



# MONTHLY MUSINGS

BY PAUL SANTELLE

## CORRECTION & FOLLOW-UP ON DELTA-8 & -9 BEVERAGES

Last month we discussed the status of hemp-derived Delta-8 and Delta-9 beverages with respect to selling them in our marketplace. In that discussion, it was incorrectly stated that Delta-9 beverages containing less than 3% THC were currently on the Do Not Sell list—as of press time—any hemp derived Delta-8 or -9 beverage with less than 3% THC are allowed to be sold in our marketplace and any infused beverage with more than 3% THC is not. We apologize for any confusion. Stay tuned for more updates on this new emerging adult beverage retail sector that the NJLSA and its members look forward to participating in.

## ABC CLARIFICATION ON THIRD-PARTY DELIVERY APPS

Our state ABC has only approved the following three third-party delivery apps for New Jersey: DoorDash, Instacart, and Uber Eats. It came to the NJLSA's attention after the ABC issued fines to retailers who were using Minibar, where related contracts were based on a percentage and not the required fixed flat fee. The bottom line is retailers should not enter a fee arrangement contract that is based on a percentage of sales when it comes to the third-party delivery of alcoholic beverages. All three of the above approved third-party delivery app companies have been advised by the ABC that they are prohibited from using a percentage of sale fee arrangement with licensed retailers.

Our advice to our members engaging with third-party delivery apps is to have an attorney familiar with New Jersey ABC regulations review and confirm that

your agreement is compliant with the regulation. Pursuant to the regulation there should be a flat delivery fee for the third-party delivery driver, which the end-consumer pays directly through the app (not the retailer), and a flat or fixed contractual fee that the third-party delivery entity will deduct from the proceeds of the end-consumer payment within 24 to 48 hours of settlement. We have asked the ABC to clarify whether third-party delivery app companies can use a sliding variable fixed rate based on dollar sales, which retailers have reported that DoorDash has been using.

## NEW ACTING ABC DIRECTOR KIRSTEN KRUEGER

At the end of March, New Jersey Attorney General Matthew Platkin announced the retirement of ABC director James "Jim" Graziano; the following week, he announced that Kirsten Krueger would be assuming the role of interim director of the New Jersey Division of ABC. Prior to coming to the ABC, Kirsten was counsel to the Attorney General, Matthew Platkin, a position she had held since crossing the Hudson after a tenure as assistant district attorney in New York City. The NJLSA looks forward to working with interim ABC director Krueger and her team as part of our effort to maintain a fair and level playing field in our marketplace.

## NJLSA MEMBERSHIP & RENEWALS

A big thank you to the new members who have recognized the importance of supporting our legislative and legal efforts by joining the NJLSA. If you are not a member of the NJLSA or a member looking to renew your NJLSA membership,

## DATES TO REMEMBER

**JUNE 24** - Annual Golf Outing, Forsgate Country Club

**OCTOBER 30** - Holiday Trade Show, NJ Convention & Expo Center

go to our website to get connected to your industry. Think of it as an insurance premium to protect the value of your license, which includes your membership with the American Beverage Licensees Association. Go to [www.NJLSA.com](http://www.NJLSA.com). ■

### PLEASE NOTE

We have changed our mailing address to  
**160 West State Street,  
 Trenton, NJ 08608-1102 c/o NJLSA**

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