

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

IN THE MATTER OF THE)
"SHOT AND BEER" PROGRAM)
TO PROMOTE COVID-19)
VACCINATIONS BY CRAFT)
ALCOHOL MANUFACTURERS)
_____)

SR 2021-04
SPECIAL RULING
GRANTING RELAXATION

BY THE DIRECTOR:

On May 3, 2021, Governor Phil Murphy announced a statewide promotion with the purpose of encouraging New Jersey's adult population to receive one of the vaccines available to combat the novel Coronavirus disease ("COVID-19"), while also celebrating and supporting New Jersey's craft brewery industry. Due to success of the "COVID-19 Shot and a Beer" vaccine program and the Administration's desire to also support New Jersey's craft alcohol industry and encourage COVID-19 vaccinations throughout the State, the Division of Alcoholic Beverage Control (the "Division") is extending this program to include all of New Jersey's craft manufacturers. This vaccine promotion is set to run for the duration of the month of May 2021 and seeks participation on a purely voluntary basis by the craft alcoholic beverage industry. Industry participants will not receive reimbursement or compensation for their engaging in this promotion. The promotion allows patrons 21 years of age or older who present their COVID-19 vaccine card as proof of a first dose vaccination received in the month of May to receive one free drink for on-premise consumption from a Plenary Winery, Farm Winery, Craft Distillery or Cidery and

Meadery licensee participating in the program. Patrons will only be permitted to receive one free drink from a single participating licensee as part of this promotion.

Since Craft Distillery license holders (as well as Limited Brewery licensees) are statutorily required to provide patrons with a “tour” of the manufacturing facility prior to on-premises consumption of their products, all patrons participating in this program will first be required to have a “tour” of the licensed establishment or provide proof that they already participated in a “tour” prior to receiving a free drink. See N.J.S.A. 33:1-10(1)(b), N.J.S.A. 33:1-10(3)(d).

This promotion is also available to plenary consumption licensees and holders of Special Concessionaire Permits, who are permitted to give a free drink as a measure of good will during any 24-hour period. See N.J.A.C. 13:2-23.16(a)(2)(v). Because Restricted Brewery licensees are also required to hold plenary consumption licenses, they are also permitted to offer a free drink to patrons pursuant to that regulation.

The Division’s historical position has been that manufacturing licensees are prohibited from offering a free drink to any patron(s) as a gesture of good will. This prohibition against offering free drinks was based on the Division’s view that manufacturing licensees have limited retail privileges that did not include the privilege of offering a free drink as a gesture of good will. See N.J.A.C. 13:2-23.16(a)(2)(v). In addition, the Division found that allowing manufacturing licensees to offer a free drink violates the Division’s prohibition against permitting the sale of alcoholic beverages below “cost.”¹ See N.J.A.C. 13:2-24.8. However, these are not statutory

¹ “Cost” is defined 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, plus applicable State and Federal taxes. The actual invoice price shall be determined by the ‘last-in-first-out’ method applying general accepted accounting principles.” N.J.A.C. 13:2-24.8(b).