

SENATE, No. 2548

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED OCTOBER 27, 2014

Sponsored by:

Senator DONALD NORCROSS

District 5 (Camden and Gloucester)

Senator JAMES BEACH

District 6 (Burlington and Camden)

SYNOPSIS

Authorizes limited brewery licensee to operate restaurant under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/28/2014)

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2

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
45 Growth Zone. The fee for this license shall be graduated as
46 follows:

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.

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

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

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

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

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

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

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1 and privileges granted by the plenary retail consumption license
2 held by the holder of the restricted brewery license issued pursuant
3 to this subsection.

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

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

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

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1 shall not exceed a maximum of nine liters. A copy of the original
2 invoice shall be available for inspection by persons authorized to
3 enforce the alcoholic beverage laws of this State for a minimum
4 period of three years at the licensed premises of the winery. For the
5 purposes of this subsection, "sampling" means the selling at a
6 nominal charge or the gratuitous offering of an open container not
7 exceeding one and one-half ounces of any wine.

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

19 Farm winery license. 2b. The holder of this license shall be
20 entitled, subject to rules and regulations, to manufacture any
21 fermented wines and fruit juices in a quantity to be expressed in
22 said license, dependent upon the following fees and not in excess of
23 50,000 gallons per year and to sell and distribute his products to
24 wholesalers and retailers licensed in accordance with this chapter
25 and to churches for religious purposes 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 and to
28 sell at retail to consumers for consumption on or off the licensed
29 premises and to offer samples for sampling purposes only. The
30 license shall be issued only when the winery at which such
31 fermented wines and fruit juices are manufactured is located and
32 constructed upon a tract of land exclusively under the control of the
33 licensee, provided that the licensee is actively engaged in growing
34 and cultivating an area of not less than three acres on or adjacent to
35 the winery premises and on which are growing grape vines or fruit
36 to be processed into wine or fruit juice; and provided, further, that
37 for the first five years of the operation of the winery such fermented
38 wines and fruit juices shall be manufactured from at least 51%
39 grapes or fruit grown in the State and that thereafter they shall be
40 manufactured from grapes or fruit grown in this State at least to the
41 extent required for labeling as "New Jersey Wine" under the
42 applicable federal laws and regulations. The containers of all wine
43 sold to consumers by such licensee shall have affixed a label stating
44 such information as shall be required by the rules and regulations of
45 the Director of the Division of Alcoholic Beverage Control. The
46 fee for this license shall be graduated as follows: to so manufacture
47 between 30,000 and 50,000 gallons per annum, \$375; to so
48 manufacture between 2,500 and 30,000 gallons per annum, \$250; to

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

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

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

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

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

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

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

25 Out-of-State winery license. 2e. Provided that the applicant
26 does not produce more than 250,000 gallons of wine per year, the
27 holder of a valid winery license issued in any other state may make
28 application to the director for this license. The holder of this
29 license shall have the right to sell and distribute his products to
30 wholesalers licensed in accordance with this chapter and to sell
31 such wine at retail in original packages in 16 salesrooms apart from
32 the winery premises for consumption on or off the premises at a fee
33 of \$250 for each salesroom. Licensees shall not jointly control and
34 operate salesrooms. The annual fee for this license shall be \$938.
35 A copy of a current license issued by another state shall accompany
36 the application. The holder of this license also shall have the right
37 to sell and distribute his products to retailers licensed in accordance
38 with this chapter, except that the holder of this license shall not use
39 a common carrier for such distribution. The fee for this additional
40 privilege shall be graduated as follows: a licensee who
41 manufactures more than 150,000 gallons, but not in excess of
42 250,000 gallons per annum, \$1,000; a licensee who manufactures
43 more than 100,000 gallons, but not in excess of 150,000 gallons per
44 annum, \$500; a licensee who manufactures more than 50,000
45 gallons, but not in excess of 100,000 gallons per annum, \$250; a
46 licensee who manufactures 50,000 gallons or less per annum, \$100.
47 Additionally, the holder of this license may ship not more than 12
48 cases of wine per year, subject to regulation, to any person within or

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1 without this State over 21 years of age for personal consumption
2 and not for resale. A case of wine shall not exceed a maximum of
3 nine liters. A copy of the original invoice shall be available for
4 inspection by persons authorized to enforce the alcoholic beverage
5 laws of this State for a minimum period of three years at the
6 licensed premises of the winery.

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

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

23 Plenary distillery license. 3a. The holder of this license shall be
24 entitled, subject to rules and regulations, to manufacture any
25 distilled alcoholic beverages and rectify, blend, treat and mix, and
26 to sell and distribute his products to wholesalers and retailers
27 licensed in accordance with this chapter, 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. The fee
30 for this license shall be \$12,500.

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

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

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1 the places of such sale and distribution, and to maintain a
2 warehouse. The fee for this license shall be graduated as follows:
3 to so bottle and rebottle not more than 5,000 wine gallons per
4 annum, \$313; to so bottle and rebottle not more than 10,000 wine
5 gallons per annum, \$625; to so bottle and rebottle without limit as
6 to amount, \$1,250.

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

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

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

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

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

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

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

8

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

11

12

13

STATEMENT

14

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

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

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

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