

**STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

IN THE MATTER OF THE) ORDER PERMITTING EXTENSION OF
APPLICATION TO EXTEND THE) JUNE 2017 CURRENT PRICE LIST
JUNE 2017 AND DECEMBER 2017) THROUGH MONDAY, JULY 3, 2017, AND
PRICES IN THE CURRENT PRICE) DECEMBER 2017 CURRENT PRICE LIST
LISTS) THROUGH WEDNESDAY, JANUARY 3,
) 2018

BY THE ACTING DIRECTOR:

N.J.A.C. 13:2-24.6(a)(4) provides that a Current Price List ("CPL") shall be filed no later than the 15th of each calendar month, and shall become effective the first day of the following calendar month and shall remain effective for the entire month.

On January 31, 2017, the Division of Alcoholic Beverage Control (the "Division") received a request from Jeffrey A. Warsh, Esquire, Executive Director and General Counsel to the New Jersey Wine and Spirits Wholesale Association ("NJWSWA"), seeking an extension of the prices contained in the June 2017 CPL until the close of business on Monday, July 3, 2017. If granted, this would enable wholesalers to continue to utilize the prices listed in the June 2017 CPL for orders that were received on or before the close of business on Monday, July 3, 2017.

In addition, Mr. Warsh requested an extension of the prices contained in the December 2017 CPL until the close of business on Wednesday, January 3, 2018. If granted, this would enable wholesalers to continue to utilize the prices listed in the December 2017 CPL for orders that were received on or before the close of business on Wednesday, January 3, 2018.

The following chart summarizes Mr. Warsh's request:

CPL	END OF MONTH	REQUESTED END OF MONTH
June 2017	Friday, June 30, 2017	Monday, July 3, 2017
December 2017	Sunday, December 31, 2017	Wednesday, January 3, 2018

The reason given for these requests is that both June and December are the busiest months for the industry. Better prices and deals exist during these months, and retailers typically place significant orders at the end of these months. Given the large volume of orders, wholesalers have additional operational pressures related to sales, billing, credit, warehousing and delivery. In addition, during these hectic times, prices are about to change over for the next month. Thus, in order to avoid confusion and to allow for a more orderly marketplace during these times, the industry is requesting a limited extension of the prices contained in the June and December 2017 CPLs.

Mr. Warsh also requested an extension of the CPL filing deadlines for the May, August and November 2017 CPLs. This request is summarized in the following chart:

CPL	CPL FILING DEADLINE	REQUESTED CPL FILING DEADLINE
May 2017	Saturday, April 15, 2017	Monday, April 17, 2017
August 2017	Saturday, July 15, 2017	Monday, July 17, 2017
November 2017	Sunday, October 15, 2017	Monday, October 16, 2017

Historically, the Division has followed the Court Rules in computing CPL filing deadlines. See R. 1:3-1. Specifically, if a CPL is due on a Saturday, Sunday or legal holiday, a licensee may timely file its CPL on the next day which is not a Saturday, Sunday or legal holiday. As such, Mr. Warsh does not need a waiver of N.J.A.C. 13:2-24.6(a)(4) for the aforementioned months since, by operation of law, the requested CPL filing deadlines set forth above apply.

However, with respect to extending the effectiveness of the prices established in the June and December 2017 CPLs, affirmative action by the Director is needed. In accordance with N.J.A.C. 13:2-9.1, the Director has the authority to relax the provisions of N.J.A.C. 13:2-24.6(a)(4) upon a showing of undue hardship (economic or otherwise); that the waiver of the rule would not unduly burden any affected parties; and that the waiver is consistent with the underlying purposes of Title 33 and its implementing regulations.

I have reviewed the request to extend the expiration dates of both the June and December 2017 CPLs in light of the standards contained in N.J.A.C. 13:2-9.1. I believe that denying the relief sought would cause hardship to both wholesalers and retailers. Wholesalers are not able to make timely deliveries due to increased sales and the fact that no deliveries occur during the New Year's holidays. Retailers, on the other hand, who place significant orders at the end of the busiest months of June and December, will not have the products ordered available for sale. If the prices were to change over at the end of these months during the normal course, there will be confusion, disorder, and hardship in the marketplace.

Since the extension of the June and December 2017 prices would apply to all wholesale and retail licensees on a non-discriminatory basis, I do not believe that the requested approval would unduly burden any affected parties, or would undermine the purposes of Title 33, which are to prevent discrimination in the sale of alcoholic beverages and to maintain trade stability.

I note that wholesalers who choose to exercise the extensions granted herein must extend the June and December 2017 prices on a uniform basis for all products and for all retail licensees.

Accordingly, it is on this 17th day of April, 2017,

ORDERED that wholesalers are authorized to extend prices listed in the June 2017 CPL for retail orders received on or before the close of business on Monday, July 3, 2017, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that wholesalers are authorized to extend prices listed in the December 2017 CPL for retail orders received on or before the close of business on Wednesday, January 3, 2018, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts.



JONATHAN A. ORSEN
ACTING DIRECTOR