

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

**ADVISORY NOTICE TO LIMITED BREWERIES CONCERNING
TTB'S INABILITY TO ISSUE COLAS DUE TO
FEDERAL GOVERNMENT SHUTDOWN**

The federal government was shut down for 35 days, from December 22, 2018 to January 25, 2019. With respect to the alcoholic beverage industry, the closure of the Alcohol Tobacco and Tax Bureau ("TTB") affected TTB's issuance of Certificate of Label Approvals ("COLA"). On January 25, 2019, the federal government temporarily reopened until February 15, 2019. The Division is aware that the closure and reopening of the federal government has created a backlog in COLA applications filed with the TTB, and this is affecting limited brewery licensees' ability to introduce new malt alcoholic beverages into the New Jersey marketplace.

The Division of Alcoholic Beverage Control's (the "Division") brand registration regulations at N.J.A.C. 13:2-33.1(a)(5) require that a brand registrant or brand owner first obtain a COLA in order to brand register its product(s) with the Division. The Division's regulations also require that all alcoholic beverage products sold in New Jersey must be brand registered before a licensee may sell, offer for sale, deliver, receive or purchase any alcoholic beverage, for resale in New Jersey. N.J.A.C. 13:2-33.1(a).

The Division has received several inquiries from limited brewery licensees who wish to sell new varieties of their beer, but were unable to obtain COLAs during the shutdown. Now, that the federal government has reopened, these licensees are experiencing delays in obtaining their COLAs.


To address this situation and to allow limited breweries affected by the shutdown to be able to sell their new products in New Jersey only, Acting Director Graziano will consider temporarily relaxing N.J.A.C. 13:2-33.1(a)(5) on a case-by-case basis. Licensees aggrieved by the shutdown may **apply** to the Director for relaxation of the COLA requirement by filing a notarized Petition, pursuant to N.J.A.C. 13:2-9.1, that contains the following information:

1. When was the beer brewed;
2. How much beer was brewed;
3. When did the licensee apply for a COLA;
4. Does the licensee need formula approval? If so, when did licensee apply for it?
5. What is the projected economic loss (in dollars) if the beer cannot be sold;
6. Petition must include a statement that the beer must be sold and shipped in **INTRASTATE** commerce only;
7. Petition must include a statement that the limited brewery in question is the exclusive manufacturer of the product;
8. Petition must include a demonstration that a relaxation of N.J.A.C. 13:2-33.1(a)(5) will not **unduly** burden any affected parties; and

9. Petition must include a demonstration that a relaxation of N.J.A.C. 13:2-33.1(a)(5) is consistent with the ABC Act and is not in violation of federal labeling laws.

The process set forth herein will be available to limited brewery licensees affected by the shutdown who wish to sell their products in intrastate commerce only. This process will be in effect until such time as the TTB COLA backlog is reduced, or further Advisory Notice by the Director.

To assist licensees, a fillable affidavit form is available in the ABC Notices and Updates section of the Division's website. Completed petitions should be submitted to DAG Jillian Mahoney at jillian.mahoney@njoag.gov. Any questions concerning this Advisory Notice should be directed to Acting Counsel Alyssa Wolfe at (609) 376-9676 or DAG Jillian Mahoney at (609) 376-9639.



JAMES B. GRAZIANO
ACTING DIRECTOR

DATED: February 11, 2019