

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 801

APRIL 27, 1948

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STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 801

APRIL 27, 1948.

1. APPELLATE DECISIONS - WEST HUDSON-BERGEN LIQUOR DEALERS ASSOCIATION
v. HARRISON, JAGEN AND FULGINITI.

WEST HUDSON-BERGEN LIQUOR)
DEALERS ASSOCIATION,)

Appellant,)

-vs-)

TOWN COUNCIL OF THE TOWN OF)
HARRISON, and MILTON JAGEN,)

Respondents.)

ON APPEAL

WEST HUDSON-BERGEN LIQUOR)
DEALERS ASSOCIATION,)

CONCLUSIONS AND ORDER

Appellant,)

-vs-)

TOWN COUNCIL OF THE TOWN OF)
HARRISON, and VINCENT FULGINITI,)

Respondents.)

Leo S. Carney and Saul G. Schulter, Esqs., Attorneys for Appellant.
Michael J. Bruder, Esq., Attorney for Respondents.

BY THE COMMISSIONER:

Appellant appeals from the action of respondent Town Council on August 19, 1947, whereby said issuing authority granted an application filed by respondent Milton Jagen for a limited retail distribution license and an application filed by respondent Vincent Fulginiti for a limited retail distribution license.

Appellant contends that no public necessity existed for the issuance of the two licenses in question and, therefore, the action of the respondent Town Council constituted an abuse of discretion.

Respondents Jagen and Fulginiti operate combination food stores in the Town of Harrison. Jagen testified that he made application for the license issued to him so that he could accommodate customers who patronized his business establishment. The holder of a limited retail distribution license is entitled to sell unchilled, malt alcoholic beverages in original containers in quantities of not less than seventy-two fluid ounces for consumption off the licensed premises. R. S. 33:1-12(3)b.

Councilman Daniel J. Ford testified that he voted in favor of the issuance of the licenses in question "Because it was an added service to the residents in their particular vicinity. I'm more familiar with the one, Fulginiti, than the other, although I am informed the reasons were the same. That is, they were grocery stores and they'd like to have that additional -- the right to sell unchilled beer in cans or bottles as an added service to the people in that neighborhood. I also was contacted by some of those residents asking that this permission be granted because they did not want to go to saloons for their beer that they'd like to consume at home".

The applications of respondents Jagen and Fulginiti received the unanimous approval of the six members of the Town Council who considered the applications. The seventh Councilman did not participate because his sister is a liquor licensee in town.

The evidence herein discloses that the town's population, according to the 1940 Federal census, was 14,171, and that before respondents Jagen's and Fulginiti's licenses were granted on August 19, 1947 there were seven plenary retail distribution licenses, seventy-nine plenary retail consumption licenses and five limited retail distribution licenses in Harrison. Several of these liquor establishments are located at not too great a distance from the licensed premises in question.

The determination as to the number of licensed premises to be permitted in any particular area is a matter confided, in the first instance, to the sound discretion of the issuing authority. Segal et al. v. Clifton et al., Bulletin 732, Item 5; and bulletin items cited therein. The burden to show that an issuing authority's discretion was unreasonably exercised rests with the appellant. Segal et al. v. Clifton et al., supra.

The State Commissioner's function in appeals of this type is not to substitute his personal opinion for that of the issuing authority but rather to determine whether reasonable cause exists for its opinion and, if so, to affirm. Mulcahy et al. v. Maplewood, Bulletin 658. Item 4, and bulletin items cited therein.

After a full consideration of all the evidence, I conclude that the action of respondent issuing authority whereby the number of limited retail distribution licenses was increased from five to seven was not so unreasonable as to require a reversal of its action.

Accordingly, it is, on this 19th day of April, 1948,

ORDERED that the appeals herein be and the same are hereby dismissed.

ERWIN B. HOCK
Commissioner.

2. DISCIPLINARY PROCEEDINGS - HOSTESSES - EMPLOYMENT OF UNQUALIFIED PERSON - PRIOR RECORD - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against)

REBECCA KRAVIS)
T/a THE PADDOCK INTERNATIONAL)
1643 Atlantic Avenue)
Atlantic City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-106 issued by the Board of Commissioners of the City of Atlantic City.)

Emerson Richards, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded not guilty to charges as follows:

- "1. On November 14, 15, 16, 21 and 22, 1947, and on divers other dates, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of and as a gift from customers and patrons; in violation of Rule 22 of State Regulations No. 20.

- "2. On November 22, 1947, and prior thereto, you knowingly employed and had connected with you in a business capacity, Edward Kravis, a person who would fail to qualify as a licensee under the New Jersey Alcoholic Beverage Law (R. S. 33:1-1 et seq.) by reason of his conviction on or about December 10, 1945, of the crime of aiding and abetting in lewd entertainment, a crime involving moral turpitude; in violation of R. S. 33:1-26.
- "3. On November 22, 1947 and prior thereto, you knowingly employed and had connected in a business capacity with you, Edward Kravis, a person who had been convicted on or about December 10, 1945 of a crime involving moral turpitude, viz ., the crime of aiding and abetting in lewd entertainment; in violation of Rule 1 of State Regulations No. 12."

Rule 22 of State Regulations No. 20 provides:

"No plenary or seasonal retail consumption licensee shall allow, permit or suffer any female employed on the licensed premises to accept any food or beverage, alcoholic or otherwise, at the expense of or as a gift from any customer or patron."

The evidence herein discloses that, during the month of November 1947, six girls were hired from a theatrical agency in New York City to appear in a show then running on defendant's premises. The payroll records of defendant, and the employer's tax return filed with the U. S. Treasury Department, established that these six girls were employees of defendant, although there is some slight confusion in this record because some of the girls apparently used their stage name at one time and their real name at another time. Furthermore, it should be noted that the applicable Rule 22 refers not merely to a "female employee" but rather to a "female employed" -- a term of wider connotation embracing all persons whose services are utilized in furtherance of the licensed business notwithstanding the absence of a technical employer-employee relationship. See Re William Street Bar and Grill, Inc., Bulletin 466, Item 8; cf. Re DiNapoli, Bulletin 573, Item 8.

On the evening of November 14, 1947, two ABC investigators entered defendant's premises about 10:00 p.m. and remained there until about 5:00 a.m. on the morning of November 15, 1947. The show in which the girls appeared started about midnight. Both investigators testified that, about twenty minutes after the show had been concluded, each of the six girls came to the barroom and took a seat at the bar. One of the investigators testified that various men who were at the bar struck up conversation with the girls and paid for drinks which were consumed by the girls. This investigator testified that he did not see any girl pay for her own drink. Both investigators testified that one of them purchased several drinks of brandy for one of the entertainers whom he knew as Alma Bonello, but whose stage name was "Rita Paige" (under which name she appears on defendant's records).

On the evening of November 15, 1947, the same investigators entered defendant's premises about 10:00 p.m. and remained until about 5:00 a.m. on the morning of November 16, 1947. Shortly after the midnight show, the six entertainers again entered the barroom and seated themselves at different places at the bar. Both investigators testified that they saw male patrons purchase drinks for the girls, and both investigators testified that one of them again purchased a number of drinks for Alma Bonello (also known as "Rita Paige").

On the evening of November 21, 1947, the two investigators again entered defendant's premises but left shortly before midnight. They returned about 1:40 a.m. on the morning of November 22, 1947. Both investigators testified that, after the midnight show was concluded on this morning, the six entertainers again came to the barroom and sat at the bar. Both testified that they observed various men buying drinks for the girls. A third investigator entered the licensed premises at 3:10 a.m. on November 22, 1947. He testified that he took a seat at the bar between Miss Alvarado and Miss Mann (also known as Miss Mangialomini), two of the entertainers, and that the other four entertainers were also seated at the bar. He stated that, while he was on the premises, a male patron purchased a drink for Miss Alvarado and another male patron purchased a drink for Miss Mann. He testified that other male patrons purchased drinks for some of the other entertainers. Twenty minutes later the agents identified themselves and seized the drink which was in front of Miss Alvarado and other drinks then on the bar.

On behalf of defendant, Lauren W. Campbell and Morris Perlstein, the bartenders, allege that, on the night of the "raid", the entertainers paid for drinks which were served to them and state that none of the drinks was paid for by male patrons. However, in responding to a question asked by the Hearer, Perlstein admitted he served a drink to Miss Alvarado which was paid for by a male patron. Referring to this drink, Miss Alvarado testified that the conduct of the male patron was annoying and that she permitted him to buy a drink in order to "get rid of a drunk". She said that she had not touched the drink before it was seized by the investigators. I am satisfied that drinks were purchased for Miss Mann by a male friend who had come to take her home after the show. The fact that the purchaser was a friend of the entertainer does not excuse the violation. Bill Bloch v. Union City, Bulletin 787, Item 7.

There is some evidence that, on some or all of the occasions above mentioned, the investigators purchased alcoholic beverages for two other girls described as a "red head" and a "blonde", who allegedly were employed strictly as hostesses on a salary basis. However, there is not sufficient legal evidence in the record to sustain a finding of fact that either of these girls was employed on defendant's premises. I am dismissing so much of Charge 1 as refers to these two girls, but I find defendant guilty as to Charge 1 in so far as said charge refers to the six entertainers.

As to Charges 2 and 3: Edward Kravis has been convicted of a crime involving moral turpitude. See Re Case No. 566, Bulletin 698, Item 4; Kravis v. Hock, 136 N.J.L. 161 (Ct. E. & A. 1947). As indicated in the opinion of the Court of Errors and Appeals, this proceeding is instituted against the licensee under the provisions of R. S. 33:1-31.

It seems apparent from the evidence that the licensee pays little attention to the operation of the licensed business. Testimony produced by defendant indicates that, for some time past, one Lou Kravis has acted as manager of his mother's business. It is not the contention of the Department that Edward Kravis is in fact manager of the business. In order to establish the guilt of the defendant it is not necessary for the Department to establish that Edward Kravis is the manager of the business. It is sufficient merely to show that he was "knowingly employed by or connected in any business capacity whatsoever with a licensee".

The evidence of the investigators herein discloses that on the evening of November 14, 1947, Edward Kravis was present on the licensed premises. The agents testified that Edward Kravis answered the telephone and relayed messages; told people entering the tavern to check their hats and coats, and called the head waiter to have people seated

in the back room. The agents also testified that, when a "commotion" arose in the back room with reference to a check, Edward Kravis was summoned to straighten it out and telephoned for the radio police, and that he also bought a drink for the investigators, for which he did not pay.

The investigators testified that, on the evening of November 15, Edward Kravis was again in the licensed premises, at which time he answered the telephone and motioned to the head waiter to take care of certain people. On the evening of November 21, 1947, Edward Kravis was again in the licensed premises. The investigators testified that on this evening he said to one of the bartenders: "Larry, I am going to let you go early tonight because there is no activity with the convention being over."

Edward Kravis denies all this testimony. He states that he lives in an apartment above the licensed premises; that he merely passes through the licensed premises and occasionally stops for a drink. He also testified that he is employed as a salesman between 8:00 a.m. and 6:30 p.m. However, I am satisfied from the investigators' testimony that, at the time in question, Edward Kravis was knowingly employed by and connected in a business capacity with the licensee within the contemplation of the statute and the regulation. Hence, I find defendant guilty as to Charges 2 and 3.

As to prior record: Defendant has held a license for the premises in question since June 8, 1944, when it was transferred to her from her son, Edward Kravis. While Edward Kravis was the licensee, his license was suspended by the local issuing authority on three occasions. In December 1939 he received a ten-day suspension for permitting a lewd performance on his licensed premises. In August 1943 he received a ninety-day suspension on a similar charge. In November 1943 he received a thirty-day suspension for permitting disturbances and unnecessary noises upon his premises. After defendant became the licensee, her license was suspended for five days in March 1945 for selling alcoholic beverages to minors, and suspended by the Commissioner for ninety days on June 25, 1946, after she had pleaded non vult to a charge alleging that she possessed three bottles containing alcoholic beverages not genuine as labeled. Re Kravis, Bulletin 718, Item 1. In the latter case the Commissioner said:

"In the stated situation, the license might well be revoked outright. However, I am constrained to give the defendant, who has held the license for only two years, one further opportunity to demonstrate her fitness to operate a licensed business. This means, succinctly, that any future violation will result in a complete deprivation of her license privileges."

Under all the circumstances, I shall revoke the license.

Accordingly, it is, on this 20th day of April, 1948,

ORDERED that Plenary Retail Consumption License C-106, issued by the Board of Commissioners of the City of Atlantic City to Rebecca Kravis, t/a The Paddock International, for premises 1643 Atlantic Avenue, Atlantic City, be and the same is hereby revoked, effective immediately.

ERWIN B. HOCK
Commissioner.

3. DISCIPLINARY PROCEEDINGS - PERMITTING BOOKMAKING AND GAMBLING ON LICENSED PREMISES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FERDINAND ELIA)
210 East 16th Street)
Paterson 4, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-17, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

Mitchel F. Donato, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleads non vult to the following charge:

"On March 6, 9 and 10, 1948, you allowed, permitted and suffered bookmaking and gambling on and about your licensed premises, in violation of Rule 7 of State Regulations No. 20."

On March 6, 1948, a bartender employed by defendant accepted bets on horses from patrons. On March 9 and 10, 1948, the same bartender accepted bets on horses from ABC agents. After the ABC agents made known their identity to the bartender, a search of the licensed premises by the agents disclosed racing pads and pages of newspapers with racing news. The bartender admitted accepting bets on horses on the licensed premises for a period of approximately two months. He states, however, that the defendant had no knowledge that such illegal practices were engaged in by him on the licensed premises. Assuming that defendant had no such knowledge, nevertheless such lack of knowledge is of no avail. Billy Urbanski Inc. v. Hock (not officially reported), Bulletin 798, Item 7.

Defendant has no previous adjudicated record. I shall, therefore, suspend his license for a period of twenty days, less five days' remission for the plea entered herein, making a net suspension of fifteen days. Re Ferment, Bulletin 635, Item 5.

Accordingly, it is, on this 20th day of April, 1948,

ORDERED that Plenary Retail Consumption License C-17, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Ferdinand Elia, for premises 210 East 16th Street, Paterson, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. April 27, 1948, and terminating at 3:00 a.m. May 12, 1948.

ERWIN B. HOCK
Commissioner.

4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO NON-MEMBERS BY CLUB LICENSEE - SALE OF ALCOHOLIC BEVERAGES TO PERSON ACTUALLY OR APPARENTLY INTOXICATED - LICENSE SUSPENDED FOR 35 DAYS.

In the Matter of Disciplinary Proceedings against RUSSIAN CONSOLIDATED MUTUAL AID SOCIETY, BRANCH #100 Lewis Street Franklin Township P.O. New Brunswick, N. J., Holder of Club License CB-1, issued by the Township Committee of Franklin Township.

CONCLUSIONS AND ORDER

Strong & Strong, Esqs., by Stephen V. R. Strong, Esq., Attorneys for Defendant-liconsee. Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleads not guilty to the following charges:

"1. On Friday night, March 5, 1948, you sold alcoholic beverages to persons not bona fide members of your club or bona fide guests of a member; in violation of Rule 8 of State Regulations No. 7.

"2. On Friday night, March 5, 1948, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to ----, a person who was actually and apparently intoxicated, and allowed, permitted and suffered the consumption of alcoholic beverages by such person on the licensed premises; in violation of Rule 1 of State Regulations No. 20."

An ABC inspector testified that at 9:00 p.m. on the evening of March 5, 1948, he and another ABC agent visited defendant's licensed premises. They proceeded to the barroom and ordered drinks from the person tending bar. The bartender, later identified as Kalenik Berkuta, asked whether they had "cards" and, being told that they did not have any, stated, "All right sit over at the table in the large room and I'll serve you". Before leaving the bar, according to the testimony of the ABC inspector, he ordered two bottles of beer which were served to him and his fellow agent at the table by the bartender. The investigators ordered several more rounds of beer and two glasses of brandy, all of which were served to them at the table. The agents, after service was made to them on each occasion, tendered payment for the drinks but the bartender refused to accept payment, saying, "Not now; later". The ABC agents, at about 11:50 p.m., made known their identity to the bartender. The ABC inspector further testified that during the evening he observed a man sitting on a bench near the wall in the barroom. This man had his head on his chest and appeared to be asleep. After some time had elapsed, the man arose and approached the bar. The ABC inspector testified that the man's "face was flushed, his eyes were bleary, his voice was incoherent, he staggered and swayed at the bar, and when he ordered the drink Mr. Berkuta told him that he had enough, while he insisted on having a drink". The bartender did, however, serve a bottle of beer to the man in question, the contents of which the man drank from the bottle. The ABC investigator who accompanied the inspector corroborated the testimony given with reference to the occurrences that took place that evening.

Defendant produced the bartender, Kalenik Berkuta, who testified that he thought that the ABC agents may have been guests of some of the members of the club. He further testified that a meeting of the officers of the club was in progress at the time the two men, later identified as ABC agents, arrived and that he did not know whether they had come to attend the meeting or whether they had come to see somebody on the licensed premises. He admitted that he served the agents drinks at the time in question but did not accept payment for the drinks because "I thought I'll get in touch with one of the officers and find out what it is all about". The bartender also admitted that he served the man alleged to be intoxicated, but was not aware that he had violated the law in doing so. He testified that the person, in so far as he knew, was blind, and "to be honest with you, I don't pay attention". Mr. Berkuta testified that the person had been asleep in the barroom for some time before he approached the bar and when he did approach the bar he exclaimed, "I could drink five gallons of beer". The bartender admitted that in his opinion the man appeared to be "some" intoxicated.

Witnesses for the defendant club presented no substantive testimony to refute that given by the ABC agents. I am satisfied from the evidence produced that the facts as stated by the ABC agents are correct. A sale includes "the gratuitous delivery or gift of any alcoholic beverage by any licensee". R. S. 53:1-1(w). I find the defendant guilty on both charges. I shall, therefore, suspend its license for a period of fifteen days on the first charge (Cf. Re Penns Grove Lodge, etc., Bulletin 615, Item 2), and twenty days on the second charge (Re Marinaccio, Bulletin 583, Item 5), making a total suspension of thirty-five days.

Accordingly, it is, on this 21st day of April, 1948,

ORDERED that Club License CB-1, issued by the Township Committee of Franklin Township to Russian Consolidated Mutual Aid Society, Branch #100, for premises Lewis Street, Franklin Township, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 2:00 a.m. April 26, 1948, and terminating at 2:00 a.m. May 31, 1948.

ERWIN B. HOCK
Commissioner.

5. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 DAYS FOR PLEA.

In the Matter of Disciplinary Proceedings against)

BENJAMIN DRUCKER)
T/a WRIGHTSTOWN LIQUOR STORE)
W/s Ft. Dix Road)
Wrightstown, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Wrightstown.)
-----)

Benjamin Drucker, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging that he sold, served and delivered alcoholic beverages to a minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

On March 31, 1948, the defendant sold a quantity of alcoholic beverages to a seventeen-year-old soldier. The defendant has no prior record. The age of the minor warrants the imposition of a fifteen-day penalty. Cf. Re Raywood, Bulletin 742, Item 5. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 20th day of April, 1948,

ORDERED that Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Wrightstown to Benjamin Drucker, t/a Wrightstown Liquor Store, for premises w/s Ft. Dix Road, Wrightstown, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. April 26, 1948, and terminating at 9:00 a.m. May 6, 1948.

ERWIN B. HOCK
Commissioner.

6. FAIR TRADE - NOTICE OF COMPLETE PUBLICATION.

April 23, 1948

The next official publication of minimum resale prices pursuant to Fair Trade rules (Regulations No. 30) will become effective on June 1, 1948. Price listings must be filed with the offices of this Department not later than Monday, May 3, 1948.

It is my decision that the publication shall combine all of the prices into one complete pamphlet superseding the March 1948 complete publication.

In submitting price lists to the Department for this complete publication, it is requested that:

- (1) A Complete schedule of all items offered for sale by manufacturers and wholesalers in this state may be submitted. Listers should recognize the extreme disadvantage they impose upon retailers who are restricted in sales promotion of brands not listed in Fair Trade pamphlets. Pursuant to a Department ruling, brands of alcoholic beverages (including malt beverages) not listed in Fair Trade publications may not be price-advertised (including direct or indirect reference to price) in any periodical, publication, circular, handbill or direct mailing piece in New Jersey.
- (2) Traditional markups of 33-1/3% on spirits, 45% on cordials and liqueurs and 50% on wines should be maintained.
- (3) It is earnestly suggested that when reductions in minimum resale prices are effected, at the same time a comparable reduction should be made in the wholesale prices to be listed in the official monthly wholesale price pamphlet.
- (4) Only manufacturers and wholesalers owning brands, or wholesalers having specific written authorization from the owners of brands, may file price listings for publication in minimum resale price pamphlets.
- (5) In order to afford New Jersey licensees an equitable position of competition with licensees in adjoining states, the Department will continue to accept price filings which set forth a permissive discount for case lot purchases of listed brands. Where listers of brands choose to publish a permissive case lot discount, the phrase "Discount of ____% permitted on case lot purchases" should be used.

Notification of the proportionate share of aggregate expenses involved in the publication of the complete pamphlet will be made to participating companies as soon as the pamphlet is mailed to all retail licensees.

ERWIN B. HOCK
Commissioner.

7. NEW LEGISLATION - MUNICIPAL REFERENDA - R. S. 33:1-44 THROUGH R. S. 33:1-47.1 AMENDED - INITIATING PETITION BASED ON FIFTEEN PER CENT OF ELECTORATE AS EVIDENCED IN LAST GENERAL ASSEMBLY ELECTION - NO MATERIAL CHANGE (EXCEPT THAT, UNDER NEW STATE CONSTITUTION, ART. II, PAR. 1, GENERAL ASSEMBLY ELECTION OCCURS EVERY OTHER YEAR INSTEAD OF EACH YEAR AS UNDER OLD CONSTITUTION).

Assembly Bill No. 4 was approved by Governor Driscoll on April 12, 1948, and thereupon became Chapter 20, P. L. 1948. It was effective immediately, and reads as follows:

"AN ACT concerning municipal referenda in connection with the sales of alcoholic beverages, and amending sections 33:1-44, 33:1-45, 33:1-46, 33:1-47 and 33:1-47.1 of the Revised Statutes.

"BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

"1. Section 33:1-44 of the Revised Statutes is amended to read as follows:

"33:1-44. Whenever a petition, signed by at least fifteen per centum (15%) of the qualified electors of any municipality as evidenced by the total number of votes cast for members of the General Assembly, at the then next preceding general election held for the election of all of the members of the General Assembly, in such municipality, shall be presented to the governing board or body thereof, requesting a referendum on the question hereinafter stated, such governing board or body shall adopt forthwith a resolution directing the clerk of the county in which such municipality is situated to print, pursuant to Title 19, Elections, hereinafter referred to as the 'general election law,' upon the official ballot to be used in such municipality at the next ensuing general election a question to read: 'Shall the retail sale of alcoholic beverages, other than brewed malt alcoholic beverages and naturally fermented wine, for consumption on the licensed premises by the glass or other open receptacle pursuant to chapter one of the Title Intoxicating Liquors of the Revised Statutes (§33:1-1 et seq.), be permitted in this municipality?' Thereupon the clerk or secretary of said governing board or body shall forthwith deliver to the county clerk a certified copy of such resolution. If the copy shall be delivered to the county clerk not less than thirty days before such general election, he shall cause such question to be printed in an appropriate place on the ballot to be used in such municipality at the next ensuing general election pursuant to the general election law and thereupon all proceedings with respect to the referendum on such question shall be subject to and governed by the general election law as in other cases of the submission of public questions to the electorate.

"If a majority of the legal voters voting upon the question shall vote 'Yes,' the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, having authority to issue such licenses, of the action taken by the legal voters of such municipality and the retail sales as aforesaid of such alcoholic beverages and the issuing of licenses pursuant to this chapter shall be permitted in such municipality.

"If a majority of the legal voters voting upon the question shall vote 'No,' then the clerk of the governing board or body of the municipality shall forthwith in writing notify the commissioner and municipal board, if any, having authority to issue such licenses, of the action taken by the legal voters of the municipality, and after thirty days have elapsed after the date of such vote the retail sale of alcoholic beverages; other than brewed malt alcoholic beverages and naturally fermented wines, for consumption on the licensed premises by the glass or other open receptacle (such retail sale being sometimes hereinafter called 'prohibited sale'), shall be unlawful in such municipality and constitute a violation of this chapter, and it shall forthwith upon such vote be unlawful for the other issuing authority of the municipality, having authority to issue licenses, to issue any license in respect to such municipality which shall permit such prohibited sale, and all licenses theretofore issued in respect to such municipality which shall have licensed such prohibited sale shall, to the extent that they permitted such prohibited sale, become void and inoperative thirty days after the date of such vote.

"Whenever a referendum shall have been had in any municipality pursuant to this section, no further referendum on the same question shall be held therein prior to the general election to be held in such municipality in the third year thereafter and so long as such referendum remains effective, all ordinances, resolutions or regulations inconsistent with the result of such referendum shall have no effect within such municipality.

"2. Section 33:1-45 of the Revised Statutes is amended to read as follows:

"33:1-45. Whenever a petition signed by at least fifteen per centum (15%) of the qualified electors of any municipality as evidenced by the total number of votes cast for members of the General Assembly, at the then next preceding general election held for the election of all of the members of the General Assembly, in such municipality, shall be presented to the governing board or body thereof, requesting a referendum on the question hereinafter stated, such governing board or body shall adopt forthwith a resolution directing the clerk of the county in which such municipality is situated to print, pursuant to Title 19, Elections, hereinafter referred to as the 'general election law,' upon the official ballot to be used in such municipality at the next ensuing general election a question to read: 'Shall the retail sale of all kinds of alcoholic beverages, for consumption on the licensed premises by the glass or other open receptacle pursuant to chapter one of the Title Intoxicating Liquors of the Revised Statutes (§33:1-1 et seq.), be permitted in this municipality?' Thereupon the clerk or secretary of such governing board or body shall forthwith deliver to such county clerk a certified copy of the resolution. If the copy shall be delivered to the county clerk not less than thirty days before such general election, he shall cause such question to be printed in an appropriate place on the ballot to be used in such municipality at the next ensuing general election pursuant to the general election law and thereupon all proceedings with respect to the referendum on such question shall be subject to and governed by the general election law as in other cases of the submission of public questions to the electorate.

"If a majority of the legal voters voting upon the question shall vote 'Yes,' the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, having authority to issue such licenses, of the action taken by the legal voters of such municipality and the retail sales as aforesaid of such alcoholic beverages and the issuing of licenses pursuant to this chapter shall be permitted in such municipality.

"If a majority of the legal voters voting upon the question shall vote 'No,' then the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, having authority to issue such licenses, of the action taken by the legal voters of the municipality, and after thirty days have elapsed after the date of such vote, the retail sale of all kinds of alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle (such retail sale being sometimes hereinafter called 'prohibited sale'), shall be unlawful in such municipality and constitute a violation of this chapter, and it shall forthwith upon such vote be unlawful for the other issuing authority of such municipality having authority to issue licenses to issue any license in respect to such municipality which shall permit such prohibited sale and all licenses theretofore issued in respect to such municipality which shall have licensed such prohibited sale shall, to the extent that they permitted such prohibited sale, become void and inoperative thirty days after the date of such vote.

"Whenever a referendum shall have been had in any municipality pursuant to this section, no further referendum on the same question shall be held therein prior to the general election to be held in such municipality in the third year thereafter and so long as such referendum remains effective, all ordinances, resolutions or regulations inconsistent with the result of such referendum shall have no effect within such municipality.

"3. Section 33:1-46 of the Revised Statutes is amended to read as follows:

"33:1-46. Whenever a petition, signed by at least fifteen per centum (15%) of the qualified electors of any municipality as evidenced by the total number of votes cast for members of the General Assembly, at the then next preceding general election held for the election of all of the members of the General Assembly, in such municipality, shall be presented to the governing board or body thereof, requesting a referendum on the question hereinafter stated, such governing board or body shall adopt forthwith a resolution directing the clerk of the county in which such municipality is situated to print, pursuant to Title 19, Elections, hereinafter referred to as the 'general election law,' upon the official ballot to be used in such municipality at the next ensuing general election, a question to read: 'Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to chapter one of the Title Intoxicating Liquors of the Revised Statutes (§33:1-1 et seq.), be permitted in this municipality?' Thereupon the clerk or secretary of the governing board or body of such municipality, shall forthwith deliver to such county clerk a certified copy of such resolution. If the copy shall be delivered to the county

clerk not less than thirty days before such general election, he shall cause such question to be printed in an appropriate place on the ballot to be used in such municipality at the next ensuing general election, pursuant to the general election law and thereupon all proceedings with respect to the referendum on such question shall be subject to and governed by the general election law as in other cases of the submission of public questions to the electorate.

"If a majority of the legal voters voting upon the question shall vote 'Yes,' the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, having authority to issue such licenses, of the action taken by the legal voters of such municipality and retail sales of alcoholic beverages and the issuing of retail licenses pursuant to this chapter shall be permitted in such municipality.

"If a majority of the legal voters voting upon the question shall vote 'No,' then the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, having authority to issue such licenses, of the action taken by the legal voters of such municipality and thereupon it shall be unlawful for the other issuing authority of such municipality, having authority to issue plenary retail consumption, plenary retail distribution and limited retail consumption licenses, to issue any such licenses in respect to such municipality, and all such licenses theretofore issued in respect to such municipality shall become void and inoperative thirty days after the date of such vote, and thereupon the municipal board of such municipality shall be dissolved, and the offices of its members shall terminate and all its activities hereunder shall cease; but if in a later referendum held pursuant to this chapter a majority of the legal voters voting upon the same question last above stated shall vote 'Yes,' a municipal board for such municipality may forthwith be appointed in the same manner and with the same effect as when this chapter first became effective. Whenever any such license shall become void and inoperative by virtue of such referendum there shall be returned to the licensee the prorated license fee for the unexpired term.

"Whenever a referendum shall have been had in any municipality pursuant to this section, no further referendum on the same question shall be held therein prior to the general election to be held in such municipality in the third year thereafter and so long as such referendum remains effective, all ordinances, resolutions or regulations inconsistent with the result of such referendum shall have no effect within such municipality.

"4. Section 33:1-47 of the Revised Statutes is amended to read as follows:

"33:1-47. Whenever a petition, signed by at least fifteen per centum (15%) of the qualified electors of any municipality as evidenced by the total number of votes cast for members of the General Assembly, at the then next preceding general election held for the election of all of the members of the General Assembly, in such municipality, shall be presented to the governing board or body thereof, requesting a referendum on the question hereinafter stated, such governing board or body shall adopt forthwith a resolution directing the clerk of the county in which such municipality is situated to print, pursuant to Title 19, Elections, hereinafter referred to as the 'general election law,' upon the official ballot to be used in such municipality at the next ensuing general election, a question to read: 'shall the sale of alcoholic beverages be permitted on Sundays in this municipality?' Thereupon the clerk

or secretary of the governing board or body of such municipality shall forthwith deliver to such county clerk a certified copy of such resolution. If such copy shall be delivered to the county clerk not less than thirty days before such general election, he shall cause such question to be printed in an appropriate place on the ballot to be used in such municipality at the next ensuing general election, pursuant to the general election law and thereupon all proceedings with respect to the referendum on such question shall be subject to and governed by the general election law as in other cases of the submission of public questions to the electorate.

"If a majority of the legal voters voting upon the question shall vote 'Yes,' the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, having authority to issue such licenses, of the action taken by the legal voters of such municipality and the sale of alcoholic beverages on Sundays pursuant to the provisions of this chapter shall be permitted in such municipality.

"If a majority of the legal voters voting upon the question shall vote 'No,' then the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, as the case may be, having authority to issue such licenses of the action taken by the legal voters of such municipality, and thereupon it shall be unlawful for any person to sell alcoholic beverages in such municipality on Sundays and such sale shall constitute a violation of this chapter.

"Whenever a referendum shall have been had in any municipality pursuant to this section, no further referendum on the same question shall be held therein prior to the general election to be held in such municipality in the third year thereafter and so long as such referendum remains effective, all ordinances, resolutions or regulations inconsistent with the result of such referendum shall have no effect within such municipality.

"5. Section 33:1-47.1 of the Revised Statutes is amended to read as follows:

"33:1-47.1. Whenever a petition, signed by at least fifteen per centum (15%) of the qualified electors of any municipality as evidenced by the total number of votes cast at the then next preceding general election, held for the election of all of the members of the General Assembly in such municipality, shall be presented to the governing board or body thereof, requesting a referendum on any proposed questions as to whether the hours between which the sale of alcoholic beverages at retail may be made in such municipality on week days, Sundays, either or both, shall be fixed as provided in such petition, which questions shall be specifically and separately set forth in the petition, such governing board or body shall adopt forthwith a resolution directing the clerk of the county in which such municipality is situated to print such question or questions stated in the petition pursuant to Title 19, Elections, hereinafter referred to as the 'general election law,' upon the official ballot to be used in such municipality at the next ensuing general election. Thereupon the clerk or secretary of such governing board or body shall forthwith deliver to such county clerk a certified copy of such resolution. If such copy shall be delivered to such county clerk not less than thirty days before such general election, he shall cause such question or questions to be printed in an appropriate place on the ballot to be used in such municipality at the next ensuing general election, pursuant to the general election law, and shall cause to be printed on the ballot immediately below the printed question or questions the following:
 'EXPLANATORY STATEMENT -- A "Yes" vote is a vote to permit sales

only within the hours set forth in the question or questions printed above. A "No" vote is a vote against changing the hours during which sales of alcoholic beverages are now permitted in this municipality, and thereupon all proceedings with respect to the referendum on such question or questions shall be subject to and governed by the general election law as in other cases of the submission of public questions to the electorate.

"If a majority of the legal voters shall vote affirmatively on the question of whether the hours of sale shall be fixed in the manner set forth in such question or questions, the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, of the action taken by the legal voters of such municipality and thereafter the retail sale of alcoholic beverages may be made only within the hours fixed by such referendum. Such sale at any other time within such municipality shall be unlawful and constitute a violation of this chapter.

"If a majority of legal voters voting upon such question or questions shall vote in the negative on the question of whether the hours of sale shall be fixed in the manner set forth in such question or questions, the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, of the action taken by the legal voters of such municipality and thereafter the hours between which the sale of alcoholic beverages at retail may be made may be regulated as theretofore in such municipality.

"No petition under this section shall be received by the governing board or body while any other petition covering the same subject matter which has theretofore been presented hereunder has not been voted upon.

"Whenever a referendum shall have been had in any municipality pursuant to this section, no further referendum on the same question shall be held therein prior to the general election to be held in such municipality in the third year thereafter and so long as such referendum remains effective, all ordinances, resolutions or regulations inconsistent with the result of such referendum shall have no effect within such municipality.

"6. This act shall take effect immediately."

8. STATE LICENSES - NEW APPLICATIONS FILED.

Stitzel-Weller Distillery, Shively, Kentucky
P.O. Station D, Louisville, Kentucky.

Application for Warehouse Receipts License filed April 21, 1948.

Ralph Tarantola, Jr., t/a Tarantola Trucking Co.
Rear of 57 Main St., Flemington, N. J.

Application for Transportation License filed April 21, 1948.

Joseph Buglio, t/a Buglio Trucking Co.
North Side of Wheat Road, Buena Vista Township, R.F.D. Vineland, N.J.

Application for Transportation License filed April 26, 1948.

Pascale Trucking Co., Inc.
566 - 52nd St., West New York, N. J.

Application for Public Warehouse License filed April 26, 1948.

New Jersey State Library

Thomas J. Hoop

Commissioner.