

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

AN 2020-05 – ADVISORY NOTICE REGARDING CLOSE-OUT PERMITS

The Division of Alcoholic Beverage Control’s (“Division”) regulation at N.J.A.C. 13:2-24.8 prohibits wholesalers, distributors, other licensees privileged to sell to retailers, and retail licensees from selling or offering to sell alcoholic beverages at prices below “cost” except for authorized samples and donations (pursuant to N.J.A.C. 13:2-24.7) or upon petition and approval of a close-out permit to conduct a bona fide close-out sale.¹ In general, a close-out permit is appropriate and justified when a product is going “out of date” or when a wholesaler seeks to move a product that is not otherwise selling.

Effective immediately, the Division will be extending the expiration date of new close-out permits from 30 days to 90 days to provide licensees with additional time to move product while conforming to the prices filed in the Current Price List. This change in policy will apply prospectively to new close-out permits. Existing close-out permits will retain their current expiration dates, but may be extended upon petition to and approval by the Director.

An application for a close-out permit is available for download on the Division’s website at <https://www.nj.gov/oag/abc/licensing-files.html>. Until further notice, applicants should submit a completed application via email to NJABCBrands@njoag.gov. A representative from the Division will contact the applicant via email regarding payment of the fee (\$1.00 a case with a minimum fee of \$20.00). The applicant will be able to view the pending permit in the “PAY ALL FEES” section on POSSE (the Division’s online licensing system), pay the fee, and print or save the receipt. The applicant should then inform the Division via email that payment has been made. Subsequently, a representative of the Division will issue the close-out permit and send it to the applicant via email in PDF format.

Licensees who seek an extension of their close-out permits will be required to submit a petition with a detailed justification and supporting documentation. If the petition is granted, the permit will be extended for no more than 90 days. Further extensions may be considered for good cause.

Products that are the subject of a close-out permit may not be re-introduced into the marketplace until passage of at least one year from the last expiration date of the permit and upon petition to and approval by the Director.

Close-out permits are subject to all rules and regulations of the Division and may be cancelled by the Director in his sound discretion at any time without notice, reason or cause. Closed-out products must be made available to all retail licensees on a non-discriminatory basis.

¹ “Cost” is defined by regulation as the actual proportionate invoice price and freight charge to a distributor or wholesaler and the actual proportionate invoice price to a retailer, as the case may be, of any given container of an alcoholic beverage product, plus applicable State and Federal taxes. The actual invoice price shall be determined by the “last-in-first-out” method applying generally accepted accounting principles. N.J.A.C. 13:2-24.8(b).

The Division may decide to provide additional clarity by promulgating new or amended regulations. Any questions concerning this Advisory Notice should be directed to DAG Ray Lamboy at 609-376-2774.

A handwritten signature in black ink, appearing to read "James B. Graziano", written over a horizontal line.

JAMES B. GRAZIANO
ACTING DIRECTOR

DATED: April 22, 2020