

ASSEMBLY, No. 1950

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

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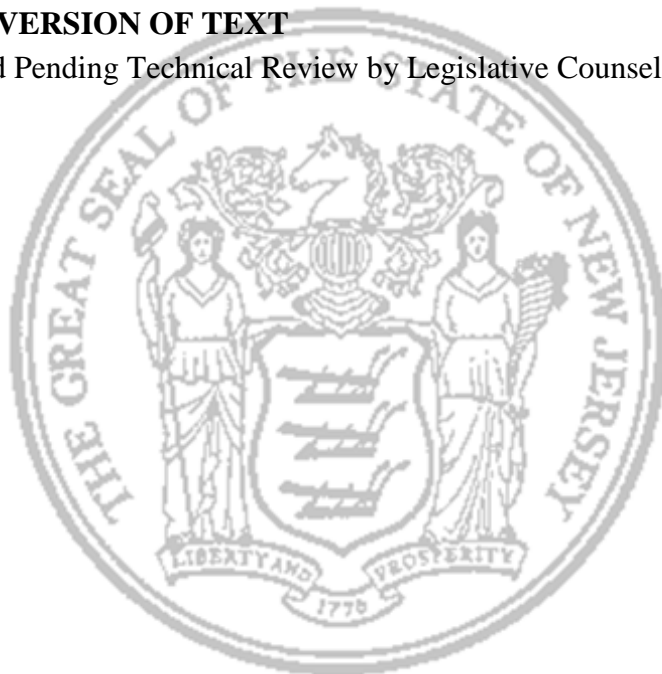
Assemblywomen N.Munoz, Caride, Assemblymen Johnson and C.A.Brown

SYNOPSIS

Allows consumption of food on limited brewery premises.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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;

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 100,000 barrels of 31 fluid gallons
2 capacity per annum, \$2,500;

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

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

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

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

1 held by the holder of the restricted brewery license issued pursuant
2 to this subsection.

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

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

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

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

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

18 Farm winery license. 2b. The holder of this license shall be
19 entitled, subject to rules and regulations, to manufacture any
20 fermented wines and fruit juices in a quantity to be expressed in
21 said license, dependent upon the following fees and not in excess of
22 50,000 gallons per year and to sell and distribute his products to
23 wholesalers and retailers licensed in accordance with this chapter
24 and to churches for religious purposes and to sell and distribute
25 without this State to any persons pursuant to the laws of the places
26 of such sale and distribution, and to maintain a warehouse and to
27 sell at retail to consumers for consumption on or off the licensed
28 premises and to offer samples for sampling purposes only. The
29 license shall be issued only when the winery at which such
30 fermented wines and fruit juices are manufactured is located and
31 constructed upon a tract of land exclusively under the control of the
32 licensee, provided that the licensee is actively engaged in growing
33 and cultivating an area of not less than three acres on or adjacent to
34 the winery premises and on which are growing grape vines or fruit
35 to be processed into wine or fruit juice; and provided, further, that
36 for the first five years of the operation of the winery such fermented
37 wines and fruit juices shall be manufactured from at least 51%
38 grapes or fruit grown in the State and that thereafter they shall be
39 manufactured from grapes or fruit grown in this State at least to the
40 extent required for labeling as "New Jersey Wine" under the
41 applicable federal laws and regulations. The containers of all wine
42 sold to consumers by such licensee shall have affixed a label stating
43 such information as shall be required by the rules and regulations of
44 the Director of the Division of Alcoholic Beverage Control. The
45 fee for this license shall be graduated as follows: to so manufacture
46 between 30,000 and 50,000 gallons per annum, \$375; to so
47 manufacture between 2,500 and 30,000 gallons per annum, \$250; to
48 so manufacture between 1,000 and 2,500 gallons per annum, \$125;

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

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

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

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

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

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

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

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

1 and not for resale. A case of wine shall not exceed a maximum of
2 nine liters. A copy of the original invoice shall be available for
3 inspection by persons authorized to enforce the alcoholic beverage
4 laws of this State for a minimum period of three years at the
5 licensed premises of the winery.

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

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

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

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

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

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

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

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

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

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

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 immediately.

10

11

12

STATEMENT

13

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

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

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