

ASSEMBLY, No. 4602

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 15, 2017

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman TROY SINGLETON

District 7 (Burlington)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Co-Sponsored by:

Assemblyman Kennedy

SYNOPSIS

Removes requirement that limited brewery licensees provide tour when selling beer to consumers and permits certain food consumption on premise.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/23/2017)

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**
35 **brewery,】** or **【for consumption off the premises】** in a quantity of
36 not more than 15.5 fluid gallons per person for consumption off the
37 premises, and to offer samples for sampling purposes only pursuant
38 to an annual permit issued by the director. The holder of this license
39 shall **【not sell food or】** be permitted to offer for sale or make the
40 gratuitous offering of packaged crackers, chips, nuts, and similar
41 snacks to consumers, but shall not operate a restaurant on the
42 licensed premises. The fee for this license shall be graduated as
43 follows:

44 to so brew not more than 50,000 barrels of 31 liquid gallons
45 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%】** 51
38 percent grapes or fruit grown in the State and that thereafter they
39 shall be manufactured from grapes or fruit grown in this State at
40 least to the extent required for labeling as "New Jersey Wine" under
41 the applicable federal laws and regulations. The containers of all
42 wine sold to consumers by such licensee shall have affixed a label
43 stating such information as shall be required by the rules and
44 regulations of the Director of the Division of Alcoholic Beverage
45 Control. The fee for this license shall be graduated as follows: to so
46 manufacture between 30,000 and 50,000 gallons per annum, \$375;
47 to so manufacture between 2,500 and 30,000 gallons per annum,
48 \$250; to so manufacture between 1,000 and 2,500 gallons per

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

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

25 Out-of-State winery license. 2e. Provided that the applicant does
26 not produce more than 250,000 gallons of wine per year, the holder
27 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

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, c.30
9 (C.54:32B-1 et seq.) and shall pay the tax due on the delivery of
10 alcoholic beverages pursuant to the "Alcoholic beverage tax law,"
11 R.S.54:41-1 et seq. The Director of the Division of Taxation in the
12 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

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%】** 51 percent of the raw materials
30 used in the production of distilled alcoholic beverages under this
31 section are grown in this State or purchased from providers located
32 in this State may, consistent with all applicable federal laws and
33 regulations, label these distilled alcoholic beverages as "New Jersey
34 Distilled." 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

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.

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STATEMENT

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14 This bill removes from current law a provision requiring the
15 holder of a limited brewery license to provide a tour of the brewery
16 when selling the brewery's products for consumption on the
17 licensed premises and permits the offering of light snacks to
18 consumers on the licensed premises of the brewery.

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

27 Under this bill, consumers would not be required to take a tour of
28 the brewery to purchase beverages for onsite consumption.
29 Additionally, consumers would be allowed to either purchase, or be
30 provided gratuitously, light snacks on the licensed premises of a
31 limited brewery.