

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

IN THE MATTER OF THE APPLICATION)	SR 2020-04
TO RELAX N.J.A.C. 13:2-20.8 WHICH)	SPECIAL RULING GRANTING
REQUIRES A TRANSIT INSIGNIA BE)	RELAXATION OF N.J.A.C. 13:2-20.8
DIRECTLY AFFIXED TO THE EXTERIOR OF)	(Transit Insignias)
A VEHICLE TRANSPORTING ALCOHOL)	
)	
)	
_____)	

BY THE ACTING DIRECTOR:

On March 9, 2020, Governor Murphy declared a Public Health Emergency and State of Emergency to protect the residents of the State from the health hazard posed by Coronavirus disease 2019 (“COVID-19”). By Executive Orders Nos. 04 and 107, Governor Murphy has ordered that retail consumption licensees may be open during normal business hours, but may only sell food and alcoholic beverages in original sealed containers from their principal public barrooms for customer pick up or delivery. Additionally, Governor Murphy has ordered that retail distribution licensees (liquor stores) are essential businesses that may be open during normal business hours.

If a retail consumption licensee or a retail distribution licensee chooses to exercise its privilege to deliver alcoholic beverages to consumers’ homes, they must first obtain a transit insignia from the Division of Alcoholic Beverage Control (“Division”) or use an otherwise licensed entity authorized to transport alcoholic beverages. A retail consumption or retail distribution licensee cannot legally transport alcoholic beverages until it obtains a transit insignia (or transportation license insignia, limited transportation permit, or emergency trip permit, if

applicable) from the Division. See N.J.A.C. 13:2-20.1. Once a transit insignia is received, the insignia must be directly affixed to the exterior of the vehicle, on the driver side front bumper, so as to be clearly visible at all times. See N.J.A.C. 13:2-20.8. In order to obtain a transit insignia, the licensee must log in to POSSE, the Division's online licensing system, and electronically apply for the insignia and pay the required \$50.00 fee. Once the licensee completes the online application and pays the fee, a receipt is generated.

In light of current circumstances, the Division has received a high volume of applications for transit insignias. Due to the high volume received and Division staff's limited access to mail, licensees are not able to timely obtain the transit insignia decal and affix it to their vehicles. In light of this reality, the Director believes that it is necessary to temporarily relax N.J.A.C. 13:2-20.8. This action is authorized by N.J.A.C. 13:2-9.1, which allows the Director to relax certain regulations 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 Alcoholic Beverage Control Act (the "ABC Act").

Based on the extraordinary public health crisis, the steps being taken to reduce community spread of COVID-19 through "social distancing" and other practices intended to minimize person-to-person contact, and the economic hardship faced by plenary retail licensees, I FIND that a temporary relaxation of N.J.A.C. 13:2-20.8 is appropriate and necessary under these circumstances. After speaking with the Division's Licensing Bureau and multiple retail consumption and distribution licensees, I am satisfied that plenary retail licensees or other licensees authorized to direct ship to consumers' homes will suffer economic hardship if they are not able to immediately transport and deliver alcoholic beverages, as their customer base will necessarily be reduced by people who are being encouraged to stay home to prevent community

spread of the virus. I FIND further that relaxation of N.J.A.C. 13:2-20.8 will not unduly burden any affected parties and is consistent with the ABC Act.

In light of the foregoing, the Division will relax N.J.A.C. 13:2-20.8 and will temporarily allow licensees to print out the receipt generated by POSSE and keep the receipt in the designated vehicle that is delivering alcohol until the licensee receives the transit insignia decal. Once the licensee receives the transit insignia, the licensee must affix it to the designated vehicle in accordance with the regulation. A separate transit insignia is required for each vehicle that is delivering alcohol.

Pursuant to N.J.A.C. 13:2-20.5, transit insignias will not be issued to the following: (i) a bonded warehouse bottling licensee, public warehouse licensee, or warehouse receipts licensee, unless such licensee also holds a license of some type which authorizes the transportation of alcoholic beverages, (ii) for any motor vehicle unless it is properly registered in New Jersey or authorized to utilize New Jersey roads in accordance with State law applicable to such vehicle, (iii) for any leased vehicle or other vehicle not owned by the licensee unless said lease or other document by its terms transfers to the licensee exclusive possession, control and operation of such vehicle when utilized in connection with the licensed business, and (iv) any solicitor's vehicle unless an agreement exists authorizing utilization of the solicitor's vehicle.

Please note that it is the duty of the personnel delivering alcoholic beverages to consumers to determine that the party signing a delivery receipt is of the legal age to purchase and consume alcoholic beverages. Failure to carry out this duty by the employee shall be considered a violation and is grounds for the suspension or revocation of a licensee's license. See N.J.A.C. 13:2-20.11. The licensee must continue to comply with all applicable requirements of the ABC and implementing regulations.

The relief granted in this matter is for the duration of the public health emergency or until further order of the Director. If the Division becomes aware of different facts, it reserves the right to withdraw or modify the Special Ruling as appropriate.



JAMES B. GRAZIANO
ACTING DIRECTOR

Dated: April 5, 2020

JBG/JM/APW