

STATE OF NEW YORK

EXECUTIVE DEPARTMENT

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

(SERIES 1942)

BULLETIN #90

OCTOBER 23, 1942

TO: LIQUOR AND WINE MANUFACTURERS AND WHOLESALERS

SUBJECT: LIMITATION OF QUANTITIES OFFERED FOR SALE

*Obs. Bull  
See 378*

THE ANTI-DISCRIMINATORY PROVISION OF THE HOLLOWELL AMENDMENT (SECTION 101-B OF THE ALCOHOLIC BEVERAGE CONTROL LAW) CONTEMPLATES THAT ANY LIQUOR OR WINE SCHEDULED BY A MANUFACTURER OR WHOLESALER SHOULD BE SUPPLIED TO ALL BUYERS UNDER THE SAME TERMS AND CONDITIONS. THE LIQUOR AUTHORITY, WHEN PROMULGATING RULE 16, TOOK INTO CONSIDERATION THE QUESTION ADVANCED BY INDUSTRY MEMBERS REGARDING LIMITED SUPPLIES. ACCORDINGLY, THERE WAS INCORPORATED IN THE RULE BY WAY OF INTERPRETATION, QUESTIONS AND ANSWERS DESCRIBING THE PROCEDURE TO BE FOLLOWED WHEN LIMITATIONS OF QUANTITY EXISTED. UNLESS THE METHOD DESCRIBED IN BULLETIN No. 85 (RULE 16 - PARAGRAPH HEADED "QUANTITY LIMITATIONS" ON PAGE 10) IS USED IT IS PRESUMED THAT ANY SCHEDULED BRAND OF LIQUOR OR WINE IS OFFERED FOR SALE WITHOUT ANY RESTRICTIONS AS TO QUANTITY.

IF A BRAND IS RESTRICTED IN QUANTITY IN THE AGGREGATE, OR BY CUSTOMER, OR BY INDIVIDUAL SALE, APPROPRIATE STATEMENT IS TO BE MADE ON FORMS PS-1, PS-3 AND PS-5. UNLESS THIS IS DONE, THE LISTING WILL BE REGARDED AS BEING FOR UNLIMITED QUANTITIES.

THE LIQUOR AUTHORITY REALIZES THAT CERTAIN CONDITIONS BEYOND THE CONTROL OF INDUSTRY MEMBERS AROSE DURING THE MONTH OF OCTOBER. IN ORDER TO AVOID ANY CONFUSION, MANUFACTURERS AND WHOLESALERS WHO FIND IT NECESSARY TO LIMIT OR RESTRICT THE QUANTITIES TO BE MADE AVAILABLE DURING THE MONTH OF NOVEMBER, WILL BE PERMITTED TO FILE A CORRECTED "TOP-SHEET" (FORMS PS-1, PS-3 AND PS-5) NO LATER THAN THURSDAY, OCTOBER 29TH. NINETY COPIES OF THE CORRECTED "TOP-SHEET" SHOULD BE FILED AND THE WORD "CORRECTED" SHOULD BE TYPED ON THE BOTTOM OF THE SHEET IN A CONSPICUOUS MANNER.

FOR FUTURE SCHEDULES SUCH INFORMATION WILL BE REQUIRED TO APPEAR ON THE SCHEDULE AT THE TIME OF FILING.

CIRCUMSTANCES DUE TO WAR CONDITIONS, SUCH AS TRANSPORTATION, PROCUREMENT OF MATERIALS AND CURTAILMENT OF PRODUCTION BY GOVERNMENTAL ORDER, ETC., SHOULD BE CONSIDERED BY INDUSTRY MEMBERS WHEN PREPARING THEIR SCHEDULES. UNLESS APPROPRIATE STATEMENTS ARE MADE ON THE SCHEDULE THE BRAND WILL BE REGARDED AS BEING OFFERED IN AN UNLIMITED QUANTITY.

WHEN QUANTITY IS RESTRICTED AND THE SUPPLY IS TO BE APPORTIONED AMONGST CUSTOMERS, THE MANUFACTURER OR WHOLESALER MUST STATE ON THE SCHEDULE THE METHOD OF APPORTIONMENT TO BE USED. THE AGGREGATE AMOUNT FOR DISTRIBUTION IN THE STATE FOR THE PARTICULAR MONTH SHOULD BE STATED BY THE MANUFACTURER. IN APPORTIONING AMOUNTS TO CUSTOMERS, IT IS SUFFICIENT FOR THE MANUFACTURER OR WHOLESALER TO INDICATE THE METHOD OR FORMULA TO BE USED WITHOUT STATING INDIVIDUAL CUSTOMERS ALLOTMENTS. IN EVERY INSTANCE, INDUSTRY MEMBERS WILL BE HELD RESPONSIBLE FOR COMPLIANCE WITH THE ANTI-DISCRIMINATORY PROVISION OF THE

(OVER)

LAW. THE METHOD OF ALLOTMENT EMPLOYED MUST BE JUSTIFIED BY THE RECORDS OF THE INDUSTRY MEMBER UPON INQUIRY OR INVESTIGATION BY THE LIQUOR AUTHORITY.

IT IS NOT THE INTENTION OF THE LIQUOR AUTHORITY TO PRESCRIBE A METHOD FOR THE ALLOTMENT OF LIMITED SUPPLIES.

EACH MANUFACTURER OR WHOLESALER MAY SELECT THE METHOD BEST SUITED TO HIS BUSINESS, PROVIDED DISCRIMINATION IS NOT PRACTICED. IF DIFFERENTIALS ARE MADE IN ALLOTMENTS BETWEEN REGULAR CUSTOMERS AND NEW CUSTOMERS, OR IN VARYING QUANTITIES SUPPLIED ON THE BASIS OF PAST BUSINESS, THE PARTICULAR MANUFACTURER OR WHOLESALER MUST JUSTIFY HIS ALLOTMENTS BY HIS RECORDS.

IT IS NOT THE PURPOSE OF THE LIQUOR AUTHORITY OR THE STATUTE TO INTERFERE WITH PROPER AND CUSTOMARY BUSINESS PRACTICES MADE IN GOOD FAITH AND NOT DESIGNED TO CIRCUMVENT THE ANTI-DISCRIMINATORY PROVISIONS OF THE LAW OR CONCEIVED TO DEFEAT THE PURPOSES FOR WHICH THE HOLLOWELL AMENDMENT WAS ENACTED.

STATE LIQUOR AUTHORITY

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