

[First Reprint]

**SENATE, No. 3172**

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**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

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INTRODUCED DECEMBER 12, 2011

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

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

**Assemblyman JOHN J. BURZICHELLI**

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

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**Assemblywoman CELESTE M. RILEY**

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

**Co-Sponsored by:**

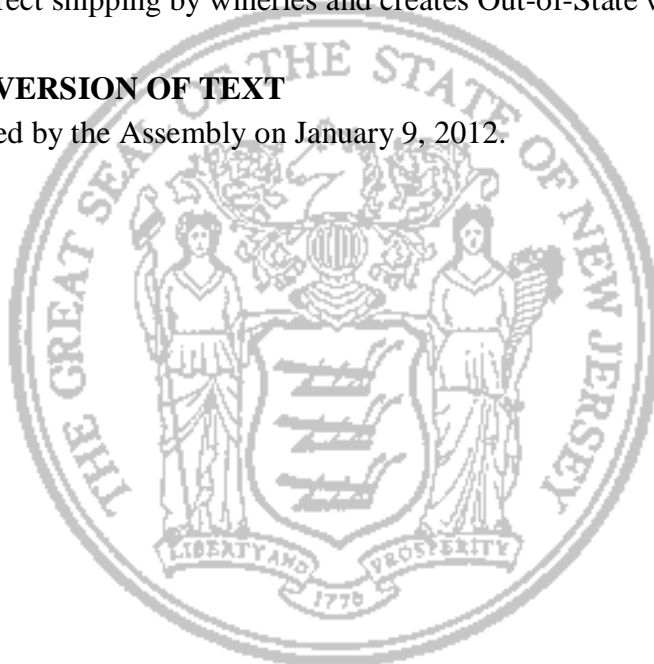
**Assemblyman Dancer**

**SYNOPSIS**

Permits direct shipping by wineries and creates Out-of-State winery license.

**CURRENT VERSION OF TEXT**

As amended by the Assembly on January 9, 2012.



**(Sponsorship Updated As Of: 1/10/2012)**

1 AN ACT concerning certain winery licenses and amending R.S.33:1-  
2 10 and supplementing Title 33 of the Revised Statutes.

3

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

6

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

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

10 Plenary brewery license. 1a. The holder of this license shall be  
11 entitled, subject to rules and regulations, to brew any malt alcoholic  
12 beverages and to sell and distribute his products to wholesalers and  
13 retailers licensed in accordance with this chapter, and to sell and  
14 distribute without this State to any persons pursuant to the laws of  
15 the places of such sale and distribution, and to maintain a  
16 warehouse. The fee for this license shall be \$10,625.

17 Limited brewery license. 1b. The holder of this license shall be  
18 entitled, subject to rules and regulations, to brew any malt alcoholic  
19 beverages in a quantity to be expressed in said license, dependent  
20 upon the following fees and not in excess of 300,000 barrels of 31  
21 fluid gallons capacity per year and to sell and distribute this product  
22 to wholesalers and retailers licensed in accordance with this  
23 chapter, and to sell and distribute without this State to any persons  
24 pursuant to the laws of the places of such sale and distribution, and  
25 to maintain a warehouse. The fee for this license shall be graduated  
26 as follows: to so brew not more than 50,000 barrels of 31 fluid  
27 gallons capacity per annum, \$1,250; to so brew not more than  
28 100,000 barrels of 31 fluid gallons capacity per annum, \$2,500; to  
29 so brew not more than 200,000 barrels of 31 fluid gallons capacity  
30 per annum, \$5,000; to so brew not more than 300,000 barrels of 31  
31 fluid gallons capacity per annum, \$7,500.

32 Restricted brewery license. 1c. The holder of this license shall  
33 be entitled, subject to rules and regulations, to brew any malt  
34 alcoholic beverages in a quantity to be expressed in such license not  
35 in excess of 3,000 barrels of 31 fluid gallons capacity per year.  
36 Notwithstanding the provisions of R.S.33:1-26, the director shall  
37 issue a restricted brewery license only to a person or an entity  
38 which has identical ownership to an entity which holds a plenary  
39 retail consumption license issued pursuant to R.S.33:1-12, provided  
40 that such plenary retail consumption license is operated in  
41 conjunction with a restaurant regularly and principally used for the  
42 purpose of providing meals to its customers and having adequate  
43 kitchen and dining room facilities, and that the licensed restaurant  
44 premises is immediately adjoining the premises licensed as a  
45 restricted brewery. The holder of this license shall only be entitled

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate floor amendments adopted January 9, 2012.

1 to sell or deliver the product to that restaurant premises. The fee for  
2 this license shall be \$1,250, which fee shall entitle the holder to  
3 brew up to 1,000 barrels of 31 fluid gallons per annum. The  
4 licensee also shall pay an additional \$625 for every additional 1,000  
5 barrels of 31 fluid gallons produced. No more than two restricted  
6 brewery licenses shall be issued to a person or entity which holds an  
7 interest in a plenary retail consumption license. If the governing  
8 body of the municipality in which the licensed premises will be  
9 located should file a written objection, the director shall hold a  
10 hearing and may issue the license only if the director finds that the  
11 issuance of the license will not be contrary to the public interest.  
12 All fees related to the issuance of both licenses shall be paid in  
13 accordance with statutory law.

14 Plenary winery license. 2a. Provided that the holder is engaged  
15 in growing and cultivating grapes or fruit used in the production of  
16 wine on at least three acres on, or adjacent to, the winery premises,  
17 the holder of this license shall be entitled, subject to rules and  
18 regulations, to produce any fermented wines, and to blend, fortify  
19 and treat wines, and to sell and distribute his products to  
20 wholesalers **[and retailers]** licensed in accordance with this chapter  
21 and to churches for religious purposes, and to sell and distribute  
22 without this State to any persons pursuant to the laws of the places  
23 of such sale and distribution, and to maintain a warehouse, and to  
24 sell his products at retail to consumers on the licensed premises of  
25 the winery for consumption on or off the premises and to offer  
26 samples for sampling purposes only. The fee for this license shall  
27 be \$938. **[The]** A holder of this license who produces not more  
28 than 250,000 gallons per year shall also have the right to sell and  
29 distribute his products to retailers licensed in accordance with this  
30 chapter, except that the 'holder of this license shall not use a  
31 common carrier for such distribution. The' fee for this additional  
32 privilege shall be graduated as follows: a licensee who  
33 manufactures more than 150,000 gallons, but not in excess of  
34 250,000 gallons per annum, \$1,000; a licensee who manufactures  
35 more than 100,000 gallons, but not in excess of 150,000 gallons per  
36 annum, \$500; a licensee who manufactures more than 50,000  
37 gallons, but not in excess of 100,000 gallons per annum, \$250; a  
38 licensee who manufactures 50,000 gallons or less per annum, \$100.  
39 A holder of this license who produces not more than 250,000  
40 gallons per year shall have the right to sell such wine at retail in  
41 original packages in **[six]** '**[18]** 15' salesrooms apart from the  
42 winery premises for consumption on or off the premises and for  
43 sampling purposes for consumption on the premises, at a fee of  
44 \$250 for each salesroom. Licensees shall not jointly control and  
45 operate salesrooms. Additionally, **[subject to rules and regulations,**  
46 one salesroom per county may be jointly controlled and operated by  
47 at least two plenary or farm winery licensees for the sale of the

1 products of any plenary or farm winery licensee for consumption on  
2 or off the premises and for consumption on the licensed premises  
3 for sampling purposes at an additional fee of \$625 per county  
4 salesroom. **】** the holder of this license who produces not more than  
5 250,000 gallons per year may ship not more than 12 cases of wine  
6 per year, subject to regulation, to any person within or without this  
7 State over 21 years of age for personal consumption and not for  
8 resale. A case of wine shall not exceed a maximum of nine liters.  
9 A copy of the original invoice shall be available for inspection by  
10 persons authorized to enforce the alcoholic beverage laws of this  
11 State for a minimum period of three years at the licensed premises  
12 of the winery. For the purposes of this subsection, "sampling"  
13 means the selling at a nominal charge or the gratuitous offering of  
14 an open container not exceeding one and one-half ounces of any  
15 wine.

16 A holder of this license who produces not more than 250,000  
17 gallons per year shall not own, either in whole or in part, or hold,  
18 either directly or indirectly, any interest in a winery that produces  
19 more than 250,000 gallons per year. <sup>1</sup>In addition, a holder of this  
20 license who produces more than 250,000 gallons per year shall not  
21 own, either in whole or in part, or hold, either directly or indirectly,  
22 any interest in a winery that produces not more than 250,000  
23 gallons per year.<sup>1</sup>

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

27 **【**Any holder of a plenary winery license who sold wine which  
28 was produced, bottled, and labelled by that holder in a place other  
29 than its licensed New Jersey premises between July 1, 1992 and  
30 June 30, 1993, may continue to sell that wine provided no more  
31 than 25,000 cases, each case consisting of 12 750 milliliter bottles  
32 or the equivalent, are sold in any single license year. This privilege  
33 shall terminate upon, and not survive, any transfer of the license to  
34 another person or entity subsequent to the effective date of this  
35 1993 amendatory act or any transfer of stock of the licensed  
36 corporation other than to children, grandchildren, parents, spouses  
37 or siblings of the existing stockholders. **】**

38 Farm winery license. 2b. The holder of this license shall be  
39 entitled, subject to rules and regulations, to manufacture any  
40 fermented wines and fruit juices in a quantity to be expressed in  
41 said license, dependent upon the following fees and not in excess of  
42 50,000 gallons per year and to sell and distribute his products to  
43 wholesalers and retailers licensed in accordance with this chapter  
44 and to churches for religious purposes and to sell and distribute  
45 without this State to any persons pursuant to the laws of the places  
46 of such sale and distribution, and to maintain a warehouse and to  
47 sell at retail to consumers for consumption on or off the licensed

1 premises and to offer samples for sampling purposes only. The  
2 license shall be issued only when the winery at which such  
3 fermented wines and fruit juices are manufactured is located and  
4 constructed upon a tract of land exclusively under the control of the  
5 licensee, provided that the licensee is actively engaged in growing  
6 and cultivating an area of not less than three acres on or adjacent to  
7 the winery premises and on which are growing grape vines or fruit  
8 to be processed into wine or fruit juice; and provided, further, that  
9 for the first five years of the operation of the winery such fermented  
10 wines and fruit juices shall be manufactured from at least 51%  
11 grapes or fruit grown in the State and that thereafter they shall be  
12 manufactured from grapes or fruit grown in this State at least to the  
13 extent required for labeling as "New Jersey Wine" under the  
14 applicable federal laws and regulations. The containers of all wine  
15 sold to consumers by such licensee shall have affixed a label stating  
16 such information as shall be required by the rules and regulations of  
17 the Director of the Division of Alcoholic Beverage Control. The  
18 fee for this license shall be graduated as follows: to so manufacture  
19 between 30,000 and 50,000 gallons per annum, \$375; to so  
20 manufacture between 2,500 and 30,000 gallons per annum, \$250; to  
21 so manufacture between 1,000 and 2,500 gallons per annum, \$125;  
22 to so manufacture less than 1,000 gallons per annum, \$63. No farm  
23 winery license shall be held by the holder of a plenary winery  
24 license or be situated on a premises licensed as a plenary winery.

25 The holder of this license shall also have the right to sell and  
26 distribute his products to retailers licensed in accordance with this  
27 chapter, except that the 'holder of this license shall not use a  
28 common carrier for such distribution. The<sup>1</sup> fee for this additional  
29 privilege shall be \$100. The holder of this license shall have the  
30 right to sell his products in original packages at retail to consumers  
31 in ~~【six】~~ <sup>1</sup>~~【18】~~ <sup>1</sup>15 salesrooms apart from the winery premises for  
32 consumption on or off the premises, and for sampling purposes for  
33 consumption on the premises, at a fee of \$250 for each salesroom.  
34 Licensees shall not jointly control and operate salesrooms.  
35 Additionally, ~~【subject to rules and regulations, one salesroom per~~  
36 ~~county may be jointly controlled and operated by at least two~~  
37 ~~plenary or farm winery licensees for the sale of the products of any~~  
38 ~~plenary or farm winery licensee for consumption on or off the~~  
39 ~~premises and for consumption on the licensed premises for~~  
40 ~~sampling purposes only, at an additional fee of \$625 per county~~  
41 ~~salesroom.】~~ the holder of this license may ship not more than 12  
42 cases of wine per year, subject to regulation, to any person within or  
43 without this State over 21 years of age for personal consumption  
44 and not for resale. A case of wine shall not exceed a maximum of  
45 nine liters. A copy of the original invoice shall be available for  
46 inspection by persons authorized to enforce the alcoholic beverage  
47 laws of this State for a minimum period of three years at the

1 licensed premises of the winery. For the purposes of this  
2 subsection, "sampling" means the selling at a nominal charge or the  
3 gratuitous offering of an open container not exceeding one and one-  
4 half ounces of any wine.

5 A holder of this license who produces not more than 250,000  
6 gallons per year shall not own, either in whole or in part, or hold,  
7 either directly or indirectly, any interest in a winery that produces  
8 more than 250,000 gallons per year.

9 Unless otherwise indicated, for the purposes of this subsection,  
10 with respect to farm winery licenses, "manufacture" means the  
11 vinification, aging, storage, blending, clarification, stabilization and  
12 bottling of wine or juice from New Jersey fruit to the extent  
13 required by this subsection.

14 Wine blending license. 2c. The holder of this license shall be  
15 entitled, subject to rules and regulations, to blend, treat, mix, and  
16 bottle fermented wines and fruit juices with non-alcoholic  
17 beverages, and to sell and distribute his products to wholesalers and  
18 retailers licensed in accordance with this chapter, and to sell and  
19 distribute without this State to any persons pursuant to the laws of  
20 the places of such sale and distribution, and to maintain a  
21 warehouse. The fee for this license shall be \$625.

22 Instructional winemaking facility license. 2d. The holder of this  
23 license shall be entitled, subject to rules and regulations, to instruct  
24 persons in and provide them with the opportunity to participate  
25 directly in the process of winemaking and to directly assist such  
26 persons in the process of winemaking while in the process of  
27 instruction on the premises of the facility. The holder of this  
28 license also shall be entitled to manufacture wine on the premises  
29 not in excess of an amount of 10% of the wine produced annually  
30 on the premises of the facility, which shall be used only to replace  
31 quantities lost or discarded during the winemaking process, to  
32 maintain a warehouse, and to offer samples produced by persons  
33 who have received instruction in winemaking on the premises by  
34 the licensee for sampling purposes only on the licensed premises for  
35 the purpose of promoting winemaking for personal or household use  
36 or consumption. Wine produced on the premises of an instructional  
37 winemaking facility shall be used, consumed or disposed of on the  
38 facility's premises or distributed from the facility's premises to a  
39 person who has participated directly in the process of winemaking  
40 for the person's personal or household use or consumption. The  
41 holder of this license may sell mercantile items traditionally  
42 associated with winemaking and novelty wearing apparel identified  
43 with the name of the establishment licensed under the provisions of  
44 this section. The holder of this license may use the licensed  
45 premises for an event or affair, including an event or affair at which  
46 a plenary retail consumption licensee serves alcoholic beverages in  
47 compliance with all applicable statutes and regulations promulgated  
48 by the director. The fee for this license shall be \$1,000. For the

1 purposes of this subsection, "sampling" means the gratuitous  
2 offering of an open container not exceeding one and one-half  
3 ounces of any wine.

4 Out-of-State winery license. 2e. Provided that the applicant  
5 does not produce more than 250,000 gallons of wine per year, the  
6 holder of a valid winery license issued in any other state may make  
7 application to the director for this license. The holder of this  
8 license shall have the right to sell and distribute his products to  
9 wholesalers licensed in accordance with this chapter and to sell  
10 such wine at retail in original packages in '19] 16' salesrooms  
11 apart from the winery premises for consumption on or off the  
12 premises at a fee of \$250 for each salesroom. Licensees shall not  
13 jointly control and operate salesrooms. The annual fee for this  
14 license shall be \$938. A copy of a current license issued by another  
15 state shall accompany the application. The holder of this license  
16 also shall have the right to sell and distribute his products to  
17 retailers licensed in accordance with this chapter, except that the  
18 'holder of this license shall not use a common carrier for such  
19 distribution. The<sup>1</sup> fee for this additional privilege shall be  
20 graduated as follows: a licensee who manufactures more than  
21 150,000 gallons, but not in excess of 250,000 gallons per annum,  
22 \$1,000; a licensee who manufactures more than 100,000 gallons,  
23 but not in excess of 150,000 gallons per annum, \$500; a licensee  
24 who manufactures more than 50,000 gallons, but not in excess of  
25 100,000 gallons per annum, \$250; a licensee who manufactures  
26 50,000 gallons or less per annum, \$100. Additionally, the holder of  
27 this license may ship not more than 12 cases of wine per year,  
28 subject to regulation, to any person within or without this State over  
29 21 years of age for personal consumption and not for resale. A case  
30 of wine shall not exceed a maximum of nine liters. A copy of the  
31 original invoice shall be available for inspection by persons  
32 authorized to enforce the alcoholic beverage laws of this State for a  
33 minimum period of three years at the licensed premises of the  
34 winery.

35 The licensee shall collect from the customer the tax due on the  
36 sale pursuant to the "Sales and Use Tax Act," P.L.1966, c.30,  
37 (C.54:32B-1 et seq.) and shall pay the tax due on the delivery of  
38 alcoholic beverages pursuant to the "Alcoholic beverage tax law,"  
39 R.S.54:41-1 et seq. The Director of the Division of Taxation in the  
40 Department of the Treasury shall promulgate such rules and  
41 regulations necessary to effectuate the provisions of this paragraph,  
42 and may provide by regulation for the co-administration of the tax  
43 due on the delivery of alcoholic beverages pursuant to the  
44 "Alcoholic beverage tax law," R.S.54:41-1 et seq. with the  
45 administration of the tax due on the sale pursuant to the "Sales and  
46 Use Tax Act," P.L.1966, c.30, (C.54:32B-1 et seq.).

47 A holder of this license who produces not more than 250,000  
48 gallons per year shall not own, either in whole or in part, or hold,

1 either directly or indirectly, any interest in a winery that produces  
2 more than 250,000 gallons per year.

3 Plenary distillery license. 3a. The holder of this license shall be  
4 entitled, subject to rules and regulations, to manufacture any  
5 distilled alcoholic beverages and rectify, blend, treat and mix, and  
6 to sell and distribute his products to wholesalers and retailers  
7 licensed in accordance with this chapter, and to sell and distribute  
8 without this State to any persons pursuant to the laws of the places  
9 of such sale and distribution, and to maintain a warehouse. The fee  
10 for this license shall be \$12,500.

11 Limited distillery license. 3b. The holder of this license shall be  
12 entitled, subject to rules and regulations, to manufacture and bottle  
13 any alcoholic beverages distilled from fruit juices and rectify,  
14 blend, treat, mix, compound with wine and add necessary  
15 sweetening and flavor to make cordial or liqueur, and to sell and  
16 distribute to wholesalers and retailers licensed in accordance with  
17 this chapter, and to sell and distribute without this State to any  
18 persons pursuant to the laws of the places of such sale and  
19 distribution and to warehouse these products. The fee for this  
20 license shall be \$3,750.

21 Supplementary limited distillery license. 3c. The holder of this  
22 license shall be entitled, subject to rules and regulations, to bottle  
23 and rebottle, in a quantity to be expressed in said license, dependent  
24 upon the following fees, alcoholic beverages distilled from fruit  
25 juices by such holder pursuant to a prior plenary or limited distillery  
26 license, 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 graduated as follows:  
31 to so bottle and rebottle not more than 5,000 wine gallons per  
32 annum, \$313; to so bottle and rebottle not more than 10,000 wine  
33 gallons per annum, \$625; to so bottle and rebottle without limit as  
34 to amount, \$1,250.

35 Rectifier and blender license. 4. The holder of this license shall  
36 be entitled, subject to rules and regulations, to rectify, blend, treat  
37 and mix distilled alcoholic beverages, and to fortify, blend, and  
38 treat fermented alcoholic beverages, and prepare mixtures of  
39 alcoholic beverages, and to sell and distribute his products to  
40 wholesalers and retailers licensed in accordance with this chapter,  
41 and to sell and distribute without this State to any persons pursuant  
42 to the laws of the places of such sale and distribution, and to  
43 maintain a warehouse. The fee for this license shall be \$7,500.

44 Bonded warehouse bottling license. 5. The holder of this license  
45 shall be entitled, subject to rules and regulations, to bottle alcoholic  
46 beverages in bond on behalf of all persons authorized by federal and  
47 State law and regulations to withdraw alcoholic beverages from  
48 bond. The fee for this license shall be \$625. This license shall be



1 issued only to persons holding permits to operate Internal Revenue  
2 bonded warehouses pursuant to the laws of the United States.

3 The provisions of section 21 of P.L.2003, c.117 amendatory  
4 of this section shall apply to licenses issued or transferred on or  
5 after July 1, 2003, and to license renewals commencing on or after  
6 July 1, 2003.

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

8

9 2. (New section) The taxes collected and paid pursuant to the  
10 licenses issued pursuant to R.S.33:1-10 shall be governed by the  
11 provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1  
12 et seq., including the tax clearance and license suspension  
13 provisions of section 5 of P.L.2004, c.58 (C.54:50-26.3).

14

15 3. This act shall take effect on the first day of the fourth month  
16 after enactment.