

# ASSEMBLY, No. 4390

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 11, 2015

**Sponsored by:**

**Assemblyman CRAIG J. COUGHLIN**

**District 19 (Middlesex)**

**Assemblyman JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Assemblyman JAMEL C. HOLLEY**

**District 20 (Union)**

**Assemblyman BOB ANDRZEJCZAK**

**District 1 (Atlantic, Cape May and Cumberland)**

**Co-Sponsored by:**

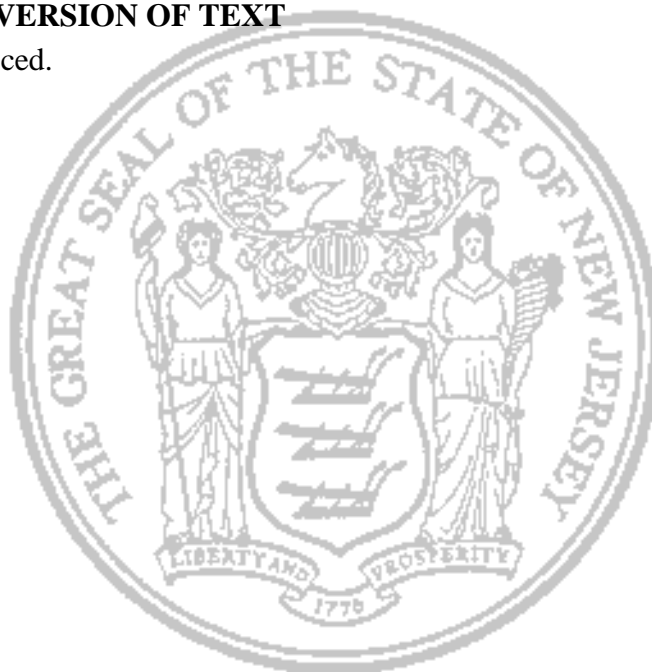
**Assemblywomen N.Munoz, Caride, Assemblymen Johnson and C.A.Brown**

**SYNOPSIS**

Allows consumption of food on limited brewery premises.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/11/2015)**

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

20 Limited brewery license. 1b. The holder of this license shall be  
21 entitled, subject to rules and regulations, to brew any malt alcoholic  
22 beverages in a quantity to be expressed in said license, dependent  
23 upon the following fees and not in excess of 300,000 barrels of 31  
24 fluid gallons capacity per year and to sell and distribute this product  
25 to wholesalers and retailers licensed in accordance with this  
26 chapter, and to sell and distribute without this State to any persons  
27 pursuant to the laws of the places of such sale and distribution, and  
28 to maintain a warehouse; provided, however, that the delivery of  
29 this product by the holder of this license to retailers licensed under  
30 this title shall be from inventory in a warehouse located in this State  
31 which is operated under a limited brewery license. The holder of  
32 this license shall be entitled to sell this product at retail to  
33 consumers on the licensed premises of the brewery for consumption  
34 on the premises, but only in connection with a tour of the brewery,  
35 or for consumption off the premises in a quantity of not more than  
36 15.5 fluid gallons per person, and to offer samples for sampling  
37 purposes only pursuant to an annual permit issued by the director.  
38 The holder of this license shall not sell food **[**or operate a  
39 restaurant**]** on the licensed premises. The holder of this license  
40 shall be entitled to allow the consumption of food by consumers on  
41 the licensed premises. The fee for this license shall be graduated as  
42 follows:

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

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

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

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

5 For the purposes of this subsection, "sampling" means the selling  
6 at a nominal charge or the gratuitous offering of an open container  
7 not exceeding four ounces of any malt alcoholic beverage. For the  
8 purposes of this subsection, "product" means any malt alcoholic  
9 beverage that is produced on the premises licensed under this  
10 subsection.

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

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

5 For the purposes of this subsection, "sampling" means the selling  
6 at a nominal charge or the gratuitous offering of an open container  
7 not exceeding four ounces of any malt alcoholic beverage product.  
8 For the purposes of this subsection, "product" means any malt  
9 alcoholic beverage that is produced on the premises licensed under  
10 this subsection.

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

1 period of three years at the licensed premises of the winery. For the  
2 purposes of this subsection, "sampling" means the selling at a  
3 nominal charge or the gratuitous offering of an open container not  
4 exceeding one and one-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. In addition, a holder of this  
9 license who produces more than 250,000 gallons per year shall not  
10 own, either in whole or in part, or hold, either directly or indirectly,  
11 any interest in a winery that produces not more than 250,000  
12 gallons per year. For the purposes of this subsection, "product"  
13 means any wine that is produced, blended, fortified, or treated by  
14 the licensee on its licensed premises situated in the State of New  
15 Jersey.

16 Farm winery license. 2b. The holder of this license shall be  
17 entitled, subject to rules and regulations, to manufacture any  
18 fermented wines and fruit juices in a quantity to be expressed in  
19 said license, dependent upon the following fees and not in excess of  
20 50,000 gallons per year and to sell and distribute his products to  
21 wholesalers and retailers licensed in accordance with this chapter  
22 and to churches for religious purposes and to sell and distribute  
23 without this State to any persons pursuant to the laws of the places  
24 of such sale and distribution, and to maintain a warehouse and to  
25 sell at retail to consumers for consumption on or off the licensed  
26 premises and to offer samples for sampling purposes only. The  
27 license shall be issued only when the winery at which such  
28 fermented wines and fruit juices are manufactured is located and  
29 constructed upon a tract of land exclusively under the control of the  
30 licensee, provided that the licensee is actively engaged in growing  
31 and cultivating an area of not less than three acres on or adjacent to  
32 the winery premises and on which are growing grape vines or fruit  
33 to be processed into wine or fruit juice; and provided, further, that  
34 for the first five years of the operation of the winery such fermented  
35 wines and fruit juices shall be manufactured from at least 51%  
36 grapes or fruit grown in the State and that thereafter they shall be  
37 manufactured from grapes or fruit grown in this State at least to the  
38 extent required for labeling as "New Jersey Wine" under the  
39 applicable federal laws and regulations. The containers of all wine  
40 sold to consumers by such licensee shall have affixed a label stating  
41 such information as shall be required by the rules and regulations of  
42 the Director of the Division of Alcoholic Beverage Control. The  
43 fee for this license shall be graduated as follows: to so manufacture  
44 between 30,000 and 50,000 gallons per annum, \$375; to so  
45 manufacture between 2,500 and 30,000 gallons per annum, \$250; to  
46 so manufacture between 1,000 and 2,500 gallons per annum, \$125;  
47 to so manufacture less than 1,000 gallons per annum, \$63. No farm

1 winery license shall be held by the holder of a plenary winery  
2 license or be situated on a premises licensed as a plenary winery.

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

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

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

33 Wine blending license. 2c. The holder of this license shall be  
34 entitled, subject to rules and regulations, to blend, treat, mix, and  
35 bottle fermented wines and fruit juices with non-alcoholic  
36 beverages, 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 \$625.

41 Instructional winemaking facility license. 2d. The holder of this  
42 license shall be entitled, subject to rules and regulations, to instruct  
43 persons in and provide them with the opportunity to participate  
44 directly in the process of winemaking and to directly assist such  
45 persons in the process of winemaking while in the process of  
46 instruction on the premises of the facility. The holder of this  
47 license also shall be entitled to manufacture wine on the premises  
48 not in excess of an amount of 10% of the wine produced annually

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

23 Out-of-State winery license. 2e. Provided that the applicant  
24 does not produce more than 250,000 gallons of wine per year, the  
25 holder of a valid winery license issued in any other state may make  
26 application to the director for this license. The holder of this  
27 license shall have the right to sell and distribute his products to  
28 wholesalers licensed in accordance with this chapter and to sell  
29 such wine at retail in original packages in 16 salesrooms apart from  
30 the winery premises for consumption on or off the premises at a fee  
31 of \$250 for each salesroom. Licensees shall not jointly control and  
32 operate salesrooms. The annual fee for this license shall be \$938.  
33 A copy of a current license issued by another state shall accompany  
34 the application. The holder of this license also shall have the right  
35 to sell and distribute his products to retailers licensed in accordance  
36 with this chapter, except that the holder of this license shall not use  
37 a common carrier for such distribution. The fee for this additional  
38 privilege shall be graduated as follows: a licensee who  
39 manufactures more than 150,000 gallons, but not in excess of  
40 250,000 gallons per annum, \$1,000; a licensee who manufactures  
41 more than 100,000 gallons, but not in excess of 150,000 gallons per  
42 annum, \$500; a licensee who manufactures more than 50,000  
43 gallons, but not in excess of 100,000 gallons per annum, \$250; a  
44 licensee who manufactures 50,000 gallons or less per annum, \$100.  
45 Additionally, the holder of this license may ship not more than 12  
46 cases of wine per year, subject to regulation, to any person within or  
47 without this State over 21 years of age for personal consumption  
48 and not for resale. A case of wine shall not exceed a maximum of

1 nine liters. A copy of the original invoice shall be available for  
2 inspection by persons authorized to enforce the alcoholic beverage  
3 laws of this State for a minimum period of three years at the  
4 licensed premises of the winery.

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

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

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

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

39 Supplementary limited distillery license. 3c. The holder of this  
40 license shall be entitled, subject to rules and regulations, to bottle  
41 and rebottle, in a quantity to be expressed in said license, dependent  
42 upon the following fees, alcoholic beverages distilled from fruit  
43 juices by such holder pursuant to a prior plenary or limited distillery  
44 license, and to sell and distribute his products to wholesalers and  
45 retailers licensed in accordance with this chapter, and to sell and  
46 distribute without this State to any persons pursuant to the laws of  
47 the places of such sale and distribution, and to maintain a  
48 warehouse. The fee for this license shall be graduated as follows:



1 to so bottle and rebottle not more than 5,000 wine gallons per  
2 annum, \$313; to so bottle and rebottle not more than 10,000 wine  
3 gallons per annum, \$625; to so bottle and rebottle without limit as  
4 to amount, \$1,250.

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

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

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

42 Bonded warehouse bottling license. 5. The holder of this license  
43 shall be entitled, subject to rules and regulations, to bottle alcoholic  
44 beverages in bond on behalf of all persons authorized by federal and  
45 State law and regulations to withdraw alcoholic beverages from  
46 bond. The fee for this license shall be \$625. This license shall be  
47 issued only to persons holding permits to operate Internal Revenue  
48 bonded warehouses pursuant to the laws of the United States.

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

5 (cf: P.L.2013, c.92, s.10)

6

7 2. This act shall take effect immediately.

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#### STATEMENT

12

13 This bill specifies that the holder of a limited brewery license  
14 may allow the consumption of food by consumers on the licensed  
15 premises of the brewery.

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

24 Under this bill, consumers would be allowed to consume food on  
25 the licensed premises of a limited brewery. The bill would allow  
26 patrons of limited breweries to purchase food from a vendor not  
27 owned by the licensee, or from a restaurant or other type of food  
28 vendor off the licensed premises, to be consumed on the licensed  
29 premises of the brewery.