

Division of

**ALCOHOLIC  
BEVERAGE  
CONTROL**

# Bulletin

Richard J. Hughes Justice Complex, CN-087, Trenton, New Jersey 08625-0087

**BULLETIN 2451**

December 31, 1987

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**1. NOTICE TO RETAIL AND CLUB LICENSEES: "CRANE" OR "CLAW" MACHINES ARE GAMBLING DEVICES AND ARE PROHIBITED ON LICENSED PREMISES.**

In recent months, the Division has confiscated from licensed premises a number of "crane" or "claw" machines. These are glass enclosed or topped bins filled with various prizes, such as plush animals, which a patron tries to win by picking it up with a claw or pushing it with an arm and maneuvering it to an exit slot. Money is required to activate the machine. These machines are "gambling devices" (i.e., devices in the nature of a slot machine which may be used for the purpose of playing for a valuable thing), and their use constitutes gambling, in violation of *N.J.A.C. 13:2-23.7(a)*.

The restrictions applied to these "crane" or "claw" machines, as well as machines commonly known as "rotaries", are similar to those governing video poker devices discussed in *Bulletin 2430, Item 3 (March 31, 1983)*. Although it can be argued that the "crane" or "claw" machine is a game of skill in which the player is only trying to obtain a stuffed animal or similar prize by maneuvering the claw (or arm in the case of a "rotary"), the machine contains all of the elements of gambling. The player is staking something of value (money placed into the machine) on the chance that he will receive something of value (the stuffed animal or similar prize) in an event with an uncertain outcome. The winning of a prize is distinctly an element of chance. The operator of the machine can determine the outcome through the manner in which the bin is merchandised or packed with prizes, the shape and nature of the surface of the prize, and particularly the tension on the claw, as well as the depth to which it will reach. These factors can completely eliminate the ability to win a prize, no matter how much "skill" a player might have.

The "crane" or "claw" machines are manufactured by several companies and are distributed under such trade names as "Big Choice Crane", "SMS Skill Crane", "Diga Mart Crane", "Sega Big Dipper", "Your Choice Crane", "Bear Claw Crane", "Greyhound Skill Crane", "Kramer Krane", "Let's Celebrate Crane", and others. It should be noted that although these devices are prohibited on alcoholic beverage licensed premises, the majority of them have been certified for use in arcades licensed under the Amusement Games Control Law, where the gambling aspects are legally recognized and permitted. That, however, is the only place where such machines are lawful. No Amusement Games Control licensed arcade may be located on a premises licensed to sell alcoholic beverages.

2. NOTICE TO HOTEL AND MOTEL USERS OF PLENARY RETAIL CONSUMPTION LICENSES: CERTAIN "MINI-BARS" AND DEVICES OF A SIMILAR NATURE UTILIZED FOR DISPENSING OF ALCOHOLIC BEVERAGES IN LICENSED HOTEL OR MOTEL ROOMS ARE PERMITTED UNDER CERTAIN CONDITIONS.

Over the course of the last few years, the Division has been asked on several occasions to permit the use of "mini-bars" and similar devices in hotel or motel rooms. Such devices basically are small cabinets, sometimes refrigerated, which contain alcoholic beverages, normally in containers of 12 ounces for malt alcoholic beverages, 375 ml. for wine, and 50 ml. ("miniatures") for spirits. The devices permit removal of the beverage containers for consumption by the occupant of the hotel or motel room in which such device would be located. The "mini-bar" device would normally be activated by a key and the user would report the "purchase" of the beverages to the licensee on the honor system, or the licensee would inventory the device and then charge the guest for the depletion in inventory. The Division has consistently disapproved the use of these devices because they allow the "sale" (i.e., the removal from the cabinet) of alcoholic beverages at any hour, including times when sale is prohibited by municipal ordinance in the municipality where the hotel or motel is located, and because the system does not afford the licensee sufficient control to prevent access to the "mini-bar" device by persons under the legal age or by intoxicated persons.

The one exception to the prohibition has been an electronic dispensing machine known as the "Bell Captain", which was approved for use in licensed hotels and motels by Director Richard C. McDonough on October 28, 1971. (See *Bulletin 2014, Item 1, December 2, 1971*). The "Bell Captain" was a machine that was electronically controlled from a central location in addition to having a separate key provided to the guest by the front desk at the time of registration. The significant factors which gave rise to the approval were the master switch located at the front desk, which could be utilized to permit only non-alcoholic beverages to be dispensed or to lock-out the device, despite the guest's having been issued the key for it, and the fact that the guest receiving the key to the "Bell Capatin" would have to be a charge customer who submitted proof of age to a non-tip employee at the registration desk.

It should be noted that the Division has no knowledge of the "Bell Captain" machine's having been or being utilized on any licensed hotel or motel premises in New Jersey. None of the other devices for which approval had been requested until recently contained the safeguard features which supported the approval of the "Bell Captain".

Recently, however, the Division received a request for approval to install and use in-room amenity cabinets known as the ROBOBAR™ System. This system is represented to consist of a unit located in the hotel or motel room and in which is stored beverages and snack items. The unit is connected to the hotel or motel's front-of-house computer through the T.V. co-axial cable so that removal of items

from the unit can be recorded and charged, inventory lists can be maintained, and proper function of the unit can be monitored. This electronic reporting hook-up can also be utilized as a control system so that the unit can be locked during hours in which the sale of alcoholic beverages is prohibited in the particular municipality or when the room is rented by underage persons.

Inasmuch as the ROBOBAR<sup>TM</sup> System is similar to the "Bell Captain" approved by former Director McDonough, it will be approved provided it continues to meet the general guidelines set forth below for the use of all "mini-bar" in-room systems or devices.

Notwithstanding any previous approvals or disapprovals of any "mini-bar" system, the same are permissible if they are the ROBOBAR<sup>TM</sup> System operated as described above, the "Bell-Captain" (as approved in *Bulletin 2014, Item 1*), or any other system provided the following criteria are met (the ROBOBAR<sup>TM</sup> and "Bell Captain" systems must also meet these criteria before being utilized):

- a) The system may only be utilized by a plenary retail consumption licensee having a hotel or motel as part of the licensed premises;
- b) The rooms in which the dispensing units are located must be part of the licensed premises;
- c) The dispensing units must be electronically connected to the front desk of the motel or hotel and must be capable of being individually locked-out; so as to prevent access to any alcoholic beverages contained therein where any of the primary parties to whom a room is rented is under the legal age (i.e., under 21), and/or where any of the occupants of a room is or appears intoxicated, (and it shall be the affirmative responsibility of the licensee to assure that these factors are checked and the lock-out feature is utilized should it be so required);
- d) An automatic timing or similar device must be utilized to lock out the entire system (i.e., each and every dispensing unit) during the hours when sale of alcoholic beverages for consumption on the premises is prohibited in the particular municipality in which the hotel or motel is located; and
- e) The licensee shall, before utilizing the system, advise the Division and the local issuing authority of its existence, the rooms in which units are located, the name and nature of the system, and the manner in which the automatic lock-out [required in "(d)" above] shall operate.

Licensees are reminded, as former Director McDonough also had pointed out in his approval of the "Bell Captain", that, despite the approval of the "mini-bar" system, the licensee has the affirmative duty to conduct its business and control its premises in accordance with the Alcoholic Beverage Control Law and Rules and Regulations, and any abuse of the privileges afforded to the licensee resulting from the use of the system may result in disciplinary proceedings against the licensee. The Division, however, does not expect that a "mini-bar" system, when utilized in accordance with the criteria established herein, will create any unique regulatory problems or

will subject the licensee to any greater dangers beyond those normally associated with the sale and service of alcohol. Licensees utilizing such systems must remain vigilant to prevent abuses from occurring.

**3. NOTICE TO SUPPLIERS, IMPORTERS AND WHOLESALERS - SELECTIVE ADVERTISING SUPPORT FOR RETAILERS OR NATIONAL GIFT SERVICES PROHIBITED.**

A recent review of alcoholic beverage advertisements has identified a particular type of "product" or "brand" advertisement that is inconsistent with Alcoholic Beverage Control regulations and should cease. The type of ad in question involves a promotional identification of a "product" or "brand" placed and paid for by its supplier or importer. That aspect of the advertisement is permitted. What is prohibited is the inclusion in that ad of a name or specific telephone number of a retail licensee or alcoholic beverage gift or delivery service company where the product can be purchased or ordered.

The Alcoholic Beverage Control Law prohibits a manufacturer, supplier or importer from having an interest in a retail license in New Jersey or from being interested, directly or indirectly, in the retailing of any alcoholic beverages. *N.J.S.A. 33:1-43*. Advertising support by a manufacturer or importer to a retailer is not always considered a violation of the law as an impermissible interest in the retailing of alcoholic beverages. *N.J.A.C. 13:2-24.7*, captioned "Marketing initiatives", authorizes the manufacturer or importer to furnish or provide advertising or promotional materials to any retail licensee. So also, and subject to stated conditions, the manufacturer or importer could provide "services" to a retail licensee under *N.J.A.C. 13:2-24.2(a)2*, captioned "Discrimination in services, facilities or equipment".

An advertising support or inclusion of a retailer's name in a supplier's ad could be considered a service under *N.J.A.C. 13:2-24.2(a)2*. This Regulation, however, basically requires a non-discriminatory offering of the service to all retailers. Thus, to select one or several retailers for this advertising service and not all of the thousands of retailers capable of selling the supplier's product is violative of the regulation. The advertisements viewed by the Division which selectively list only a few retailers cannot continue. Similarly, those supplier ads which list the telephone number of an alcoholic beverage gift or delivery service are disapproved. These gift services are not licensed and are permitted to function because they are considered "agents of the consumer" in helping the consumer acquire a gift of alcoholic beverages. If the product manufacturer or importer advertises the gift service's number, this activity is at the very least an indirect interest, if not a direct one, in the retailing of alcoholic beverages and is therefore prohibited under *N.J.S.A. 33:1-43*. Should the Division

continue to encounter this type of advertising in magazines, periodicals, newspapers or other media circulated or offered in New Jersey, appropriate administrative sanctions will be taken against the product's manufacturer or importer or retail licensees that participate in the advertisement.

#### 4. NOTICE REGARDING ORGANIZATIONAL CHANGES WITHIN THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL.

As the result of an internal management and operations assessment audit conducted within the Division of Alcoholic Beverage Control by the Department of Law and Public Safety, Attorney General Cary Edwards and Director Vassallo have undertaken certain management and organizational changes within the Division.

As of the beginning of 1988, a new Executive Officer position will be implemented. This Executive Officer will handle the day-to-day management and coordination of the activity of the five bureaus within the Division. Craig Wille has been named acting Executive Officer for a period of approximately three months, until a permanent Executive Officer can be appointed.

Among the other changes is the renaming of the Prosecution and Trade Practices bureaus. They will now be known as the Compliance Bureau and the Trade Relations Bureau so as to more accurately identify them with their primary roles. Additionally, the Administrative and Licensing Bureaus are being grouped as the Administrative function of the Division, while the Regulatory and Compliance Bureaus will comprise the Legal functional group. The Trade Relations Bureau will remain alone in the third functional grouping.

#### 5. NOTICE REGARDING A.B.C. BULLETIN SUBSCRIPTIONS.

Since this Bulletin is only the third published during the 1987 calendar year, the Division is extending all subscriptions to the Alcoholic Beverage Control Bulletins that have been entered and paid for 1987 through the 1988 calendar year. Any new subscriber to the bulletin service during 1988 will, upon payment of the \$25.00 subscription fee, receive back copies beginning with *Bulletin 2449*. To begin a subscription, a check or money order for \$25.00, payable to the Division of Alcoholic Beverage Control, should be sent along with the subscriber's name and full mailing address to: Division of Alcoholic Beverage Control (Attention: ABC Bulletin Subscription Service), CN-087, Trenton, NJ 08625-0087.

#### 6. AMENDMENT TO REGULATIONS - ISSUANCE OF IDENTIFICATION CARDS BY COUNTY CLERKS (N.J.A.C. 13:2-40.1, ET SEQ.) - TEXT OF AMENDED SUBSECTIONS

The provisions of *N.J.A.C. 13:40.1, et seq.*, implement *N.J.S.A. 33:1-81.2, et seq.*, as amended by Chapters 422 and 503 of the Laws of 1985, and specifically *N.J.S.A. 33:1-81.3*, which empowers the Director to make rules and regulations regarding the format, preparation and distribution of the identification card. As the result of widespread counterfeiting and altering of cards issued pursuant to criteria established in the regulation, and because each county ended up with a different format and type of card due to various printers and printing methods, so that as a result there was confusion created by the use of the identification cards, the Division, in concert with the County Clerks of the 21 counties, developed a uniform card with safeguards against alteration or counterfeiting. The amended regulations set forth the criteria for the new card.

The proposed amendments appeared in the August 3, 1987, *New Jersey Register* [19 *N.J.R.* 1410(a)]. Following the requisite comment period, during which no comments were received, the amendments were adopted without change from the original proposal and became effective October 5, 1987, upon publication in the *New Jersey Register* [19 *N.J.R.* 1823(a)].

The full text of the amended subsections of *N.J.A.C. 13:2-40* are as follows:

13:2-40.1 Form of application; contents

Application for an identification card by residents of a county who shall have attained the legal age for purchase and consumption of alcoholic beverages may be filed with the county clerk in the county wherein said applicant resides and shall be in the following form:

State of New Jersey, County of \_\_\_\_\_

IDENTIFICATION CARD  
APPLICATION

To: County Clerk of \_\_\_\_\_ County, New Jersey.

The undersigned hereby applies for an identification card as proof of age, and submits the required fee in the amount established by law.

1. Full name of applicant \_\_\_\_\_  
(First) (Middle) (Last)

2. Residence address \_\_\_\_\_

3. Height \_\_\_\_\_ Weight \_\_\_\_\_

4. Date of Birth \_\_\_\_\_

5. Place of Birth \_\_\_\_\_  
(Municipality) (County) (State)

6. Father's name \_\_\_\_\_  
(First) (Middle) (Last)

7. Mother's Maiden Name \_\_\_\_\_  
(First) (Middle) (Last)

8. The applicant presents one or more of the following certificates to establish his or her age (check appropriate line):

- \_\_\_ Birth Certificate
- \_\_\_ Naturalization Certificate
- \_\_\_ Voter Registration Certificate
- \_\_\_ Other ( \_\_\_\_\_ )

9. The applicant submits two (2) recent color photographs, approximately 1 1/2 inches by 1 1/2 inches in size, of himself or herself, full face, without hat.

10. Has the applicant ever previously applied for an identification card? If so, state the details thereof \_\_\_\_\_  
\_\_\_\_\_

WARNING: Any person not entitled thereto who shall have unlawfully procured or have issued or transferred to him or her an identification card shall be guilty of a disorderly persons offense and shall be sentenced to pay a fine of not more than \$300.00, or imprisonment for not more than 60 days. N.J.S.A. 33:1-81.7.

The applicant hereby certifies that all of the foregoing information and statements are true in all respects.

11. Signature of applicant \_\_\_\_\_ (Date)

12. Signature witnessed by: \_\_\_\_\_ (Date)  
(County Clerk or Duly Authorized Deputy)

DO NOT WRITE BELOW THIS LINE

Photo	Identification Card Number _____
1 1/2" x 1 1/2"	Date of Issuance _____
	Issued by _____

(13:2-40.1 through 13:2-40.4. NO CHANGE).

13:2-40.5 Identification card; form

The identification card shall be 3 1/2 inches wide by 2 1/2 inches high in size, with black print on goldenrod basket weave safety paper containing a hidden Seal of New Jersey and the words State of New Jersey on its front side which is only visible under ultraviolet light, in the following form:



FRONT SIDE

Photo  
1 1/2" x 1 1/2"

) STATE OF NEW JERSEY  
 ) COUNTY OF  
 ) IDENTIFICATION  
 ) CARD NO.  
 ) --THIS IS TO CERTIFY THAT--  
 )  
 ) -----WHO RESIDES AT-----  
 )  
 ) HAS FURNISHED TO THE UNDER-  
 ) SIGNED SATISFACTORY EVIDENCE  
 ) OF HAVING ATTAINED THE AGE OF  
 ) 21 YEARS.

HGT.                    WGT.  
 HAIR                    EYES

DATE OF  
BIRTH

ATTEST: \_\_\_\_\_  
County Clerk or duly authorized deputy

\_\_\_\_\_  
Date of Issuance

Holder's  
Signature \_\_\_\_\_

REVERSE SIDE

WARNING:

It shall be unlawful for the owner of an identification card to transfer said card to any other person for the purpose of aiding such person to secure alcoholic beverages. Any person who shall transfer an identification card for the purposes of aiding the transferee to obtain alcoholic beverages and any person not entitled thereto who shall have unlawfully procured or have issued or transferred to him or her an identification card shall be guilty of a disorderly persons offense and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$300.00, or imprisonment for not more than 60 days. N.J.S.A. 33:1-81.7.

ALCOHOLIC BEVERAGE LICENSEES NOTE:

The presentation of this identification card by any person in connection with the purchase or attempted purchase of any alcoholic beverage shall constitute a defense to a charge under N.J.S.A. 33:1-77, if the retail licensee makes the sale in good faith reliance on this card and the appearance of the purchaser was such that an ordinary prudent person would believe the card holder to be of legal age.

State No. (preprinted sequential control number)

