

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

IN THE MATTER OF)
APPLICATION FOR)
FESTIVAL EVENT PERMITS)
_____)
SECOND EXTENSION OF THE)
SPECIAL RULING EXTENDING)
AUTHORIZATION FOR ISSUANCE)
OF TEMPORARY FESTIVAL EVENT)
PERMITS)

BY THE DIRECTOR:

On August 22, 2014 Director Halfacre issued the First Amended Special Ruling authorizing and creating a temporary Festival Permit. The Ruling was effective for 18 months and was to allow certain qualified applicants to conduct Beer Festivals without certain regulatory restrictions. On May 12, 2016, the Director extended that Special Ruling for an additional 18 months. Both of those Rulings are hereby incorporated herein with all Schedules as if set forth herein.

The purpose of the initial Ruling was to require applicants to apply and meet certain standards in order to conduct a festival as defined in Schedule "A." The requirements of the Festival Permit was to eliminate mere drinking events and allow only those Festivals that meet the educational, large variety and introduction of craft beer requirements. This Ruling would allow the Director to monitor and review the number and scope of Events held, the manner they were operated, the problems and ability to maintain the public health, safety and welfare of the events, whether existing permits or licenses could satisfactorily address the needs for such events and finally whether additional regulations are necessary to address the needs and requirements of these events.

Since the inception of the temporary Festival Permit, the Director has found that there were several methods of operations depending on the different types of applicants. The Director upon issuing these permits created conditions and requirements to determine the balance between the need to protect and insure the public safety and to develop a system that exposes and permits the general public to sampling and marketing of craft beer. Moreover, with the rapid and growing popularity of craft beer and the emergence of craft distilleries, as well as the creation of a cidery and meadery license after the last Special Ruling, the nature and number of these events are changing. Therefore, prior to promulgating regulations the Director has determined that a second

extension of the temporary permits as established by the Special Ruling should be issued to insure the Division has all facts and anticipates the necessary issues prior to adopting formal regulations.

Accordingly, it is on this 23 day of August, 2017,

ORDERED, that the Special Ruling dated May 12, 2016, entitled Special Ruling Extending Authorization for Issuance of Temporary Festival Event Permits shall be extended for an additional (18) months until the 22nd of February, 2019 and; it is further,

ORDERED, applicants for an Alcoholic Beverage Festival Event Permit shall comply with the terms and conditions in the attached Schedule "A" of the First Amended Special Ruling Authorizing the Temporary Issuance of Certain Festival Event Permits; and it is further


ORDERED, that the fee for such Festival Event Permit shall be \$1,000.00 for each consecutive day or part of day of the event, subject to a maximum of \$2,000.00, with the following exceptions:

- (A.) If the festival event is for the sole benefit of a non-profit organization, and does not involve a third party promoter, said fee shall be reduced to \$150.00 for each consecutive day or part of day of the event.
- (B.) If the festival event is for -profit and does not involve a third-party promoter, the said fee shall be \$500.00 for each consecutive day or part of day of the event.

ORDERED, that all licensees, permittees and promoters shall be liable for any violations of the Alcoholic Beverage Control Act and/or the regulations promulgated pursuant thereto; and it is further

ORDERED, that nothing herein shall be construed to allow the use of promoters in circumstances other than authorized by a festival permit issued pursuant to this Special Ruling of Extension and Schedule "A" attached hereto; and it is further

ORDERED, that this ruling and Schedule "A" may be withdrawn or modified by the Director at his discretion.



David P. Rible
Director

SCHEDULE "A"

Consumer alcoholic beverage festivals

(a) Definitions:

1. "Festival" means an indoor or outdoor scheduled gathering, function, occasion or event that shall be sponsored or hosted by either a retail consumption licensee, concessionaire permittee, or a social affairs permittee wherein small samples of an alcoholic beverage are available from multiple offerings from multiple suppliers, served for a single admission price or "per sample" price, and/or where the Tasting and Sampling statute (N.J.S.A. 33:1-12d) and Regulation (N.J.A.C. 13:2-37.1) are not adhered to.

A "festival" may or may not have a third party *promoter* involved for the purpose of organizing or serving, in any capacity, to create the event, but *if* a third party *promoter* is involved in such manner the event shall be deemed a "festival."

Nothing herein shall prevent a social affairs permittee from making application for a social affairs permit where the event does not meet the definition above.

2. "Third party promoter" means a person or entity engaged to assist in operating and/or organizing the festival for a fee.

(b) Consumer alcoholic beverage festivals may only be hosted by a consumption licensee, concessionaire permittee or social affairs permittee. (hereafter, "festival permittee") under the following conditions:

1. The festival permittee shall hold an actively operated license or a valid permit authorizing sales of alcohol for immediate on-premises consumption. Further, Festival Permittees, as Licensees or Permittees, shall at all times be in control of the event and the premises and responsible for same;
2. All festival attendees consuming alcoholic beverages must be at least twenty-one (21) years of age.
3. The festival must provide an educational component relating to the type of alcohol being served or promoted at the event.
4. All alcoholic beverages used or consumed at a festival shall be brand-registered, stored securely with all transportation permits intact and purchased in accordance with all the Division laws and rules.
5. For an initial festival application, the Division must receive the completed application sixty (60) days in advance of the festival date; thereafter,

future applications made by the same host shall be made thirty (30) days in advance of the festival date.

6. A festival session shall not be longer than four (4) hours in duration, but multiple sessions separated by at least a one hour break are permitted provided attendees are not permitted to attend more than one (1) four hour session per day. The Director may extend a session for up to one hour upon a showing of good cause.
7. Title to all alcohol to be available at the festival must pass from the licensed supplier or wholesaler to the Festival Permittee prior to service to the festival attendees. No alcohol, neither an open sample nor sealed container, may be removed from the site of the festival unless the seller has the privilege to sell to the public at such an event, as in the case of a New Jersey Winery.
8. Festivals shall last no longer than three (3) consecutive days.
9. A consumption licensee, concessionaire licensee or social affairs permittee, as the "host" or "sponsor" of the festival, shall only be allowed to conduct up to two (2) festivals within a calendar year per licensee or permittee and only four (4) festivals per year per licensed premises.
10. The categories for festivals are: malt alcoholic beverage, wine, distilled spirits, or some combination thereof.

(c) Sample sizes for use at a festival are as follows:

1. Two ounce samples for malt alcoholic beverages
2. One ounce samples for wine
3. One-half ounce samples for distilled spirits

(d) All pourers/servers shall be supervised by an employee who is TIPS/TAMS certified or the equivalent. All pourers shall be an employee or agent of a licensee or permittee. Agents or employees of a brewer, distiller, winery or wholesaler may also pour. However, if the brewer, distiller, or wine-maker is not a New Jersey licensee/permittee, the pourer shall be considered an employee or agent of the licensee/permittee to whom the festival permit is issued.

(e) By definition a festival involves multiple suppliers (distillers, breweries, wineries, etc.). A minimum of fifteen (15) participating suppliers shall be necessary to conduct a festival.

- (f) A festival shall have sufficient food and non-alcoholic beverages available, whether complimentary or for purchase.
- (g) At least sixty (60) days in advance of an initial festival, festival applicants must submit a completed application, together with the non-refundable filing fee, which application shall include, but not be limited to the following:
1. The consent of the Municipal Clerk and Police Chief of the municipality where the festival is taking place. In addition, if the festival is taking place in or on publicly owned or controlled property, the consent of the political subdivision in control of the property and the Chief Law Enforcement Officer of the law enforcement entity with jurisdiction over the property must be obtained.
 2. A detailed security plan to assure general safety, as well as emergency medical assistance. The plan must provide for the following: age verification; "pass-off" control; prevention of intoxication; compliance with regulatory requirements on sample sizes; identification of security personnel, duties, numbers and experience; confirmation that all servers shall be employees of the applicant and that each serving station will be directly supervised by an identified TIPS/TAMS or similar certified person acceptable to the Director.
 3. A map or detailed sketch of the area where the festival is to take place shall be provided.
 4. A comprehensive event plan for the festival, including, but not limited to:
 - a) Complete information regarding any involvement of a third party promoter;
 - b) Explanation of the *required* educational component of the festival event;
 - c) Explanation and information relating to any entertainment and/or recreational activities included at the festival.
 - d) Dates, times, ticket and other pricing.
 - e) Identification of participating manufacturers or wholesalers of the featured products that will be served.
 - f) Description of food, non-alcoholic beverages, entertainment or other recreational activities that will be offered at the event, whether for sale or included in the admission price.

Be advised that the Director's evaluation will focus on regulatory compliance and policy concerns relating to public safety and preventing under-age consumption and over-consumption of alcohol. The primary purpose of the event should be educational and entertainment and not for the consumption of alcohol.

- (h) In order for a third party promoter to participate in the festival said promoter shall first meet the qualifications of a licensee, permittee or employee of such, under N.J.S.A. 33:1-26 prior to the festival event.
- (i) If a promoter will be involved in a festival, it shall be mandatory that a complete copy of the promoter's contract be provided to the Division prior to the festival event. Generally, third parties such as promoters or other entities **may not receive a percentage of profits or exert control over the festival permittee's activities or employees.** Exceptions for unique events and extraordinary circumstances may be considered by the Director on an extraordinarily limited basis.
- (j) Please be advised that the Division will require a post-event accounting documenting all alcohol purchases, other payments, purchases and costs as well as the allocation of any proceeds within fifteen (15) days of the event. The post-event accounting will also include a summary of any incidents requiring security or police intervention, such as fights, theft or incidents of alleged intoxication or underage service or consumption, whether or not security or law enforcement was involved.

Failure to comply fully with these disclosure requirements and explain said incidents will result in denial of future permit applications, or in the case of a promoter, disapproval of participation in future events.

- (k) Upon receipt of a completed application and fee, and after initial review, the Division will schedule an in-person conference with the applicant and interested parties prior to issuance or denial of the festival permit. In the case of subsequent applications for the identical event, this requirement may be waived in the discretion of the Director.