

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

IN THE MATTER OF THE APPLICATION)
TO RELAX N.J.A.C. 13:2-5.2(a) and (g) AND)
TO PERMIT THE PERMITEE TO SELL)
PACKAGED GOODS)
)
)
)
)
H MART AMERICAN DREAM LLC)
_____)

SR 2023-01
SPECIAL RULING
GRANTING RELAXATION

BY THE DIRECTOR:

H Mart American Dream LLC (“H Mart”) has applied for a State-issued Special Concessionaire Permit (“SCP”), which would authorize it to sell alcoholic beverages on property owned by the State or a political sub-division thereof. The proposed site for H Mart is within the American Dream complex in East Rutherford, New Jersey. The property is under the jurisdiction of and owned by the New Jersey Sports and Exposition Authority (“NJSEA”), a political subdivision of the State of New Jersey.

Pursuant to N.J.A.C. 13:2-5.2(a) and (g), H Mart is expressly prohibited from selling or offering for sale alcoholic beverages for off-premises consumption, unless specifically authorized in the permit issued by the Director upon a showing of good cause. Based on the reasons set forth below, H Mart is seeking relaxation of this regulation.

On or about February 7, 2022, H Mart requested relaxation of N.J.A.C. 13:2-5.2(a) and (g) in order to sell packaged goods to consumers under the Special Concessionaire Permit. In support of its request, H Mart states that they are a national chain of over 70 grocery stores specializing in Asian goods. H Mart further explains that, within the Asian culture, there are certain alcoholic



beverages that complement the Asian cuisine. According to H Mart's research, the alcoholic beverages sold would not be available for sale in other liquor stores located within East Rutherford. As such, offering those packaged goods would serve as an incentive to attract customers who are interested in Asian products. H Mart states that the sale of alcoholic beverages is expected to consist of less than five-percent of H Mart's total sales. However, H Mart explains that the sale of packaged goods would be essential to the overall profitability of the H Mart at the American Dream location since it would drive sales at the location. H Mart explains that the company's business model is based on customers being able to purchase everything they need for a meal at the store, including alcoholic beverages.


Under N.J.A.C. 13:2-9.1, the Director has the authority to relax N.J.A.C. 13:2-5.2(a) and (g) upon a showing of undue hardship (economic hardship or otherwise) on a licensee/permittee, that the waiver of the regulation does not unduly burden any affected parties, and that the waiver is consistent with the underlying purposes of Title 33 and the implementing regulations. A licensee/permittee seeking this relief must submit its request in writing and must include all documentation which supports its request for the waiver.

The Division has reviewed H Mart's request for relaxation of N.J.A.C. 13:2-5.2(a) and (g). Based on this review, the Division is satisfied that H Mart will suffer some degree of economic hardship if the relief sought is not granted. Although H-Mart represents that alcohol sales will comprise only five percent of its total sales, the Division accepts the representation that offering unique package goods that are not available elsewhere will drive sales of other non-alcoholic products. In addition, the Division does not believe that granting the relief sought will unduly burden any affected parties based on H Mart's representation that these types of alcoholic beverages are not sold in other liquor stores in East Rutherford. Nor will granting the relief sought

undermine the purposes of Title 33, which are, among other things, to strictly regulate alcoholic beverages to protect the safety and welfare of the people of this State.

In light of the foregoing, pursuant to N.J.A.C. 13:2-9.1, the Division will GRANT the request for relaxation of N.J.A.C. 13:2-5.2(a) and (g) allowing H Mart to sell packaged goods under a Special Concessionaire Permit within the retail grocery supermarket. However, H Mart represents that it is aware that alcoholic beverages may not be consumed at the American Dream complex in violation of American Dream's Safety and Security Policy.¹ Accordingly, it will take steps to notify its customers at the point of sale and make them aware that consumption of the package goods purchased from H Mart shall not be permitted in any area of the American Dream complex, except for those areas designated by American Dream.

The relief granted herein is based upon the specific facts provided in H Mart's application. Should the relief granted be inconsistent with Title 33 in actual practice or should the applicant violate the terms of its Special Concessionaire Permit or any special conditions attached thereto this approval may be withdrawn or modified.



JAMES B. GRAZIOPLENE
DIRECTOR

Dated: January 20, 2023

APW/MES

¹ See <https://www.americandream.com/safety-and-security>