

Series 1957
Divisional Order #426
June 6, 1957

TO: ZONE OFFICES AND LOCAL BOARDS

SUBJECT: HOTEL OFF-PREMISES PERMITS

Chapter 887 of the Laws of 1957, effective April 23, 1957, amended Subd. 6 of Section 64 of the Alcoholic Beverage Control Law. As amended, Subd. 6 now reads as follows: (NEW MATTER UNDERLINED)

Where an on-premises license shall be granted to the owner of a hotel situated in a town or village the Liquor Authority may in its discretion grant to such owner the right to sell liquor and wine for off-premises consumption under the same terms and conditions as apply to off-premises licenses upon the payment of fifty dollars additional fee provided, however, that this permission shall not be granted if an off-premises license has been granted for premises located within eight miles of such hotel.

Nothing contained in subdivision six of section sixty-four of the alcoholic beverage control law, as amended by this act, shall be construed to prevent the subsequent licensing of hotel premises presently licensed for off-premises sale of liquor and wine.

The effect of this amendment is to prohibit the issuance of new H.O.P. permits unless the hotel premises are at least eight (8) miles distant from the nearest package store in any direction. It does not affect H.O.P. permits currently held by hotels which are less than eight (8) miles but more than five (5) miles from a package store. In these instances, H.O.P. permits may be re-issued either by way of renewal or in connection with a transfer of ownership.

It should be noted, however, that if in the future any package store license is removed to or issued to a location within eight (8) miles of a premises holding an H.C.P. permit, notice is to be served on the permittee by the appropriate Zone Office that the said permit must be surrendered within 60 days after the effective date of the removal or issuance of the package store license. This procedure shall apply irrespective of whether the H.O.P. permit was in effect at the time of the enactment of Chapter 887 or is hereafter issued.

The Members of the Authority have ruled that the existence of an H.O.P. permit within a radius of 8 miles of an hotel applying for an H.O.P. permit does not require the disapproval of such application for an H.O.P. permit.

MEASUREMENT:

The distance of eight miles is to be measured along a road intended for vehicular travel and maintained at public expense. Said road shall be any such road adjacent to the applied for premises. The measurement along such road shall be from a point thereon which is closest to the entrance to the applied for premises and shall extend in either direction to a point on such road which is closest to the entrance of the nearest premises licensed for the sale of liquor and wines at retail for off-premises consumption situated along such road. In computing such measurement, the distances from the entrances of the premises to the road points shall not be included.

AREA SKETCH OR
PLAN REQUIRED

Applicants for H.O.P. permits unless hereinafter excepted, are to be required to furnish with each application, an area sketch or plan setting forth the following:

1. The four (4) licensed package stores nearest the applied for premises, irrespective of the distance between such stores and the applied for premises and the county in which such stores are located.
2. Each H.O.P. permittee located within a radius of eight (8) miles of the applied for premises.

The sketch or plan submitted shall identify and locate each of the foregoing premises and set forth the shortest distance by public thoroughfare between each such premises and the applied for premises.

To avoid unnecessary expense to applicants, the above prescribed sketch or plan need not be prepared by a surveyor. However, applicants will be required to furnish at their cost and on demand, a survey setting forth the exact distance between the applied for premises and any other premises designated by the Liquor Authority. Where any distance set forth on the applicant's plan is deemed questionable by a Local Board or is disputed by a competitor, the matter should be referred to the appropriate Zone Office of the Liquor Authority in order that a determination may be made as to whether such survey is required or not.

NOTIFICATION OF PACKAGE STORES

Upon receipt of an application for an H.O.P. permit which does not come under any of the following exceptions, the Local Board receiving the same shall mail a notice to the four (4) package stores nearest the proposed premises. Said notice shall also advise that any protest against the issuance of the H.O.P. permit must be received by the Local Board in writing, in duplicate, within 10 days from the date of the notice and must set forth the specific grounds, if any, on which the protest is based.

EXCEPTIONS:

The above prescribed area sketch shall be required by all applicants for H.O.P. permits except for the following:

1. An annual licensee applying for renewal of an H.O.P. permit.
2. An applicant for transfer of ownership of an annual hotel currently holding an H.O.P. permit.
3. An applicant for transfer of ownership of a summer hotel holding an H.O.P. permit issued during the same summer license period.

"Renewals" of H.O.P. permits issued to summer hotels during the prior summer license period are not exempted and must be accompanied by such a sketch.

FINAL DETERMINATION:

All applications for H.O.P. permits not excepted herein from the requirement of submitting an area sketch or plan shall be forwarded to the Members of the Authority for final determination. The three exceptions hereinabove noted shall continue to be acted upon by the Bureau of Licenses in each of the respective Zone Offices.

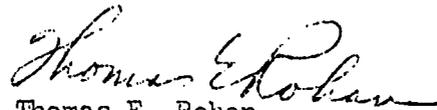
The present Form 112 requires the applicant to state whether or not the premises sought to be licensed is located within five air miles of a premises licensed for the off-premises sale of liquor and wines at retail. Pending the printing and distribution of a newly revised Form 112 (application for Hotel Off-premises permit) the present forms may be utilized by striking out the words "five air" wherever it appears therein and inserting the word "eight".

When filling in their endorsement on the application, Local Boards shall consider the data submitted by the applicant in the area plan. If there appears any discrepancy in the statements made by the applicant as to distances between the premises sought to be licensed and any package store, the Local Board should make an investigation. The distances in question may be measured off by traveling the distance in an automobile and making speedometer readings.

The following Divisional Orders previously issued dealing with H.O.P. permits are hereby rescinded:

Divisional Order	#419	issued	January 14, 1957
"	"	#401	issued November 30, 1955
"	"	#300	(only that portion thereof dealing with H.O.P permits) issued July 5, 1951
"	"	#284	issued December 20, 1950
"	"	#247	issued December 3, 1948
"	"	#219	issued June 24, 1947

STATE LIQUOR AUTHORITY


Thomas E. Rohan
Chairman