license for the following reasons:

Your application shows the following questions and answers:

'8. Have you ever been convicted of any crime? No.

'9. Have you ever been convicted of any violations of the act entitled "An Act concerning alcoholic beverages"? Yes. If so, state detail - Paid \$500.00 in U. S. District Court at Trenton, N. J.

'10. Have you ever been convicted of any violation of a Federal or State law concerning the manufacture, sale or distribution of alcoholic beverages? As shown above for violation of Prohibition Act. If so, for what violation - as above. When - 1931. What court. U. S. District Court.

'11. Have you ever paid a fine for penalty in settlement of any prosecution against you for any violation of any Federal or State law concerning the manufacture, sale or distribution of alcoholic beverages? Yes. If so, how much, \$500.00. When, 1931. In what court, U. S. District Court at Trenton, N. J.?

Our record discloses that contrary to your sworn application you have been convicted not only once but three times; that the United States District Court records at Trenton show that you have the following entries against your name; viz., Docket No. --- Violation National Prohibition Act, Sentenced February 28, 1923, Fine \$75.00. Docket --- Violation of National Prohibition Act. Sentenced July 23, 1923. Fine \$200.00; Docket --- Unlawful operation of still, accomplice --- and ---. Sentenced February 14, 1931 Single Fine \$1,000.

Irrespective of the material discrepancies between your sworn application and the actual record as it now appears the salient fact stands out that you have been an habitual offender. In the exercise of sound discretion your application must be and hereby is denied.

The disposition of any refund to which you may be entitled and of the bond submitted with the application will be given immediate attention without the necessity of petition or action on your part."

#5

February 1, 1934.

In response to a communication reading:

"Kindly inform me if a licensed saloon keeper has any authority to sell at the bar, his home made wine, without paying the revenue tax levied on all other alcoholic beverages

"There is a certain saloon keeper who has about fifty (50) barrels of wine made by himself, which he is selling at the bar, thereby defrauding the Federal Gov't of its lawful tax on said wines."

The Commissioner replied:

"A licensed saloon keeper has no authority to sell at the bar his home-made wine without paying the revenue tax.

"If you will write me in strict confidence which under no circumstances will be violated, giving me the name and address of the saloon keeper who is doing this, I will, without disclosure at any time of your name, take the full initiative of finding it out for myself and make appropriate arrest."

DFB:MC

#6 WASHINGTON D C

Hon. D. Frederick Burnett, Commissioner,
State Alcoholic Beverage Control Commission Newark N.J.

Please wire immediately collect whether importer of alcoholic beverages selling in New Jersey at wholesale or retail must have State License also whether importer selling only on commission basis must have State License.

J. H. Choate, Jr. Director Federal Alcohol
Control Administration.

Hon. Joseph H. Choate, Jr.,
Director, Federal Alcohol Control Administration,
Washington, D. C.

Every importer of alcoholic beverages selling in New Jersey must have State License either wholesale or retail according to character of sales made. So also importer who makes sales in New Jersey even though only on commission must have appropriate State License.

D. Frederick Burnett,
Commissioner.

D. FREDERICK BURNETT,
Commissioner