

STATE OF NEW JERSEY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street, Newark, N. J.

BULLETIN NUMBER 5

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#1. Question: What shall a municipality do where it has issued a license and accepted less than the full pro-rated annual license fee?

Answer: Insist that each licensee pay the balance of the full pro-rated annual fee. If, however, licensees are recalcitrant, then you may exercise the power reserved to you to revoke at any time any license issued by you. The Commissioner has no power to waive the payment of that money. The fact that licensees have invested heavily in beverage stocks makes no difference nor does the fact that they are of good character and standing. Everybody must be treated alike.

#2. Question: Can a municipality adopt a scale of license fees for a retail consumption license or for a retail distribution license based on the nature of the business conducted by the licensee? For example - a fee of \$1,500. for an hotel of 100 rooms; \$750. for an hotel of 50 rooms; \$500. for an ordinary bar license; and \$350. for a club.

Answer: No. The statute provides for a minimum and maximum fee to be fixed by governing body of the municipality in respect to each of the two retail classes but once that rate is fixed for the class, then every license which comes within the class must be treated alike. Only two classes are recognized by the law, viz. (1) consumption and (2) distribution.

#3. Question: Would premises located within 200 feet of a Rescue Mission or Gospel Hall be ineligible to hold a license under Sec. 76?

Answer: "No." Such a Rescue Mission or Gospel Hall is not within the intendment of the Act which contemplates recognized edifices devoted permanently to the worship of God.

#4. The Commissioner was asked by the Associated Press:

(a) "Has a City Commissioner who owns properties occupied by saloons the right to sit in judgment upon the award of liquor licenses?"

- (b) "Has a City Commissioner the right to become financially interested in a liquor distributing company?"

He replied: The answer in each instance is unequivocally "No." The disqualification exists independent of Statute and extends to everybody who is called upon to sit in judgment upon the rights of his fellow-men. It goes against the grain even to think of a person being a judge in his own case or to have his judgment in formulating rules for other men warped by financial self-interest.

- #5. Question: Who is a minor?

Answer: A person under the age of 21 years.

- #6 Considerable mention has been made in the public press as to the alleged unconstitutionality of certain sections of this act. No one need get a fear complex even if the courts shall subsequently so declare. The rule in New Jersey, contrary to that in certain other jurisdictions is definitely established by our court of last resort, in Long v. Bayonne, 74 N.J.L. 455, and followed in later cases, that every law, although subsequently declared unconstitutional, must be obeyed unless and until it shall have been judicially declared unconstitutional and, further, that all who act in good faith under or pursuant to that law are protected.

- #7 The Commissioner intends shortly to write each Chief of Police outlining enforcement plans. In the meantime, it is suggested that great caution be exercised in making arrests of the operators of vehicles transporting alcoholic beverages. Better no present control at all of transportation than break the morale of the men on the police force upon whom the primary duty of enforcement will fall WHEN present plans are consummated. Windshield insignia are being made and will be affixed to every vehicle entitled to transport. At the present time no vehicles are in possession of SUCH identifying insignia. The old beer transport certificates put on windshields via decalcomania are no longer of any significance whatsoever. Hence the presence of such decalcomania on a windshield does not mean that the vehicle operator has any right to transport. Neither does the absence thereof necessarily mean that he has no right to transport. Everything depends on his license, which in all probability is on the licensed premises and not in the possession of the truck driver. Of course, if police are SURE that neither the driver nor his principal has any right at all to transport, then arrest and convict. But, if in doubt, better be sure than sorry.