

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

IN THE MATTER OF THE )  
APPLICATION TO EXTEND THE )  
PRICES POSTED IN THE FEBRUARY )  
2020, MAY 2020, JULY 2020, OCTOBER )  
2020, AND DECEMBER 2020 )  
CURRENT PRICE LISTS )

ORDER PERMITTING EXTENSION OF  
PRICES POSTED IN FEBRUARY, MAY,  
JULY, OCTOBER AND DECEMBER  
2020 CURRENT PRICE LISTS

BY THE ACTING DIRECTOR:

N.J.A.C. 13:2-24.6(a)(4) provides that a Current Price List (“CPL”) shall be filed no later than the 15<sup>th</sup> day of each calendar month, and shall become effective the first day of the following calendar month and **shall remain effective for the entire month.**

On January 13, 2020, the Division of Alcoholic Beverage Control (the “Division”) received a request from Jeffrey A. Warsh, Esquire, General Counsel to the New Jersey Wine and Spirits Wholesalers Association (“NJWSWA”), seeking a relaxation of N.J.A.C. 13:2-24.6(a)(4), such that the prices contained in the February, May, July, October and December 2020 CPLs would be extended as shown in the chart below.

CPL	END OF MONTH	REQUESTED END OF MONTH
February 2020	Friday, February 28, 2020	Monday, March 2, 2020
May 2020	Friday, May 29, 2020	Monday, June 1, 2020
July 2020	Friday, July 31, 2020	Monday, August 3, 2020
October 2020	Friday, October 30, 2020	Monday, November 2, 2020
December 2020	Thursday, December 31, 2020	Monday, January 4, 2021

If the requested relaxation is granted, all New Jersey licensed wholesalers would be authorized to utilize the prices listed in the February, May, July, October and December 2020 CPLs for orders that were received on or before the close of business on the dates shown in the Requested End of Month column above.

According to Mr. Warsh’s letter, this practice places operational pressures on the wholesalers in terms of managing the sales, billing, credit, warehousing and delivery of alcoholic beverages. The Division is aware from past requests for similar relief that retailers typically place significant orders at the end of each month, and although retailers are able to place orders on-line before the end of each month, their practice is to assess their inventory first so they know how

much product is needed. When the end of the month falls on a weekend or legal holiday, or on the eve of a weekend or legal holiday, the retailers are not able to properly assess their inventory and place well-informed orders at the advantageous prices that may exist during the previous month.

To address this situation, many wholesalers have developed an administrative “work around,” in which wholesalers will file their CPL with two sets of prices, one set for the beginning of the month and one set for the remainder of the month. Such a practice places a burden on the wholesalers, but accomplishes the same result that is underlying the instant relaxation request. If granted, the request would alleviate some of those pressures, as well as additional concerns over scheduling and processing timelines, and provide critical relief to wholesaler personnel who would not have to work weekends to fill these orders.

In order to extend the effectiveness of the prices established in the February, May, July, October and December 2020 CPLs, affirmative action by the Acting Director is necessary. In accordance with N.J.A.C. 13:2-9.1, the Director or Acting Director has the authority to relax the provisions of N.J.A.C. 13:2-24.6(a)(4) upon a showing of undue hardship (economic or otherwise); that the waiver of the rule would not unduly burden any affected parties; and that the waiver is consistent with the underlying purposes of Title 33 and its implementing regulations.

I have reviewed the requests to extend the expiration dates for the February, May, July, October and December 2020 CPLs in light of the standards contained in N.J.A.C. 13:2-9.1. I believe that denying the relief sought would cause hardship to both wholesalers and retailers. Without the relief sought, retailers would not be able to assess their inventory and place their significant orders at the end of the month at the advantageous prices offered. Wholesalers, on the other hand, are administratively burdened if choosing to file two sets of prices (one for the previous month’s prices, and then for the coming month), especially those wholesalers whose CPLs contain thousands of products.

Since the extension of the February, May, July, October and December 2020 prices would apply to **all** wholesale and retail licensees on a non-discriminatory basis, I do not believe that the requested approval would unduly burden any affected parties, or would undermine the purposes of Title 33, which are to prevent discrimination in the sale of alcoholic beverages and to maintain trade stability. I note that wholesalers who choose to exercise the extensions granted herein must extend the February, May, July, October and December 2020 prices on a uniform basis for all products and for all retail licensees.

Accordingly, it is on this // day of February, 2020,

ORDERED that wholesalers are authorized to extend prices listed in the **February 2020** CPL for retail orders received on or before the close of business on **Monday, March 2, 2020**, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that wholesalers are authorized to extend prices listed in the **May 2020** CPL for retail orders received on or before the close of business on **Monday, June 1, 2020**, provided

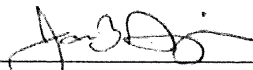
that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that wholesalers are authorized to extend prices listed in the **July 2020** CPL for retail orders received on or before the close of business on **Monday, August 3, 2020**, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that wholesalers are authorized to extend prices listed in the **October 2020** CPL for retail orders received on or before the close of business on **Monday, November 2, 2020**, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that wholesalers are authorized to extend prices listed in the **December 2020** CPL for retail orders received on or before the close of business on **Monday, January 4, 2021**, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that the relief provided herein is based upon the specific facts alleged in this ex parte proceeding and, therefore, is subject to further review and modification should the factual circumstances warrant.



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JAMES B. GRAZIANO  
ACTING DIRECTOR

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