

ASSEMBLY, No. 4391

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 11, 2015

Sponsored by:

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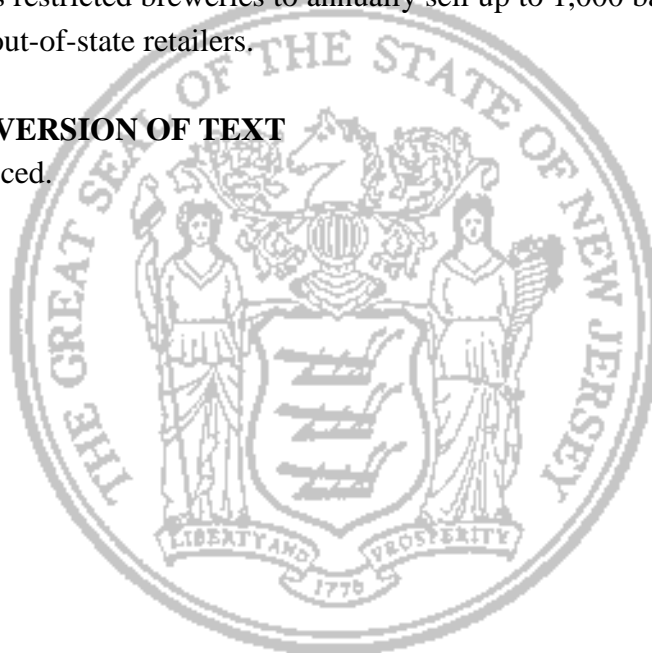
Assemblywomen N.Munoz, Caride and Assemblyman C.A.Brown

SYNOPSIS

Authorizes restricted breweries to annually sell up to 1,000 barrels of beer to in-State and out-of-state retailers.

CURRENT VERSION OF TEXT

As introduced.



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

1 AN ACT concerning restricted 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. Plenary brewery license. 1a. The holder of this
8 license shall be entitled, subject to rules and regulations, to brew
9 any malt alcoholic beverages and to sell and distribute his products
10 to wholesalers and retailers licensed in accordance with this
11 chapter, and to sell and distribute without this State to any persons
12 pursuant to the laws of the places of such sale and distribution, and
13 to maintain a warehouse; provided, however, that the delivery of
14 this product by the holder of this license to retailers licensed under
15 this title shall be from inventory in a warehouse located in this State
16 which is operated under a plenary brewery license. The fee for this
17 license shall be \$10,625.

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

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

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

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

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

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

7 Restricted brewery license. 1c. The holder of this license shall
8 be entitled, subject to rules and regulations, to brew any malt
9 alcoholic beverages in a quantity to be expressed in such license not
10 in excess of 10,000 barrels of 31 gallons capacity per year.
11 Notwithstanding the provisions of R.S.33:1-26, the director shall
12 issue a restricted brewery license only to a person or an entity
13 which has identical ownership to an entity which holds a plenary
14 retail consumption license issued pursuant to R.S.33:1-12, provided
15 that such plenary retail consumption license is operated in
16 conjunction with a restaurant regularly and principally used for the
17 purpose of providing meals to its customers and having adequate
18 kitchen and dining room facilities, and that the licensed restaurant
19 premises is immediately adjoining the premises licensed under this
20 subsection. The holder of this license shall be entitled to sell or
21 deliver the product to that restaurant premises. The holder of this
22 license also shall be entitled to sell and distribute the product to
23 wholesalers licensed in accordance with this chapter, and to
24 annually sell and distribute up to 1,000 barrels in aggregate to
25 retailers licensed in accordance with this chapter and to retailers
26 without this State pursuant to the laws of the places of the sale and
27 distribution. The fee for this license shall be \$1,250, which fee
28 shall entitle the holder to brew up to 1,000 barrels of 31 liquid
29 gallons per annum. The licensee also shall pay an additional \$250
30 for every additional 1,000 barrels of 31 fluid gallons produced. The
31 fee shall be paid at the time of application for the license, and
32 additional payments based on barrels produced shall be paid within
33 60 days following the expiration of the license term upon
34 certification by the licensee of the actual gallons brewed during the
35 license term. No more than 10 restricted brewery licenses shall be
36 issued to a person or entity which holds an interest in a plenary
37 retail consumption license. If the governing body of the
38 municipality in which the licensed premises will be located should
39 file a written objection, the director shall hold a hearing and may
40 issue the license only if the director finds that the issuance of the
41 license will not be contrary to the public interest. All fees related to
42 the issuance of both licenses shall be paid in accordance with
43 statutory law. The provisions of this subsection shall not be
44 construed to limit or restrict the rights and privileges granted by the
45 plenary retail consumption license held by the holder of the
46 restricted brewery license issued pursuant to this subsection.

47 The holder of this license shall be entitled to offer samples of its
48 product for promotional purposes at charitable or civic events off

1 the licensed premises pursuant to an annual permit issued by the
2 director.

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

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

1 nominal charge or the gratuitous offering of an open container not
2 exceeding one and one-half ounces of any wine.

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

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

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

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

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

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

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

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

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

1 laws of this State for a minimum period of three years at the
2 licensed premises of the winery.

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

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

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

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

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

1 gallons per annum, \$625; to so bottle and rebottle without limit as
2 to amount, \$1,250.

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

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

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

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

47 The provisions of section 21 of P.L.2003, c.117 amendatory of
48 this section shall apply to licenses issued or transferred on or after

1 July 1, 2003, and to license renewals commencing on or after July
2 1, 2003.

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

4

5 2. This act shall take effect immediately.

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7

8

STATEMENT

9

10 This bill authorizes restricted breweries, commonly referred to as
11 brew pubs, to annually sell and distribute up to 1,000 barrels of malt
12 alcoholic beverages to State-licensed retailers and retailers licensed
13 in other states.

14 Under current law, a restricted brewery is required to be operated
15 in conjunction with a restaurant which is immediately adjoining the
16 restricted brewery premises. The product of the restricted brewery
17 may only be delivered to that restaurant premises and to
18 wholesalers licensed under Title 33. Under this bill, restricted
19 breweries also would be authorized to sell and distribute up to 1,000
20 barrels of the product, in aggregate, to retailers licensed pursuant to
21 the laws of this State and retailers licensed in other states pursuant
22 to the laws of those states.