



State of New Jersey

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ATTORNEY GENERAL ADMINISTRATIVE EXECUTIVE DIRECTIVE NO. 2021-8

TO: Director, Division of Alcoholic Beverage Control

FROM: Gurbir S. Grewal, Attorney General

DATE: June 29, 2021

SUBJECT: **Directive Addressing History of Anti-LGBTQ+ Enforcement Actions by the Division of Alcoholic Beverage Control (ABC)**

On a Wednesday evening in April 1965, three men working as undercover agents for the Division of Alcoholic Beverage Control (ABC) seated themselves inside Manny's Den in New Brunswick and spent the next ninety minutes observing the patrons. The agents noted that all eleven of the customers were male, and that the majority of them were "very effeminate." According to the agents, the patrons conversed in a "lisp tone," took "short sips from their straws," and when walking "swished and swayed." *In re One Eleven Wines & Liquors, Inc.*, ABC Bulletin 1656, Item 5 (Dec. 27, 1965).

The agents returned three more times over the next 10 days and made similar observations. Based on this investigation, ABC concluded that Manny's Den had allowed "apparent homosexuals" to congregate inside its premises and therefore should lose its liquor license for 60 days—a sanction that ABC Director Joseph P. Lordi later described as the "usual penalty" for permitting such gatherings. *Id.* at 11. At the time, the case law from New Jersey's lower courts was crystal clear: ABC was in the right. The "congregation of apparent homosexuals" constituted a violation of Rule 5 of ABC State Regulation No. 20, which prohibited licensees from conducting their business in "such manner as to become a nuisance."

E. Manning Mack, the owner of Manny's Den, challenged ABC's penalty despite the many failed challenges that had come before. After his request to dismiss the violation was rejected by the ABC Director and the Appellate Division, Mack took the matter to the New Jersey Supreme Court. In September 1967, the Court issued a landmark decision, ruling unanimously that ABC could not invoke Rule 5 to shut down bars simply because their clientele was gay. In an opinion that was significant for its era—though still painful to read today—the

Court concluded that “though in our culture homosexuals are indeed unfortunates, their status does not make them criminals or outlaws.” *One Eleven Wines & Liquors, Inc. v. Div’n of Alcoholic Beverage Control*, 50 N.J. 329, 339 (1967). “So long as their public behavior violates no legal proscriptions,” the Court continued, “they have the undoubted right to congregate in public.”

* * *

Gay bars have long played an important role for LGBTQ+ individuals. At a time when homophobia and transphobia were deeply rooted in mainstream American culture, these establishments provided community for people who had nowhere else to gather. The opportunity they provided for sexual minorities to see that they were not alone—and to discuss shared experiences of discrimination—meant gay bars were crucial to the birth of the modern gay rights movement. But the same things that made these bars essential to the LGBTQ+ community made them targets for the forces of intolerance. For decades, government agencies across the country used their powers to close bars and harass their patrons. And, as we now acknowledge, that effort included the New Jersey Attorney General’s Office, of which the Division of Alcoholic Beverage Control (ABC) has been a part since 1948.

ABC played a leading role in New Jersey’s decades-long suppression of gay bars. The primary tools in its arsenal were a pair of regulations adopted in 1934, shortly after ABC was established as an independent state agency in the wake of Prohibition. The first was Rule 4, which prohibited licensees from allowing on their premises “any known criminals, gangsters, racketeers, pick-pockets, swindlers, confidence men, prostitutes, female impersonators, or other person of ill repute.” The second was Rule 5, which among other things prohibited a place of business from being conducted “in such manner as to become a nuisance,” and was later amended to expressly prohibit “lewdness and immoral activities” and “foul, filthy, indecent, or obscene language or conduct.” *One Eleven Wines & Liquors, Inc.*, 50 N.J. at 331.

In the early years of ABC, most enforcement actions against gay bars were based on Rule 4’s prohibition against “female impersonators.” These actions continued after the agency was placed under the authority of the Attorney General in 1948. A review of the historical record suggests that ABC used the term as a catchall description of LGBTQ+ individuals, even when describing cisgender gay men. In one case, the ABC Director justified a Rule 4 violation on the grounds that the mere “presence of female impersonators in and upon licensed premises presents a definite social problem,” noting the “deep-rooted personal contempt felt by a normal red-blooded man.” The “mere thought of such perverts is repugnant to the normal person,” the Director continued. *In re M. Potter, Inc.*, ABC Bulletin 474, Item 1 (Aug. 7, 1941).

Starting around 1950, ABC shifted its approach, bringing enforcement actions against gay bars under Rule 5 as well as Rule 4. In many cases, the actions were not premised on specific allegations of improper conduct, but rather on the theory that the gathering of “apparent homosexuals” had allowed their establishments to operate in “such a manner as to become a

nuisance.” *In re Polka Club, Inc.*, ABC Bulletin 1045, Item 6 (Dec. 27, 1945). ABC’s crackdowns continued on this theory until *One Eleven Wines & Liquor* precluded them.

ABC and the Office of the Attorney General have been unable to determine exactly how many gay bars were shuttered by ABC. Nonetheless, the agency’s archives provide some insight into the scope of ABC’s actions. Since its establishment, the agency has documented its most significant activities—including enforcement actions resulting in a license revocation or lengthy suspension—in records known as “ABC Bulletins.” Our review of these bulletins between 1933 and 1967 revealed a total of 126 actions against 104 licensees relating to LGBTQ+ activity and resulting in sanctions under Rule 4 or Rule 5. Ten of these establishments lost their licenses permanently; the rest were suspended for periods ranging from 5 to 240 days.¹ Other enforcement actions that were settled quietly and not documented in the Bulletins likely resulted in lesser penalties for similar conduct. And, undoubtedly, some licensees chose to refuse service to LGBTQ+ individuals altogether as a way of avoiding sanction.

There is no way of determining how much the five Attorneys General who oversaw ABC prior to 1967 knew about the agency’s harassment of LGBTQ+ New Jerseyans. But there is reason to think that they knew what was going on.² From the time that ABC was placed in the Department of Law & Public Safety in 1948, the ABC Director has reported directly to the Attorney General, and the Department’s longstanding practice is for Division Directors to update the Attorney General regularly on significant enforcement matters. In addition, even before E. Manning Mack took his case to the New Jersey Supreme Court, at least three gay bars sanctioned under Rules 4 and 5 brought legal challenges against ABC resulting in decisions by the Appellate Division. *Murphy’s Tavern v. Davis*, 70 N.J. Super. 87 (App. Div. 1961); *Efcharis Carelis v. Div’n of Alcoholic Beverage Control*, ABC Bulletin 1430, Item 1 (Jan. 19, 1962); *Paddock Bar, Inc. v. Alcoholic Beverage Control Div’n*, 46 N.J. Super. 405 (App. Div. 1957). As was standard practice, Deputy Attorneys General in the Division of Law defended ABC in these challenges, and in all three instances the court affirmed ABC’s actions.

Our Department has never reckoned with this ugly moment in its history. That ends with today’s directive. We acknowledge the pain caused by ABC’s past actions. We recognize that our office, charged with furthering justice, set back the cause of freedom and equality in New Jersey. And we commit to repairing the damage.

¹ A number of the bars sanctioned for allowing “female impersonators” or the congregation of “apparent homosexuals” were also cited for violating other ABC rules, which contributed to the significant variation in penalties. In addition, ABC adopted a system of graduated discipline, and establishments with a prior record of violations were more likely to receive more significant sanctions following subsequent violations.

² In addition, at least one Governor had direct knowledge of ABC’s policies: Alfred Driscoll, who served as the State Commissioner of Alcoholic Beverages from 1941 to 1947 and on at least one occasion revoked a liquor license from a bar for, among other things, allowing a “female impersonator” on the premises. *In re Sidney Litchenstein*, ABC Bulletin 571, Item 1 (June 4, 1943).

While the homophobic and transphobic policies instituted by ABC—and defended by others in our Department—may have been consistent with cultural standards at the time, this type of anti-gay activity was facing growing scrutiny by the middle of the twentieth century. *See, e.g., Vallerga v. Dept. of Alcoholic Beverage Control*, 53 Cal.2d 313 (1959); *People on Complaint of Fasone v. Arenella*, 139 N.Y.S.2d 186 (N.Y.C. Mag. Ct 1954). We cannot simply ignore this history and move on. For that reason, I recently spoke with the leadership of Garden State Equality, New Jersey’s largest statewide LGBTQ+ organization, to offer my sincere apology for the harm caused by these actions. And later today, on June 29, 2021, I will be joining Garden State Equality and local leaders in Asbury Park to install a memorial at the former site of Paddock Bar, which was subject to three separate enforcement actions between 1957 and 1960. *See* ABC Bulletin 1368, Item 5 (Nov. 3, 1960); ABC Bulletin 1202, Item 5 (Nov. 21, 1957); ABC Bulletin 1159, Item 2 (Apr. 3, 1957).

In addition, with the support of and in consultation with ABC Director James Graziano, I am ordering and directing the following actions:


- A. ***Issuance of ABC Special Ruling vacating pre-1967 enforcement actions.*** Concurrent with the issuance of this Directive, the Director of ABC shall issue a Special Ruling that formally vacates all enforcement actions issued prior to 1967 premised on the Rule 4 prohibition against “female impersonators” and the Rule 5 prohibition against conducting a business as a “nuisance” when applied to the congregation of “apparent homosexuals.” The Special Ruling applies to, at a minimum, the 126 actions identified in ABC Bulletins and listed in the appendix to this Directive.
- B. ***Publication of ABC’s historical records.*** ABC shall post on its public website the full archive of ABC Bulletins that describe the 126 enforcement actions subject to today’s Special Ruling. This archive will ensure that the historical record is available to those who wish to better understand how an otherwise esteemed government agency can be led astray by discriminatory policies.
- C. ***Strengthening the relationship between ABC and the LGBTQ+ community.*** The relationship between ABC and the LGBTQ+ community has evolved considerably since the time of *One Eleven Wines & Liquors*, and I am heartened by how Director Graziano and his leadership team have embraced this opportunity to deepen its engagement with LGBTQ+ New Jerseyans. Going forward, and consistent with training provided to other Divisions within the Department of Law & Public Safety, ABC shall participate in the cultural diversity training offered by the Attorney General’s Office through the Community Law Enforcement Affirmative Relations (CLEAR) Continuing Education Institute. In addition, ABC shall undertake anti-bias training for its investigators and attorneys—not simply to ensure that the agency treats all New Jersey residents with dignity and respect, but also to ensure that the implicit biases we all carry do not inadvertently affect ABC’s enforcement work. To the extent appropriate, ABC shall partner with stakeholder groups such as the New Jersey Licensed Beverage Association

and New Jersey Restaurant and Hospitality Association to carry out this mission of inclusivity and cultural diversity awareness.

- D. ***Identification of other potential actions against marginalized communities.*** The discriminatory use of ABC's enforcement authority against the LGBTQ+ community raises questions about whether these powers were used to target other marginalized communities in New Jersey. To that end, ABC shall review its Bulletins and other historical documents determine whether its enforcement authority was used in a discriminatory manner in other instances and report back to the Attorney General on recommended actions no later than October 15, 2021.

II. Other Provisions

- A. ***Non-enforceability by third parties.*** This Directive is issued pursuant to the Attorney General's authority to supervise operations of the Department of Law and Public Safety. Nothing in this Directive or ABC Special Ruling 2021-06 shall be construed in any way to create any substantive right or remedy that may be enforced by any third party.
- B. ***Severability.*** The provisions of this Directive shall be severable. If any phrase, clause, sentence or provision of this Directive is declared by a court of competent jurisdiction to be invalid, the validity of the remainder of the Directive shall not be affected.
- C. ***Questions.*** Any questions concerning the interpretation or implementation of this Directive shall be addressed to the First Assistant Attorney General, or the First Assistant's designee.
- D. ***Effective date.*** This Directive shall take effect immediately and remain in effect unless and until it is repealed, amended, or superseded by Order of the Attorney General.


Gurbir S. Grewal
Attorney General

ATTEST:


Andrew J. Bruck
First Assistant Attorney General

Dated: June 29, 2021

**AG Directive 2021-8
Appendix**

ABC Licensees Subject to Anti-LGBTQ+ Enforcement Actions (1933-1967)

Town	Bar Name	Penalty (in days)	Date	ABC Bulletin (Item No. in Parens)
Absecon	Torch's Lodge Bar	110	12/06/56	1150 (1)
		202	12/02/58	1258 (4)
Asbury Park	Blue Note	55	04/12/64	1674 (7)
	Chez'l Cocktail Lounge	65	01/11/67	1721 (1)
	Paddock Bar	60	04/03/57	1159 (2)
		115	11/21/57	1202 (5)
		180	11/03/60	1368 (5)
Atlantic City	1025 Bar and Grille	70	03/03/60	1333 (7)
	Brass Rail Bar	55	10/01/63	1536 (3)
	Club New Orleans	60	08/07/67	1756 (8)
	Eddie's Shamrock Café	105	10/17/66	1705 (3)
	Entertainer's Club	190	11/02/55	1088 (2)
		240	05/01/63	1515 (1)
	Famous Bar	30	05/25/60	1345 (6)
	Hialeah Club	60	11/17/66	1712 (3)
	Jockey Club	176	12/29/58	1259 (5)
		75	11/19/62	1488 (1)
	King Bar & Liquor Store	150	01/22/62	1437 (3)
	Midtown Bar & Café	60	10/24/60	1366 (6)
	New Torch Club	100	10/31/56	1145 (1)
	Pappy's Bar	55	09/18/61	1418 (1)
	Shore Tavern	70	10/06/64	1589 (4)
	The Jet Set Bar & Lounge	145	11/29/67	1763 (2)
	Topsy's Hideaway	176	12/29/58	1259 (4)
	Val's Bar	55	09/29/64	1588 (3)
		120	07/27/66	1685 (1)
		180	08/24/67	1747 (2)
Caldwell	Kit-Kat Tavern	Revoked	04/18/41	456 (3)

Camden	Cambar	40	04/29/65	1620 (7)
	Mindy's	100	11/17/60	1371 (5)
		215	10/09/63	1538 (1)
	Your Girls	180	11/30/66	1713 (2)
Carlstadt	Club Harmony	126	02/17/48	794 (10)
Cliffside Park	Pepper Box Bar	60	10/29/62	1486 (3)
Dunellen	License of J. & A. Tumulty	75	08/16/62	1466 (1)
Egg Harbor City	Snug Harbor Inn	Revoked	03/07/57	1161 (3)
Elizabeth	Billy's Tavern	190	09/11/61	1417 (1)
	Blue Room	85	06/22/61	1403 (3)
	Pop's Tavern	Revoked	06/08/67	1746 (1)
	Silhouette Lounge	55	01/08/63	1495 (7)
	Woody's Tap Room	80	07/12/66	1691 (1)
	License of Jessie Lloyd	120	12/27/54	1045 (7)
43		05/14/56	1118 (2)	
Fairview	License of Walter Sherry	65	06/16/58	1236 (3)
	Ally-Ally	210	10/13/67	1757 (1)
Franklin Twp.	Talk of the Town	75	03/18/65	1614 (3)
Gloucester City	Andy's New Log Cabin	85	01/08/63	1496 (3)
	Marcella Bar	Unknown	03/29/66	1673 (2)
Hoboken	Rogers	55	08/01/59	1299 (4)
	License of Margaret Garaventi	Revoked	01/06/53	953 (1)
	License of Frances Lachnicht	75	01/15/62	1436 (3)
Lodi	Fun House	35	03/06/52	929 (3)
Long Branch	Martinitz Tavern	65	03/15/66	1671 (6)
Mays Landing	Clover Leaf Inn	60	04/03/57	1159 (1)
Merchantville	First Circle Inn	70	08/14/61	1413 (2)
Millstone Twp.	Tollins Bar	20	02/19/62	1441 (5)
Montville	Marge's Keyhole Lounge	30	07/10/61	1406 (2)
New Brunswick	Manny's Den	60	01/26/66	1656 (5)
	Rutgers Cocktail Bar	60	09/11/56	1133 (2)

Newark	Club Coronet	180	06/25/56	1123 (2)
	Club Deline	40	01/09/63	1495 (6)
	Club Tequila	180	03/05/64	1557 (1)
		Revoked	06/01/64	1570 (1)
	Four Corners Bar	95	08/06/62	1475 (3)
	Hub Bar	95	10/25/61	1423 (5)
	Hy and Sols Bar	40	08/25/60	1356 (2)
	Jack's Star Bar	80	02/28/66	1667 (3)
	Latin Quarter	45	02/23/62	1444 (3)
		110	07/16/62	1471 (2)
	Log Cabin Inn	Revoked	11/05/38	279 (8)
	Murphy's Tavern	60	12/27/60	1374 (2)
		55	04/14/64	1563 (4)
		Revoked	06/06/66	1677 (1)
	O.K. Corral	55	04/07/64	1562 (1)
	Pelican Bar	70	08/11/58	1242 (3)
	Polka Club	178	12/27/54	1045 (6)
	Skippy's Hideaway	70	07/27/64	1580 (5)
	Skip's Bar	180	04/20/61	1392 (1)
	Sol's Tavern	100	09/21/64	1587 (1)
	License of 135 Mulberry St.	Revoked	12/21/50	892 (2)
	License of Anna Siegel	55	07/09/59	1293 (3)
		210	12/20/62	1493 (1)
License of Bunny Hutch Co.	125	01/19/67	1722 (2)	
License of Peter Orsi	30	06/22/39	326 (1)	
License of M. Potter, Inc.	10	08/07/41	474 (1)	
North Brunswick	Triangle Inn	35	02/02/66	1662 (8)
Old Bridge	License of Stepko, Inc.	5	01/20/64	1550 (14)
Orange	Redman's Club Café	70	07/28/60	1354 (2)
Parsippany	Hoover's Tavern	55	07/23/62	1474 (2)

Paterson	All Fair Tavern	115	11/25/64	1546 (2)
	Anthony's	60	06/15/59	1289 (7)
	Bader's Bar	180	06/21/55	1073 (4)
		200	07/15/57	1184 (1)
	Club Ali-Baba	15	01/21/65	1602 (9)
		55	06/20/67	1749 (4)
	Doc's Tavern	65	04/09/57	1168 (3)
		30	01/06/64	1548 (4)
	Edna's Rendevous	142	02/02/59	1267 (3)
		150	01/16/61	1378 (3)
	Garden State Club	180	12/28/56	1153 (1)
	Herbie's Bar & Grill	20	10/18/55	1087 (7)
	Hollywood Café	55	04/25/61	1393 (2)
	Little Club	20	07/16/57	1185 (1)
	New York Bar	180	04/21/55	1063 (1)
		Revoked	07/18/56	1126 (3)
	The Casino	180	01/24/55	1050 (1)
		240	06/14/57	1177 (8)
		151	04/20/60	1340 (5)
		50	07/06/62	1456 (3)
License of Charmac, Inc.	55	06/17/65	1630 (2)	
	115	08/11/65	1637 (1)	
License of Sidney Litchenstein	Revoked	06/01/43	571 (1)	
Pennsauken	Ron-Day-Voo	50	07/29/65	1625 (2)
	Uncle Milty's	90	02/06/63	1501 (5)
Perth Amboy	License of P.A. Colored Democratic Club	25	08/19/49	852 (7)
Phillipsburg	Wardell Hotel	60	09/25/63	1529 (2)
Rochelle Park	License of Connie Gannitti	55	03/03/58	1218 (2)
Roselle	Helene's	40	06/29/61	1405 (3)
Secaucus	Copa Club	40	04/06/56	1112 (1)

Trenton	Hotel Penn	60	04/30/62	1453 (2)
	Paddock Inn	65	05/05/60	1342 (1)
		60	01/06/64	1543 (3)
	Shell's Bar & Restaurant	65	09/18/58	1247 (2)
	Storky's Inc.	Revoked	01/12/59	1263 (2)
Waterford	Speedway Inn	60	07/28/58	1241 (3)
West New York	Monroe Tavern	55	03/04/64	1557 (3)