

# ASSEMBLY, No. 3520

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED NOVEMBER 22, 2010

**Sponsored by:**

**Assemblywoman CELESTE M. RILEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Camden)**

**SYNOPSIS**

Permits breweries to offer samples and to sell directly to consumers at brewery premises.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning breweries and amending R.S.33:1-10.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State  
4 of New Jersey:

5

6 1. R.S.33:1-10 is amended to read as follows:

7 33:1-10. Class A licenses shall be subdivided and classified as  
8 follows:

9 Plenary brewery license. 1a. The holder of this license shall be  
10 entitled, subject to rules and regulations, to brew any malt alcoholic  
11 beverages and to sell and distribute his products to wholesalers and  
12 retailers licensed in accordance with this chapter, and to sell and  
13 distribute without this State to any persons pursuant to the laws of  
14 the places of such sale and distribution, and to maintain a  
15 warehouse ,and to sell products at retail to consumers on the  
16 licensed premises of the brewery for consumption off the premises  
17 and to offer samples for sampling purposes only. The fee for this  
18 license shall be \$10,625. For the purposes of this subsection,  
19 "sampling" means the selling at a nominal charge or the gratuitous  
20 offering of an open container not exceeding one and one-half  
21 ounces of any malt alcoholic beverage.

22 Limited brewery license. 1b. The holder of this license shall be  
23 entitled, subject to rules and regulations, to brew any malt alcoholic  
24 beverages in a quantity to be expressed in said license, dependent  
25 upon the following fees and not in excess of 300,000 barrels of 31  
26 fluid gallons capacity per year and to sell and distribute this product  
27 to wholesalers and retailers licensed in accordance with this  
28 chapter, and to sell and distribute without this State to any persons  
29 pursuant to the laws of the places of such sale and distribution, and  
30 to maintain a warehouse ,and to sell products at retail to consumers  
31 on the licensed premises of the brewery for consumption off the  
32 premises and to offer samples for sampling purposes only. The fee  
33 for this license shall be graduated as follows: to so brew not more  
34 than 50,000 barrels of 31 fluid gallons capacity per annum, \$1,250;  
35 to so brew not more than 100,000 barrels of 31 fluid gallons  
36 capacity per annum, \$2,500; to so brew not more than 200,000  
37 barrels of 31 fluid gallons capacity per annum, \$5,000; to so brew  
38 not more than 300,000 barrels of 31 fluid gallons capacity per  
39 annum, \$7,500. For the purposes of this subsection, "sampling"  
40 means the selling at a nominal charge or the gratuitous offering of  
41 an open container not exceeding one and one-half ounces of any  
42 malt alcoholic beverage.

43 Restricted brewery license. 1c. The holder of this license shall  
44 be entitled, subject to rules and regulations, to brew any malt  
45 alcoholic beverages in a quantity to be expressed in such license not

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 in excess of 3,000 barrels of 31 fluid gallons capacity per year.  
2 Notwithstanding the provisions of R.S.33:1-26, the director shall  
3 issue a restricted brewery license only to a person or an entity  
4 which has identical ownership to an entity which holds a plenary  
5 retail consumption license issued pursuant to R.S.33:1-12, provided  
6 that such plenary retail consumption license is operated in  
7 conjunction with a restaurant regularly and principally used for the  
8 purpose of providing meals to its customers and having adequate  
9 kitchen and dining room facilities, and that the licensed restaurant  
10 premises is immediately adjoining the premises licensed as a  
11 restricted brewery. The holder of this license shall only be entitled  
12 to sell or deliver the product to that restaurant premises. The fee for  
13 this license shall be \$1,250, which fee shall entitle the holder to  
14 brew up to 1,000 barrels of 31 fluid gallons per annum. The  
15 licensee also shall pay an additional \$625 for every additional 1,000  
16 barrels of 31 fluid gallons produced. No more than two restricted  
17 brewery licenses shall be issued to a person or entity which holds an  
18 interest in a plenary retail consumption license. If the governing  
19 body of the municipality in which the licensed premises will be  
20 located should file a written objection, the director shall hold a  
21 hearing and may issue the license only if the director finds that the  
22 issuance of the license will not be contrary to the public interest.  
23 All fees related to the issuance of both licenses shall be paid in  
24 accordance with statutory law.

25 Plenary winery license. 2a. Provided that the holder is engaged  
26 in growing and cultivating grapes or fruit used in the production of  
27 wine on at least three acres on, or adjacent to, the winery premises,  
28 the holder of this license shall be entitled, subject to rules and  
29 regulations, to produce any fermented wines, and to blend, fortify  
30 and treat wines, and to sell and distribute his products to  
31 wholesalers and retailers licensed in accordance with this chapter  
32 and to churches for religious purposes, and to sell and distribute  
33 without this State to any persons pursuant to the laws of the places  
34 of such sale and distribution, and to maintain a warehouse, and to  
35 sell his products at retail to consumers on the licensed premises of  
36 the winery for consumption on or off the premises and to offer  
37 samples for sampling purposes only. The fee for this license shall  
38 be \$938. The holder of this license shall also have the right to sell  
39 such wine at retail in original packages in six salesrooms apart from  
40 the winery premises for consumption on or off the premises and for  
41 sampling purposes for consumption on the premises, at a fee of  
42 \$250 for each salesroom. Additionally, subject to rules and  
43 regulations, one salesroom per county may be jointly controlled and  
44 operated by at least two plenary or farm winery licensees for the  
45 sale of the products of any plenary or farm winery licensee for  
46 consumption on or off the premises and for consumption on the  
47 licensed premises for sampling purposes at an additional fee of  
48 \$625 per county salesroom. For the purposes of this subsection,

1 "sampling" means the selling at a nominal charge or the gratuitous  
2 offering of an open container not exceeding one and one-half  
3 ounces of any wine.

4 For the purposes of this subsection, "product" means any wine  
5 that is produced, blended, fortified, or treated by the licensee on its  
6 licensed premises situated in the State of New Jersey.

7 Any holder of a plenary winery license who sold wine which was  
8 produced, bottled, and labelled by that holder in a place other than  
9 its licensed New Jersey premises between July 1, 1992 and June 30,  
10 1993, may continue to sell that wine provided no more than 25,000  
11 cases, each case consisting of 12 750 milliliter bottles or the  
12 equivalent, are sold in any single license year. This privilege shall  
13 terminate upon, and not survive, any transfer of the license to  
14 another person or entity subsequent to the effective date of this  
15 1993 amendatory act or any transfer of stock of the licensed  
16 corporation other than to children, grandchildren, parents, spouses  
17 or siblings of the existing stockholders.

18 Farm winery license. 2b. The holder of this license shall be  
19 entitled, subject to rules and regulations, to manufacture any  
20 fermented wines and fruit juices in a quantity to be expressed in  
21 said license, dependent upon the following fees and not in excess of  
22 50,000 gallons per year and to sell and distribute his products to  
23 wholesalers and retailers licensed in accordance with this chapter  
24 and to churches for religious purposes and to sell and distribute  
25 without this State to any persons pursuant to the laws of the places  
26 of such sale and distribution, and to maintain a warehouse and to  
27 sell at retail to consumers for consumption on or off the licensed  
28 premises and to offer samples for sampling purposes only. The  
29 license shall be issued only when the winery at which such  
30 fermented wines and fruit juices are manufactured is located and  
31 constructed upon a tract of land exclusively under the control of the  
32 licensee, provided that the licensee is actively engaged in growing  
33 and cultivating an area of not less than three acres on or adjacent to  
34 the winery premises and on which are growing grape vines or fruit  
35 to be processed into wine or fruit juice; and provided, further, that  
36 for the first five years of the operation of the winery such fermented  
37 wines and fruit juices shall be manufactured from at least 51%  
38 grapes or fruit grown in the State and that thereafter they shall be  
39 manufactured from grapes or fruit grown in this State at least to the  
40 extent required for labeling as "New Jersey Wine" under the  
41 applicable federal laws and regulations. The containers of all wine  
42 sold to consumers by such licensee shall have affixed a label stating  
43 such information as shall be required by the rules and regulations of  
44 the Director of the Division of Alcoholic Beverage Control. The  
45 fee for this license shall be graduated as follows: to so manufacture  
46 between 30,000 and 50,000 gallons per annum, \$375; to so  
47 manufacture between 2,500 and 30,000 gallons per annum, \$250; to  
48 so manufacture between 1,000 and 2,500 gallons per annum, \$125;

1 to so manufacture less than 1,000 gallons per annum, \$63. No farm  
2 winery license shall be held by the holder of a plenary winery  
3 license or be situated on a premises licensed as a plenary winery.

4 The holder of this license shall also have the right to sell his  
5 products in original packages at retail to consumers in six  
6 salesrooms apart from the winery premises for consumption on or  
7 off the premises, and for sampling purposes for consumption on the  
8 premises, at a fee of \$250 for each salesroom. Additionally, subject  
9 to rules and regulations, one salesroom per county may be jointly  
10 controlled and operated by at least two plenary or farm winery  
11 licensees for the sale of the products of any plenary or farm winery  
12 licensee for consumption on or off the premises and for  
13 consumption on the licensed premises for sampling purposes only,  
14 at an additional fee of \$625 per county salesroom. For the purposes  
15 of this subsection, "sampling" means the selling at a nominal charge  
16 or the gratuitous offering of an open container not exceeding one  
17 and one-half ounces of any wine.

18 Unless otherwise indicated, for the purposes of this subsection,  
19 with respect to farm winery licenses, "manufacture" means the  
20 vinification, aging, storage, blending, clarification, stabilization and  
21 bottling of wine or juice from New Jersey fruit to the extent  
22 required by this subsection.

23 Wine blending license. 2c. The holder of this license shall be  
24 entitled, subject to rules and regulations, to blend, treat, mix, and  
25 bottle fermented wines and fruit juices with non-alcoholic  
26 beverages, and to sell and distribute his products to wholesalers and  
27 retailers licensed in accordance with this chapter, and to sell and  
28 distribute without this State to any persons pursuant to the laws of  
29 the places of such sale and distribution, and to maintain a  
30 warehouse. The fee for this license shall be \$625.

31 Instructional winemaking facility license. 2d. The holder of this  
32 license shall be entitled, subject to rules and regulations, to instruct  
33 persons in and provide them with the opportunity to participate  
34 directly in the process of winemaking and to directly assist such  
35 persons in the process of winemaking while in the process of  
36 instruction on the premises of the facility. The holder of this  
37 license also shall be entitled to manufacture wine on the premises  
38 not in excess of an amount of 10% of the wine produced annually  
39 on the premises of the facility, which shall be used only to replace  
40 quantities lost or discarded during the winemaking process, to  
41 maintain a warehouse, and to offer samples produced by persons  
42 who have received instruction in winemaking on the premises by  
43 the licensee for sampling purposes only on the licensed premises for  
44 the purpose of promoting winemaking for personal or household use  
45 or consumption. Wine produced on the premises of an instructional  
46 winemaking facility shall be used, consumed or disposed of on the  
47 facility's premises or distributed from the facility's premises to a  
48 person who has participated directly in the process of winemaking

1 for the person's personal or household use or consumption. The  
2 holder of this license may sell mercantile items traditionally  
3 associated with winemaking and novelty wearing apparel identified  
4 with the name of the establishment licensed under the provisions of  
5 this section. The holder of this license may use the licensed  
6 premises for an event or affair, including an event or affair at which  
7 a plenary retail consumption licensee serves alcoholic beverages in  
8 compliance with all applicable statutes and regulations promulgated  
9 by the director. The fee for this license shall be \$1,000. For the  
10 purposes of this subsection, "sampling" means the gratuitous  
11 offering of an open container not exceeding one and one-half  
12 ounces of any wine.

13 Plenary distillery license. 3a. The holder of this license shall be  
14 entitled, subject to rules and regulations, to manufacture any  
15 distilled alcoholic beverages and rectify, blend, treat and mix, and  
16 to sell and distribute his products to wholesalers and retailers  
17 licensed in accordance with this chapter, and to sell and distribute  
18 without this State to any persons pursuant to the laws of the places  
19 of such sale and distribution, and to maintain a warehouse. The fee  
20 for this license shall be \$12,500.

21 Limited distillery license. 3b. The holder of this license shall be  
22 entitled, subject to rules and regulations, to manufacture and bottle  
23 any alcoholic beverages distilled from fruit juices and rectify,  
24 blend, treat, mix, compound with wine and add necessary  
25 sweetening and flavor to make cordial or liqueur, and to sell and  
26 distribute to wholesalers and retailers licensed in accordance with  
27 this chapter, and to sell and distribute without this State to any  
28 persons pursuant to the laws of the places of such sale and  
29 distribution and to warehouse these products. The fee for this  
30 license shall be \$3,750.

31 Supplementary limited distillery license. 3c. The holder of this  
32 license shall be entitled, subject to rules and regulations, to bottle  
33 and rebottle, in a quantity to be expressed in said license, dependent  
34 upon the following fees, alcoholic beverages distilled from fruit  
35 juices by such holder pursuant to a prior plenary or limited distillery  
36 license, and to sell and distribute his products to wholesalers and  
37 retailers licensed in accordance with this chapter, and to sell and  
38 distribute without this State to any persons pursuant to the laws of  
39 the places of such sale and distribution, and to maintain a  
40 warehouse. The fee for this license shall be graduated as follows:  
41 to so bottle and rebottle not more than 5,000 wine gallons per  
42 annum, \$313; to so bottle and rebottle not more than 10,000 wine  
43 gallons per annum, \$625; to so bottle and rebottle without limit as  
44 to amount, \$1,250.

45 Rectifier and blender license. 4. The holder of this license shall  
46 be entitled, subject to rules and regulations, to rectify, blend, treat  
47 and mix distilled alcoholic beverages, and to fortify, blend, and  
48 treat fermented alcoholic beverages, and prepare mixtures of

1 alcoholic beverages, and to sell and distribute his products to  
2 wholesalers and retailers licensed in accordance with this chapter,  
3 and to sell and distribute without this State to any persons pursuant  
4 to the laws of the places of such sale and distribution, and to  
5 maintain a warehouse. The fee for this license shall be \$7,500.

6 Bonded warehouse bottling license. 5. The holder of this license  
7 shall be entitled, subject to rules and regulations, to bottle alcoholic  
8 beverages in bond on behalf of all persons authorized by federal and  
9 State law and regulations to withdraw alcoholic beverages from  
10 bond. The fee for this license shall be \$625. This license shall be  
11 issued only to persons holding permits to operate Internal Revenue  
12 bonded warehouses pursuant to the laws of the United States.

13 The provisions of section 21 of P.L.2003, c.117 amendatory of  
14 this section shall apply to licenses issued or transferred on or after  
15 July 1, 2003, and to license renewals commencing on or after July  
16 1, 2003.

17 (cf: P.L.2007, c.329, s.1)

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19 2. This act shall take effect on the first day of the third month  
20 following enactment.

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#### STATEMENT

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25 This bill would allow plenary and limited breweries to sell malt  
26 alcoholic beverages to consumers visiting the brewery for  
27 consumption off the premises.

28 The bill would also permit breweries to offer samples for  
29 sampling purposes on the brewery premises. Samples would be  
30 limited to one and one half ounces.