

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

IN THE MATTER OF THE)	AO 2022-02
EXTENSION OF ALL 2021-2022)	ORDER AUTHORIZING EXTENSION OF
PLENARY RETAIL LICENSES)	2021-2022 LICENSE TERM THROUGH
ISSUED BY THE CITY OF TRENTON)	SATURDAY, JULY 30, 2022
THROUGH SATURDAY, JULY 30,)	
2022)	
_____)	

BY THE DIRECTOR:

This matter comes before the Division of Alcoholic Beverage Control (the “Division” or “ABC”) from a request by the City of Trenton (“the City”) to assist it in the renewal of its plenary retail liquor licenses for the 2022-2023 license term. For the reasons set forth below, the Division is issuing this Administrative Order to extend the 2021-2022 license term for those licenses in the City that were not properly renewed by the City Council during the June 21, 2022 Special Meeting. This thirty-day extension is intended to give the municipal clerk and City Council additional time to renew any licenses that have not been renewed or may have been improperly renewed, and to maintain an orderly, well-functioning and stable alcohol marketplace in Trenton.

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 borders. See N.J.S.A. 33:1-19 and -24. These licenses are in effect for a one-year term, beginning on July 1 of each year. N.J.S.A. 33:1-26. License renewal applications must be filed prior to the commencement of a new license term or not later than thirty days after the commencement thereof. N.J.S.A. 33:1-12.13. All municipally issued licenses for the 2021-2022 license term expire on June 30, 2022, unless renewed by the

municipal issuing authority in which the licensed premises is located.¹ These licenses may also be extended by the Director of the Division through the issuance of *ad interim* permits pursuant to N.J.A.C. 13:2-2.10, if the municipal issuing authority has not acted upon complete renewal applications by June 30, 2022.

As noted above, the Trenton City Council held a Special Meeting on Monday, June 21, 2022, and renewed by resolution approximately 100 licenses. However, some of the licenses renewed lacked tax clearance from the Division of Taxation, did not have properly filed renewal applications, or needed relief from the ABC Director pursuant to N.J.S.A. 33:1-12.18 or -12.39. According to information provided by the City, 65 licenses met the eligibility requirements for renewal and were properly renewed by resolution during the Special Meeting.

There remain approximately 48 licenses in Trenton that do not meet the eligibility requirements, but were inadvertently renewed. Although the deadline for these licensees to “cure” their renewal applications is June 30, 2022, the Trenton City Council will not be able to have another meeting to consider these renewals prior to June 30th. Rather than having these holders of City of Trenton licenses either cease alcohol sales and service on July 1, 2022, or obtain *ad interim* permits from the Division in accordance with N.J.A.C. 13:2-2.10, the Division is providing the relief set forth herein by extending, by thirty days, the 2021-2022 license term for the municipally-issued licenses that have either not been renewed by resolution, or have been inadvertently renewed.

¹ In order for a license to be renewed by any municipal issuing authority, the licensee must file a renewal application, pay the required State fee, pay the municipal fee to the issuing authority, obtain an Alcoholic Beverage Retail License Certificate Renewal (i.e., a tax clearance certificate) from the Division of Taxation, and be renewed by municipal resolution on or before June 30, 2022, in order to operate on July 1, 2022 for the 2022-2023 license term. See N.J.A.C. 13:2-4.6, -2.1; N.J.S.A. 33:1-17.1.

To qualify for the relief in this Administrative Order, all license holders must have completed the following renewal requirements by June 30, 2022:

- a. File a renewal application with the Division;
- b. Pay all State filing fees;
- c. Pay all municipal filing fees to the issuing authority; and
- d. Obtain an Alcoholic Beverage Retail License Certificate Renewal (i.e., a tax clearance certificate) from the Division of Taxation.

By extending the current 2021-2022 license term by one month, to July 30, 2022, licensees will be able to complete their renewal requirements and the Trenton City Council will be able to renew these licenses by resolution on or before July 30, 2022.² Licensees that have pending petitions seeking relief pursuant to N.J.S.A. 33:1-12.18 and/or -12.39 are also required to meet the renewal eligibility requirements, however, the Trenton City Council may not act on those renewals unless the licensees have relief granted by the Director. See N.J.A.C. 13:2-42.4 and -43.7. The Division believes that a thirty-day extension of the 2021-2022 license term will give the Trenton City Council opportunity to act in order to avoid the consequences that will be visited upon license holders – either the shutdown of their alcohol business as of July 1, 2022 or the process of having to apply for and obtain *ad interim* permits. The Division also believes that the relief granted herein avoids any undue burden being placed on its Licensing Bureau staff in processing almost 50 *ad interim* permits, by virtue of their non-renewal by the authorities in Trenton.

There is ample legal authority for this Administrative Order. In conformity with 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 New Jersey Supreme Court

² Such consideration will include whether timely written objections to renewal have been filed under N.J.A.C. 13:2-2.7. Any such objections should be handled in the normal administrative course.

interpreted this provision to include the Director's explicit, as well as inherent, powers to ensure a stable and well-regulated alcoholic beverage industry. Heir v. Degnan, 82 N.J. 109, 121 (1980). The Division construes this authority to extend to all municipally-issued liquor licenses in the City of Trenton facing potential cessation of alcohol sales and service. To be certain, the Division's exercise of this authority is within its purview because it ensures the uninterrupted sales and/or service of alcoholic beverages and is 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, the Supreme Court has upheld the Director's implied authority to craft appropriate remedies to address unique situations and 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).

In light of the foregoing statutory authority and precedent, the issuance of an Administrative Order temporarily extending the 2021-2022 license term by one month, from June 30, 2022 to July 30, 2022, which provides additional time for Trenton City Council to act on complete renewal applications for plenary retail liquor licenses in order to prevent the cessation of alcohol sales and/or service in the face of the above-referenced circumstances, is necessary and proper. It is wholly consistent with the authority of the Director to ensure in the City of Trenton a properly functioning alcoholic beverage marketplace and to provide uniform and effective administration of the renewal and licensing procedures. This limited extension is also in the public interest of the City of Trenton, the consuming public, the alcoholic beverage industry, and the licensees of the City of Trenton, and is necessary and appropriate under these circumstances. See N.J.S.A. 33:1-3.1.

Accordingly, it is on this **28th** day of June, 2022,

ORDERED that the 2021-2022 license term shall be extended from June 30, 2022, to July 30, 2022, to allow time for the adoption of the appropriate resolutions by the Trenton City Council on complete license renewal applications for the 2022-2023 license term; and it is further

ORDERED that all City of Trenton licensees must file for renewal, pay the State fee, pay the municipal fee to the issuing authority, and obtain an Alcoholic Beverage Retail License Certificate Renewal (i.e., tax clearance certificate) from the Division of Taxation on or before June 30, 2022, in order for the municipal issuing authority to act upon renewal applications for the 2022-2023 license term; and it is further

ORDERED that any City of Trenton licensee that files its license renewal application between July 1, 2022, and July 30, 2022, will be considered timely in accordance with N.J.S.A. 33:1-12.13. Any plenary retail licensee that files an application after July 30, 2022, will be required to file a petition for relief with the Division for the issuance of a new license pursuant to N.J.S.A. 33:1-12.18 in order for the City of Trenton to renew the license for the 2022-2023 license term; and it further

ORDERED that if any license is not renewed by a resolution of the Trenton City Council on or before July 30, 2022, then the licensee must cease the sale and service of alcoholic beverages, unless the licensee obtains an *ad interim* permit issued by the Division effective July 31, 2022, pursuant to N.J.A.C. 13:2-2.10; and it is further

ORDERED, that the Director may issue additional orders to clarify, address problems not anticipated by this Order, and to provide further relief, as necessary, in accordance with the foregoing.


JAMES B. GRAZIANO
DIRECTOR