

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

F&F Distributors
Eric A. Filardi, Permittee
F&F Distributors, Inc., Backer
Permit #LIW.504
Case No. 2008-6709

Docket No. 2008-1161
September 16, 2008

MEMORANDUM OF DECISION

This matter involves a petition submitted by F&F Distributors (hereinafter "F&F"), 31 Eastern Avenue, New London, Connecticut, holder of wholesaler liquor permit LIW.504, in accordance with Section 30-64a, Connecticut General Statutes. A formal administrative hearing was held before the Department of Consumer Protection, Liquor Control Commission, on September 4, 2008, at which time Eric Filardi, President of F&F Distributors, appeared.

The Connecticut Package Stores Association was granted intervenor status for this hearing on August 21, 2008, and Wine and Spirits Wholesalers of Connecticut, Inc. was granted intervenor status for this hearing on September 2, 2008. Counsel for both intervenors were present at the hearing. At the conclusion of the hearing, the record was left open until September 9, 2008, to allow the intervenors to submit briefs.

The hearing was held pursuant to Connecticut General Statutes, Section 30-64a, which provides:

Notwithstanding any provision of the general statutes or any regulations issued pursuant thereto to the contrary, a wholesaler, who sells any product or is authorized to sell any product by this chapter, shall sell such product to each retail permittee in the wholesaler's geographic territory who desires to purchase such

product. Such wholesaler shall not charge any retail permittee, to whom the wholesaler is required to sell by virtue of this section, a different rate for the delivery or transportation of any alcoholic liquor than such wholesaler would charge any other retail permittee. *Where distance, road conditions, travel time or any such factor substantially affects the cost of delivery or transportation of a product sold by a wholesaler, the wholesaler shall file a schedule of proposed delivery charges with the Department of Consumer Protection. Such schedule shall only apply after a hearing by and upon written approval from said department.* (Emphasis added.)

In order to address increased costs of delivery and transportation, liquor wholesalers may avail themselves of one of two statutorily prescribed options; posting increases to the case price in accordance with Section 30-68l, Connecticut General Statutes, or requesting approval of proposed delivery charges from the department following a hearing, in accordance with Sec. 30-64a, Connecticut General Statutes, as in this case.

The subject of this hearing was the schedule of proposed delivery charges, in the amount of \$5.00, filed by F&F. F&F services New London and Middlesex counties with its fleet of 17 trucks. It averages 30,000 to 35,000 deliveries per year and will pay approximately \$150,000 in annual surcharges from its suppliers. F&F calculates the requested \$5 surcharge per delivery by dividing the annual surcharges by the number of deliveries. Should F&F's surcharges from its suppliers decrease, F&F would request another hearing by this department to modify the approved surcharge. The surcharges are not directly related to F&F's fuel costs. F&F will notify its customers by utilizing sales force and price sheets.

Based upon the testimony and documents submitted at the hearing, we find that F&F has incurred increased surcharges from its suppliers which it can

no longer absorb as a cost of doing business. Accordingly, the delivery charge of \$5.00 is hereby approved, to be effective upon written notice to F&F's customers by way of its sales force or price sheets. Furthermore, we find that this is a properly approved charge imposed upon the purchaser and subject to Section 30-48, Connecticut General Statutes, and Section 30-6-A37a of the Regulations of Connecticut State Agencies.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION
BY**

Elisa A. Nahas, Esq.
Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Eric Filardi, President, F&F Distributors, 31 Eastern Avenue, P.O. Box 631, New London, CT 06320

Intervenors:

Joshua D. Hughes, Esq., Assistant Executive Director, Connecticut Package Stores Association, 700 Plaza Middlesex, Middletown, CT 06457

Peter A. Berdon, Esq., Executive Director and General Counsel, Wine and Spirits Wholesalers of Connecticut, Inc. 132 Temple Street, New Haven, CT 06510

Nonparties:

Director John Suchy, Liquor Control Division

Connecticut Beverage Journal, 2508 Whitney Ave., P.O. Box 185159, Hamden, CT 06518

Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106