

ASSEMBLY, No. 4014

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JUNE 30, 2016

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Changes certain requirements for limited brewery licenses.

CURRENT VERSION OF TEXT

As introduced.



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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 may offer, or offer for sale,
40 packaged crackers, chips, nuts, and similar snacks but shall not
41 **[sell food or]** operate a restaurant on the licensed premises. The
42 holder of this license shall make information about the brewery and
43 brewing process available to consumers and shall offer consumers a
44 tour of the brewery, either at a regularly scheduled date and time or
45 upon request, and shall prominently display a sign concerning the

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 availability of tours. The fee for this license shall be graduated as
2 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10

11 2. This act shall take effect immediately.

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STATEMENT

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16 This bill changes certain requirements related to patronizing
17 limited brewery licensees, sometimes known as “microbreweries”
18 or “craft breweries.”

19 Under current law, a limited brewery is permitted to sell its beer
20 at retail to consumers for consumption on the brewery premises
21 only in connection with a tour of the brewery – whether the person
22 is a first time visitor or a repeat patron. This bill makes the tour
23 optional and allows a brewery to serve beer on its premises to a
24 consumer who has not toured the brewery; however, a brewery
25 would be required to offer consumers a tour, either at a regularly
26 scheduled date and time or upon request, and prominently display a
27 sign concerning the availability of tours. A limited brewery
28 licensee would also be required to make information available to
29 consumers about the brewery and brewing process. Offering
30 optional educational tours, providing notice to patrons of the tours,
31 and sharing information on the brewery and brewing process is
32 reasonable and practical for both consumers and brewery staff.

33 The bill additionally allows a licensee to offer, or offer for sale,
34 snack food (e.g., packaged crackers, chips, nuts, and similar snacks)
35 to patrons. Current law prohibits breweries from selling any food
36 or operating a restaurant. A limited brewery licensee would still be
37 prohibited from operating a restaurant.