

BULLETIN 2459

AUGUST 21, 1992

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1. **AMENDMENT TO N.J.S.A. 33:1-81 - INCREASE OF PENALTY TO \$500.00 FOR PURCHASE OF ALCOHOLIC BEVERAGES BY PERSONS UNDER THE LEGAL AGE.**

On June 19, 1991, Assembly Bill No. 1441 was enacted into law as Chapter 169 of the Laws of 1991. This law amends portions of N.J.S.A. 33:1-81 of the Alcoholic Beverage Control Act, which establish penalties for the purchase or attempt to purchase alcoholic beverages by or for a person under the legal age. Any person who violates the law commits a disorderly persons offense and is subject to a fine, loss of driving privileges and possible requirement to participate in an alcohol education or treatment program authorized by the Department of Health.

This bill amends the minimum fine upon adjudication of guilt from \$100.00 to \$500.00. The bill further clarifies the consequences to an offender as it relates to the loss of driving privileges. If the offender is under the age of 17 years, that person's motor vehicle driving privileges will be postponed for six months after the offender's 17th birthday. Any license authorizing the minor to drive a motorized bicycle will be immediately suspended, and such suspension shall run until six months after the individual reaches the age of 17.

The bill also details a specific procedure to be followed by the Court in effectuating the mandatory six months suspension or postponement of the offender's driving privileges. The driver's license of the offender will be immediately collected and forwarded to the Division of Motor Vehicles by the Court. If the license is not in the possession of the offender, the commencement and termination of the suspension shall be set forth in a report to the Division of Motor Vehicles. Every offender shall acknowledge awareness of the consequences under law, N.J.S.A. 39:3-40, if they

drive while their license is suspended. If the offender has an out-of-State driver's license, the Court shall suspend or postpone that driver's license privilege and report same to the Division of Motor Vehicles.

This bill also contains an amendment to N.J.S.A. 2C:33-15 which makes it a disorderly persons offense for anyone under the legal age (21 years) to knowingly possess without legal authority, or knowingly consume, any alcoholic beverage in any school, public conveyance, public place, place of public assembly, or motor vehicle. The amendments put into place parallel penalties for a violation as identified in N.J.S.A. 33:1-81. They also identify a requirement that the parents or guardians of any minor (under 18 years) in their custody who is convicted under N.J.S.A. 33:1-81 or N.J.S.A. 2C:33-15 must receive written notification of the violation. If while still in their custody, the minor commits a subsequent violation of either law, the parent or guardian shall be subject to payment of a \$500.00 fine if it is shown that the parent or guardian failed or neglected to exercise reasonable supervision or control over the conduct of the minor.

The full texts of N.J.S.A. 33:1-81 and N.J.S.A. 2C:33-15, as amended, are hereinafter set forth.

**N.J.S.A. 33:1-81**

It shall be unlawful for:

(a) A person under the legal age for purchasing alcoholic beverages to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage; or

(b) A person under the legal age for purchasing alcoholic beverages to consume any alcoholic beverage on premises licensed for the retail sale of alcoholic beverages, or to purchase, attempt to purchase or have another purchase for him any alcoholic beverage; or

(c) Any person to misrepresent or misstate his age, or the age of any person for the purpose of inducing any licensee or any employee of any licensee, to sell, serve or deliver any alcoholic beverage to a person under the legal age for purchasing alcoholic beverages; or

(d) Any person to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or to purchase alcoholic beverages, for another person who does not because of his age have the right to purchase and consume alcoholic beverages.

Any person who shall violate any of the provisions of this section shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than \$500.00. In addition, the court shall suspend or postpone the person's license to operate a motor vehicle for six months.

\* Upon the conviction of any person under this section, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.

\* If a person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court shall immediately collect the license and forward it to the division along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person as well as the first and last date of the license suspension period imposed by the court.

\* The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in R.S. 39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S. 39:3-40.

\* If the person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate given the age at the time of sentencing, the non-resident driving privilege of the person and submit to the division the required report. The court shall not collect the license of a non-resident convicted under this section. Upon receipt of a report by the court, the division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

In addition to the general penalties prescribed for an offense, the court may require any person under the legal age to purchase alcoholic beverages who violates this act to participate in an alcohol education or treatment program authorized by the Department of Health for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted.

N.J.S.A. 2C:33-15

1. (a) Any person under the legal age to purchase alcoholic beverages who knowingly possesses without legal authority or who knowingly consumes any alcoholic beverage in any school, public conveyance, public place, or place of public assembly, or motor vehicle, is guilty of a disorderly persons offense, and shall be fined not less than \$500.00.

(b) Whenever this offense is committed in a motor vehicle, the court shall, in addition to the sentence authorized for the offense, suspend or postpone for six months the driving privilege of the defendant.

\* Provisions in N.J.S.A. 33:1-81 noted with asterisks are identically set forth in this law and are not repeated at length \*

(c) In addition to the general penalty prescribed for a disorderly persons offense, the court may require any person who violates this act to participate in an alcohol education or treatment program, authorized by the Department of Health, for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted.

(d) Nothing in this act shall apply to possession of alcoholic beverages by any such person while actually engaged in the performance of employment pursuant to an employment permit issued by the Director of the Division of Alcoholic Beverage Control.

(e) The provisions of section 3 of P.L. 1991, c 169 (C.33:1-81.1a) shall apply to a parent, guardian or other person with legal custody of a person under 18 years of age who is found to be in violation of this section.

2. A parent or other person having legal custody of a person under 18 years of age found in violation of R.S. 33:1-81 or section 1 of P.L. 1979, c. 264 (C.2C:33-15) shall be notified of the violation in writing. The parent, guardian or other person having legal custody of a person under 18 years of age shall be subject to a fine in the amount of \$500.00 upon any subsequent violation of R.S. 33:1-81 or section 1 of P. L. 1979, c. 264 (C.2C:33-15) on the part of such person if it is shown that the parent, guardian or other person having legal custody failed or neglected to exercise reasonable supervision or control over the conduct of the person under 18 years of age.

2. AMENDMENT TO N.J.S.A. 33:1-75 - AUTHORIZATION TO ISSUE PERMIT TO ALLOW HOME MANUFACTURE OF MALT ALCOHOLIC BEVERAGES FOR PERSONAL AND HOUSEHOLD USE ONLY.

On November 7, 1991, Assembly Bill No. 114 was enacted into law as Chapter 302 of the Laws of 1991. This law amends the provisions of N.J.S.A. 33:1-75, which had authorized the issuance of a Division permit to allow the home manufacture of wine, in stated limits, by a resident of New Jersey for personal consumption only.

The bill amends and restructures the law to now authorize the Director to issue permits to allow an individual over the age of 21 to manufacture, not for sale, both wines and malt alcoholic beverages within a home or other noncommercial premises. Manufacture is limited to quantities not to exceed 200 gallons per

calendar year, and can only be used for the individual's personal or household use and consumption. The Director shall establish a reasonable fee to cover the costs incurred in issuing such special permits. Pending further review and assessment of the reasonable costs associated with the issuance of the permits, the Division will continue to charge \$3.00 for the permit as currently set forth in N.J.A.C. 13:2-12.1(b). The law also makes it clear that no tax need be paid on the home manufactured wine or beer.

The full text of N.J.S.A. 33:1-75, as amended, is hereinafter set forth.

**N.J.S.A. 33:1-75**

The director may, subject to rules and regulations, issue special permits authorizing the manufacture by a person who is 21 years of age or older, within a home or other noncommercial premises, of wines or malt alcoholic beverages in quantities not exceeding 200 gallons per calendar year for the person's personal or household use or consumption. The director shall, by regulation, establish a reasonable fee to cover the costs incurred in issuing the special permits required by this section.

A person manufacturing wines or malt alcoholic beverages pursuant to this section shall not be liable for any tax imposed under the "Alcoholic beverage tax law," R.S.54:41-1 et seq.

3. **AMENDMENT TO N.J.S.A. 33:1-40.3 - AUTHORIZATION TO CITIES OF THE FIRST CLASS TO REGULATE HOURS OF SALE OF PACKAGE GOODS (BEER AND WINE) WITHOUT LIMITATIONS AND THE PROHIBITION OF SUNDAY SALES OF SUCH PACKAGE GOODS WHEN ON-PREMISES SALES ARE PROHIBITED.**

On January 10, 1992, Assembly Bill No. 4069 was enacted into law as Chapter 370 of the Laws of 1991. This law amends portions of N.J.S.A. 33:1-40.3 which address the allowable hours of sale of wine and malt alcoholic beverages in original bottles or containers for off-premise consumption only.

Prior to this amendment, by application of this section, whenever a municipality's hours of sale allowed a retail licensee to sell alcoholic beverages by the drink for on-premises consumption, every licensee in that community could sell wine and malt alcoholic beverages as package goods for off-premises consumption, notwithstanding any municipal hour's ordinance to the contrary.

Additionally, under the provisions of N.J.S.A. 33:1-40, if a municipality did not authorize on-premises sales of alcoholic beverages on Sunday, the municipality could authorize a retail distribution licensee to sell beer and wine from 12:30 p.m. to 6:30 p.m. in package goods for off-premises consumption.

The amendments to N.J.S.A. 33:1-40.3 delete the applicability of these provisions for municipalities that are cities of the first-class (currently Newark in Essex County and Jersey City in Hudson County). Their hours for package goods sales will not in any way be tied to the hours established for on-premises consumption sales. The hours of sale established by municipal ordinance will control package goods sales, subject to the State mandated limitations set forth in N.J.A.C. 13: 2-38.1. That regulation prohibits any package goods sales of any type of alcoholic beverages before 9:00 A.M. or after 10:00 P.M. on any day of the week.

Reviewing the existing filed ordinances with the Division concerning the hours of sale for the City of Jersey City, a plenary retail consumption licensee is authorized to sell alcoholic beverages for on and off-premises consumption from 6:00 A.M. to 2:00 A.M. on Mondays through Thursday. The closing hour is extended to 3:00 A.M. on Fridays and Saturdays. The opening hour is changed to 12:00 Noon on Sundays. (Ordinance S-82, 4/18/78).

Applying the amended law and the Division regulation in N.J.A.C. 13:2-38.1 to these hours, the following results occur. On Monday through Saturday, package goods sales are limited to the hours of 9:00 A.M. to 10:00 P.M. On Sundays, since the hour of opening is 12:00 Noon, package goods sales are limited to the hours of 12:00 Noon to 10:00 P.M.

The only legislative provisions concerning the hours of operation for a plenary retail distribution licensee identified in Division records is a Resolution adopted February 2, 1937. That Resolution established the hours for sale for a distribution licensee on Monday through Saturday at 6:00 A.M. to 2:00 A.M. On Sunday the opening hour is 1:00 P.M. Applying the amended law and Division regulation N.J.A.C. 13:2-38.1 to these hours, the

following results occur. On Monday through Saturday, package goods sales are limited to 9:00 A.M. to 10:00 P.M. On Sunday, package goods sales are limited to the hours of 1:00 P.M. to 10:00 P.M.

Reviewing the existing ordinances filed with the Division concerning the hours of sale for the City of Newark, a plenary retail consumption licensee is authorized to sell alcoholic beverages for on and off-premises consumption from 9:00 A.M. to 2:00 A.M. on Monday through Wednesday. The closing hour is extended to 3:00 A.M. on Thursday through Saturday. The opening hour is changed to 12:00 Noon on Sundays. (Ordinance Amendments to Title 4:1-1 received June 23, 1988).

Applying the amended law and Division regulation N.J.A.C. 13:2-38.1 to these hours, the following results occur. On Monday through Saturday, package goods sales are limited to the hours of 9:00 A.M. to 10:00 P.M. On Sundays, since the hour of opening is 12:00 Noon, package goods sales are limited to the hours of 12:00 Noon to 10:00 P.M.

The above Newark Ordinance sets forth the permissible hours of sale for a plenary retail distribution licensee at 9:00 A.M. to 10:00 P.M. on Monday through Saturday. On Sunday, the opening hour is 12:00 Noon. Applying the amended law and Division regulation N.J.A.C. 13:2-38.1 to these hours, the following results occur. On Monday through Saturday, package goods sales are limited to 9:00 A.M. to 10:00 P.M. On Sunday, package goods sales are limited to the hours of 12:00 Noon to 10:00 P.M.

Since both Jersey City and Newark authorize the sale of alcoholic beverages for on-premises consumption on Sunday, the second aspect of the amendment made to N.J.S.A. 33:1-40.3 has no present applicability.

The full text of N.J.S.A. 33:1-40.3, as amended, is hereinafter set forth.

#### N.J.S.A. 33:1-40.3

Except in a city of the first class, whenever the sale of alcoholic beverages for consumption on the premises and off the premises or either thereof is authorized in any municipality by ordinance or rule or regulation of the Division of Alcoholic Beverage Control, by the holder of a retail consumption or retail distribution license, such ordinance or rule shall authorize the sale of wine and malt alcoholic beverages in original bottle or can containers for

consumption off the premises on the same days and during the same hours as the sale of alcoholic beverages for consumption on the premises is permitted and authorized in the municipality. If a municipality has no ordinance or local law that authorizes the sale of alcoholic beverages for consumption on the premises, then the municipality may by ordinance authorize the sale of wine and malt alcoholic beverages in original bottle or can containers by retail distribution licensees any time between the hours of 12:30 p.m. and 6:30 p.m. on Sunday, in addition to such weekday hours as may be authorized by ordinance.

Notwithstanding the provision of this section or any other law to the contrary, a city of the first class which prohibits the Sunday sale of alcoholic beverages for consumption on the premises shall not permit the sale on Sunday of wine and malt alcoholic beverages in original bottle or can containers for consumption off the premises.

All parts of ordinances and regulations of the Director of the Division of Alcoholic Beverage Control inconsistent with the provisions of this act are superseded to the extent of such inconsistency.

4. N.J.S.A. 33:1-2 - ELIMINATION OF THE QUANTITY LIMITATIONS ON ALCOHOLIC BEVERAGES THAT AN INDIVIDUAL MAY TRANSPORT FOR PERSONAL USE WITHOUT A PERMIT WHEN PURCHASED IN NEW JERSEY.

On January 17, 1992, Senate Bill No. 2355 was enacted into law as Chapter 402 of the Laws of 1991. This law amends a portion of N.J.S.A. 33:1-2 regulating the transportation of alcoholic beverages purchased for personal use.

Prior to the amendment, if a person purchased alcoholic beverages from a New Jersey licensee and wanted to transport those goods to his or her home for personal use, a Special Permit would be required if the quantity transported exceeded 1/2 barrel or 24 quarts in all of beer, ale or porter, or five gallons of wine, or 12 quarts of other alcoholic beverages.

The amendment deletes the quantity limitations and the requirement to obtain a permit from the Division. The law now provides that a person can, without limitation, purchase in New Jersey any amount of alcoholic beverages intended in good faith to be used solely for personal use and that person may personally transport those beverages, without the need for any permit.

The amendment did not change the requirement to obtain a permit if the alcoholic beverages are purchased for personal use from a location outside of New Jersey and are to be transported into New Jersey, where the quantities exceed 1/4 barrel or 12 quarts of beer, ale or porter, or one gallon of wine, or two quarts of other alcoholic beverages within any consecutive 24 hour period.

The relevant portion of N.J.S.A. 33:1-2, as amended, is hereinafter set forth.

N.J.S.A. 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 use may be mixed by any person. Except as hereinafter provided, a person may, without limitation, purchase any amount of alcoholic beverages intended in good faith to be used solely for personal use and may personally transport those alcoholic beverages so purchased for personal use in any vehicle from a point within this State. Alcoholic beverages intended in good faith solely for personal use may be transported, 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 use 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.

\* No changes were made in paragraphs (b), (c), (d) and (e) dealing with the structured distribution, and Brand Registration of alcoholic beverages. \*

5. APPOINTMENT OF GERALD A. GRIFFIN AS DEPUTY DIRECTOR, COMPLIANCE BUREAU

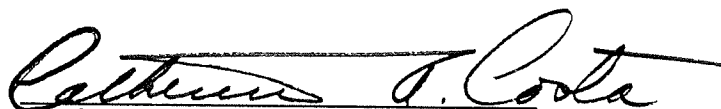
Director Catherine A. Costa is pleased to announce the appointment of Gerald A. Griffin as a new Deputy Director of the Division of Alcoholic Beverage Control.

Mr. Griffin was awarded a Juris Doctorate degree from Indiana University School of Law and is admitted to practice law in Indiana and New Jersey. He attained the rank of Captain in the United States Air Force and has studied at the Wharton School, University of Pennsylvania.

Mr. Griffin has spent the past nine years of his 16 years service to the State of New Jersey with the Division of Alcoholic Beverage Control. He will oversee the Division's Compliance Bureau.

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Publication of Bulletin 2459 Is Hereby Directed This  
21st Day of August, 1992



Catherine A Costa, Director  
Division of Alcoholic Beverage Control