

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

IN THE MATTER OF)
)
LIMITED BREWERY)
LICENSEES)
_____)

SPECIAL RULING AUTHORIZING
CERTAIN ACTIVITIES BY HOLDERS
OF LIMITED BREWERY LICENSES

BY THE ACTING DIRECTOR:

Craft beer brewing in New Jersey is a growing industry. In fact, New Jersey is tied for first place in terms of growth in the American craft beer market. Since the 2012 amendments to N.J.S.A. 33:1-10(1)(b), these businesses have become important to their local economies and many New Jersey residents enjoy their products. There are now over 100 limited breweries in New Jersey. While the Division of Alcoholic Beverage Control (the "Division") supports the growth and success of the limited breweries in this State, there are regulatory issues in this industry that must be addressed. The activities and practices of the limited breweries vary across the State and, in some instances, exceed the privileges of the limited brewery license.

On September 21, 2018, after months of discussions with various stakeholders, the Division issued a Special Ruling Authorizing Certain Activities by Holders of Limited Brewery Licenses ("September 21st Special Ruling"). Almost immediately, the Division learned that a few limited breweries believed that they were not adequately represented in the stakeholder discussions. A media controversy ensued, and on October 2, 2018, the Division announced that

the September 21st Special Ruling would be suspended.¹ The Division had to determine whether the concerns raised in response to the September 21st Special Ruling could be addressed within the framework of the Alcoholic Beverage Control Act (the “Act” or “Title 33”), specifically N.J.S.A. 33:1-10(1)(b).

Since suspending the September 21st Special Ruling, the Division engaged in informal fact finding by meeting with stakeholders such as the New Jersey Beer Guild, the New Jersey Brewers Association (with its newly constituted Board of Directors that includes some of the smaller brewers informally known as the “Main Street Brewers”), the New Jersey Licensed Beverage Association, the New Jersey Restaurant Association, the New Jersey Liquor Store Alliance, and various members of the New Jersey Legislature. The Division also visited numerous limited breweries throughout the State, ranging from the very smallest to the largest breweries, and met with their owners and brewers.

The Division has reinforced its understanding of the craft beer industry and appreciates its challenges. However, based on the plain language of N.J.S.A. 33:1-10(1)(b) and the Division’s review of its legislative history, the Division cannot escape its original interpretation that the 2012 amendments to the limited brewery statute were enacted for the purpose of promoting the manufacture of craft beers and creating a demand for these products through limited consumption privileges on the brewery premises. In the Division’s view, by requiring consumers to take a tour of the brewery and allowing them to sample the beers produced on-site in a tasting room on the licensed premises, the expectation was that consumers would become more interested in the craft beers and would want to buy them at licensed retail consumption and distribution premises. The Division also believed that, because limited breweries were explicitly prohibited from selling food

¹ By its action today, the Division is hereby vacating the September 21, 2018 Special Ruling.

or operating a restaurant on the licensed premises of the brewery, the Legislature clearly did not intend for the 2012 amendments to establish a new consumption venue at a brewery, with the same privileges as a sports bar or restaurant. This interpretation of legislative intent is bolstered by the fact that the limited brewery statute was codified as a Class A Manufacturer's License in N.J.S.A. 33:1-10, and not as a Class C Retailer's License in N.J.S.A. 33:1-12. The Division carefully considered this distinction at each and every step of its analysis.

The Division's statutory mandate is to oversee the manufacture, sale and distribution of alcoholic beverages and to provide a framework in the industry that recognizes and encourages the beneficial aspects of competition. Accordingly, the Division must balance the concerns of the growing limited brewery sector comprised of 100 licensees against the issues and concerns facing the bars and restaurants that collectively hold approximately 6,000 retail consumption licensees in this State. In attempting to strike this balance, the Division believes that the provisions set forth in Schedule A of this Special Ruling are consistent with the legislative intent and will lead to expanded marketing and exposure of a limited brewery's products, with the expectation that there will be wider availability of these products at the State's restaurants, bars and liquor stores through greater wholesale distribution.² Of course, limited brewery licensees that sell their products to retail licensees must comply with all applicable requirements, including but not limited to, completing brand registrations, filing monthly Current Price Lists, and complying with applicable credit and transportation regulations. Limited brewery licensees that sell their malt alcoholic

² The Division recognizes that some limited breweries desire to focus more on promoting on-premises consumption in their tasting rooms, rather than on creating products intended for widespread wholesaling either through the three-tier system or self-distribution. Should a limited brewery have such a business model, a more appropriate approach may be to obtain a restricted brewery license, coupled with a plenary retail consumption license, to be sited at a restaurant immediately adjoining the restricted brewery. See N.J.S.A. 33:1-10(1)(c). The Division is available to meet with limited brewery licensees interested in pursuing that option.

beverages in their tasting rooms also must comply with the Division's labeling requirements at N.J.A.C. 13:2-23.22 and -23.23, as well as all applicable federal labeling requirements.

Pursuant to the Director's authority at N.J.S.A. 33:1-39, the Division is issuing this revised Special Ruling Authorizing Certain Activities by Holders of Limited Brewery Licenses ("Special Ruling"). Based on its experience and expertise, the Division has concluded that the activities and practices allowed by this Special Ruling strike the appropriate balance among the competing sectors of the industry, given the statutory constraints set forth at N.J.S.A. 33:1-10(1)(b). It is the Division's intention to increase stability in the alcoholic beverage marketplace and to foster realistic competition that ultimately will benefit all residents of the State. In addition, by establishing a uniform set of standards that are applicable to all limited brewery licensees operating in this State, these licensees will be able to compete with each other on a level playing field.

This revised Special Ruling is substantially similar to the September 21st Special Ruling, with some changes that are intended to help limited breweries promote their brands and build their businesses. The Special Ruling addresses permissible and impermissible activities that may occur on the licensed premises, allows 25 on-premises special events and 52 private parties to be held on the licensed premises per calendar year, and creates a new permit pursuant to N.J.S.A. 33:1-74 that would authorize limited breweries to participate in 12 events held off of their licensed premises per calendar year.

The important changes to the September 21st Special Ruling are summarized below. Many of the revisions respond to comments received by the Division during its outreach with various stakeholders and to questions posed by current and prospective licensees and from the public. During the review process, the Division received a request from the New Jersey Beer Guild to allow limited breweries to organize and participate in large-scale beer festivals. The Division will

determine whether these types of events would be authorized under Title 33, and will address this issue in a subsequent Special Ruling, Advisory or in regulations.

Summary of Significant Changes

1. The definition of a “tour” has been revised to make the interaction between a limited brewery licensee and patrons more substantive and meaningful. This revision recognizes the statutory requirement that a holder of a limited brewery license may sell malt alcoholic beverages to consumers for on-premises consumption, but only in connection with a tour. For repeat customers, a tour will be required once per year, unless requested by a customer to be conducted more frequently or unless the limited brewery fails to create and maintain a record of a customer’s previous participation in a tour. See Section 1(1).
2. With respect to the 25 events that may be conducted on the licensed premises of a limited brewery per calendar year, the Division has defined “on-premises special event” as a one-day event that is advertised or promoted by a limited brewery licensee, or by any vendor on behalf of a limited brewery licensee, through any media, including social media. This type of event will require notification to the Division through ABC Online Licensing System Notification (“ABC POSSE”) and will count toward the 25 authorized annual on-premises events. However, live-televised championship sporting events (as defined herein) and live amplified music or DJ performances conducted on a licensed premises will count toward the 25 authorized on-premises events, regardless of whether they are advertised or promoted by a limited brewery licensee or a vendor acting on behalf of a limited brewery licensee. Notification through ABC POSSE for events meeting the definition of “on-premises special event” shall be required beginning on June 3, 2019. See Sections 1(i), 3(a)(1) through 3(a)(3).

3. The Division added a new provision explicitly allowing a maximum of 25 social affair events to occur on the licensed premises of a limited brewery per calendar year. This section does not allow additional events to be held at a limited brewery, but merely codifies what is permitted under current law. See N.J.S.A. 33:1-74; N.J.A.C. 13:2-5.1(d). This provision clarifies that a holder of a social affair permit may bring his/her own wine and malt alcoholic beverages to an event (with the consent of the limited brewery), provided the social affair permittee removes all alcoholic beverages from the premises at the conclusion of the event. Likewise, the host of a private party will also be permitted to bring his/her own wine and malt alcoholic beverages to a private party held at a limited brewery (with the consent of the limited brewery), provided the host removes all alcoholic beverages at the end of the party. No distilled spirits may be sold or served at either social affair events or at private parties. See Sections 3(b) and 3(c).
4. The holder of a limited brewery license is explicitly prohibited from selling food or operating a restaurant on the licensed premises. See N.J.S.A. 33:1-10(1)(b). Based on this statutory prohibition, the Division will not permit a limited brewery licensee to collaborate or coordinate with any food vendor, including food trucks, to provide food for patrons at a limited brewery, or to allow food trucks or food vendors to locate on the licensed premises of the limited brewery. However, menus from local restaurants may be placed on the licensed premises, provided there is no exclusive business relationship between a restaurant and a limited brewery. In addition, food ordered by a patron may be delivered to the brewery premises. *De minimis* types of food as an accommodation to patrons, such as water and single-serve, pre-packaged crackers, chips, nuts and similar snacks will be allowed to be sold or provided gratuitously. See Sections 4(a), (b) and (c), (5)(a) and (b).

5. The Division has combined the two off-site permits established in the September 21st Special Ruling into one permit to be known as “Limited Brewery Off-Premises Event Permit.” A limited brewery licensee may obtain this permit to participate in 12 off-premises events per year such as civic or community events (sponsored by a municipality, county or other public entity), athletic events, anniversary events or holiday celebrations off its licensed premises. This permit would authorize a limited brewery licensee to sell by the glass or open container, or provide a four-ounce sample, of the malt alcoholic beverages and sodas manufactured on its licensed premises, for consumption in the area designated by the permit. This permit would also authorize a limited brewery licensee to sell unchilled packaged goods of malt alcoholic beverages manufactured on its licensed brewery premises in the form of four- or six-packs of bottles or cans, not to exceed 72 ounces per patron, for consumption off the event premises. This permit may be issued to limited brewery licensees that do not qualify for a Festival Permit issued in accordance with the Fourth Amended Special Ruling for consumer alcoholic beverage festivals (“Festival Special Ruling”), dated March 7, 2019.³ The Division believes that allowing limited brewery licensees to participate in off-premises community events is consistent with the legislative intent of promoting brand recognition and creating a demand for these products at retail consumption and distribution licensed establishments. See Section 6. Online applications for the Limited Brewery Off-Premises Event Permit will be available on June 3, 2019 through the ABC Online Licensing System for events to be held 21 days after July 1, 2019. For events scheduled prior to July 22, 2019, complete paper applications (available on the Division’s website beginning on June 3, 2019) shall be submitted to the Division. No Limited Brewery Off-Premises Event Permits will be issued for events prior to

³ Participation in a festival authorized by the Festival Special Ruling will not count toward the 12 off-premises events authorized by Schedule A, Section 6 herein.

June 17, 2019. No Limited Brewery Off-Premises Event Permits will be issued to limited brewery licensees unless the licensee has filed a renewal application with the Division and has paid all applicable renewal fees for the 2019-2020 license term.

Enforcement of Revised Special Ruling

When the Division issued the September 21st Special Ruling, there appeared to be significant confusion among the limited breweries concerning its enforceability. Without question, then as now, the statutory requirements set forth at N.J.S.A. 33:1-10(1)(b), namely that a limited brewery has the privilege to sell its product for on-premises consumption, but only in connection with a “tour” of the brewery, and that a limited brewery shall not sell food (other than the *de minimis* types of food allowed under Sections 4(b) and 4(c) of Schedule A) or operate a restaurant, shall be enforced immediately. Likewise, compliance with all other provisions of the Act and implementing regulations that are applicable to all holders of liquor licenses are strictly enforceable immediately.

With respect to the remaining provisions set forth in Schedule A, they should be viewed as guidance, and absent flagrant or repeated violations, will not be strictly enforced by the Division at this time. However, the provisions in Schedule A represent the Division’s reasonable interpretation of permissible and impermissible activities that may be undertaken by limited brewery licensees. In the near future, the Division intends to engage in formal notice and comment rulemaking pursuant to the Administrative Procedure Act at N.J.S.A. 52:14B-4, and will propose these guidelines as regulations. Once adopted, these guidelines will be fully enforceable against all limited brewery licensees.

In the interim, however, until such time as the regulatory process is completed and regulations are adopted, the Division intends to impose the guidelines contained in Schedule A as

special conditions on each limited brewery licensee, beginning with the 2020-2021 license term. See N.J.S.A. 33:1-32. Accordingly, limited brewery licensees should view the provisions set forth in Schedule A as a clear indication of how the Division intends to regulate the activities of limited breweries both on and off their licensed premises, beginning with the 2020-2021 license term, and should structure their business plans accordingly. Limited brewery licensees are encouraged to provide comments to the Division on the guidelines contained in Schedule A, as these comments may be used to inform future regulations implementing N.J.S.A. 33:1-10(1)(b).

Accordingly, it is on this 28 day of May, 2019,

ORDERED that the September 21st Special Ruling that was suspended on October 2, 2018 is hereby vacated; and it is further

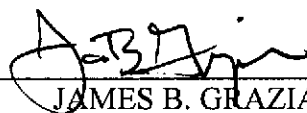
ORDERED that, pursuant to N.J.S.A. 33:1-39, this Special Ruling establishes the standards for the operation of limited breweries in the State of New Jersey; and it is further

ORDERED that the provisions of Schedule A are incorporated herein as if set forth fully at length; and is further

ORDERED that, pursuant to N.J.S.A. 33:1-74, every holder of a limited brewery license or Temporary Authorization Permit ("TAP") that wishes to conduct an event off the licensed premises of a limited brewery shall apply for and obtain a Limited Brewery Off-Premises Event Permit; and it is further

ORDERED that, unless regulations have been adopted, beginning with the 2020-2021 license terms, the standards set forth in Schedule A shall be incorporated into every limited brewery license or TAP upon initial issuance and renewal thereof, and shall be fully enforceable by the Division; and it is further

ORDERED that the Director may withdraw or modify this Special Ruling and Schedule A, in the exercise of his discretion.



JAMES B. GRAZIANO
ACTING DIRECTOR

SCHEDULE A

1. Definitions.

- (a) "ABC POSSE" means the ABC Online Licensing System Notification for Limited Brewery On-Premises Events.
- (b) "Championship sporting event" means any type of professional, collegiate or amateur sporting event or series of events the outcome of which determines the ultimate winner, titleholder or medalist in the sport. Examples include, but are not limited to, Olympics, Kentucky Derby, Indianapolis 500, Pay-Per-View Events, MLB Playoffs and World Series, NFL Playoffs and Superbowl, NBA Playoffs, NHL Playoffs and Stanley Cup, PGA Championships, College Bowl Games, March Madness Tournament Games, World Cup Games, Wimbledon and the US Open.
- (c) "Crowler" is a fillable and machine-sealable beer can used to package draft beer for off-premises consumption, which is commonly sold at limited and restricted breweries. A crowler shall not exceed a maximum of 32 ounces.
- (d) "Growler" is a glass, ceramic or stainless steel jug used to transport draft beer for off-premises consumption, which is commonly sold at limited or restricted breweries. A growler shall not exceed a maximum size of 128 ounces.
- (e) "Licensed premises" means the physical place at which the Limited Brewery license is sited to conduct and carry on the manufacture, distribution, sale and/or consumption of the malt alcoholic beverage produced thereon.
- (f) "Limited brewery" is a brewery as described in N.J.S.A. 33:1-10(1)(b).
- (g) "Limited brewery off-premises event" for which a Limited Brewery Off-Premises Event Permit is required, means a one-day event that is held off the licensed premises of a Limited Brewery. Examples of "off-premises events" include, but are not limited to:
 - (1) Civic or community events, such as parades, community days or celebrations, sponsored or organized by a municipality, county, or other public entity or instrumentality. Civic or community events sponsored or organized by a not-for-profit entity, as defined in N.J.A.C. 13:2-5.1(a), do not qualify for a Limited Brewery Off-Premises Permit and the not-for-profit entity must obtain a social affair permit;

- (2) Music or arts festivals. Off-premises events that qualify for a Festival Permit pursuant to the Fourth Amended Special Ruling authorizing same, dated March 7, 2019, shall not be considered a “limited brewery off-premises event” and shall not count toward the 12 off-premises events authorized herein;
 - (3) Athletic events, such as 5K races, mud runs, bike races;
 - (4) Limited Brewery anniversary celebrations; and
 - (5) Holiday celebrations, such as July 4th or Memorial Day events.
- (h) “Limited brewery off-premises event permit” is a permit authorizing a Limited Brewery to conduct a one-day event off of the licensed premises of a Limited Brewery. Applications for these permits are available via the ABC Online Licensing System.
- (i) “On-premises special event,” for which ABC POSSE notification is required, means a one-day event that is open to the public and is promoted or advertised by a Limited Brewery licensee, or by any vendor acting on behalf of a Limited Brewery licensee, by way of any type of media, including social media,. Events that are promoted or advertised only by signs posted inside a Limited Brewery and events announcing the availability of a new release of a malt alcoholic beverage for on-premises or off-premises consumption shall not be considered an “on-premises special event” and, therefore, no ABC POSSE notification is required. Examples of “on-premises special events” include, but are not limited to:
- (1) Trivia/quizzo/game night;
 - (2) Arts and crafts/paint and sip;
 - (3) Live music/DJs/open microphone;
 - (4) Games of skill;
 - (5) Educational events and seminars;
 - (6) Political fundraisers that are not organized by a not-for-profit, as defined in N.J.A.C. 13:2-5.1(a);
 - (7) Movie or theatrical events;
 - (8) Animal adoption events, to the extent permitted by local ordinance; or
 - (9) Yoga or other similar types of classes.
- (j) “Other mercantile business” means the buying and selling of goods or merchandise or the dealing in the purchase and sale of commodities that do not serve as an accommodation to patrons and are not related to or incidental to the licensed business.

- (k) "Sample" or "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding four ounces of any malt alcoholic beverage produced on the licensed premises. A "sample" does not include the gratuitous offering of one free drink per patron in a 24-hour period as a gesture of good will.
- (l) "Tour" is a material interaction between a patron and brewery staff, taking place on the licensed premises, prior to the sampling or sale of beer for on-premises consumption, covering topics including, but not limited to, the history of the brewery, general brewing process and practice, and production information. Provided there is engagement between brewery staff and a patron, the tour may be guided or self-guided, and may be offered in a pre-recorded video or other interactive media format. Every patron must participate in a tour on initial visit to a brewery, and every year thereafter. A brewery is not required to provide a tour to repeat patrons if a brewery creates and maintains a system that documents that the patron(s) have participated in a tour, unless requested by the patron to be conducted more frequently or unless one year has passed from the date of a tour. Documentation that a patron has participated in a tour shall be retained by a Limited Brewery for three years and shall be made available to the Division upon request.

2. General Requirements.

- (a) A Limited Brewery licensee has the privilege to sell its product at retail to consumers for consumption on the licensed premises of the brewery, but only in connection with a tour of the brewery.
- (b) A Limited Brewery licensee has the privilege to sell its product at retail to consumers for consumption off the licensed premises of the brewery, in the form of kegs, sixtels, cases, six-packs, growlers, crowlers or other formats, in a quantity of not more than 15.5 fluid gallons per person. No tour is required for off-premises retail sales.
- (c) Following a tour, a Limited Brewery licensee may offer a sample of its products to consumers for sampling purposes, or may sell its products, at retail, to consumers for consumption on the licensed premises. A Limited Brewery shall ensure that all patrons, including those attending an "on-premises special event," private party or social affair event held on the licensed premises of a Limited Brewery, participate in a tour, as defined herein, prior to any on-premises consumption of the malt alcoholic beverages brewed by a Limited Brewery on its licensed premises.

- (d) Each municipality in which a Limited Brewery is located may establish, by ordinance or resolution, the hours between which the sale of malt alcoholic beverages may be made.
- (e) A Limited Brewery licensee is subject to and must comply with all applicable local ordinances.
- (f) No more than two television screens shall be permitted on the licensed premises of a Limited Brewery. No screen shall be greater than 65 inches, as measured from corner to corner. If a Limited Brewery licensee has more than two television screens on its licensed premises, these additional screens may be used only to display information about the Limited Brewery or its products.
- (g) No Limited Brewery shall use crowd source funding, such as GoFundMe, Indiegogo or similar funding campaigns, as a source of funding to obtain a Limited Brewery license. Nor shall Limited Brewery licensees offer membership programs that offer free or discounted malt alcoholic beverages to members.
- (h) A Limited Brewery licensee may engage the services of a mobile bottling or canning service for purposes of bottling or canning the malt alcoholic beverages produced on the licensed premises, provided the area where the bottling or canning is to take place is adjacent to or contiguous with the licensed premises and is permitted by the Division and local ordinance.
- (i) All pourers/servers at a Limited Brewery shall receive server training designed to focus on the prevention of over-service to patrons and over-consumption by patrons, and shall be certified by a nationally-recognized server training program.
- (j) No Limited Brewery licensee shall deliver the malt alcoholic beverages produced on its licensed premises to consumers' homes.
- (k) All Limited Brewery licensees shall comply with all applicable Alcohol and Tobacco Tax and Trade Bureau ("TTB") statutes and regulations.
- (l) All Limited Brewery licensees that sell the malt alcoholic beverages produced on their licensed premises to retailers shall comply with the Alcoholic Beverage Control Act and implementing regulations at N.J.A.C. 13:2-16, -20, -21, -23, -24, -33 and -37, unless the context thereof clearly indicates that a particular provision does not apply to Limited Brewery licensees.

(m) All Limited Brewery licensees shall comply with all records creation, maintenance and production requirements of the Alcoholic Beverage Control Act and implementing regulations, including but not limited to those set forth at N.J.A.C. 13:2-23.32.

3. Permissible Activities on a Limited Brewery Licensed Premises.

(a) On-premises Special Events via ABC POSSE.

- (1) The Director may authorize a maximum of 25 on-premises special events per calendar year, which are open to the general public, to be held on the licensed premises of a Limited Brewery. An on-premises special event shall not exceed the opening and closing hours of a Limited Brewery.
- (2) Any live-televised championship sporting event displayed or shown on the licensed premises of a Limited Brewery shall be considered an on-premises special event for which ABC POSSE notification is required, whether or not it is advertised by way of any media, including social media.
- (3) Any live, amplified music performance or DJ appearing on the licensed premises of a Limited Brewery shall be considered an on-premises special event for which ABC POSSE notification is required, whether or not it is advertised by way of any media, including social media.
- (4) Beginning on June 3, 2019, to be authorized to conduct an on-premises special event on the licensed premises of a Limited Brewery, a Limited Brewery licensee shall provide ABC POSSE notification to the Division at least ten days prior to the event. Such notification shall include, but not be limited to:
 - i. Description of special event to occur on licensed premises;
 - ii. Date and time of event;
 - iii. Estimated number of people in attendance;
 - iv. Cover charge for event, if any;
 - v. Security for event to ensure no consumption by individuals under the legal age and no pass-offs; and
 - vi. Name, address, and other contact information for outside vendor providing entertainment, if any; and
 - vii. Statement indicating that this is the [number] on-premises special event held on the licensed premises in the present calendar year.
- (5) A Limited Brewery licensee shall not hire a third party promoter to engage or assist in the planning, administration and /or operation of an on-premises event.

- (6) For special events requiring ABC POSSE notification, a Limited Brewery licensee shall also provide notification of the event to the clerk and chief law enforcement officer in the municipality in which the Limited Brewery is located, at least ten days prior to the event. Notification may be in any form acceptable to the clerk and chief law enforcement officer.
- (7) A Limited Brewery licensee shall ensure that all patrons attending an on-premises special event are in compliance with the tour requirement.
- (8) If a Limited Brewery licensee charges participants to attend a special event, the cover charge shall not include any free or discounted alcoholic beverages, and participants shall not be required to purchase any number of alcoholic beverages as a condition of entry to the special event.
- (9) For special events involving outside vendor(s) that charge a fee, a participant shall pay the Limited Brewery licensee directly for the cost of attendance, and the Limited Brewery licensee shall pay the outside vendor(s) for their services.
- (10) The Limited Brewery licensee shall maintain complete and accurate records of each on-premises special event, including all financial records and disbursements related thereto, conducted on the licensed premises per calendar year, and shall retain these records for five years on its licensed premises. These records shall be made available to the Division upon request.

(b) Private Parties on a Licensed Premises.

- (1) A Limited Brewery licensee may allow a maximum of 52 private parties per calendar year to occur on the licensed premises, such as birthdays, weddings, anniversaries, civic/political functions, professional/trade association events, or class reunion/alumni events. Nothing stated herein is intended to limit the number of private parties held on a licensed premises of a Limited Brewery to one per week as long as the total number of private parties allowed per calendar year does not exceed 52.
- (2) A Limited Brewery licensee shall ensure that any private party held on the licensed premises shall comply with the following:
 - i. A private party may be held in an area on the licensed premises of a Limited Brewery, provided that such area is clearly separated from the tasting room by a permanent or temporary structure and is not accessible by or to the general public. Under no circumstances may a member of the general public enter the separate area of the private party, and the Limited Brewery licensee is responsible for ensuring that only private

party guests are permitted in the area separated off for the private party. A Limited Brewery licensee may, in its discretion, close the brewery during a private party;

- ii. All guests attending a private party on the licensed premises of a Limited Brewery shall participate in a tour prior to the on-premises consumption of the malt alcoholic beverages manufactured by the Limited Brewery, unless the Limited Brewery licensee can document that a guest has participated in a tour within the previous calendar year. Group tours are permissible;
- iii. Subject to the consent of the Limited Brewery, a host of a private party held on the licensed premises of a Limited Brewery may bring his/her own wine and malt alcoholic beverages to be served at the private party, provided said wine and malt alcoholic beverages are removed at the end of the private party. A Limited Brewery licensee shall not permit the host of a private party to serve any distilled spirits on the licensed premises of a Limited Brewery;
- iv. A host of a private party may hire an employee of the Limited Brewery licensee to pour the alcoholic beverages served at the party and to provide educational commentary about the malt alcoholic beverages brewed on the licensed premises;
- v. No catering permits shall be issued by the Division to plenary retail consumption licensees for alcoholic beverages to be served or sold on the licensed premises of a Limited Brewery at a private party;
- vi. A host of a private party shall remove all food brought onto the licensed premises of the Limited Brewery at the end of the party;
- vii. Private parties shall be by invitation only. Tickets shall not be sold to attend a private party, nor may the event be advertised to the general public;
- viii. No championship sporting events may be broadcast or televised during a private party held on the licensed premises of a Limited Brewery;

- ix. The Division may request a copy of the contract and other related documents between the host of the private party and the Limited Brewery licensee; and
- x. A Limited Brewery licensee shall provide to the Division, upon request, a post-event accounting for every private party held on the licensed premises, which may include but not be limited to, a signed inventory report showing the sale and disposition of the malt alcoholic beverages sold by the Limited Brewery, and all invoices related thereto.

(c) Social Affair Events on a Licensed Premises.

- (1) A Limited Brewery licensee may allow a maximum of 25 social affair events to occur on the licensed premises.
- (2) An organization operating solely for civic, religious, educational, charitable, fraternal, social or recreational purposes, and not for private gain, may apply to the Division for a social affair permit for an event to be held on the licensed premises of a Limited Brewery pursuant to N.J.A.C. 13:2-5.1 et seq.
- (3) A social affairs permittee conducting an event on the licensed premises of a Limited Brewery shall have the following privileges:
 - i. To sell tickets for the event that includes the price of malt alcoholic beverages and wine, food and entertainment;
 - ii. Subject to the consent of the Limited Brewery, to sell and serve wine and malt alcoholic beverages for on-premises consumption only, provided said wine and malt alcoholic beverages are obtained in accordance with N.J.A.C. 13:2-5.1(e) and are removed by the social affair permittee at the end of the event. A Limited Brewery licensee shall not permit the social affair permittee to sell or serve any distilled spirits at a social affair event; and
 - iii. A social affair permittee may hire an employee of the Limited Brewery licensee to pour the alcoholic beverages sold or served at the social affair event and to provide educational commentary about the malt alcoholic beverages manufactured on the premises of the Limited Brewery.

(4) A social affairs permittee conducting an event on the licensed premises of a Limited Brewery shall not be permitted to:

- i. Sell tickets to the social affair event at the door;
- ii. Sell the Limited Brewery's malt alcoholic beverages in the form of kegs, sixtels, cases, six-packs, growlers, crowlers or other formats intended for off-premises consumption; and
- iii. Hire a third party promoter to engage or assist in the planning, administration and /or operation of the social affair event.

(5) A Limited Brewery licensee shall ensure that events conducted on the licensed premises of a Limited Brewery pursuant to a social affairs permit shall comply with the following.

- i. A social affair event may be held in an area on the licensed premises of a Limited Brewery, provided that such area is clearly separated from the tasting room by a permanent or temporary structure and is not accessible by or to the general public. Under no circumstances may a member of the general public enter the separate area of the social affair event, and the Limited Brewery licensee is responsible for ensuring that only attendees of the social affair are permitted in the area separated off for the social affair event;
- ii. All guests attending a social affair event on the licensed premises of a Limited Brewery shall participate in a tour prior to the on-premises consumption of the malt alcoholic beverages manufactured by the Limited Brewery, unless the Limited Brewery licensee can document that a guest has participated in a tour within the previous calendar year. Group tours are permissible;
- iii. A social affair permittee shall remove all food brought onto the licensed premises of the Limited Brewery at the end of the social affair event;
- iv. A Limited Brewery licensee shall not sell its products for off-premises consumption during a social affair event;

- v. The Division may request a copy of the contract and other related documents between the social affair permittee and the Limited Brewery licensee;
- vi. A social affair permittee shall provide to the Division a post-event accounting for every social affair event held on the licensed premises of a Limited Brewery, which may include but not be limited to, a signed inventory report showing the malt alcoholic beverages sold or donated by the Limited Brewery to the social affair permittee, and all invoices related thereto. The Limited Brewery at which a social affair event was held shall comply with all requests for information by the Division related to the event;
- vii. All social affair events held on the licensed premises of a Limited Brewery must be conducted in accordance with N.J.A.C. 13:2-5.1 et seq. Participants attending a social affair event on the licensed premises of a Limited Brewery shall pay the social affairs permittee for the admission price or ticket. The Limited Brewery licensee shall not hire or pay outside vendor(s) for services rendered at a social affair event; and
- viii. A social affairs permittee conducting an event on the licensed premises of a Limited Brewery shall comply with special conditions, if any, attached to the permit.

4. Other Permissible Activities on a Licensed Premises.

- (a) A Limited Brewery licensee may provide restaurant menus on the licensed premises, provided there is no exclusive business arrangement with any particular restaurant. Food deliveries to a patron at a licensed premises of a Limited Brewery are permissible.
- (b) A Limited Brewery licensee may sell soda that is manufactured by the Limited Brewery on the licensed premises for consumption on and/or off the licensed premises. No other commercial brands of beverages that are not manufactured on the licensed premises of a Limited Brewery may be sold.
- (c) A Limited Brewery licensee may offer for sale or make gratuitous offering of *de minimis* types of food as an accommodation to patrons, such as water and single-serve, pre-packaged crackers, chips, nuts and similar snacks.

- (d) A Limited Brewery licensee may play or provide on the licensed premises background music, radio and video monitors displaying pre-recorded information about the Limited Brewery or topics related thereto.
- (e) A Limited Brewery licensee may display or show regularly scheduled television programs, news, movies or regular season sporting events. However, if these broadcasts are advertised in any media, including social media, such that they meet the definition of an "on-premises special event," the Limited Brewery licensee shall provide ABC POSSE notification to the Division pursuant to Section 3(a) above, and shall count such broadcast as an "on-premises special event."
- (f) A Limited Brewery licensee may offer for sale suitable gift items and novelty wearing apparel identified with the name of the licensed Limited Brewery.
- (g) A Limited Brewery licensee may sell or serve malt alcoholic beverages that are produced by the Limited Brewery for on-premises consumption in outdoor spaces, provided that:
 - (1) The outdoor space is part of the approved licensed premises;
 - (2) The outdoor space is fenced in, and the fence is at least three feet high, unless a local ordinance requires a different height;
 - (3) The outdoor space is monitored by an employee of the Limited Brewery at all times when customers are present;
 - (4) No permanent or portable tap systems shall be allowed in the outdoor space; and
 - (5) No wait staff shall be permitted to sell or serve malt alcoholic beverages in the outdoor space

5. Impermissible Activities on a Licensed Premises.

- (a) A Limited Brewery licensee shall not sell food, except as permitted in Section 4(b) and (c), or operate a restaurant, as defined at N.J.S.A. 33:1-1(t), on its licensed premises. Other than the *de minimis* types of food described in Section 4(b) and (c), a Limited Brewery licensee shall provide no food, even on a gratuitous basis.

- (b) A Limited Brewery licensee shall not collaborate or coordinate with any food vendors, including food trucks, for the provision of food on the licensed premises, and shall not allow food vendors or food trucks to locate on the licensed premises. However, a consumer may bring his/her own food into the tasting room of a Limited Brewery for his/her own consumption.
- (c) A Limited Brewery licensee shall not permit "happy hour" or other specially-priced malt alcoholic beverages to be sold on the license premises.
- (d) A Limited Brewery licensee shall not mix or sell specialty cocktails using malt alcoholic on the licensed premises.
- (e) A Limited Brewery licensee shall not brew or sell coffee on the licensed premises.
- (f) A Limited Brewery licensee shall not allow, permit or suffer other mercantile business, such as "pop up" shops, bazaars or craft shows, to occur on the licensed premises.
- (g) A Limited Brewery licensee shall not offer a free drink to any patron(s) as a gesture of good will.

6. Permissible Activities off a Limited Brewery Licensed Premises.

- (a) The Director may issue a maximum of 12 Limited Brewery Off-Premises Event Permits per calendar year to a Limited Brewery licensee for special events taking place off the licensed premises. A special event held off a licensed premises of a Limited Brewery shall not exceed the opening and closing hours set forth by ordinance for retail consumption licensees in the municipality in which the off-premises event will take place.
- (b) The non-refundable fee for each Limited Brewery Off-Premises Event Permit shall be \$200 per day.
- (c) Beginning on June 3, 2019, online applications for Limited Brewery Off-Premises Event Permits will be available via the ABC Online Licensing System for off-premises events scheduled to be held 21 days after July 1, 2019.
 - (1) For off-premises events scheduled after July 22, 2019, a Limited Brewery licensee shall submit a complete application at least 21 days prior to the date of the event, and pay the non-refundable permit fee via the ABC Online Licensing System.

- (2) For off-premises events scheduled prior to July 22, 2019, but no earlier than June 17, 2019, a Limited Brewery licensee may complete and file a paper application, which will be available on the Division's website at www.nj.gov/oag/abc beginning on June 3, 2019.
- (3) The Division may, at its discretion, accept a paper application for off-premises events scheduled up to 14 days prior to the event date. Paper applications shall be made available on the Division's website at www.nj.gov/oag/abc. However, no applications for a Limited Brewery Off-Premises Event Permit will be accepted fewer than 14 days prior to an off-premises event.
- (d) Upon receipt of a complete application and payment of fee, the Division may request an in-person conference with the applicant prior to issuance or denial of the permit.
- (e) The application for a Limited Brewery Off-Premises Event Permit shall include, but not be limited to, the following:
 - (1) Complete general information on the Limited Brewery licensee, including license or Temporary Authorization Permit number;
 - (2) A comprehensive description of the event, including but not limited to:
 - i. Location of event;
 - ii. Type of event;
 - iii. Date, times, ticket and other pricing information;
 - iv. Description of the kinds of malt alcoholic beverages to be dispensed and cup sizes;
 - v. A map or detailed sketch of the designated area where the event is to take place;
 - vi. A detailed security plan to assure general safety, as well as emergency medical assistance. The plan must provide for: age verification to prevent underage consumption; "pass-off" controls; prevention of intoxication; identification of security personnel, duties, numbers and experience; confirmation that all servers shall be employees of the applicant and shall be certified by a nationally-recognized server training program; and
 - vii. Complete information relating to any entertainment and/or recreational activities provided at the event.

- (f) The application shall be endorsed by the clerk and chief law enforcement officer, or their designees, of the municipality in which the event is taking place. If the event is taking place in or on publicly owned or controlled property, the endorsement of the political subdivision that owns or controls the property and the Chief Law Enforcement Officer of the law enforcement entity with jurisdiction over the property shall be obtained. No Limited Brewery Off-Premises Event Permit shall be issued without the required endorsements.
- (g) The holder of a Limited Brewery Off-Premises Event Permit shall comply with any and all additional requirements imposed upon the permittee by the municipality in which the event is taking place or other government entity owning or controlling the property on which the event is taking place.
- (h) The holder of a Limited Brewery Off-Premises Event Permit shall have the following privileges:
- (1) To sell malt alcoholic beverages produced on its licensed premises by the glass or open container for immediate consumption only in the area(s) designated by the Limited Brewery Off-Premises Event Permit;
 - (2) To provide a sample not exceeding four ounces of malt alcoholic beverages produced on their licensed premises for immediate consumption only in the area(s) designated by the permit. Said sample may be sold for either a nominal charge or may be provided gratuitously;
 - (3) To sell unchilled packaged goods of the malt alcoholic beverages produced on its licensed premises in the form of four- or six-packs of bottles or cans only, not to exceed a total of 72 ounces per patron, provided that there shall be no consumption of any packaged goods on the premises of the event;
 - (4) To sell by the glass or open container or to provide samples of sodas produced on their licensed premises; and
 - (5) To provide entertainment and/or recreational activities within the area(s) designated by the permit.

- (i) The holder of a Limited Brewery Off-Premises Event Permit shall not be permitted to:
- (1) Provide food, except as otherwise permitted in Section 4(b) and (c), operate a restaurant, or coordinate with any food vendors to sell food in the area(s) designated by the permit. However, nothing stated herein shall prohibit individuals attending the event from bringing food into the area designated by the permit;
 - (2) Sell any other type of alcoholic beverages or sodas, except those produced on the licensed premises of the permittee; and
 - (3) A Limited Brewery licensee shall not hire a third party promoter to engage or assist in the planning, administration and/or operation of the off-premises event.
- (j) If a Limited Brewery charges participants to attend a special event, the cover charge shall not include any free or discounted alcoholic beverages, and participants shall not be required to purchase any alcoholic beverages as a condition of entry to the special event.
- (k) For special events involving outside vendor(s) that charge a fee, a participant shall pay the Limited Brewery licensee directly for the cost of attendance, and the Limited Brewery licensee shall pay the outside vendor(s) for their services.
- (l) The Limited Brewery licensee shall maintain complete and accurate records of each off-premises special event, including all financial records and disbursements related thereto, and shall retain these records on its licensed premises for five years. These records shall be made available to the Division upon request.
- (m) The holder of a Limited Brewery Off-Premises Event Permit shall comply with special conditions, if any, attached to the permit.