

STATE OF NEW JERSEY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street, Newark, N.J.

BULLETIN NUMBER 26.

May 4, 1934

1. LICENSES - FEDERAL TAX STAMPS -- PROCEDURE WHERE LOST.

April 23, 1934

E. D. Hobbs, Clerk,
Borough of Little Silver,
Monmouth County, N. J.

Dear Sir:

We have yours of April 4th, setting forth that in connection with application made on behalf of Citarella Bros. for a Plenary Retail Distribution License, applicant states that his Special Tax Stamp for Retail Liquor Dealer has been lost.

Upon presentation of satisfactory evidence pertaining to such loss to the Collector of Internal Revenue from whom the original stamp was obtained, form #785 will be issued. A duplicate of such form, * can then be presented to you by the applicant and may serve the purpose of the original stamp.

It is a statutory requirement that no license shall be issued to any applicant unless he is in possession of a valid Federal Special Tax Stamp appropriate to his business. You are right in holding up the issuance of the license pending receipt of such stamp or proper evidence that one has been issued.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

By _____
B. Carlton Brown,
Inspector-in-Chief.

*Form 785, Internal Revenue Service reads:-

COLLECTOR'S CERTIFICATE OF PAYMENT OF SPECIAL TAX

OFFICE OF COLLECTOR

.....District....., 193

I HEREBY CERTIFY that the records of this office show the following with reference to the payment of Special Tax and the issuance of Special Tax Stamp:

Stamp Number.....Date of issue.....

Issued to.....

For business of.....

Carried on at.....

For period commencing.....Amount of tax paid, \$.....

NOTICE.--Evidence satisfactory to the Collector of Internal Revenue having been furnished that the above stamp has been lost or destroyed, this certificate is issued, to be posted in the place of business of the above-named as evidence of payment of the special tax specified.

.....
Collector.

2. RULES - CONCERNING SALE OF ALCOHOLIC BEVERAGES IN NIPS,
HALF PINTS AND OTHER UNDERSIZED CONTAINERS

Nips serve a valuable purpose when sold in taverns or trains for immediate consumption thereby assuring, when responsibly labeled, legitimacy and purity of product, as well as enabling enforcement agencies to detect and check illicit liquor.

But the present intensive sales promotion of nips, half pints and other undersized containers, cheaply priced for off-premises consumption, works havoc not only with our younger generation, but also conduces to public drunkenness and disorder. Corrective action is demanded. Beer and malt beverages are expected because they do not come within the evil as observed.

Accordingly the following rules are hereby promulgated:

- 1 - Effective midnight May 17, 1934, no sale of any alcoholic beverage, other than beer and malt beverages, for consumption off the licensed premises may be made by any retail licensee, unless the bottle, receptacle or container shall contain one full pint.
- 2 - A pint means an American pint of sixteen (16) fluid ounces and not a foreign or diminished pint or a "half fifth" or any other device less than the minimum.
- 3 - Previous rules permitting the sale of such beverages in bottles containing less than one (1) pint, providing the number of such bottles sold at any one time to any one person contain an aggregate of at least one (1) pint, are abrogated effective May 17th next.
- 4 - Any attempt to evade these rules, or any other rules and regulations, directly or indirectly, by acquiescence of, collusion with or connivance by licensees or their employees, will be a violation and cause for revocation of license.
- 5 - Effective immediately, no alcoholic beverages of any kind in any container shall be sold by any licensee to any person under the age of 21 years, or to any person actually or apparently intoxicated.
- 6 - These rules apply to consumption, seasonal, distribution, transit and club licensees and also to limited distribution licensees to the extent indicated and applicable.

Dated: May 3, 1934.

D FREDERICK BURNETT
Commissioner

3. MUNICIPAL ISSUING AUTHORITIES - DUTY TO GIVE NOTICE IMMEDIATELY

Each municipal issuing authority is hereby directed to give notice in writing of the foregoing rules concerning sale of alcoholic beverages in nips, half pints and other undersized containers forthwith to each retail licensee in their respective municipalities.

RULES GOVERNING APPEALS

4.

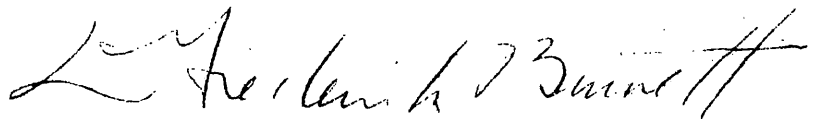
1. All appeals to the Commissioner shall be by a notice of appeal accompanied by a petition of appeal, setting forth the subject matter of the appeal, the action of the issuing authority, the relief sought and the grounds therefor.
2. The appellant shall first serve a copy of the notice and petition of appeal upon the respondent issuing authority and where the action appealed from is the granting of a license, a copy shall be served upon the licensee. The notice and petition of appeal together with an acknowledgment or affidavit of service, shall be filed with the Commissioner forthwith.
3. Within five days after service of the notice and petition of appeal, the respondent issuing authority shall file with the Commissioner an answer containing a statement of the grounds for its action and shall serve a copy thereof upon the appellant.
4. Upon the filing of the notice and petition of appeal, at least five days notice of the time and place fixed by the Commissioner for the hearing of the appeal shall be given to the appellant, the respondent issuing authority, and where the action appealed from is the granting of a license, to the licensee.
5. All appeals shall be heard de novo and the parties may introduce oral testimony and documentary evidence, but the burden of establishing that the action of the respondent issuing authority was erroneous and should be reversed, shall rest with the appellant.
6. All appeals shall be open to the public, unless otherwise directed by the Commissioner.
7. Where none of the material facts is disputed, or where there is available a stenographic transcript of the proceedings before the issuing authority, the parties may agree to present the appeal upon an agreed statement of facts or upon such stenographic transcript. Subject to the approval of the Commissioner, the agreed statement of facts or the stenographic transcript may be filed with the Commissioner at any time prior to the time fixed for the hearing of the appeal, in lieu of a hearing of the appeal.
8. Subpoenas and subpoenas duces tecum, signed by the Commissioner, for the attendance of witnesses and the production of books, records and other documents at the hearing on the appeal, may be obtained by the parties upon request to the Commissioner.
9. The failure of the appellant to appear at the time and place designated for the hearing of an appeal, shall be cause for the dismissal of the appeal, and upon the failure of the respondent issuing authority to appear at such time and place, the Commissioner may permit the appellant to proceed ex parte.
10. An appeal shall not stay the effect of the action appealed from unless otherwise ordered by the Commissioner. Upon application therefor, by verified petition setting forth in detail

RULES GOVERNING APPEALS (Cont'd)

the grounds for the application, the Commissioner may, in his discretion, issue an order upon the respondent issuing authority to show cause why the effect of the action appealed from should not be stayed pending the hearing of the appeal, together with an ad interim stay pending the return of the order to show cause. If it shall appear, upon the return of the order to show cause, that the action of the respondent issuing authority is prima facie erroneous and that irreparable injury to the appellant would otherwise result, the Commissioner may order a suspension or modification of the action appealed from pending a final determination of the appeal.

11. The determination of an appeal shall be by a written opinion setting forth the conclusions and directions of the Commissioner and the reasons therefor, and copies of the opinion shall be mailed forthwith to the parties to the appeal.
12. The rules herein contained shall be considered as general rules governing the conduct of appeals, and since they are designed to facilitate the hearing of appeals and advance justice, they may be relaxed or dispensed with by the Commissioner in any case where a strict adherence to them will result in injustice.

May 4, 1934.



Commissioner.

5. TURPITUDE - WHAT CONSTITUTES - HABITUAL OFFENDERS

May 3, 1934

My dear Mr.-----:

It is indeed difficult and delicate to define moral turpitude and I have the utmost sympathy with you and your fellow councilmen in the task which confronts you.

The subject of moral turpitude has been considered in:

Bulletin 2, Item 8
Bulletin 15, Item 5
Bulletin 17, Item 1 - Item 2

If you will read these bulletin items over, I think they will give you some help. Particularly, I think the keynote is struck in Bulletin 15 where it says:- "The facts are to be analyzed to see if devoid of hypocrisy, fanaticism, and hard-shell prejudice, one should or should not feel a sense of shame because of the act for which he was convicted." And again:- "So conviction on repeated occasions of violation of the liquor law which makes a man a nuisance to the community."

If there had been but a single or mere isolated occasions of violation of the liquor law, I would not personally find, unless accompanied by aggravating circumstances, that such mere violation constituted turpitude. But here we find one violation after the other whereby it appears that each of these men are repeated, habitual offenders. If that does not induce a sense of shame on the part of these two men, it ought to. The Legislature never contemplated, when it enacted the Control Act, that licenses would be issued to habitual offenders. In view of the record, I personally feel that both these men are unworthy of receiving a license or to enjoy the privileges thereunder.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner

D. Frederick Burnett