

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

IN THE MATTER OF)	
APPLICATION FOR)	FOURTH ¹ AMENDED SPECIAL
TEMPORARY CONSUMER)	RULING EXTENDING AUTHORIZATION
ALCOHOLIC BEVERAGE)	FOR ISSUANCE OF TEMPORARY CONSUMER
FESTIVAL EVENT PERMITS)	ALCOHOLIC BEVERAGE FESTIVAL
_____)	EVENT PERMITS
)	

BY THE ACTING DIRECTOR:

On August 22, 2014, former Director Michael Halfacre issued the First Amended Special Ruling authorizing and creating a Temporary Consumer Alcoholic Beverage Festival Event Permit (“Festival Permit”). The Ruling was effective for eighteen months and allowed certain qualified Applicants to conduct various types of alcoholic beverage Festivals without strict compliance with certain regulatory requirements. On May 12, 2016, the Director extended that Special Ruling for an additional eighteen months. On August 23, 2017, former Director David P. Rible issued the Second Extension of the Special Ruling for an additional eighteen months, to February 22, 2019. I have determined that good cause exists to extend it for an additional eighteen months, to August 7, 2020, or until such time as the Division promulgates implementing regulations, whichever occurs first.

It is the mandate of the New Jersey Legislature that the Director of the Division of Alcoholic Beverage Control (“Division”) in the Department of Law and Public Safety supervise the manufacture, distribution and sale of alcoholic beverages in such a manner as to fulfill the public policies and legislative purposes of the Alcoholic Beverage Control Act (“ABC Act”). N.J.S.A. 33:1-3. Two such policies and purposes are: 1) the strict regulation of alcoholic beverages to protect the health, safety and welfare of the people of New Jersey, and 2) the fostering of moderation and responsibility in the use and consumption of alcoholic beverages. N.J.S.A.

¹ To avoid any possible confusion caused by how the three prior Special Rulings governing this matter were titled, this Special Ruling is titled the Fourth Amended Special Ruling Extending Authorization for Issuance of Temporary Consumer Alcoholic Beverage Festival Event Permits. This Special Ruling shall supersede the three prior Special Rulings. In the event of a conflict, this Special Ruling controls.

33:1-3.1. To this end, it is our obligation to the people of New Jersey to exercise due diligence when issuing all licenses and permits. Indeed, it is the Division's mandate.

With regard to Consumer Alcoholic Beverage Festival Events ("Festival"), it had come to the attention of the Division that events were being held where the primary focus was on the consumption of large amounts of alcohol. Such events, therefore, posed a threat to the health, safety and welfare of the people of this State, and ran counter to the Division's policy of fostering moderation and responsibility in the use and consumption of alcoholic beverages. These unmonitored events and their potential harm to the citizens of this State prompted the Division to issue the first Special Ruling, the purpose of which 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 served to eliminate events primarily focused on consuming large amounts of alcohol and instead, permitted the holding of events that met educational, size and control requirements. The Ruling also allowed the Director to monitor and review the number and scope of events held, how they were operated, the problems encountered, the ability of Applicants to maintain the public health, safety and welfare, 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. The Division, upon issuing these Festival Permits, created Special Conditions and requirements imposed upon the Applicant that struck a balance between the need to protect and ensure the public safety and the need to develop a mechanism that allowed craft producers to market their products to the general public. One such Special Condition towards this end was to allow only sampling of alcoholic beverages in specified sizes at these events, and to prohibit the sale of alcohol in original containers for either on-premises or off-premises consumption.

Since the inception of the Festival Permit, the Division has found that there are several methods of operations depending on the different types of Applicants. With the rapidly growing popularity of craft beer and the emergence of craft distilleries, as well as the creation of cidery and meadery licenses, the nature and number of these events are changing. Moreover, the Division has learned that Festivals are not only held to introduce and educate the public about craft alcoholic beverages but also other varieties of malt alcoholic beverages, wines and distilled spirits.

In reviewing the previous Special Rulings and the Division's experience monitoring and reviewing Festivals over the past several years, I have determined that a Fourth Amended Special Ruling Extending Authorization for Issuance of Temporary Consumer Alcoholic Beverage Festival Event Permits, with a revised Schedule A and a new Schedule B, is warranted. Special effort has been made to streamline the application process and to clarify the requirements and responsibilities of the Festival Permittee, upon whom the Director is conferring a privilege to hold such events.

Because of the growing numbers of these events which often contain complex arrangements and because of the time needed for the Division to exercise its due diligence in reviewing them, I am imposing a new filing deadline policy, discussed herein. To aid the Applicant, the Division has defined in Schedule B what constitutes a "Complete Application" which is required to be filed, along with the filing fee, pursuant to the new filing deadlines as set forth in Schedule A, Point B.12, before the Division will review the Application.

Every Applicant is responsible for knowing and adhering to the new provisions.

Evaluation of Applications will focus on regulatory compliance and policy concerns relating to public safety and preventing underage consumption and overconsumption of alcohol. The primary purposes of the Festival must be educational and entertainment and not for the consumption of alcohol.

This Fourth Amended Special Ruling is authorized by N.J.S.A. 33:1-39. Based on the Division's experience with Festivals, the Division intends to promulgate regulations implementing this Special Ruling. The Division will welcome comments from interested parties and the public for the Division's consideration prior to promulgation.

Accordingly, it is on this 7 day of March 2019

ORDERED, that this Fourth Amended Special Ruling Extending Authorization for Issuance of Temporary Consumer Alcoholic Beverage Festival Event Permits, dated March 7, 2019, shall be effective immediately, and shall be in force for an additional eighteen months, *i.e.*, August 7, 2020, or until such time as regulations are promulgated, whichever occurs first; and it is further

ORDERED, all Applicants for a Festival Permit shall submit a Complete Application as defined in Schedule B by the deadlines set forth in Schedule A, Point B.12; and it is further

ORDERED, effective June 1, 2019, if an Applicant fails to submit a Complete Application by the deadlines set forth in Schedule A, Point B.12, the Division shall deny the Application and return it and the filing fee to the Applicant without review; and it is further

ORDERED, that Applicants for a Festival Permit shall comply with the terms and conditions in the attached revised Schedule A; and it is further

ORDERED, that the following fee schedule shall apply for a Festival Permit:

- (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 \$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;

(C.) If the Festival event involves a third party promoter, the fee shall be \$1,000.00 per day, subject to a maximum of \$2,000.00, if held for the benefit of a non-profit organization or a for-profit entity; and it is further

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 third party promoters in circumstances other than authorized by a Festival Permit issued pursuant to this Amended Special Ruling and its accompanying Schedule A and Schedule B attached hereto; and it is further

ORDERED, that this Amended Special Ruling and its accompanying Schedule A and Schedule B may be withdrawn or modified by the Director at his discretion.



JAMES B. GRAZIANO
ACTING DIRECTOR

JBG/ABC

SCHEDULE A

FOR CONSUMER ALCOHOLIC BEVERAGE FESTIVAL EVENTS

A. Definitions:

1. "Consumer Alcoholic Beverage Festival Events" ("Festival") means an indoor or outdoor scheduled gathering, function, occasion or event that shall be sponsored or hosted by either a Plenary Retail Consumption Licensee, State Concessionaire Permittee, or a Social Affair 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.

An "Initial Festival" is an event where the Festival Applicant is holding a Festival for the first time or where a prior Festival applicant is holding their Festival at a different venue.

Nothing herein shall prevent a Social Affair Permittee from making application for a Social Affair Permit where the event does not meet the definition above.

2. A "third party promoter" is a person or entity engaged to assist in the planning, administration and/or operation of the Festival for a flat fee.

B. Consumer Alcoholic Beverage Festival Events may only be hosted by a Retail Consumption Licensee, State Concessionaire Permittee or Social Affair Permittee ("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.
2. Festival Permittees, as Licensees or Permittees, shall at all times be in control of the Festival event, the alcohol available at the Festival and the Festival premises and be responsible for same;
3. All Festival Attendees must be at least twenty-one years of age, including designated drivers;
4. Sale, service and consumption of alcoholic beverages shall be confined to the premises as described in the Festival Application.

5. All alcohol sold, served or consumed at a Festival shall be purchased and paid for by the Festival Permittee. If the Festival Permittee is a non-profit organization, alcohol may be donated to the Festival Permittee by the Festival Participants (*i.e.*, suppliers).
6. Title to all alcohol sold, served or consumed at the Festival must pass from the licensed supplier or wholesaler to the Festival Permittee prior to service to the Festival Attendees.
7. No alcohol shall be removed from the site of the Festival.
8. No alcohol shall be sold at the Festival in original containers for on-premises or off-premises consumption.
9. All entrances and exits to and from the alcoholic service area shall be monitored by security personnel throughout the duration of the Festival.
10. The Festival must provide an educational component relating to the type of alcohol being served or promoted at the event.
11. All alcoholic beverages sold, served or consumed at a Festival shall be brand registered, stored securely with all transportation permits intact and purchased in accordance with all Division laws and rules.
12. **PLEASE BE ADVISED:**

For an Application to be considered by the Division, the Applicant must file a Complete Application, together with the filing fee, at least sixty days in advance of an Initial Festival, and at least thirty days in advance of a Festival that is substantially identical to one that has been held before by the same Applicant at the same premises.

If an Applicant fails to submit a Complete Application by the deadlines set forth above, the Division shall deny the Application and return it and the filing fee to the Applicant without review.

13. A Complete Application is defined in Schedule B.
14. A Festival session shall not be longer than four hours in duration, but multiple sessions separated by at least a one hour break are allowed provided attendees are not permitted to attend more than one four-hour session per day. The Director may extend a session for an additional one hour upon a showing of good cause.
15. All ticket and sponsor proceeds must flow through the Festival Permittee.
16. All expenses must be incurred and paid by the Festival Permittee.

17. Festivals shall last no longer than three consecutive days.
18. A Plenary Retail Consumption Licensee, State Concessionaire Permittee or Social Affair Permittee, as the "host" or "sponsor" of the Festival, shall only be allowed to conduct up to two festivals within a calendar year.
19. There shall be no more than four Festivals held per year at any given premise.
20. The categories for Festivals are: malt alcoholic beverage, wine, distilled spirits, or some combination thereof.
21. Sample sizes of alcohol that are permissible at a Festival:
 - Two ounce samples for malt alcoholic beverages;
 - One ounce samples for wine; and
 - One-half ounce samples for distilled spirits.
22. Alcoholic beverages are to be dispensed in a unique, easily identifiable cup with demarcation lines for pouring and monitoring purposes.
23. All pourers/servers shall be supervised by an employee of the Licensee or Permittee who is TIPS/TAMS certified or the equivalent. Employees or representatives of a brewer, distiller, winemaker or wholesaler may also pour. However, if the brewer, distiller, or winemaker is not a New Jersey Licensee or Permittee, the pourer shall be considered an employee of the Licensee or Permittee to whom the Festival Permit is issued.
24. Roped-off tents or fenced-in areas shall be employed for the sale/service of alcoholic beverages. No roving/portable carts selling alcoholic beverages are permitted.
25. By definition a Festival involves multiple suppliers (*e.g.*, distilleries, breweries, wineries, meaderies, cideries). A minimum of fifteen participating suppliers shall be necessary to conduct a Festival.
26. A Festival shall have sufficient food and non-alcoholic beverages available, whether complimentary or for purchase.
27. Marketing and advertising for the Festival shall not state or imply that the Festival has unlimited alcohol available. N.J.S.A. 33:1-3.
28. In reviewing the Application, the Director reserves the right to request additional information to aid his decision about whether or not to issue the Festival Permit.
29. The Director may impose Special Conditions upon the Festival Permittee at his discretion to ensure the safety of the event, to maintain the public health, safety and welfare of the

citizens of New Jersey and to ensure that the Festival is conducted in full compliance with all provisions of the ABC Act, rules and regulations, and municipal ordinances.

30. Post-Event Accounting

The Director shall require a Post-Event Accounting documenting all purchases and donations of alcohol for sale, service or consumption at the Festival, and the amount of alcohol used at the Festival, submitted on an inventory form prescribed by the Director, including receipts for alcohol purchased or donated, and any other payments, purchases and costs as well as the allocation of any proceeds **within fifteen days of the Festival**. The Post-Event Accounting shall 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. The Director reserves the right to impose limitations on the amount of alcohol for sale, service or consumption at the Festival based on his review of the Post-Event Accounting.

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

31. In-Person Conference

Upon receipt of a Completed Application, along with the required filing fee, the Division may schedule an in-person conference with the Applicant and interested parties prior to the issuance or denial of the Festival Permit. For subsequent applications for the substantially identical event (same Applicant and premises), this requirement may be waived by the Director at his discretion.

SCHEDULE B
REQUIREMENTS OF A COMPLETE APPLICATION
FOR CONSUMER ALCOHOLIC BEVERAGE FESTIVAL EVENTS

A Complete Application shall include the following, which may be amended by the Director in the exercise of his discretion:

1. Submission of an application form, accompanied by the required filing fee.
2. The consent in the form of an original signature must be provided by all of the following individuals:
 - a. Applicant;
 - b. Municipal Clerk of the municipality where the Festival is being held;
 - c. Police Chief of the municipality where the Festival is being held; and
 - d. Person in control of the Festival Premises.

However, if the Festival is taking place at a premise which is either owned by or under the control of a County or State entity (or any political subdivision thereof), the consent in the form of an original signature of the Administrative and Law Enforcement Officials at the County or State level having jurisdiction over the premises must be obtained. In this case, the Applicant must provide confirmation that a copy of the Complete Application and all attachments were supplied to the Municipal Clerk and Police Chief of the municipality in which the Festival will occur, and that all recommendations by the Municipality with regard to security controls have been incorporated into the Complete Application.

3. A detailed Security Plan that ensures regulatory compliance and public safety.

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; and emergency medical assistance.

The Applicant must confirm that all servers shall be employees of the Applicant and that each serving station shall be directly supervised by an identified TIPS/TAMS or similarly certified individual acceptable to the Director.

The Applicant must confirm that all exits are FINAL; no Attendee shall be permitted to reenter after exiting the Festival premises; and this policy shall be posted at all Entrance and Exit points to the Festival premises.

3. A detailed map or sketch of the area where the Festival is to take place.

5. A detailed explanation of the flow of ticket and sponsor proceeds.
6. Confirmation that all expenses shall be incurred and paid by the Festival Permittee.
7. A comprehensive Festival Plan, including, but not limited to:
 - a. Complete information regarding any involvement of a third party promoter is required, including the Applicant's contract with the third party promoter. The contract must contain original signatures.

Please note: A third party promoter who desires to assist in the planning, administration and/or operation of a Festival shall first satisfy the qualifications of a Licensee, Permittee or employee of such, prior to the Festival, including a background check, fingerprinting and an in-person conference. Prospective third party promoters are advised to contact the Division's Licensing Bureau for guidance on how to satisfy these requirements. See N.J.S.A. 33:1-25; N.J.A.C. 13:2-9.2.

A third party promoter may not assert control over the Festival event, the alcohol available at the Festival or the Festival premises.

In reviewing the qualifications of a third party promoter, the Director reserves the right to request additional information at his discretion.

- b. Explanation of the required educational component of the Festival.
- c. Explanation of all entertainment and recreational activities offered at the Festival, including outside vendor participation.
- d. Dates, times, ticket pricing (including ticket types, *e.g.*, general admission, VIP, designated driver), and ticket service provider.
- e. Screenshots of all proposed marketing and advertising by any of the parties involved in the event, including but not limited to: all social media, signage, tickets, ticketing services, radio and television.
- f. Confirmation that all Festival attendees shall be provided wristbands, with different colored wristbands used to distinguish the ticket types (*e.g.*, general admission, VIP, designated driver).

- g. Identification of participating suppliers (*e.g.*, breweries, wineries, distilleries, meaderies, cideries) or wholesalers of the alcoholic beverages that will be sold, served or consumed at the Festival, and the names of the products, shall be submitted to the Division in a format prescribed by the Director. A preliminary list may be submitted at the time of Application provided a final list of Festival Participants and products is submitted to the Division prior to the event date.
- h. Description of food and non-alcoholic beverages that will be offered at the Festival, whether for sale or included in the admission price.