

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

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)	AMENDMENT TO
IN THE MATTER OF THE PROPOSED)	SPECIAL RULING
AMENDMENT TO <u>N.J.A.C.</u> 13:2-37.1)	AUTHORIZING CONSUMER
(Consumer Alcoholic Beverage Tasting)	ALCOHOLIC TASTING EVENTS
Events and Samplings))	AND SAMPLINGS PURSUANT TO
)	PROPOSED AMENDMENT TO
)	<u>N.J.A.C.</u> 13:2-37.1
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)	

BY THE DIRECTOR:

On July 16, 2004, I issued a Special Ruling ordering that, until adoption of the proposed amendment to N.J.A.C. 13:2-37.1, New Jersey licensed retailers, wholesalers and suppliers who wish to conduct consumer alcoholic beverage tasting events or samplings as provided by P.L. 2003, c. 279, shall comply with the statutory provisions and the conditions contained in that Special Ruling.

It has been brought to my attention that there is a typographical error in the Special Ruling in the section regarding the participation of suppliers, manufacturers or wholesalers in tasting events. Specifically, the Special Ruling erroneously added the words “and sampling” to this section. The paragraph should read as follows:

Suppliers, manufacturers or wholesalers of alcoholic beverages holding an annual special permit as provided in current regulation N.J.A.C. 13:2-37.1(a)(7) may participate in consumer tasting events hosted by licensees and permittees who are allowed to sell alcoholic beverages in open containers as well as distribution licensees. As provided in this existing regulation, each solicitor or duly authorized representative participating in consumer tasting events must hold an additional \$200.00 permit and comply with the 10 day advance reporting requirement therein.

The deletion of the words “and sampling” from this section keeps the Special Ruling in conformance with the existing wine tasting regulations, the proposal to amend N.J.A.C. 13:2-37.1 which is scheduled to be published in the New Jersey Register on September 7, 2004, and the actual permit provided for in the regulation. Therefore, a solicitor may not participate in any sampling done on the licensed premises as defined under my Ruling.

Numerous inquiries have been received asking whether authorization to pour samples by solicitors will be extended to tasting events on a retail distribution licensed premises. The existing terms of consumer tasting permits issued to allow solicitors to attend tasting events on the premises of retail consumption licensees, permit a solicitor “describe and pour” samples of

alcoholic beverages for consumers. This permission has evolved over time after recognizing the specific nature of a consumption licensee's business operation.

While the experience related to consumption licensees is relevant to the practice to be utilized with distribution licensees, it is not totally dispositive. The legislation permitting tastings on distribution licensed premises contemplates that the retailer will independently provide tastings to consumers and assure that such events are conducted within statutory and regulatory requirements. In carrying out this policy, it is essential that the retail distribution licensee and its employees accept complete responsibility for all aspects of planning and conducting tasting events, including the pouring of samples. This distribution of responsibilities also maintains the proper balance in the roles of the respective tiers. The role of the solicitor or other third parties authorized to participate in a tasting is to provide educational support regarding the product.

Unlike consumption licensees, distribution licensees do not have a track record of experience establishing independent control over service of alcohol for immediate consumption by consumers. Until such time that distribution licensees and their employees have demonstrated the control and judgment required to carry out their significant responsibilities in planning and conducting tasting events on their premises, it is premature to even consider permitting pouring of alcohol by third parties from another industry tier on the retail premises. On balance, I do not believe that the role of the solicitor in a consumption premises tasting should be reprised on a distribution premises. This will ensure that the event is one controlled by the retailer in a context different from a consumption licensee but as contemplated by the legislation for the purpose of the consumer purchasing alcohol for off-premises consumption. For the reasons stated herein, solicitors are limited to providing educational commentary to consumers at tasting events and may not pour samples for consumers on retail distribution licensed premises.

Accordingly, it is on this 12th day of August, 2004,

ORDERED that the Special Ruling dated July 16, 2004 shall be amended to permit licensed representatives of suppliers, manufacturers or wholesalers with appropriate permits to participate at consumer tasting events only, and it is further

ORDERED that licensed representatives of suppliers, manufacturers or wholesalers with appropriate permits are limited to providing educational commentary and may not pour samples at tasting events on retail distribution licensed premises.

/s/

JERRY FISCHER
DIRECTOR