

March 4, 2013

**NOTICE TO ALL NEW JERSEY LICENSED WHOLESALERS
CONCERNING CURRENT PRICE LIST FILING REQUIREMENTS**

Please be advised that the Division of Alcoholic Beverage Control (“Division”) is moving toward requiring electronic filing of Current Price Lists (“CPL” or “CPLs”) by every licensee or registrant privileged to sell alcoholic beverages to retailers in the State of New Jersey. As part of this effort, the Division is in the process of modernizing its information collection and management system. This Notice is intended to assist licensees and registrants in ensuring compliance with existing regulatory requirements concerning the submittal of CPLs and amendments thereto. Accordingly, pursuant to the Division’s March 18, 2003 Notice to Industry and ABC Bulletins Numbers 2460-8 and 2465-1, please be reminded of the following:

1. Monthly CPL Filings.

- **N.J.A.C. 13:2-24.6(a)(4) requires a CPL to be filed with the Division “**no later than the 15th day of each calendar month** ...” preceding the month for which it is to be effective. This means that a CPL must be received by the Division by 5:00 PM on the 15th of each month. Failure to submit by this deadline may result in a rejection of the CPL (which may prevent sales of the products listed therein in New Jersey for the corresponding month) or other disciplinary action, including license suspension or monetary penalties. In order to avoid these results, **it is imperative that all licensees and registrants ensure that their CPLs are received by the Division by the 15th of each month.****
- A new CPL must be filed each month, regardless of whether there are any changes in prices from the previous month.
- If a licensee or registrant does not sell its products to retailers in the State, and is therefore, not required to file a monthly CPL with the Division, please immediately advise the Division at CPL@lps.state.nj.us.
- Every licensee or registrant required to file a CPL with the Division must provide a valid e-mail address along with its submittal.

2. Amendments to CPL Filings.

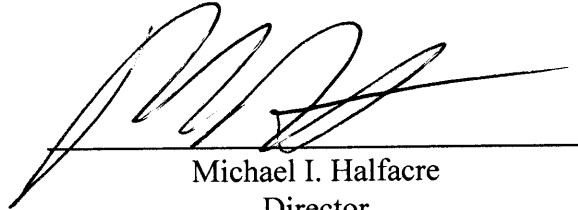
- N.J.A.C. 13:2-24.6(a)(5) provides that ... “[N]o amendments or changes (except upon approval of the Director to correct **bona fide clerical errors**) shall be made therein prior to filing of the next monthly price list.” Past practice of the Division has allowed amendments in limited circumstances, provided the Director is satisfied that the amendments are made in good faith and do not provide the filer

with an unfair competitive advantage. The following CPL amendment procedures will be enforced:

1. If a clerical error is discovered within 48 hours of submittal of a CPL, the filer must submit an affidavit to the Division, which includes all facts supporting its request for the amendment(s). Amendments will be presumptively denied unless a bona fide clerical error is established by the filer.
2. If an error is discovered outside the 48-hour period, or if the filer wishes to introduce a new product after a CPL has been filed, the filer must submit an affidavit to the Division seeking relaxation of N.J.A.C. 13:2-24.6(a)(5) pursuant to N.J.A.C. 13:2-9.1. The Director will consider the request upon a showing of undue hardship on a licensee; that the waiver of the rule would not unduly burden any affected parties; and that the waiver is consistent with the underlying purposes of Title 33 and its implementing regulations. This is a higher standard than for amendment requests made within the 48-hour window.
3. Any affidavit seeking an amendment to a CPL under Number 1 or 2 above must include the following representations, as appropriate:
 - a. The affiant is authorized to make the representations contained in the affidavit on behalf of the licensee or registrant;
 - b. The reason(s) the amendment request is being made (e.g., to correct a demonstrated bona fide clerical error or to allow for the introduction of a new product);
 - c. If an amendment is submitted beyond the 48-hour period, the affiant should provide the dates and details of the licensee's attempts to file within 48 hours and the events that occurred which prevented it from filing within that deadline. Where the delay is attributed to a supplier's delay, corroborating letters from the suppliers should be attached to the affidavit;
 - d. The amendment request is submitted in good faith;
 - e. The granting of the amendment will not give the wholesaler an unfair competitive advantage;
 - f. The number of prior amendment requests which have been submitted by that wholesaler within the last year; and
 - g. A statement immediately preceding the affiant's signature providing that: "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment." Each affidavit should be signed by the affiant and notarized before a

Notary Public.

- Beginning with the CPL filing due on May 15, 2013, the Division will not accept amendment requests unless they are in an affidavit form, as outlined above. For the convenience of the industry, a form of affidavit will be posted on the Division's website prior to that date.
- All amendment requests must be submitted electronically to CPL@lps.state.nj.us.
- For amendment requests made within 48 hours after submittal of a CPL, the Director will approve or deny the request by way of e-mail. For amendment requests made outside the 48-hour window, the Director will issue a Special Ruling.
- It is the Division's intention to encourage all CPL filers to review their filings carefully for clerical errors before and immediately after filing in order to reduce the need for amendments to the maximum extent possible.



Michael I. Halfacre
Director