

# ASSEMBLY, No. 3925

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED DECEMBER 4, 2014

**Sponsored by:**

**Assemblyman VINCENT MAZZEO**

**District 2 (Atlantic)**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblyman ANGEL FUENTES**

**District 5 (Camden and Gloucester)**

**Assemblyman GILBERT "WHIP" L. WILSON**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Authorizes limited brewery licensee to operate restaurant under certain circumstances.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning limited brewery licenses and amending  
2 R.S.33:1-10.

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; provided, however, that the delivery of this product by  
17 the holder of this license to retailers licensed under this title shall be  
18 from inventory in a warehouse located in this State which is  
19 operated under a plenary brewery license. The fee for this license  
20 shall be \$10,625.

21 Limited brewery license. 1b. The holder of this license shall be  
22 entitled, subject to rules and regulations, to brew any malt alcoholic  
23 beverages in a quantity to be expressed in said license, dependent  
24 upon the following fees and not in excess of 300,000 barrels of 31  
25 fluid gallons capacity per year and to sell and distribute this product  
26 to wholesalers and retailers licensed in accordance with this  
27 chapter, and to sell and distribute without this State to any persons  
28 pursuant to the laws of the places of such sale and distribution, and  
29 to maintain a warehouse; provided, however, that the delivery of  
30 this product by the holder of this license to retailers licensed under  
31 this title shall be from inventory in a warehouse located in this State  
32 which is operated under a limited brewery license. The holder of  
33 this license shall be entitled to sell this product at retail to  
34 consumers on the licensed premises of the brewery for consumption  
35 on the premises, **[but only]** in connection with a tour of the  
36 brewery, or for consumption off the premises in a quantity of not  
37 more than 15.5 fluid gallons per person, and to offer samples for  
38 sampling purposes only pursuant to an annual permit issued by the  
39 director. The holder of this license shall not sell food or operate a  
40 restaurant on the licensed premises , except the holder of this  
41 license may sell this product at retail to consumers at a restaurant  
42 operated on a licensed premises located in a Garden State Growth  
43 Zone as defined in section 2 of P.L.2011, c.149 (C.34:1B-243). No  
44 more than three such restaurants may be operated in a Garden State

**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 Growth Zone. The fee for this license shall be graduated as  
2 follows:

3 to so brew not more than 50,000 barrels of 31 liquid gallons  
4 capacity per annum, \$1,250;

5 to so brew not more than 100,000 barrels of 31 fluid gallons  
6 capacity per annum, \$2,500;

7 to so brew not more than 200,000 barrels of 31 fluid gallons  
8 capacity per annum, \$5,000;

9 to so brew not more than 300,000 barrels of 31 fluid gallons  
10 capacity per annum, \$7,500.

11 For the purposes of this subsection, "sampling" means the selling  
12 at a nominal charge or the gratuitous offering of an open container  
13 not exceeding four ounces of any malt alcoholic beverage. For the  
14 purposes of this subsection, "product" means any malt alcoholic  
15 beverage that is produced on the premises licensed under this  
16 subsection.

17 Restricted brewery license. 1c. The holder of this license shall  
18 be entitled, subject to rules and regulations, to brew any malt  
19 alcoholic beverages in a quantity to be expressed in such license not  
20 in excess of 10,000 barrels of 31 gallons capacity per year.  
21 Notwithstanding the provisions of R.S.33:1-26, the director shall  
22 issue a restricted brewery license only to a person or an entity  
23 which has identical ownership to an entity which holds a plenary  
24 retail consumption license issued pursuant to R.S.33:1-12, provided  
25 that such plenary retail consumption license is operated in  
26 conjunction with a restaurant regularly and principally used for the  
27 purpose of providing meals to its customers and having adequate  
28 kitchen and dining room facilities, and that the licensed restaurant  
29 premises is immediately adjoining the premises licensed under this  
30 subsection. The holder of this license shall be entitled to sell or  
31 deliver the product to that restaurant premises. The holder of this  
32 license also shall be entitled to sell and distribute the product to  
33 wholesalers licensed in accordance with this chapter. The fee for  
34 this license shall be \$1,250, which fee shall entitle the holder to  
35 brew up to 1,000 barrels of 31 liquid gallons per annum. The  
36 licensee also shall pay an additional \$250 for every additional 1,000  
37 barrels of 31 fluid gallons produced. The fee shall be paid at the  
38 time of application for the license, and additional payments based  
39 on barrels produced shall be paid within 60 days following the  
40 expiration of the license term upon certification by the licensee of  
41 the actual gallons brewed during the license term. No more than 10  
42 restricted brewery licenses shall be issued to a person or entity  
43 which holds an interest in a plenary retail consumption license. If  
44 the governing body of the municipality in which the licensed  
45 premises will be located should file a written objection, the director  
46 shall hold a hearing and may issue the license only if the director  
47 finds that the issuance of the license will not be contrary to the  
48 public interest. All fees related to the issuance of both licenses

1 shall be paid in accordance with statutory law. The provisions of  
2 this subsection shall not be construed to limit or restrict the rights  
3 and privileges granted by the plenary retail consumption license  
4 held by the holder of the restricted brewery license issued pursuant  
5 to this subsection.

6 The holder of this license shall be entitled to offer samples of its  
7 product for promotional purposes at charitable or civic events off  
8 the licensed premises pursuant to an annual permit issued by the  
9 director.

10 For the purposes of this subsection, "sampling" means the selling  
11 at a nominal charge or the gratuitous offering of an open container  
12 not exceeding four ounces of any malt alcoholic beverage product.  
13 For the purposes of this subsection, "product" means any malt  
14 alcoholic beverage that is produced on the premises licensed under  
15 this subsection.

16 Plenary winery license. 2a. Provided that the holder is engaged  
17 in growing and cultivating grapes or fruit used in the production of  
18 wine on at least three acres on, or adjacent to, the winery premises,  
19 the holder of this license shall be entitled, subject to rules and  
20 regulations, to produce any fermented wines, and to blend, fortify  
21 and treat wines, and to sell and distribute his products to  
22 wholesalers licensed in accordance with this chapter and to  
23 churches for religious purposes, and to sell and distribute without  
24 this State to any persons pursuant to the laws of the places of such  
25 sale and distribution, and to maintain a warehouse, and to sell his  
26 products at retail to consumers on the licensed premises of the  
27 winery for consumption on or off the premises and to offer samples  
28 for sampling purposes only. The fee for this license shall be \$938.  
29 A holder of this license who produces not more than 250,000  
30 gallons per year shall also have the right to sell and distribute his  
31 products to retailers licensed in accordance with this chapter, except  
32 that the holder of this license shall not use a common carrier for  
33 such distribution. The fee for this additional privilege shall be  
34 graduated as follows: a licensee who manufactures more than  
35 150,000 gallons, but not in excess of 250,000 gallons per annum,  
36 \$1,000; a licensee who manufactures more than 100,000 gallons,  
37 but not in excess of 150,000 gallons per annum, \$500; a licensee  
38 who manufactures more than 50,000 gallons, but not in excess of  
39 100,000 gallons per annum, \$250; a licensee who manufactures  
40 50,000 gallons or less per annum, \$100. A holder of this license  
41 who produces not more than 250,000 gallons per year shall have the  
42 right to sell such wine at retail in original packages in 15  
43 salesrooms apart from the winery premises for consumption on or  
44 off the premises and for sampling purposes for consumption on the  
45 premises, at a fee of \$250 for each salesroom. Licensees shall not  
46 jointly control and operate salesrooms. Additionally, the holder of  
47 this license who produces not more than 250,000 gallons per year  
48 may ship not more than 12 cases of wine per year, subject to

1 regulation, to any person within or without this State over 21 years  
2 of age for personal consumption and not for resale. A case of wine  
3 shall not exceed a maximum of nine liters. A copy of the original  
4 invoice shall be available for inspection by persons authorized to  
5 enforce the alcoholic beverage laws of this State for a minimum  
6 period of three years at the licensed premises of the winery. For the  
7 purposes of this subsection, "sampling" means the selling at a  
8 nominal charge or the gratuitous offering of an open container not  
9 exceeding one and one-half ounces of any wine.

10 A holder of this license who produces not more than 250,000  
11 gallons per year shall not own, either in whole or in part, or hold,  
12 either directly or indirectly, any interest in a winery that produces  
13 more than 250,000 gallons per year. In addition, a holder of this  
14 license who produces more than 250,000 gallons per year shall not  
15 own, either in whole or in part, or hold, either directly or indirectly,  
16 any interest in a winery that produces not more than 250,000  
17 gallons per year. For the purposes of this subsection, "product"  
18 means any wine that is produced, blended, fortified, or treated by  
19 the licensee on its licensed premises situated in the State of New  
20 Jersey.

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

1 between 30,000 and 50,000 gallons per annum, \$375; to so  
2 manufacture between 2,500 and 30,000 gallons per annum, \$250; to  
3 so manufacture between 1,000 and 2,500 gallons per annum, \$125;  
4 to so manufacture less than 1,000 gallons per annum, \$63. No farm  
5 winery license shall be held by the holder of a plenary winery  
6 license or be situated on a premises licensed as a plenary winery.

7 The holder of this license shall also have the right to sell and  
8 distribute his products to retailers licensed in accordance with this  
9 chapter, except that the holder of this license shall not use a  
10 common carrier for such distribution. The fee for this additional  
11 privilege shall be \$100. The holder of this license shall have the  
12 right to sell his products in original packages at retail to consumers  
13 in 15 salesrooms apart from the winery premises for consumption  
14 on or off the premises, and for sampling purposes for consumption  
15 on the premises, at a fee of \$250 for each salesroom. Licensees  
16 shall not jointly control and operate salesrooms. Additionally, the  
17 holder of this license may ship not more than 12 cases of wine per  
18 year, subject to regulation, to any person within or without this  
19 State over 21 years of age for personal consumption and not for  
20 resale. A case of wine shall not exceed a maximum of nine liters.  
21 A copy of the original invoice shall be available for inspection by  
22 persons authorized to enforce the alcoholic beverage laws of this  
23 State for a minimum period of three years at the licensed premises  
24 of the winery. For the purposes of this subsection, "sampling"  
25 means the selling at a nominal charge or the gratuitous offering of  
26 an open container not exceeding one and one-half ounces of any  
27 wine.

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

32 Unless otherwise indicated, for the purposes of this subsection,  
33 with respect to farm winery licenses, "manufacture" means the  
34 vinification, aging, storage, blending, clarification, stabilization and  
35 bottling of wine or juice from New Jersey fruit to the extent  
36 required by this subsection.

37 Wine blending license. 2c. The holder of this license shall be  
38 entitled, subject to rules and regulations, to blend, treat, mix, and  
39 bottle fermented wines and fruit juices with non-alcoholic  
40 beverages, and to sell and distribute his products to wholesalers and  
41 retailers licensed in accordance with this chapter, and to sell and  
42 distribute without this State to any persons pursuant to the laws of  
43 the places of such sale and distribution, and to maintain a  
44 warehouse. The fee for this license shall be \$625.

45 Instructional winemaking facility license. 2d. The holder of this  
46 license shall be entitled, subject to rules and regulations, to instruct  
47 persons in and provide them with the opportunity to participate  
48 directly in the process of winemaking and to directly assist such

1 persons in the process of winemaking while in the process of  
2 instruction on the premises of the facility. The holder of this  
3 license also shall be entitled to manufacture wine on the premises  
4 not in excess of an amount of 10% of the wine produced annually  
5 on the premises of the facility, which shall be used only to replace  
6 quantities lost or discarded during the winemaking process, to  
7 maintain a warehouse, and to offer samples produced by persons  
8 who have received instruction in winemaking on the premises by  
9 the licensee for sampling purposes only on the licensed premises for  
10 the purpose of promoting winemaking for personal or household use  
11 or consumption. Wine produced on the premises of an instructional  
12 winemaking facility shall be used, consumed or disposed of on the  
13 facility's premises or distributed from the facility's premises to a  
14 person who has participated directly in the process of winemaking  
15 for the person's personal or household use or consumption. The  
16 holder of this license may sell mercantile items traditionally  
17 associated with winemaking and novelty wearing apparel identified  
18 with the name of the establishment licensed under the provisions of  
19 this section. The holder of this license may use the licensed  
20 premises for an event or affair, including an event or affair at which  
21 a plenary retail consumption licensee serves alcoholic beverages in  
22 compliance with all applicable statutes and regulations promulgated  
23 by the director. The fee for this license shall be \$1,000. For the  
24 purposes of this subsection, "sampling" means the gratuitous  
25 offering of an open container not exceeding one and one-half  
26 ounces of any wine.

27 Out-of-State winery license. 2e. Provided that the applicant does  
28 not produce more than 250,000 gallons of wine per year, the holder  
29 of a valid winery license issued in any other state may make  
30 application to the director for this license. The holder of this  
31 license shall have the right to sell and distribute his products to  
32 wholesalers licensed in accordance with this chapter and to sell  
33 such wine at retail in original packages in 16 salesrooms apart from  
34 the winery premises for consumption on or off the premises at a fee  
35 of \$250 for each salesroom. Licensees shall not jointly control and  
36 operate salesrooms. The annual fee for this license shall be \$938.  
37 A copy of a current license issued by another state shall accompany  
38 the application. The holder of this license also shall have the right  
39 to sell and distribute his products to retailers licensed in accordance  
40 with this chapter, except that the holder of this license shall not use  
41 a common carrier for such distribution. The fee for this additional  
42 privilege shall be graduated as follows: a licensee who  
43 manufactures more than 150,000 gallons, but not in excess of  
44 250,000 gallons per annum, \$1,000; a licensee who manufactures  
45 more than 100,000 gallons, but not in excess of 150,000 gallons per  
46 annum, \$500; a licensee who manufactures more than 50,000  
47 gallons, but not in excess of 100,000 gallons per annum, \$250; a  
48 licensee who manufactures 50,000 gallons or less per annum, \$100.

1 Additionally, the holder of this license may ship not more than 12  
2 cases of wine per year, subject to regulation, to any person within or  
3 without this State over 21 years of age for personal consumption  
4 and not for resale. A case of wine shall not exceed a maximum of  
5 nine liters. A copy of the original invoice shall be available for  
6 inspection by persons authorized to enforce the alcoholic beverage  
7 laws of this State for a minimum period of three years at the  
8 licensed premises of the winery.

9 The licensee shall collect from the customer the tax due on the  
10 sale pursuant to the "Sales and Use Tax Act," P.L.1966, c.30  
11 (C.54:32B-1 et seq.) and shall pay the tax due on the delivery of  
12 alcoholic beverages pursuant to the "Alcoholic beverage tax law,"  
13 R.S.54:41-1 et seq. The Director of the Division of Taxation in the  
14 Department of the Treasury shall promulgate such rules and  
15 regulations necessary to effectuate the provisions of this paragraph,  
16 and may provide by regulation for the co-administration of the tax  
17 due on the delivery of alcoholic beverages pursuant to the  
18 "Alcoholic beverage tax law," R.S.54:41-1 et seq. with the  
19 administration of the tax due on the sale pursuant to the "Sales and  
20 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

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

25 Plenary distillery license. 3a. The holder of this license shall be  
26 entitled, subject to rules and regulations, to manufacture any  
27 distilled alcoholic beverages and rectify, blend, treat and mix, and  
28 to sell and distribute his products to wholesalers and retailers  
29 licensed in accordance with this chapter, and to sell and distribute  
30 without this State to any persons pursuant to the laws of the places  
31 of such sale and distribution, and to maintain a warehouse. The fee  
32 for this license shall be \$12,500.

33 Limited distillery license. 3b. The holder of this license shall be  
34 entitled, subject to rules and regulations, to manufacture and bottle  
35 any alcoholic beverages distilled from fruit juices and rectify,  
36 blend, treat, mix, compound with wine and add necessary  
37 sweetening and flavor to make cordial or liqueur, and to sell and  
38 distribute to wholesalers and retailers licensed in accordance with  
39 this chapter, and to sell and distribute without this State to any  
40 persons pursuant to the laws of the places of such sale and  
41 distribution and to warehouse these products. The fee for this  
42 license shall be \$3,750.

43 Supplementary limited distillery license. 3c. The holder of this  
44 license shall be entitled, subject to rules and regulations, to bottle  
45 and rebottle, in a quantity to be expressed in said license, dependent  
46 upon the following fees, alcoholic beverages distilled from fruit  
47 juices by such holder pursuant to a prior plenary or limited distillery  
48 license, and to sell and distribute his products to wholesalers and



1 retailers licensed in accordance with this chapter, and to sell and  
2 distribute without this State to any persons pursuant to the laws of  
3 the places of such sale and distribution, and to maintain a  
4 warehouse. The fee for this license shall be graduated as follows:  
5 to so bottle and rebottle not more than 5,000 wine gallons per  
6 annum, \$313; to so bottle and rebottle not more than 10,000 wine  
7 gallons per annum, \$625; to so bottle and rebottle without limit as  
8 to amount, \$1,250.

9 Craft distillery license. 3d. The holder of this license shall be  
10 entitled, subject to rules and regulations, to manufacture not more  
11 than 20,000 gallons of distilled alcoholic beverages, to rectify,  
12 blend, treat and mix distilled alcoholic beverages, to sell and  
13 distribute this product to wholesalers and retailers licensed in  
14 accordance with this chapter, and to sell and distribute without this  
15 State to any persons pursuant to the laws of the places of such sale  
16 and distribution, and to maintain a warehouse. The holder of this  
17 license shall be entitled to sell this product at retail to consumers on  
18 the licensed premises of the distillery for consumption on the  
19 premises, but only in connection with a tour of the distillery, and  
20 for consumption off the premises in a quantity of not more than five  
21 liters per person. In addition, the holder of this license may offer  
22 any person not more than three samples per calendar day for  
23 sampling purposes only. For the purposes of this subsection,  
24 "sampling" means the gratuitous offering of an open container not  
25 exceeding one-half ounce serving of distilled alcoholic beverage  
26 produced on the distillery premises. Nothing in this subsection  
27 shall be deemed to permit the direct shipment of distilled spirits  
28 either within or without this State.

29 The holder of this license shall not sell food or operate a  
30 restaurant on the licensed premises. A holder of this license who  
31 certifies that not less than 51% of the raw materials used in the  
32 production of distilled alcoholic beverages under this section are  
33 grown in this State or purchased from providers located in this State  
34 may, consistent with all applicable federal laws and regulations,  
35 label these distilled alcoholic beverages as "New Jersey Distilled."  
36 The fee for this license shall be \$938.

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

46 Bonded warehouse bottling license. 5. The holder of this license  
47 shall be entitled, subject to rules and regulations, to bottle alcoholic  
48 beverages in bond on behalf of all persons authorized by federal and

1 State law and regulations to withdraw alcoholic beverages from  
2 bond. The fee for this license shall be \$625. This license shall be  
3 issued only to persons holding permits to operate Internal Revenue  
4 bonded warehouses pursuant to the laws of the United States.

5 The provisions of section 21 of P.L.2003, c.117 amendatory of  
6 this section shall apply to licenses issued or transferred on or after  
7 July 1, 2003, and to license renewals commencing on or after July  
8 1, 2003.

9 (cf: P.L.2013, c.92, s.1)

10

11 2. This act shall take effect on the first day of the fourth month  
12 following enactment.

13

14

15

#### STATEMENT

16

17 This bill authorizes the holder of a limited brewery license to  
18 also operate a restaurant on the licensed premises if the premises is  
19 located in a Garden State Growth Zone.

20 Under current law, the holder of a limited brewery license is  
21 entitled to brew up to 300,000 barrels of 31 fluid gallons capacity  
22 per year of malt alcoholic beverages to sell and distribute to  
23 wholesalers and retailers. These licensees are authorized to sell  
24 their product at retail to consumers on the licensed premises for on-  
25 site consumption, but only in connection with a tour of the brewery.  
26 The licensee is prohibited by current law from selling food or  
27 operating a restaurant on the licensed premises.

28 This bill establishes a limited exception to the prohibition on  
29 operating a restaurant on the licensed premises of the brewery if the  
30 premises is located in a Garden State Growth Zone. "Garden State  
31 Growth Zone" is defined as the four cities in this State with the  
32 lowest median family income based on certain United States Census  
33 data. These cities are Camden, Trenton, Paterson and Passaic. The  
34 bill specifically provides that no more than three such restaurants  
35 may be operated in a Garden State Growth Zone.

36 According to the sponsor, this bill would enhance urban  
37 revitalization efforts in these distressed cities.