

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

IN THE MATTER OF)
VACATING AO 2020-01)
_____) ADMINISTRATIVE ORDER AO 2020-04
VACATING AO 2020-01 AND SETTING
EXPIRATION DATE FOR CERTAIN PERMITS

BY THE ACTING DIRECTOR:

This Administrative Order vacates AO 2020-01 (April 1, 2020). AO 2020-01 extended certain permits, namely *Ad Interim* (“AI”) permits, Temporary Authorization to Operate permits (commonly referred to as “TAPs”), and minor employment and “blanket employment” permits until the State of Emergency was lifted by Governor Murphy. The Division enacted AO 2020-01 as an emergency measure to prevent these permits from expiring on March 31, 2020. The Division was concerned that, due to the COVID-19 pandemic and restrictions imposed to contain its spread, licensees/permittees would not be able to timely renew these permits.

The expiration dates for the aforementioned permits were extended from March 31, 2020 to an undefined date when the current State of Emergency would be lifted. The permittees then had 14 days from the date the State of Emergency was lifted to either apply to extend or renew their permits.

Subsequent to issuing AO 2020-01, the Division issued AO 2020-02 (April 13, 2020). AO 2020-02 extended all 2019-2020 municipally- and State-issued licenses and permits that expired on June 30, 2020, through Wednesday, September 30, 2020. However, AO 2020-02 excluded AI permits, TAPs, and minor employment and “blanket employment permits” because they were addressed and extended by AO 2020-01.

The Division has reviewed AO 2020-01 and AO 2020-02, and has determined that the permit extensions granted in AO 2020-01 create different renewal and expiration dates for AIs,

TAPs, and minor employment and “blanket employment” permits than for all other Division-issued permits. To address this disparity, to provide uniformity of all permit expiration dates, and for administrative convenience, the Division is hereby vacating AO 2020-01. The Division views this action as necessary to avoid industry-wide confusion and to further its goals of encouraging beneficial aspects of competition and maintaining a stable alcoholic beverage industry. *See* N.J.S.A. 33:1-3.1; N.J.S.A. 33:1-39.

There is ample authority for this Administrative Order. Pursuant to N.J.S.A. 33:1-39, the Director has the broad authority to issue special rulings and findings “as may be necessary for the proper regulation and control of the manufacture, sale and distribution of alcoholic beverages and the enforcement of [the Alcoholic Beverage Control Act].” N.J.S.A. 33:1-1 to -4.1. The Supreme Court interpreted this provision to include the Director’s explicit, as well as inherent, powers to ensure a stable and well-regulated alcoholic beverage industry. *See Heir v. Degnan*, 82 N.J. 109, 122 (1980). The Division views this authority to create uniformity in filing deadlines for all permits to be within its purview because it ensures fair dealing among holders of alcoholic beverage licenses and addresses a unique situation caused by the two potentially conflicting AOs. *Circus Liquors Inc. v. Governing Body of Middletown Township*, 199 N.J. 1, 19-21 (2009).

Accordingly, it is on this 27th day of August, 2020,

ORDERED that AO 2020-01 is hereby vacated and replaced by this Administrative Order; and it is further

ORDERED that all AI permits currently held by licensees shall expire on September 30, 2020, and if a new AI permit is needed to continue uninterrupted alcohol sales and service, a licensee shall apply for it using ABC POSSE online, as described in AN 2020-07 (August 27, 2020); and it is further

ORDERED that all TAPs shall expire on September 30, 2020, and if a holder of a TAP requires a current TAP, the holder must contact the Division on or before September 20, 2020, to obtain a current TAP pursuant to all rules and regulations as required in the normal course of business; and it is further

ORDERED that all minor employment permits and all blanket employment permits shall expire on September 30, 2020, and if a holder of either of these permits seeks to renew these permits, the holder shall renew them using ABC POSSE online prior to the September 30, 2020 expiration date; and it is further

ORDERED that this Order may be modified or vacated should the facts or circumstances of the public health crisis change; and it is further

ORDERED that the Director may issue additional Orders to clarify and address problems not anticipated by this Order.

A handwritten signature in black ink, appearing to read "James B. Graziano". The signature is fluid and cursive, with a large initial "J" and "G".

JAMES B. GRAZIANO
ACTING DIRECTOR

JBG/ABC