

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

BULLETIN NUMBER 132

July 25, 1936

1. SPECIAL PERMITS - SOCIAL AFFAIRS - NEW REQUIREMENTS UNDER
FEDERAL LAWS.

July 14, 1936

Dear Commissioner.

The Liquor Tax Administration Act, approved June 26, 1936, contains a provision with reference to the type of Federal tax stamp required by fraternal and similar organizations. Section 324 (g) provides:

"Notwithstanding the foregoing provisions of this section, each person making sales of fermented malt liquor to the members, guests, or patrons of bona-fide fairs, reunions, picnics, carnivals, or other similar outings, and each fraternal, civic, church, labor, charitable, benevolent, or ex-service men's organization making sales of fermented malt liquor on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival, held by it, if such person or organization is not otherwise engaged in business as a dealer in malt liquors, shall pay, before any such sales are made and in lieu of the special tax imposed by subdivision (a) of this paragraph, a special tax of \$2 as a retail dealer in malt liquors, for each calendar month in which any such sales are made."

This permits the sales of fermented malt liquors to members, guests and patrons of bona-fide fairs, etc., upon the payment of \$2 as a retail dealer in malt liquors for each calendar month in which any such sales are made.

The requirements of the law regarding the sales of distilled spirits and fermented liquors other than fermented malt liquors by the persons mentioned in the section of the Act above quoted, have not been changed. Any person selling other than fermented malt liquors will be required to obtain a retail liquor dealer's stamp and pay the tax thereon depending upon the month in which such stamp is obtained.

It is requested that you inform all applicants for picnic, reunion or similar type of license, of the provisions of the Federal law so that they may comply therewith. It is also requested that you furnish me with lists of persons to whom such licenses are issued in the future.

Yours very truly,

W. L. RAY,
District Supervisor.

July 21, 1936

W. L. Ray, District Supervisor,
Alcohol Tax Unit,
Post Office Building,
Newark, N. J.

Dear Major Ray:

I have yours of July 14th and will be glad to honor your two requests therein contained, in manner following, viz.:

1 - All applicants will be given the following notice:

"Applicants for Special Permits are hereby informed of certain provisions of the Federal law so that they may comply therewith, viz.: If the permit hereby applied for is to sell fermented malt liquor, the applicant shall pay before any such sales are made a special tax of \$2.00 for each calendar month in which such sales are made. Any persons selling other than fermented malt liquor will be required to buy a Federal retail liquor dealer's stamp and pay the tax thereon, depending upon the month in which such stamp is obtained. These special taxes are payable to and the stamps obtainable at the offices of the Collector of Internal Revenue in the Post Office Buildings at Newark, or at Camden."

The above is submitted for your approval. I am therefore sending it to you by messenger and it will become effective as soon as you so approve.

2 - I shall send you daily copies of each Special Permit of this class as they are issued from time to time.

This is effective immediately - in fact we have heretofore sent you all such daily lists.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

July 21, 1936

Dear Commissioner:

Receipt is acknowledged of your letter dated July 21, 1936, in which you state the notice of the requirements of Federal Law that will be given to all applicants for special permits.

You are advised that the said notice is satisfactory and is approved by me.

Please accept my thanks for your continued co-operation. With best wishes.

Very truly yours,

W. L. RAY,
District Supervisor.

2. LICENSES - DISAPPROVED IN RESPECT TO A TUBERCULOSIS SANATORIUM.

LICENSEES - EMPLOYEES - EMPLOYMENT OF TUBERCULAR PERSONS AS BARTENDERS.

MUNICIPAL ORDINANCES - IT IS THE PRIMARY DUTY OF MUNICIPALITIES TO ENFORCE THEIR OWN ORDINANCES.

July 21, 1936

E. T. Speier, Esq.,
Police Recorder,
Browns Mills, New Jersey.

Dear Sir:

I have before me yours of May 8th.

You ask:

(1) "Is it lawful for a tuberculosis sanatorium to be given a license to dispense alcoholic beverages while still operating as a sanatorium?"

I should go out of my way to find it unlawful, that is, give the law the strictest construction possible in order to prevent such an incongruous and undesirable result.

(2) "Has the Commissioner ruled what hiatus, if any, there must be between the operation of a building as a tuberculosis sanatorium and some other public business?"

No. It is not my business. There is nothing in the Control Act or in the rules and regulations prescribing any distance between a tuberculosis sanatorium and premises licensed to sell alcoholic beverages.

(3) "Or, if no ruling, is there any statute covering this?"

I don't know. I never heard of any. I suggest that you write either to the Attorney General or to the State Board of Health.

(4) "Is it lawful for any active tubercular person to be employed by any operator of a saloon, as a bartender or in any other capacity?"

I have never had this worry heretofore. Do you know of any so employed? If so, who, where and by whom? Perhaps the State and local health regulations governing persons handling food or beverages and the employment of persons in connection with such businesses cover the situation. If not, I'm ready to act once the reasonable necessity appears. Give me facts so I can study a few cases specifically.

(5) "Is it lawful for a non-resident to be employed in the State of New Jersey as a bartender?"

No--not until he has been a resident of the State of New Jersey for at least five years continuously immediately prior to tending bar in New Jersey.

(6) "If a Township ordinance decrees that all saloons shall close on Sunday from 1 A. M. until 12 M. Sunday, is it the duty of the office of the Beverage Control Commissioner to enforce this ordinance in the event of failure of the township committee to act? What is the procedure in such a case as this?"

Municipalities have the authority to enact local regulations controlling hours of sale and the conduct of businesses licensed to sell alcoholic beverages at retail. Section 37 of the Control Act. With this authority goes the power to penalize for violations by fine or imprisonment or both (as provided in the Home Rule Act or other general municipal statutes) and by suspension or revocation of license (as provided in the Control Act, Section 28). The primary duty to enforce these regulations is placed by law upon the municipal governing body. It is their duty to keep their own house in order.

It is the duty of the State Commissioner to cooperate with municipalities and Municipal Boards. I have consistently done so in the past and intend to continue to the fullest extent of my powers in the future. My men have often found in the course of their work violations of local regulations. In all such cases, the facts have at once been transmitted to the local authorities for their subsequent investigation and the institution, if warranted, of revocation proceedings. But I cannot enforce the regulations of 564 municipalities in addition to the State law and the State-wide rules and regulations. I have ninety men at the most available for active enforcement work throughout the entire State. This means less than five men to a county. And with the grand jury, trial jury, police court appearances and state, federal and municipal hearings that they must attend as witnesses, it often results that there are but two or three out of each group of five available for field service active at the same time.

The State Commissioner has the power under Section 28 of the Act to suspend or revoke for violation of local regulations but as a matter of policy, this power is sparingly exercised.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

3. RULES CONCERNING CONDUCT OF LICENSEES AND THE USE OF LICENSED PREMISES - GAMBLING - LICENSEES MAY NOT REDEEM IN ALCOHOLIC BEVERAGES OR OTHERWISE TICKETS GIVEN WINNERS OF CHANCES ON BOTTLES OF LIQUOR.

July 21, 1936

Mrs. John R. Smith,
Chairman, Shrewsbury Auxiliary,
Monmouth Memorial Hospital,
Eatontown, N. J.

Dear Mrs. Smith:

Replying to your letter in behalf of the Monmouth Memorial Hospital, of Long Branch:

As regards the Special Permit, Mr. Hock, in charge of licensing, will communicate with you forthwith. We will cooperate with you in every way to give you a Special Permit for this worthy cause, but in view that the affair is open from 3 to 5 p. m. for children, the time for the sale of beer on draught or by the bottle will be confined to the evening after 7 p. m. when, I understand, the affair is open to adults only.

As regards sale of chances on bottles of liquor: this is a lottery and therefore unlawful. It is an indictable offence. It would be my duty to institute revocation proceedings against any licensee, whether in Red Bank or elsewhere in New Jersey, who should redeem tickets given the winners of such chances.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

4. ALIENS -- TRADE TREATIES -- STATUS OF PERSON BORN IN A PART OF HUNGARY WHICH SINCE IMMIGRATION TO THE UNITED STATES, HAS BECOME A PORTION OF CZECHOSLOVAKIA.

July 20, 1936

Dear Sir:

My client, Andrew Kmetz, is interested in acting as bartender in a saloon in this community but fails in one qualification, namely, citizenship. He has been a resident of this state for thirty-five years and has never been tried or convicted of any crime whatsoever. He was born in Keleemes, Hungary on May 17, 1885 as is evidenced by his Hungarian birth certificate.

Will you kindly advise whether he can be permitted to tend bar by virtue of your ruling contained in Bulletin No. 92, Item No. 7, even though the city of his birth has now become a province of Czechoslovakia?

Your information concerning the above will be highly appreciated.

Very truly yours,
HARRY KAMPELMAN.

P. S. He already has procured his first citizenship papers.

July 23, 1936

Harry Kampelman, Esq.,
201 Dayton Avenue,
Passaic, New Jersey.

Dear Sir:

I have your letter of July 20th setting forth that your client, Andrew Kmetz, is interested in acting as bartender in a saloon and desires a ruling from this Department on his citizenship qualifications.

You state that he was born in Keleemes, Hungary, in 1885 and that the city of his birth has now become a part of Czechoslovakia. Under these circumstances, it may be that your client has a choice of claiming citizenship in either country or that he is without any citizenship. It does not appear from your letter that he has ever taken any steps toward becoming a citizen of Czechoslovakia, and accordingly it would seem that he is still a citizen of Hungary. If this be true, he might be entitled, by reason of a trade treaty with that country, to enjoy the same privileges under the Control Act which are accorded to citizens of the

United States. On the other hand, citizens of Czechoslovakia are not accorded such protection.

Before finally determining this question, it will be necessary that you furnish me with an appropriate ruling from the Consulate General of Czechoslovakia, 1440 Broadway, New York City, and from the Consulate General of Hungary, 7 Morris Street, New York City.

The only disqualification which the treaties excuse is that of alienage. All other provisions and requirements of the statute must be fully complied with.

The fact that your client is in the process of becoming a citizen of the United States does not affect any right he may have as an alien national protected by treaty provisions.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

5. APPELLATE DECISIONS -ROADSIDE GRILLS, INC. v. ROCKAWAY.

ROADSIDE GRILLS, INC., a cor-)	
poration of the State of New)	
Jersey,)	
Appellant,)	On Appeal
-vs-)	ORDER
MAYOR AND COUNCIL OF THE)	
BOROUGH OF ROCKAWAY,)	
Respondent)	

It appearing that on the 30th day of June, 1936, conclusions were entered in the above matter wherein the case was remanded to the respondent Mayor and Council to consider and determine:

First: Whether they desire to stand on the declaration of ineligibility of the premises previously determined without regard to the merits of the present application, or

Second: If they desire to hear the merits of the application of appellant, then do so with assurance that by conducting such hearing the ban of ineligibility is not thereby waived or dispensed with or otherwise prejudiced;

And it further appearing by letter of James B. May, Borough Clerk of the respondent Borough of Rockaway, dated July 13, 1936, that on July 9, 1936, at a regular meeting, "the Mayor and Council elected to stand on the ban now in force with respect to the premises in question and declined to hear or pass on the application of Roadside Grills, Inc. for a license for the premises";

NOW, therefore, it is on this 20th day of July, 1936, ORDERED that the action of the Mayor and Council of the respondent Borough of Rockaway, in denying the application for a plenary retail consumption license made by Roadside Grills, Inc., for premises located on State Highway No. 6, Rockaway, N. J., be and the same is hereby affirmed.

D. FREDERICK BURNETT,
Commissioner.

6. REVOCATION PROCEEDINGS - ILLICIT ALCOHOLIC BEVERAGES -
DISCUSSION OF PENALTIES.

July 23, 1936

N. Rittenhouse, Esq.,
City Clerk,
Lambertville, N.J.

Dear Mr. Rittenhouse:

I have before me staff report of proceedings before your Board of Commissioners on July 6th last against Thomas F. Cleary, holder of plenary retail consumption license No. C-2 for possession of illicit alcoholic beverages, and note the adjudication of guilt and penalty of suspension of the license for two (2) weeks.

I am not expressing any opinion on the merits as to whether the licensee was guilty or not because that, perchance, may come before me by way of appeal and my mind, therefore, is entirely open on that score.

I realize that it is an unpleasant thing for your Board to sit in judgment in cases of this kind, especially in view of the personal good reputation of the licensee. It is, however, not a question of whose fault it is or how it happened. The law distinctly makes the licensee responsible for the possession of any bootleg liquor upon his premises. The possession of illicit alcoholic beverages strikes at the very fountainhead of control. Your Board has discharged its duty splendidly and I am grateful for their cooperation. As this is the first case in your municipality, it will go far to teach licensees that the law is made to be obeyed.

In the next case of this kind, I hope your Board will inflict a minimum penalty of at least thirty days. Several municipalities have adopted the principle of revoking licenses outright in such cases. I am beginning to think that this may have to be necessary throughout the State unless licensees speedily learn their lesson and have nothing on their shelves or bar except legitimate liquor.

Please convey to your Board my respect and esteem.

Sincerely yours,

D. FREDERICK BURNETT,
Commissioner.

7. REVOCATION PROCEEDINGS - ILLICIT ALCOHOLIC BEVERAGES - DISCRIMINATION IN PENALTIES INFLICTED - HEREIN OF THE FAIR USE OF JUDICIALLY-MINDED DISCRIMINATION IN THE INFLICTION OF PENALTIES WITH CAUTION AS TO ITS DANGERS.

REVOCATION PROCEEDINGS - GAMBLING - DISCUSSION OF PENALTIES.

July 23, 1936

Thomas J. Wieser, Clerk,
Municipal Board of Alcoholic Beverage Control,
Linden, New Jersey.

Dear Mr. Wieser:

I have before me staff report of proceedings before your Board on June 1st last against John Uzdivinis, holder of limited

retail distribution license No. DL-1 for possession of illicit alcoholic beverages and note that the Board suspended his license for the balance of the term - in effect a thirty days' suspension.

When this report was submitted I put it aside temporarily for my personal attention. Due to the great crush of work incident to the new licensing period, the peak of which has just passed, I have not been able to write to you sooner.

The possession of illicit alcoholic beverages with intent to sell them strikes at the very fountainhead of control of the legitimate traffic. Hence, a penalty of thirty days' suspension, while severe, is most appropriate and is the minimum which I have recommended. See re Morris, Bulletin #98, Item #10.

I note that the suspension carried with it a warning to the licensee that consideration would be given to that fact in the event that he endeavored to secure a renewal of his license.

I also have staff report of two other proceedings before your Board on June 22:

1. As regards Joseph J. Ciecuch, on charge of possession of illicit alcoholic beverages, I note that he was found guilty and his license was suspended for four days. I note the difference between the penalty in this case and the Uzdivinis case. In view of the decidedly different facts set forth in the aforesaid staff reports (herewith subjoined) and because of the wholesomely cooperative record of your Board, I shall gladly assume that the circumstances warranted a lesser penalty in the latter case and that, while there was discrimination in the penalty inflicted, it was a fair and judicially-minded differentiation on the facts. I have personally been confronted with the same kind of problem as you will see by comparing my decisions made the same day, one in Parker Liquor Stores, Inc. v. Jersey City, Bulletin #130, Item #9; the other in Mutual Wine Stores, Inc. v. Jersey City, Bulletin #130, Item #10. Both were cases of violation of the rules governing signs and other advertising matter. In one there had been a defiant and contumacious persistence in violation. In the other that element was wholly lacking. Some disciplinary action was warranted in both cases. In the one, I sustained on appeal a seven day suspension; in the other, I cut down on my own motion a seven day suspension to two days. You will therefore see, I trust, that I am not insensitive to the force of the stubborn facts in each particular case, and, hence, am wholly sympathetic with highminded municipal officials who, in the discharge of their duty, courageously adjudicate licensees guilty when the facts so warrant and thereupon exercise a fair judicially-minded discrimination in making the penalty fit the particular facts constituting the offense.

In general, however, I believe that, aside from exceptional cases, the better policy is to make the penalties for the same class of offenses uniform so to avoid the charge that will almost inevitably be made by the unthinking, and by those who, apparently, are only too glad to think that fish is made of one and fowl of another, according to his personal or political standing - that there must necessarily be "something rotten in Denmark". The fact that every so often insidious and wrongful influence is exercised lends color and credence to the charge. It is better, therefore, in all such cases, to state in black and white, so every one may know, just why the punishment was different so to inculcate public confidence in the fairness and justice of every decision made.

2. As regards the proceedings on June 22nd, concerning Rudolph Thoms on charge of possessing a dice box and a set of dice which were found on the bar, I note that the licensee was found guilty and his license suspended for one day. This is wholly satisfactory for such a minor offense. It is not at all comparable to the possession of illicit alcoholic beverages that strike at the fountainhead of control of the legitimate traffic. On the other hand, some disciplinary action was warranted because the law distinctly holds that shaking dice for drinks is a misdemeanor.

I realize that gambling of itself does not constitute moral turpitude; that at home after home contract bridge and pinoche are played for stakes; that wagers are made on golf, on fights, on football games, on elections. While lotteries are forbidden and gambling is by statute made a crime, there does seem to be a disposition on the part of the American public to take a chance, to speculate, to put money stakes on so many things they do. This, admittedly, makes a very difficult situation for enforcement officials to confront.

I believe that the proper course for us to take is that, so long as the law against gambling remains on our statute books, it is our duty to enforce it, at least so far as concerns licensed premises. Otherwise, commercialized gambling will get a foothold in such places, leading to racketeering and other evils which will quickly get out of hand if we do not keep the lid on all the time even in small matters out of which grow the larger if the impression once gets around that nobody cares. Let us stop at the source the abuses that brought Prohibition.

I am gratified, therefore, that you have imposed a penalty, even though that penalty is but one day. If this proves a sufficient deterrent, well and good. If, however, your Local Excise Board finds that the penalty is not enough, then I believe that your Board will take the initiative in increasing the penalty and giving the increased penalty wide publicity as a deterrent measure so that all licensees will know that we mean business. Honest licensees who scrupulously comply with the law and do not permit gambling on their premises, complain bitterly that they pay high license fees into local municipal treasuries, but so often, get little or no protection against those cheaters in their own trade who take a chance to reap a major profit if not detected, but if caught, get off with minor penalty. They are prone to jump to the conclusion that a one day suspension encourages trifling. If they themselves think so, we, whose duty it is to enforce the law, may well give ear to their desire for strict regulations. They believe, as I have told them, that repeal is on trial. For the sake of their economic future, they ask for stringent penalties. It is all grist in our mill of law enforcement.

Please present to the members of your Board my esteem and appreciation for their splendid cooperation in law enforcement.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

Subjoined are the staff reports hereinabove referred to.

REVOCATION PROCEEDINGS

June 2, 1936

To: Commissioner D. Frederick Burnett
 From: Jerome B. McKenna

MUNICIPALITY - LINDEN - UNION COUNTY

On Monday, June 1, 1936 Inspector Murray and Investigator Wierenga appeared before the Municipal Board of Alcoholic Beverage Control of Linden and testified in revocation proceedings against

John Uzdivinis (File 2111)
 313 Park Avenue,

holder of Limited Distributor's License DL-1.

Charge: Possession of illicit alcoholic beverages.

F A C T S

A complaint had been received that the above licensee was selling liquor at his licensed premises contrary to terms of his license. He holds a limited distributor's license by virtue of which he is permitted "to sell for consumption off the licensed premises, but only in original containers, any unchilled brewed malt alcoholic beverages in quantities not less than seventy-two (72) fluid ounces".

On October 4, 1935 Inspector Murray and Investigator Wierenga visited the licensed premises. A search revealed the following:

Seized behind counter in store

1 - 4/5 bottle labeled "High & Dry Gin Booths"
 1/8 full of whiskey

Seized in cupboard in back room

1 - 1 gal. glass jug bearing label "Blackmans Vanilla
 Flavored Syrup" about half full of whiskey

Seized in Cabinet

1 - 4/5 bottle labeled "Kings Court Dry Gin" 3/4 full
 of whiskey containing herbs

Seized in Drawer of Table

1 pt. bottle bearing label "Military Whiskey" 1/8 full

Seized in closet of kitchen

2 Hydrometers.

Questioning the licensee, the Investigators obtained from him an admission that he had purchased the gallon glass jug 1/2 full of whiskey from a non-licensee. He stated it was for his own use.

Verdict: Guilty

Sentence: License suspended for balance of term, to June 30, 1936.

NOTE: The City Clerk of Linden advises that the suspension carried with it a warning to the licensee that the present case will be given great consideration in the event the licensee endeavors to secure a renewal of his license.

JEROME B. MCKENNA,
Attorney.

REVOCAATION PROCEEDINGS

June 23, 1936

To: Commissioner D. Frederick Burnett
From: Jerome B. McKenna.

MUNICIPALITY - LINDEN - UNION COUNTY

On Monday, June 22, 1936 hearings were held before the Municipal Board of Alcoholic Beverage Control of Linden in two cases.

- 1. Rudolph Thoms (File M-836)
340 Mitchell Avenue,
License C-54

Charge: Possession of gambling devices (dice) on licensed premises in violation of State Rule.

Plea: Guilty.

F A C T S

On December 19, 1935 Investigators Finzel and Moss inspected the licensed premises. They found a dice box behind the bar. They warned the licensee of the State Rule. On February 4, 1936 the licensee was warned by letter of the violation. On February 13, 1936 an acknowledgment was received from the licensee in which he stated that the practice complained of would not be permitted on the licensed premises.

On April 28, 1936 Investigators Moss and Wierenga inspected the licensed premises. They found one dice box and set of dice.

Sentence: License suspended for one day, June 24, 1936.

- 2. Joseph J. Ciecich (File 2955)
1035 W. Edgar Rd.
License C-9.

Charge: Possession of illicit alcoholic beverages.

Plea: Not Guilty.

F A C T S

On April 28, 1936 Investigators Beck and Linnenkohl inspected the licensed premises. Upon gauging and testing the contents of a quart bottle labeled "Hildick Apple Jack Brandy 90 pf."

it was found to be 2 points higher than called for by the label. The label and strip stamp appeared to be old. This bottle was seized. On the stairway leading from the tavern to the second floor where the licensee resided, Investigator Beck found a gallon jug which bore no label or tax stamps. It contained apple whiskey. In a bedroom on the second floor, occupied by the licensee, Beck found a one gallon jug containing about 2 quarts of apple whiskey. It was labeled "Pure Apple Juice". No tax stamp appeared thereon. A test made of same disclosed that it gauged 100 pf.

The Department Chemist analyzed the quart bottle and found same contained a naturally colored Apple Jack Brandy 2.30 pf. over the 90 pf. marked on the label.

Verdict: Guilty.

Sentence: License suspended four (4) days, June 23 to June 26, 1936.

JEROME B. McKENNA,
Attorney.

8. LICENSEES - PLENARY AND SEASONAL CONSUMPTION LICENSEES MAY SELL FOOD FOR CONSUMPTION ON PREMISES AND CIGARS AND CIGARETTES AS AN ACCOMMODATION TO PATRONS AND NON-ALCOHOLIC BEVERAGES AS ACCESSORY BEVERAGES TO ALCOHOLIC BEVERAGES BUT MAY NOT BE ENGAGED IN ANY OTHER MERCANTILE BUSINESS.

July 11, 1936

My dear Commissioner:

A problem has presented itself to this office which is as follows:

May saloons sell anything other than beer and liquor, or may saloons give away any free food with the sale of beer and liquor?

In inquiring from the local authorities there seems to be a diversity of opinion. We therefore write you in an effort to secure any laws passed on the above questions, or if any decisions involving the above questions have been made, will you kindly inform us of their citations.

Very truly yours,
WESCOTT & GELFAND,
By - Samuel Gelfand.

July 23, 1936

Wescott & Gelfand, Esqs.,
Camden, New Jersey.

Attention: Samuel Gelfand, Esq.

Dear Sir:

I have before me your letter of July 11th.

Under the Control Act, saloons holding plenary or seasonal retail consumption licenses may sell food for consumption on

the premises as well as beer and liquor. They may also sell cigars and cigarettes at retail as an accommodation to patrons and non-alcoholic beverages as accessory beverages to alcoholic beverages. They may not, however, be engaged in any other mercantile business.

The reason for this is that Section 13, sub. 1 of the Act provides with respect to plenary retail consumption licenses that such licenses shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business (except the keeping of a hotel or restaurant, or the sale of cigars and cigarettes at retail as an accommodation to patrons, or the retail sale of non-alcoholic beverages as accessory beverages to alcoholic beverages) is carried on. Although the Act does not expressly so provide, I have ruled (Bulletin #21, Item #14) that the same restrictions are incorporated by fair implication in Section 13, sub. 2 and, therefore, apply also to seasonal retail consumption licenses.

There is nothing in the Act or in the State rules and regulations which would prohibit a licensee giving away free food. Re Norton, Bulletin #126, Item #7, copy enclosed.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

9. SPECIAL PERMITS - SOCIAL AFFAIRS - WHEN REQUIRED.

July 6, 1936

Dear Sir:

As President of the Joseph King Association located at 414 Washington Avenue, Belleville, New Jersey, I am desirous of obtaining through you certain legal requirements to dispense alcoholic beverages (beer) free of charge to our members at our club meetings which are held monthly and occasionally semi-monthly.

Our club is conducted for social, political and charitable purposes and is composed of reputable citizens of our community. Our dues are twenty-five cents monthly, there being no admission charge, passing of hat, or assessments of any kind. Expenses to defray the cost of refreshments are paid from the club treasury.

1. Occasionally a member may bring a guest, would it be legal to serve the guest when the beverage is given away free?

2. The largest volume of beer purchased for any one meeting would be a half barrel, kindly advise through whom said purchase could be made; if he could make delivery direct to our club, or if a member of the club could call at his place of business, and make delivery in his own private vehicle.

3. If the alcoholic beverages which we intend to serve as refreshments at our meetings are given away free, with no admission charge, or special assessments of any kind, would it be necessary for our club to obtain a permit, or license to dispense same.

As I stated above our club has a high standing in our community and its officers and members wish to maintain that standing by complying in every respect with the rules and regulations of your Department.

Very truly yours,

JOHN A. DRENTLAN,
President.

July 23, 1936

John A. Drentlan, President,
Joseph King Association,
Belleville, New Jersey.

Dear Sir:

I have before me your letter of July 6th regarding the serving of beer at your club meetings.

I am sending you herewith re Berry, Bulletin #121, Item #2, re Gallicchio, Bulletin #113, Item #2, and re Renner, Bulletin #115, Item #4, which illustrate the circumstances under which special permits to dispense alcoholic beverages at social affairs are or are not required.

From your letter, it would appear that your case is the same as in re Gallicchio. If so, no special permit to serve alcoholic beverages is necessary.

Now specifically to answer your questions:

(1) If the beer is actually given away free, you may serve guests of members without obtaining a special permit. If the beer is sold, then before you serve either members or guests a special permit must be obtained.

(2) The beer for your club meetings may be purchased from any retail licensee whose license permits the holder to sell alcoholic beverages for consumption off the licensed premises or from any state beverage distributor. The licensee from whom you purchase may deliver the beer to your club premises in his own vehicle provided it carries the required transportation insignia. A member of your club may call for the beer and bring it to the club in his own private vehicle provided that he does not so transport in excess of one-half barrel within any consecutive period of twenty-four hours.

(3) If the alcoholic beverages which you intend to serve are given away really gratuitously in every respect and no admission is charged nor special assessments are made, then it is not a sale of alcoholic beverages within the terms of the Act but an out and out gift under which circumstances no special permit is required.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

10. RETAIL LICENSEES - SALES MUST BE CONFINED TO THE LICENSED PREMISES - SPECIAL PERMITS AUTHORIZING SALE IN ANOTHER MUNICIPALITY WILL NOT BE ISSUED.

SPECIAL PERMITS - NOT ISSUABLE TO RETAIL LICENSEES FOR SALES IN ANOTHER MUNICIPALITY - BUT MAY BE GRANTED FOR AN OUTING PROVIDED THE LIQUOR IS GIVEN AWAY GRATUITOUSLY AND NO SALES ARE MADE.

July 23, 1936

Mr. Ernest Zogg,
Patricks Corner,
New Brunswick, New Jersey.

Dear Sir:

Your application for a Special Permit to dispense alcoholic beverages at a clam bake to be conducted by yourself July 26th at Patricks Grove, South Brunswick Township, and the \$10.00 permit fee has been received.

Your application discloses that, although there is to be no admission charged, beer will be sold at ten cents (10¢) a glass and liquor at regular prices. Your application also declares that the clam bake is to be held in South Brunswick Township and that you hold a Plenary Retail Consumption License in East Brunswick Township.

I ruled in Bulletin #131, Item #6 (copy enclosed) that Special Permits are issuable to retail licensees for sales off the licensed premises at picnics and outings if kept within reasonable bounds. However, in this case the licensee desired to dispense alcoholic beverages at an outing to be conducted by himself, but no fee of any kind, either for admission or in payment for the beverages, was to be charged. It was the intention of the applicant to conduct the outing and dispense the alcoholic beverages absolutely gratuitously. He was to receive no benefits whatsoever.

In the instant case, you honestly state that you intend to charge for both the beer and liquor dispensed and that you will receive the proceeds therefrom. Therefore, you are actually applying for a permit which extends the privileges of a license.

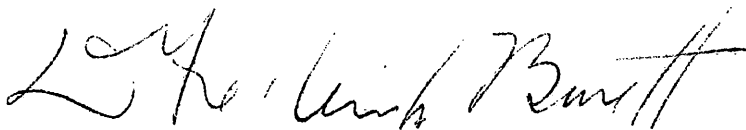
It is also noted that the location of the place where the clam bake is to be held is in a municipality other than the municipality in which you are licensed to sell alcoholic beverages. If the clam bake were to be conducted in East Brunswick Township, where you now hold an alcoholic beverage license, I would grant your application because you are already privileged to sell alcoholic beverages in East Brunswick Township and the permit would be merely extending the privilege of such sales to another place for one day.

However, in seeking to dispense beverages in another municipality, where you hold no license, you are not only seeking to dispense beverages in another place, but also in a place where you hold no license. You would thereby become a licensee for one day, competing with all the duly licensed establishments of South Brunswick Township.

Under the circumstances, your application is denied. Refund of your permit fee will be made as allowable under rules and regulations.

If you will agree to withdraw your request to sell the beverages and will agree to give them away gratuitously, your application will be granted as applied for.

Very truly yours,

A handwritten signature in cursive script, appearing to read "L. H. Lamb Bennett".

Commissioner.