

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

IN THE MATTER OF THE APPLICATION )  
TO RELAX CERTAIN PROVISIONS OF )  
THE SPECIAL RULING AUTHORIZING )  
CERTAIN ACTIVITIES BY HOLDERS OF )  
LIMITED BREWERY LICENSES )  
\_\_\_\_\_ )

SR 2021-13  
SPECIAL RULING  
GRANTING RELAXATION

BY THE DIRECTOR:

The Division of Alcoholic Beverage Control (the “Division”) has received a request from several Limited Brewery licensees seeking relaxation of the Division’s existing rule that permits no more than 12 off-premises events per calendar year. This rule dates back to the May 28, 2019 Special Ruling Authorizing Certain Activities by Holders of Limited Brewery Licenses (the “Special Ruling”). Specifically, the Special Ruling allowed the Director to “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.” (May 2019 Special Ruling, Schedule A, Section 6(a).)

The authorization to hold not more than 12 off-premises events was not based on a statutory prohibition contained in N.J.S.A. 33:1-10(1)b. Rather, using the authority afforded to the Director to issue special contingency permits under circumstances that were not explicitly provided for in the Alcoholic Beverage Control Act (the “ABC Act”), the Director exercised discretion to create an off-premises event permit for Limited Brewery licensees. See N.J.S.A. 33:1-74. The Director carefully considered the privileges afforded to Limited Brewery licensees and determined that 12 off-premises event permits per year was appropriate and consonant with the ABC Act and other special contingency permits created by the Division. (See, e.g., N.J.A.C. 13:2-5.1(d): “No more than 12 social affair permits shall be issued to any one applicant per 12 months ....”)

The Division is aware that the COVID-19 pandemic has resulted in economic hardship to many businesses that it regulates, including Limited Brewery licensees. Initially, as the pandemic began, Limited Brewery licensees saw a downturn in their businesses, as on-premise consumption of alcoholic beverages in their tasting rooms was temporarily suspended, and then resumed at limited capacities, with appropriate social distancing requirements. Although capacity restrictions have been lifted, a few Limited Breweries that were unable to hold their full allotment of 12 off-premises events during the 2020 calendar year now wish to increase the number of events that can be held in 2021 to offset the losses experienced in 2020 due to COVID-19.

Pursuant to N.J.S.A. 33:1-39, the Director has the authority to make such general rules and regulations and such Special Rulings and findings “as may be necessary for the proper regulation and control of the manufacture, sale and distribution of alcoholic beverages . . . , and [to] alter, amend, repeal and publish the same from time to time.” This authority is implemented, in part, by N.J.A.C. 13:2-9.1, which allows the Director to relax certain regulations or Special Rulings upon a showing by a licensee of undue hardship, economic or otherwise; that the waiver of the rule will not unduly burden any affected parties; and that the waiver is consistent with the underlying purposes of the ABC Act.

After reviewing the requests for relaxation and the impact on the industry caused by pandemic, the Division FINDS that Limited Brewery licensees have suffered some degree of economic hardship in 2020 and it is appropriate to give them an opportunity to recoup these losses by holding more than the 12 allotted off-premises events for the remainder of calendar year 2021.

The Division further FINDS that relaxation of Schedule A, Section 6(a) of the Special Ruling limited to the remainder of 2021 calendar year will not unduly burden any affected parties inasmuch as this relief is granted to all Limited Brewery licensees who wish to hold more than 12 off-premises events in 2021.

Moreover, this relief is not expected to adversely impact plenary retail consumption licensees due to the limited duration of the relief being granted.

Finally, the Division FINDS that relaxing Schedule A, Section 6(a) is not inconsistent with the ABC Act. The Special Ruling created stability in the alcoholic beverage marketplace and allowed Limited Brewery licensees to compete in the marketplace. Allowing participation in additional off-premise events to sell and market their products under these unprecedented circumstances will allow Limited Brewery licensees continued access to their customers in a safe manner. Such relaxation is not prohibited by N.J.S.A. 33:1-10(1)b and is consistent with the Division's statutory mandate to regulate alcoholic beverages to protect the health, safety and welfare of the people of New Jersey.

In light of the foregoing, pursuant to N.J.A.C. 13:2-9.1, the Division will GRANT the request for relaxation of Schedule A, Section 6(a) in the Special Ruling, and **will AUTHORIZE Limited Brewery licensees to attend a maximum of 24 off-premise events for calendar year 2021, provided they obtain all required permits**, as described in Schedule A, Section 6 of the Special Ruling.

The relaxation granted 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. Licensees should be aware that the increased number of off-premises events authorized by this Special Ruling is based on circumstances created by the COVID-19 pandemic and the relief being granted herein is limited to the 2021 calendar year only.

Should this relief be demonstrated to be inconsistent with the factual description provided by the Limited Brewery licensees who have requested this relaxation, or should the facts and circumstances posed by the COVID-19 public health crisis change, this Special Ruling may be withdrawn or modified, as appropriate.



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ALYSSA P. WOLFE  
ACTING DIRECTOR

Dated: October 15, 2021

JBG/APW/GJS