

STATE OF NEW JERSEY  
 DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
 744 Broad Street Newark, N. J.

BULLETIN 259

JULY 13, 1938.

1. REPORT ON DISCIPLINARY PROCEEDINGS AGAINST LICENSEES TRANSMITTED  
 BY THE DEPARTMENT TO MUNICIPAL ISSUING AUTHORITIES.

July 7, 1938

To: D. Frederick Burnett, Commissioner  
 From: Emerson A. Tschupp, Attorney

Period Covered

July 1, 1937 to June 30, 1938

SUMMARY

Cases Transmitted 329

Disposition:

License revoked	16	
License surrendered	6	
License not renewed	1	
License suspended	228	
Sentence suspended	18	
Charges dismissed	37	
Pending		
Heard, decision reserved	7	
Awaiting hearing	<u>16</u>	329

The foregoing 329 cases involved 422 separate violations, as below set forth. Penalties preceded by an asterisk were imposed in cases where one or more additional charges were involved, and no separate penalty was imposed on the separate charges.

1. Sale of Alcoholic Beverages During Hours Prohibited by  
 Municipal Ordinance, Resolution, Regulation or Referendum.

Cases Transmitted 140

Disposition:

*License revoked	2	
License surrendered	1	
*License surrendered	1	
License not renewed	1	
License suspended	96	
<u>Periods covered:</u>		
*107 days	1	
30 "	3	
21 "	1	
*20 "	1	
15 "	2	
*14 "	1	
10 "	3	
*10 "	4	
7 "	3	
6 "	1	
5 "	31	
*5 "	5	
4 "	1	

*4 days	1	
3 "	14	
2 "	21	
*2 "	1	
1 day	1	
*1 "	1	
	<u>96</u>	
Sentence suspended		9
Licensee reprimanded		1
*Licensee reprimanded		1
Dismissed		15
Pending		13
Heard, decision reserved	2	
Awaiting hearing	<u>11</u>	
	13	
		<u>140</u>

2. Gambling, Slot Machines and Lotteries on Licensed Premises.

Cases Transmitted 55

Disposition:

*License revoked		7
*License surrendered		1
License suspended		38
Periods covered:		
40 days	1	
*30 "	1	
20 "	1	
*20 "	1	
15 "	1	
*14 "	2	
*10 "	2	
*7 "	1	
*6 1/2 "	1	
5 "	2	
*5 "	3	
4 "	2	
3 "	4	
*3 "	2	
2 "	6	
*2 "	2	
1 day	5	
*1 "	1	
	<u>38</u>	
Sentence suspended		2
Dismissed and licensee reprimanded		1
Dismissed		3
Pending		3
Heard, decision reserved	2	
Awaiting hearing	<u>1</u>	
	3	
		<u>55</u>

3. Sale of Alcoholic Beverages on Primary and General Election Day.

Cases Transmitted 42

Disposition:

License revoked		1
License suspended		29
Periods covered:		
12 days	1	
10 "	1	
7 "	1	
5 "	8	
3 "	3	
2 "	12	
1 day	3	
	<u>29</u>	
Sentence suspended		3
Licensee reprimanded		2
Dismissed and licensee reprimanded		1
Dismissed		6
		<u>42</u>

4. Sale or Service of Alcoholic Beverages to Minors.

Cases Transmitted 36

Disposition:

License suspended		26
Periods covered:		
15 days	1	
*15 "	1	
10 "	3	
*10 "	2	
7 "	4	
*7 "	1	
5 "	3	
*5 "	1	
4 "	1	
3 "	5	
*3 "	1	
2 "	2	
*2 "	1	
	<u>26</u>	
Sentence suspended		1
Dismissed		7
Pending		2
Awaiting hearing	2	
		<u>36</u>

5. Fraud, Misrepresentation, False Statement, etc., in Application for License, including Operation as a Front for Another.

Cases Transmitted 26

Disposition:

License revoked	4
*License revoked	1
Resolution granting transfer of license rescinded	1
License surrendered	2
*License surrendered	2
License suspended	7

Periods covered:		
Indefinite until license transferred to real party in interest	1	
*107 days	1	
*21 "	1	
*14 "	1	
5 "	1	
4 "	1	
2 "	1	
	<u>7</u>	
Sentence suspended		1
Dismissed		4
Pending		4
Heard, decision reserved	2	
Awaiting hearing	<u>2</u>	
	4	<u>26</u>

6. Sale of Alcoholic Beverages to Non-Members by Club Licensees.

Cases Transmitted 16

Disposition:

*License surrendered		1
License suspended		10
Periods covered:		
*20 days	1	
10 "	1	
9 "	1	
*7 "	1	
4 "	1	
3 "	3	
*3 "	1	
1 day	1	
	<u>10</u>	
Dismissed		1
Pending		4
Heard, decision reserved	2	
Awaiting hearing	<u>2</u>	
	4	<u>16</u>

7. Permitting Prostitutes, Lewdness and Indecency, and Immoral Activities on Licensed Premises.

Cases Transmitted 15

Disposition:

*License revoked		7
*License surrendered		1
License suspended		6
Periods covered:		
*30 days	1	
*20 "	1	
15 "	1	
10 "	1	
*10 "	1	
*6 1/2 "	1	
	<u>6</u>	
Dismissed		<u>1</u>
		15

8. Employing Hostesses and Other Prohibited Female Employees.

Cases Transmitted 14

Disposition:

*License revoked		4	
License suspended		8	
Periods covered:			
14 days	2		
*14 "	1		
5 "	1		
2 "	3		
*2 "	1		
	<u>8</u>		
Dismissed		2	
		<u>14</u>	

9. Possession of Illicit Alcoholic Beverages.

Cases Transmitted 14

Disposition:

License suspended		10	
Periods covered:			
*20 days	1		
*10 "	1		
*7 "	1		
5 "	3		
*5 "	1		
3 "	2		
*3 "	1		
	<u>10</u>		
Sentence suspended		2	
Dismissed		1	
Pending		1	
Heard, decision reserved	1		
		<u>14</u>	

10. Sale of Alcoholic Beverages Outside Scope of License, Excluding Sale to Non-Members by Club Licensees. (See No.6)

Cases Transmitted 12

Disposition:

License suspended		11	
Periods covered:			
*15 days	1		
14 "	1		
*14 "	1		
*10 "	1		
*5 "	1		
3 "	1		
2 "	4		
*1 day	1		
	<u>11</u>		
Pending		1	
Heard, decision reserved	1		
		<u>12</u>	

11. Miscellaneous, Including Employment of Persons Ineligible for License, Hindering Inspection of Premises, Failure to Disclose Change in Facts in Application, Serving Intoxicated Persons, Permitting Unnecessary Noise, Possession of Undersized Containers, Display of Prohibited Signs, Permitting Brawls, etc.

Cases Transmitted

52

Disposition:

*License revoked		7	
Resolution granting transfer of license rescinded		1	
License suspended		27	
Periods covered:			
*21 days	1		
*20 "	3		
*15 "	2		
*14 "	2		
10 "	1		
*10 "	3		
*7 "	2		
5 "	3		
*5 "	2		
*4 "	1		
*3 "	4		
2 "	1		
*2 "	1		
*1 day	1		
	<u>27</u>		
Sentence suspended		4	
*Licensee reprimanded		1	
Dismissed		9	
Pending		3	
Heard, decision reserved	2		
Awaiting hearing	1		
	<u>3</u>		
		<u>52</u>	

Respectfully submitted,

EMERSON A. TSCHUPP  
Attorney

2. REPORT ON DISCIPLINARY PROCEEDINGS AGAINST MUNICIPAL LICENSEES CONDUCTED DIRECTLY BY THE DEPARTMENT.

July 8, 1938

To: D. Frederick Burnett, Commissioner  
 From: Emerson A. Tschupp, Attorney

Period Covered

July 1, 1937 to June 30, 1938

SUMMARY

<u>Cases Instituted</u>		34
<u>Disposition:</u>		
License revoked	2	
License suspended	22	
Dismissed	1	
Pending, Decision reserved	<u>9</u>	34

The foregoing 34 cases involved 48 separate violations, as set forth below:

Newark Licensees

<u>Charge</u>		<u>Disposition</u>
Possession of illicit alcoholic beverages		License revoked
Permitting prostitute and immoral activities on premises		" "
Conviction of crime involving moral turpitude	Dismissed	) License suspended 65 days
Failure to notify issuing authority of conviction of crime	5 days	
Permitting lottery	Dismissed	
Permitting prostitute on premises	) 60 days	
Permitting use of premises for immoral purposes		
Permitting prostitute on premises		License suspended 60 days
Harboring criminals and supplying conveniences for crime		License suspended 45 days
Distribution of obscene and indecent literature		License suspended 30 days

Sale of alcoholic beverages to non-members by club licensee	14 days	}	License suspended 29 days	
Permitting Bingo in barroom	10 "			
Permitting lottery	5 "			
Sale of alcoholic beverages to minor	10 days	}	License suspended 20 days	
Fraud in application for license	5 "			
Fraud in application for transfer	" "			
Sale of alcoholic beverages during prohibited hours			License suspended 10 days	
Sale of alcoholic beverages during prohibited hours			"	" " "
Sale of alcoholic beverages during prohibited hours			"	" " "
Sale of alcoholic beverages to minor			"	" " "
" " " " " "			"	" " "
Permitting gambling			License suspended 5 days	
" "			"	" " "
" "			"	" " "
Permitting lottery			"	" " "
Permitting prostitute on premises			Dismissed	
Employing ineligible person		}	Pending, decision reserved	
Fraud in application for license				
Sale of alcoholic beverages to minor		}	"	" "
Employing ineligible person				
Employing hostess				
Sale of alcoholic beverages to minor		}	"	" "
Employing ineligible person				
Employing female bartender				
Sale of alcoholic beverages to intoxicated person			"	" "
Sale of alcoholic beverages to minor			"	" "
Sale of alcoholic beverages during prohibited hours			"	" "
Sale of alcoholic beverages during prohibited hours			"	" "

All Other Municipal Licensees

<u>Charge</u>	<u>Disposition</u>
Sale of alcoholic beverages to minor	(1) License suspended 111 days
" " " " " "	(2) " " 76 days
" " " " " "	(2) " " " "
" " " " " "	(2) " " " "
" " " " " "	" " 15 "
Sale of alcoholic beverages on Election Day	} " " " "
Sale of alcoholic beverages outside scope of license	
Sale of alcoholic beverages during prohibited hours	" " 5 "
Sale of alcoholic beverages outside scope of license	Pending, decision reserved
Sale of alcoholic beverages outside scope of license	" " "

- (1) Cross-petition to lift statutory automatic suspension from March 11, 1938 to June 30, 1938, denied.
- (2) Cross-petition to lift statutory automatic suspension from March 12, 1938 to June 30, 1938, granted on May 27, 1938.

Respectfully submitted,

EMERSON A. TSCHUPP  
Attorney

3. REPORT ON DISCIPLINARY PROCEEDINGS AGAINST LICENSEES INSTITUTED BY MUNICIPALITIES ON THEIR OWN INITIATIVE SO FAR AS PRESENTLY REPORTED, FOR THAT PORTION OF THE PAST FISCAL YEAR COMMENCING DECEMBER 23, 1937\* AND ENDING JUNE 30, 1938.

July 8, 1938

To: D. Frederick Burnett, Commissioner  
From: Emerson A. Tschupp, Attorney

SUMMARY

Cases Instituted 22

Disposition:

License revoked	3	
License surrendered	1	
License suspended	17	
Charges dismissed	<u>1</u>	22

The foregoing 22 cases involved 24 violations as set forth below:

<u>Municipality</u>	<u>Charge</u>	<u>Disposition</u>
Bernardsville	Sale of alcoholic beverages to person on Protected List	License suspended 4 days
Clifton	Sale of alcoholic beverages during prohibited hours	License suspended 1 day
Elizabeth	Sale of alcoholic beverages outside scope of license	License suspended 5 days
Jersey City	Sale of alcoholic beverages during period of suspension	License revoked
" "	Sale of alcoholic beverages during prohibited hours	" "
" "	Acting as front for ineligible person	" "
" "	Employment of unregistered person	License suspended 30 days
" "	Permitting gambling	License suspended 2 days
Lopatcong	Sale of alcoholic beverages during prohibited hours	License surrendered
Metuchen	Sale of alcoholic beverages to minor	License suspended 5 days

<u>Municipality</u>	<u>Charge</u>	<u>Disposition</u>
Morris Plains	Sale of alcoholic beverages during prohibited hours	License suspended 14 days
Newark	(Fraud in application ) (Employing ineligible person ) (Obscuring view of premises )	Dismissed
Orange	Sale of alcoholic beverages during prohibited hours	License suspended 9 days
"	Permitting gambling	License suspended 2 days
Passaic	Sale of alcoholic beverages to minor	License suspended 10 days
"	Sale of alcoholic beverages during prohibited hours	License suspended 5 days
Plainfield	Sale of alcoholic beverages to minor	License suspended 3 days
Secaucus	Sale of alcoholic beverages during prohibited hours	License suspended 5 days
Springfield	Sale of alcoholic beverages during prohibited hours	License suspended 4 days
Union City	Sale of alcoholic beverages during prohibited hours	License suspended 5 days
Wallington	Permitting lewdness and immoral activities	License suspended 2 days
West Orange	Sale of alcoholic beverages to minor	License suspended 4 days

\*This is the date on which separate records of this class of cases were commenced.

Respectfully submitted,

EMERSON A. TSCHUPP  
Attorney

4. REPORT ON CASES INVOLVING NON-PAYMENT OF TAXES OR PENALTIES OR OTHER FAILURE TO COMPLY WITH THE TAX LAW, CONDUCTED DIRECTLY BY THE DEPARTMENT.

July 8, 1938

To: D. Frederick Burnett, Commissioner  
From: Emerson A. Tschupp, Attorney

Period Covered

July 1, 1937 to June 30, 1938

SUMMARY

Cases Instituted 124

Disposition:

Permit cancelled	8	
License or Permit suspended for balance of term	39	
Suspended for balance of term but reinstated after payment of penalty and service charge	16	
Dismissed after charges were served, but before hearing, after payment of penalty and service charge	59	
Complaint withdrawn	1	
Pending, awaiting hearing	<u>1</u>	124

The foregoing 124 cases involved licensees and permittees as set forth below.

State Licensees

Cases Instituted 22

Disposition:

License suspended for balance of term	6	
Dismissed after charges were served, but before hearing, after payment of penalty and service charge	<u>16</u>	
	22	

Permittees

Cases Instituted 35

Disposition:

Permit cancelled	8	
Permit suspended for balance of term	14	

Suspended for balance of term  
but reinstated after payment  
of penalty and service charge 4  
Dismissed after charges were  
served, but before hearing,  
after payment of penalty and  
service charge 8  
Complaint withdrawn 1  
35

Municipal Licensees

Cases Instituted 67  
Disposition:

License suspended for balance  
of term 19  
Suspended for balance of term  
but reinstated after payment  
of penalty and service charge 12  
Dismissed after charges were  
served, but before hearing  
after payment of penalty and  
service charge 35  
Pending, awaiting hearing 1  
67

Respectfully submitted,  
EMERSON A. TSCHUPP, Attorney

5. REPORT OF DISCIPLINARY PROCEEDINGS AGAINST STATE LICENSEES  
INSTITUTED BY THE DEPARTMENT.

July 8, 1938

To: D. Frederick Burnett, Commissioner  
From: Emerson A. Tschupp, Attorney

Period Covered  
July 1, 1937 to June 30, 1938

SUMMARY

Cases Instituted 4  
Disposition:

Pending, decision reserved 4

The foregoing four proceedings involve six violations as set forth  
below:

<u>Kind of License</u>	<u>Charge</u>	<u>Disposition</u>
Wholesale	Aiding and abetting illegal sale of alcoholic beverages	Pending, decision reserved
Brewery	Loan of money to retail licensee; two charges	Pending, decision reserved
Winery	(Possession of illicit alco- holic beverages } (Transportation of illicit alcoholic beverages }	Pending, decision reserved
State Beverage Distributor	Loan of money to retail licensee	Pending, decision reserved

Respectfully submitted,  
EMERSON A. TSCHUPP, Attorney

6. RECAPITULATION OF ENFORCEMENT DIVISION ACTIVITY FOR PERIOD FROM  
JULY 1ST, 1937 to JUNE 30TH, 1938, INCLUSIVE.

TO: D. FREDERICK BURNETT, COMMISSIONER

ARRESTS:

Licensees	64	
Non-Licensees	714	
Total Number		778

SEIZURES:

<u>Stills</u>		
1 to 50 Gal. capacity	130	
Over 50 Gal. "	127	
Total Number		257

Motor Vehicles

Trucks	10	
Passenger Cars	63	
Total Number		73

Alcohol

Beverage alcohol		6,210 Gallons
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Mash

Total Number of Gallons		447,255
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Alcoholic Beverages

Beer, Ale, etc. (Gals.)	442	
Wine (Gals.)	4,689	
Whisky, and hard liquor	1,847	

RETAIL INSPECTIONS:

Licensed premises inspected		23,259
Illicit (bootleg) liquor	100	
Gambling violations	1,132	
Sign violations	819	
Unqualified employees	1,813	
Other violations	727	
Total violations found		4,591

Total number of bottles gauged		147,768
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STATE LICENSEES:

Plant Control Inspections completed	1,251	
Investigated, License applications	920	

COMPLAINTS:

Investigated and closed		3,687
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LABORATORY:

Samples submitted	1,834	
Analyses made	1,750	
Poison liquor cases	0	
Denaturants		
Acetone	13	
Isopropyl	13	
Samples of alcohol, water, and artificial coloring	134	
Samples of moonshine (home-made finished product of illicit still)	282	

Respectfully submitted,

E. W. GARRETT,  
Deputy Commissioner

7. SIGNS - SIGNS ADVERTISING THE NAME, BRAND OR TRADE MARK OF A MANUFACTURER OR WHOLESALER OF ALCOHOLIC BEVERAGES ARE PERMISSIBLE ON INTERIOR PORCHES, IF THE PORCH IS ENCLOSED BY PARTITIONS OF PERMANENT NATURE.

Dear Sir:

Will you please advise me if it is legal to place a Neon sign, bearing name of a standard beer, on an enclosed porch. The porch is used as part of a restaurant.

Very truly yours,

James W. Shannon.

July 1, 1938.

Mr. James W. Shannon,  
Atlantic Highlands, N. J.

My dear Mr. Shannon:

It is permissible to have a Neon sign advertising the name, brand or trade-mark of a manufacturer or wholesaler of beer on the interior of an enclosed porch, provided the porch is permanently enclosed with wood and glass or other type of permanent partition, and further provided that the use of the porch is such that it could be said to constitute part of the interior of the premises.

It is not permissible, however, to have such a sign on an exterior porch such as a screened porch, because in such case it would be contrary to the State Rules. State Regulations No. 21, Pamphlet Rules, page 64. Mere screening of a porch does not make it part of the interior of the premises. Re Konrad, Bulletin 246, Item 1, copy enclosed.

The foregoing merely states the general principles. If you wish a specific ruling as to any particular porch, submit plans and a picture of it viewed from the outside.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner

8. TIED HOUSES - WHOLESALERS MAY NOT SELL CLAIMS AGAINST RETAILERS SO THAT THE BUYER OF SUCH DEBT MAY TAKE A CHATTEL MORTGAGE ON THE RETAIL OUTLET - HEREIN OF THE EVASIONS WHICH WOULD RECUR IF SUCH PROCEDURE WERE PERMITTED.

Dear Sir:

I understand it is contrary either to the letter or the spirit of the regulations of your department for a liquor wholesaler to take a chattel mortgage to protect a debt against a retail dealer or holder of a Plenary Retail License, or to sell said debt so that the buyer may secure said chattel mortgage. Will you kindly advise me as to the attitude of your department toward a situation such as this.

Yours very truly,

F. C. VAN HORN.

July 7th, 1938.

F. C. VanHorn, Esq.,  
Hope, New Jersey.

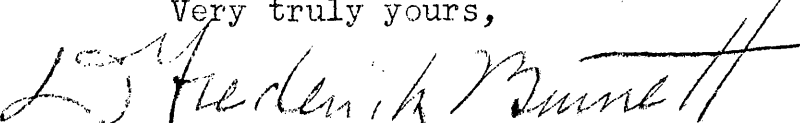
Dear Sir:

Because of the provisions of R.S. 33:1-43 (Section 40 of Alcoholic Beverage Control Act), a wholesaler of alcoholic beverages may not hold a chattel mortgage given by a retail licensee. Re Carabelli, Bulletin 174, Item 15.

I do not look kindly on any wholesaler selling a debt "so that the buyer may secure said chattel mortgage." Evasion is all too obvious. If a retailer can't or won't pay, there is no objection to a wholesaler suing, levying and closing him out. Such a procedure is quite different from getting a mortgage headlock on him but continuing to sell him just the same. That is where the tied house begins. So, also, where the wholesaler goes through the form of selling his claim but continues to supply the retailer notwithstanding that someone else has taken a chattel mortgage on the whole of his outfit. I shall regard such a gesture as a badge of fraud and hold that the transaction was not bona fide and suspend or revoke the wholesaler's license. What the law prohibits a wholesaler from doing directly, I shall not allow anyone standing in his shoes to accomplish indirectly. The assignee stands in no better position than his assignor.

Frankly, I just don't like the idea of any retailer being put in irons, so far as franchise, furnishings and fixtures are concerned, either by a wholesaler or by anybody else for him. True, a retailer must pay his honest debts, but that is something radically different from clamping on him a chattel mortgage in the same old ante-Prohibition way and then continuing to deal with him as if nothing had happened. It has already been held cause for revocation. Re Bade, Bulletin 127, Item 6.

Very truly yours,

  
Commissioner

New Jersey State Library

J. MANDY