

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

IN THE MATTER OF THE EXTENSION)	
OF ALL 2016-2017 MUNICIPALLY)	ORDER AUTHORIZING EXTENSION OF
ISSUED PLENARY RETAIL LICENSES)	2016-2017 MUNICIPAL AND STATE
AND STATE-ISSUED LICENSES AND)	LICENSES AND PERMITS THROUGH
PERMITS THROUGH FRIDAY, JULY)	FRIDAY, JULY 7, 2017
7, 2017)	

BY THE ACTING DEPUTY DIRECTOR:

The Alcoholic Beverage Control Act ("ABC Act") provides the authority to a governing board or body of a municipality ("municipal issuing authority") to issue and renew plenary retail licenses as set forth in N.J.S.A. 33:1-12 within its respective borders. See N.J.S.A. 33:1-19; N.J.S.A. 33:1-24. These licenses are in effect for a one-year term, beginning on July 1 of each year. See N.J.S.A. 33:1-26. All municipally-issued licenses for the 2016-2017 license term expire on June 30, 2017, unless renewed by the municipal issuing authority in which the licensed premises is located.

If a licensee has not timely renewed its license by June 30, 2017, and is unable to obtain an Ad Interim Permit from the Director pursuant to N.J.A.C. 13:2-2.10 because of a declared State of Emergency, then the license will expire and the licensee must cease all sales and service of alcoholic beverages. To avoid this dire consequence, I have determined to exercise my broad authority under N.J.S.A. 33:1-39 and -74 and to extend those municipally-issued licenses until Friday, July 7, 2017. This extension shall apply only to those municipally-issued licenses that have not been renewed, that have not received *ad interim relief* from the Director, and that have not been the subject of an objection by the municipality or by any aggrieved individual. In my view, such a limited extension is in the public interest of the State, the consuming public, the alcoholic beverage

industry and the licensees. See N.J.S.A. 33:1-3.1.

In addition, the Division issues and renews wholesale and manufacturing licenses and associated permits. These "State-issued" licenses and permits are also in effect for a one-year term, beginning on July 1 of each year. See N.J.S.A. 33:1-26. Like the municipally-issued licenses, the State licenses and permits also expire on June 30, 2017, unless they are renewed.

"State" licenses include: Plenary Wholesale, Limited Wholesale, Wine Wholesale, State Beverage Distributor licenses, as well as Craft Distillery, Plenary Distillery, Restricted Brewery, Wine Blending, Plenary Brewery, Limited Brewery, Rectifer and Blender, Plenary Winery, Farm Winery, Out of State Winery, Transportation, Public Warehouse, Additional Warehouse or Sales Room, Warehouse Receipts, Bonded Warehouse Bottling, Instructional Wine-making Facility, Broker, and Special Permit for a Golf Facility Licenses.

Associated "State" Permits include, but are not limited to: Plenary Retail Transit, Annual State Permittees (known as "Concessionaire's Permits"), as well as Omnibus, Gratuitous Gifts and Samples, Product Information, Charitable Donations, Sampling, Consumer Tasting, Charitable and Civic Events, Sacramental Wine, Transportation Insignias, Winery Salesrooms/Retail Outlets, Marketing Agent, Solicitor and Transit Insignia permits. The aforementioned "State" licenses and permits are collectively referred to as "State-issued Licenses and Permits."

If a State-issued License or Permit has not been timely renewed by June 30, 2017, then it expires on that date and all sales and service of alcoholic beverages authorized under that license or permit must cease. Again, to avoid this dire consequence, I have determined to exercise my broad authority under N.J.S.A. 33:1-39 and -74 and to extend those State-issued Licenses and Permits until Friday, July 7, 2017. This extension shall apply only to those State-issued Licenses and Permits that have not been renewed and that are not the subject of an objection by a municipality or

by any aggrieved individual.

There is ample authority for this 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 ABC Act] ...” 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, 121 (1980). I believe that temporarily extending municipally-issued liquor licenses and State-issued Licenses and Permits in the face of a declared State of Emergency ensures the uninterrupted sale and service of alcoholic beverages and clearly fits within the Director’s almost “limitless” powers. See R&R Marketing, LLC v. Brown-Forman Company, 158 N.J. 170, 176 (1999); Joseph H. Reinfeld, Inc. v. Schieffelin & Co., 94 N.J. 400, 412 (1983). Moreover, my authority to craft appropriate remedies to address unique situations has been recognized by the Supreme Court as part of the Director’s implied authority to deal fairly with holders of alcoholic beverage licenses. Circus Liquors Inc. v. Governing Body of Middletown Township, 199 N.J. 1, 19-21 (2009).

By way of example, the Director has used his broad authority to extend licenses beyond the June 30th expiration date in certain circumstances where a municipal issuing authority has not acted upon a license renewal application. Pursuant to N.J.S.A. 33:1-74 and N.J.A.C. 13:2-2.10(b), the Director has the authority to issue *ad interim* or temporary permits that allow a licensed business to continue to operate until the application has been acted upon. In promulgating N.J.A.C. 13:2-2.10(b), the Director exercised his authority to “provide for contingencies where it would be appropriate and consonant with the spirit of this chapter to issue a license but the contingency has not been expressly provided for ...” See N.J.S.A. 33:1-74.

In light of the foregoing statutory authority and precedent, the issuance of an Order temporarily extending municipally-issued licenses and State-issued Licenses and Permits until July 7, 2017 to prevent the cessation of alcohol sales and service in the face of a declared State of Emergency is consistent with the explicit and implicit authority of the Director to ensure a properly functioning alcoholic beverage marketplace and to provide uniform and effective administration of the renewal and licensing procedures.

Accordingly, it is on this 1st day of July, 2017,

ORDERED, that all plenary retail licenses, issued by a municipal issuing authority for the 2016-2017 license term, that have not been renewed and that have not received an Ad Interim Permit, shall be extended until July 7, 2017; and

IT IS FURTHER ORDERED, that all State-issued Licenses and Permits, issued by the Division for the 2016-2017 license term, that have not been renewed shall be extended until July 7, 2017; and

IT IS FURTHER ORDERED, no license, whether plenary retail or State-issued, shall be extended under this Order until and unless the licensee shall pay all municipal and/or State license fees and shall pay all required State taxes, where applicable; and

IT IS FURTHER ORDERED, no license shall be extended under this Order if the municipal issuing authority has notified and informed the Division that it seeks a hearing to deny renewal or place special conditions upon the license effective July 1, 2017. In those cases, the appeal shall follow the procedures set forth in N.J.S.A. 33:1-22; and

IT IS FURTHER ORDERED, the Acting Deputy Director may issue additional Orders to clarify and address problems not anticipated by this Order.



J. WESLEY GEISELMAN
ACTING DEPUTY DIRECTOR