

# SENATE, No. 876

## STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**SYNOPSIS**

Permits liquor licensees to employ certain ex-offenders in certain positions without a special permit.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning employment of certain persons by alcoholic  
2 beverage licensees and amending R.S.33:1-26.

3

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

6

7 1. R.S.33:1-26 is amended to read as follows:

8 33:1-26. All licenses shall be for a term of one year from July 1  
9 in each year. The respective fees for any such license shall be  
10 prorated according to the effective date of the license and based on  
11 the respective annual fee as in this chapter provided. Where the  
12 license fee deposited with the application exceeds the prorated fee,  
13 a refund of the excess shall be made to the licensee. Licenses are  
14 not transferable except as hereinafter provided. A separate license  
15 is required for each specific place of business and the operation and  
16 effect of every license is confined to the licensed premises. No  
17 retail license of any class shall be issued to any holder of a  
18 manufacturer's or wholesaler's license, and no manufacturer's or  
19 wholesaler's license shall be issued to the holder of a retail license  
20 of any class. Any person who shall exercise or attempt to exercise,  
21 or hold himself out as authorized to exercise, the rights and  
22 privileges of a licensee except the licensee and then only with  
23 respect to the licensed premises, shall be guilty of a misdemeanor.

24 In case of death, bankruptcy, receivership or incompetency of the  
25 licensee, or if for any other reason whatsoever the operation of the  
26 business covered by the license shall devolve by operation of law  
27 upon a person other than the licensee, the director or the issuing  
28 authority may, in his or its discretion, extend the license for a  
29 limited time, not exceeding its term, to the executor, administrator,  
30 trustee, receiver or other person upon whom the same has devolved  
31 by operation of law as aforesaid. Under no circumstances,  
32 however, shall a license, or rights thereunder, be deemed property,  
33 subject to inheritance, sale, pledge, lien, levy, attachment,  
34 execution, seizure for debts, or any other transfer or disposition  
35 whatsoever, except for payment of taxes, fees, interest and penalties  
36 imposed by any State tax law for which a lien may attach pursuant  
37 to R.S.54:49-1 or pursuant to the State Tax Uniform Procedure  
38 Law, R.S.54:48-1 et seq., or any similar State lien of tax, except to  
39 the extent expressly provided by this chapter.

40 On application made therefor setting forth the same matters and  
41 things with reference to the premises to which a transfer of license  
42 is sought as are required to be set forth in connection with an  
43 original application for license, as to the premises, and after  
44 publication of notice of intention to apply for transfer, in the same  
45 manner as is required in case of an application for license as to the

**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 premises, the director or other issuing authority may transfer, upon  
2 payment of a fee of 10% of the annual license fee for the license  
3 sought to be transferred, any license issued by him or it respectively  
4 to a different place of business than that specified therein, by  
5 endorsing permission upon the license.

6 On application made therefor setting forth the same matters and  
7 things with reference to the person to whom a transfer of license is  
8 sought as are required to be set forth in connection with an original  
9 application for license, which application for transfer shall be  
10 signed and sworn to by the person to whom the transfer of license is  
11 sought and shall bear the consent in writing of the licensee to the  
12 transfer, and after publication of notice of intention by the person to  
13 whom the transfer of license is sought, to apply for transfer in the  
14 same manner as is required in the case of an original application for  
15 license, the director or other issuing authority, as the case may be,  
16 may transfer any license issued by him or it respectively to the  
17 applicant for transfer by endorsing the license. The application and  
18 the applicant shall comply with all requirements of this chapter  
19 pertaining to an original application for license and shall be  
20 accompanied, in lieu of the license fee required on the original  
21 application, by a fee of 10% of the annual license fee for the license  
22 sought to be transferred, which 10% shall be retained by the  
23 director or other issuing authority, as the case may be, whether the  
24 transfer be granted or not, and accounted for as other license fees.

25 If the other issuing authority shall refuse to grant a transfer the  
26 applicant shall be notified forthwith of the refusal by a notice  
27 served personally upon the applicant, or sent to him by registered  
28 mail addressed to him at the address stated in the application, and  
29 the applicant may, within 30 days after the date of service or  
30 mailing of the notice, appeal to the director from the action of the  
31 issuing authority. If the other issuing authority shall grant a  
32 transfer, any taxpayer or other aggrieved person opposing the grant  
33 of the transfer may, within 30 days after the grant of the transfer,  
34 appeal to the director from the action of the issuing authority.

35 No person who would fail to qualify as a licensee under this  
36 chapter shall be knowingly employed by or connected in any  
37 business capacity whatsoever with a licensee. A person failing to  
38 qualify as to age or by reason of conviction of a crime involving  
39 moral turpitude may, with the approval of the director, and subject  
40 to rules and regulations, be employed by any licensee, but the  
41 employee if disqualified by age shall not, in any manner whatsoever  
42 serve, sell or solicit the sale or participate in the manufacture,  
43 rectification, blending, treating, fortification, mixing, processing or  
44 bottling of any alcoholic beverage; and further provided, that no  
45 permit shall be necessary for the employment in a bona fide hotel or  
46 restaurant of any person failing to qualify as to age so long as the  
47 person shall not in any manner whatsoever serve, sell or solicit the

1 sale of any alcoholic beverage, or participate in the mixing,  
2 processing or preparation thereof. Except for a person convicted of  
3 a sex offense as enumerated in subsection b. of N.J.S.2C:7-2 or a  
4 person convicted of a crime involving moral turpitude committed  
5 while employed on a licensed premises, a person who has been  
6 convicted of a crime involving moral turpitude may be employed by  
7 a Class C licensee without obtaining the approval of the director or  
8 a rehabilitation employment permit provided the person's  
9 responsibilities do not involve serving, selling or soliciting the sale  
10 of any alcoholic beverage; participating in the mixing, processing or  
11 preparation of alcoholic beverages; providing private security or  
12 admission-monitoring services for the premises; or providing or  
13 participating in any management or professional services.

14 Each person seeking to be employed or connected in any  
15 business capacity whatsoever with a licensee shall submit to the  
16 director the applicant's name, address, fingerprints and written  
17 consent for a criminal history record background check to be  
18 performed. The director is authorized to receive criminal history  
19 record information from the State Bureau of Identification in the  
20 Division of State Police and the Federal Bureau of Investigation  
21 consistent with applicable State and federal laws, rules and  
22 regulations. The applicant shall bear the cost for the criminal  
23 history record background check, including all costs of  
24 administering and processing the check. The Division of State  
25 Police shall promptly notify the director in the event a current  
26 holder of a license or prospective applicant, who was the subject of  
27 a criminal history record background check pursuant to this section,  
28 is arrested for a crime or offense in this State after the date the  
29 background check was performed.

30 Any request for relief under this section shall be accompanied by  
31 a nonreturnable filing fee of \$100.00 payable to the director.  
32 (cf: P.L.2003, c.199, s.19)

33

34 2. This act shall take effect immediately.

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#### STATEMENT

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39 This bill permits certain ex-offenders to be employed by  
40 alcoholic beverage licensees without a special permit as long as the  
41 position does not require the preparation or service of alcoholic  
42 beverages, providing security or admission-monitoring services, or  
43 providing management or professional services.

44 Under current law, a person convicted of any crime involving  
45 moral turpitude is disqualified from being employed by an alcoholic  
46 beverage licensee, unless the person has obtained a Rehabilitation  
47 Employment Permit from the director. Even persons who have jobs

1 which do not require the handling of alcoholic beverages are subject  
2 to the disqualification.

3 Under the provisions of the bill, a person who has been convicted  
4 of a crime involving moral turpitude, except for sex offenders and  
5 offenders who committed a crime involving moral turpitude on a  
6 licensed premises, may be employed by an alcoholic beverage retail  
7 licensee without obtaining a Rehabilitation Employment Permit.  
8 An eligible ex-offender may obtain the permit provided the person's  
9 responsibilities do not include serving, selling or soliciting the sale  
10 of any alcoholic beverage; participating in the mixing, processing or  
11 preparation of alcoholic beverages; providing private security or  
12 admission-monitoring services for the premises; or providing or  
13 participating in any management or professional services.

14 Under current regulations of the director, the applicant is  
15 required to pay a fee of \$125 for the Rehabilitation Employment  
16 Permit. It must be renewed on an annual basis until the  
17 disqualification is removed. The person may not apply to have the  
18 disqualification removed until five years after the conviction or  
19 release from confinement, whichever is later.

20 Employees of an alcoholic beverage licensee include regularly  
21 employed persons who do not serve alcoholic beverages including,  
22 but not limited to, cooks, janitors, and dishwashers. Employees  
23 also include persons hired under a contract, such as band members,  
24 singers, disc jockeys, dancers, janitorial service personnel and  
25 others who, on a regular basis, perform services required in the  
26 operation of the business.

27 This prohibition eliminates a large number of employment  
28 opportunities for which ex-offenders would be qualified. Moreover,  
29 the cost of obtaining the necessary permit is burdensome to persons  
30 who have recently been released from incarceration. It is the  
31 sponsor's belief that this bill will create more employment  
32 opportunities for ex-offenders and aid in their reentry into society.