

ASSEMBLY, No. 2271

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Clarifies protections and establishes requirements for certain activities and events hosted or conducted by limited brewery licensees on preserved farmland; requires adoption of agricultural management practices therefor.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning agricultural tourism activities and events, and
2 amending and supplementing P.L.1983, c.31.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. (New section) The Legislature finds and declares that:

8 a. The promotion of agricultural tourism is in the best interest
9 of the State, and affirms and supports the many cultural, economic,
10 environmental, historical, and societal benefits provided by one of
11 the largest and most essential industries in the Garden State;

12 b. With the rapid expansion of the craft brewing industry and
13 its popularity nationwide, New Jersey's farm brewing community is
14 uniquely poised to serve an important role in diversifying the
15 agricultural products and services offered by farms in the State and
16 is well-suited to cultivating growth in the State's tourism industry;

17 c. As the number of breweries in the State continues to surge
18 with the burgeoning prominence of the craft brewing industry, these
19 businesses are utilizing an ever-increasing quantity of some of the
20 State's most well-known and exceptional agricultural products,
21 including blueberries, cranberries, hops, peaches, pumpkins,
22 squash, strawberries, and wheat, in the production of their beers.

23 d. The farm brewing community is particularly well-situated to
24 serve as the keystone of the local industry, drawing in tourists from
25 all areas of the State and beyond, to experience New Jersey's
26 diverse agricultural opportunities while simultaneously highlighting
27 the State's commitment to the production of excellent, locally
28 produced and sourced craft beers;

29 e. A vibrant agricultural tourism industry brings visitors to the
30 scenic and lesser traveled areas of New Jersey and taps the
31 economic potential of the local communities and small businesses;

32 f. Special occasion events and other tourism-based activities
33 may deliver unintended impacts on communities, neighborhoods,
34 and residents near those farms, and it is the intention of this act to
35 balance the promotion of agricultural tourism and special occasion
36 events with the protection of public health and safety and the
37 State's farmland preservation activities; and

38 g. It is therefore the intent of P.L. , c. (C.) (pending
39 before the Legislature as this bill) to establish as the policy of the
40 State the encouragement of, and support for, agricultural tourism
41 activities, events, and opportunities and special occasion events
42 that: (1) offer and promote agricultural heritage, education, and
43 appreciation, and diversify and grow agricultural output; (2)
44 complement the preservation, protection, and retention of
45 agricultural lands and primary agricultural uses of farms and

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 breweries; and (3) protect the integrity and character of the existing
2 localities.

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4 2. (New section) As used in P.L. , c. (C.) (pending
5 before the Legislature as this bill):

6 “Agricultural tourism” means affordable, recreational, and
7 educational activities, events, and opportunities to learn about the
8 production of food, agricultural and horticultural products, and the
9 State’s farming heritage while helping to encourage the
10 preservation and retention of agricultural lands. “Agricultural
11 tourism” may include, but need not be limited to, activities, events,
12 and opportunities such as agricultural fairs, corn mazes, farm
13 festivals, hayrides, horseback riding, petting zoos, school tours,
14 special occasion events, and farm brewery and winery tours.

15 “Farm brewery” means a commercial farm on preserved
16 farmland where the owner or operator of the commercial farm has
17 been issued and is operating in compliance with a limited brewery
18 license pursuant to subsection 1b. of R.S.33:1-10.

19 “Preserved farmland” means land on which a development
20 easement was conveyed to, or retained by, the State Agriculture
21 Development Committee, a county agriculture development board,
22 a county, a municipality, or a qualifying tax exempt nonprofit
23 organization pursuant to the provisions of section 24 of P.L.1983,
24 c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section
25 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180
26 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-
27 37 through C.13:8C-40), or any other State law enacted for
28 farmland preservation purposes.

29 “Special occasion event” means a wedding, lifetime milestone
30 event, or other cultural or social event as defined by the appropriate
31 county agriculture development board, and conducted pursuant to
32 the requirements set forth in section 3 of P.L. , c. (C.)
33 (pending before the Legislature as this bill).

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35 3. (New section) Notwithstanding any other law, or any rule or
36 regulation adopted pursuant thereto, to the contrary, a special
37 occasion event may be conducted at a farm brewery, pursuant to
38 subsection h. of section 6 of P.L.1983, c.31 (C.4:1C-9), provided
39 that:

40 a. the farm brewery meets the gross income requirements set
41 forth in section 4 of P.L. , c. (C.) (pending before the
42 Legislature as this bill);

43 b. the special occasion event uses the agricultural output of the
44 farm brewery, to the maximum extent practicable, to promote
45 agricultural tourism and advance the agricultural or horticultural
46 output of the preserved farm;

47 c. the special occasion event is conducted on a Friday,
48 Saturday, Sunday, or federal or State holiday, except that a special

1 occasion event may be conducted on any other day of the week with
2 the approval of the appropriate county agriculture development
3 board;

4 d. the special occasion event is conducted in a temporary
5 structure, an existing permanent agricultural building, a farm or
6 open air pavilion, or another structure used in the normal course of
7 farm brewery operations and activities;

8 e. the special occasion event complies with applicable State
9 laws, rules and regulations, and municipal ordinances, resolutions,
10 or regulations concerning litter, noise, solid waste, and traffic, and
11 the protection of public health and safety; and

12 f. the farm brewery hosting a special occasion event enforces
13 State and federal requirements concerning the legal drinking age.

14 Each county agriculture development board shall monitor and
15 confirm compliance with the provisions of this section.

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17 4. (New section) a. An owner or operator of a farm brewery
18 engaged in conducting special occasion events shall annually certify
19 to the county agriculture development board that the special
20 occasion events together account for less than 50 percent of the
21 annual gross income of the farm brewery during each calendar year
22 or less than 50 percent of the average of the annual gross income of
23 the farm brewery over the preceding three-year period. A county
24 agriculture development board shall confirm compliance with the
25 provisions of this section and forward the certification of annual
26 gross income to the State Agriculture Development Committee.

27 b. In determining the annual gross income of a farm brewery
28 pursuant to subsection a. of this section, the gross income received
29 from any special occasion event shall include, but need not be
30 limited to: admission fees; rental fees; setup, breakdown, and
31 cleaning fees; and all other revenue that is not directly related to the
32 agricultural output of the farm brewery but is received by the farm
33 brewery in conjunction with conducting a special occasion event.

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35 5. (New section) An owner or operator of a farm brewery who
36 violates section 3 of P.L. , c. (C.) (pending before the
37 Legislature as this bill), or who submits false information or a false
38 certification pursuant to section 4 of P.L. , c. (C.) (pending
39 before the Legislature as this bill), shall be liable to a civil penalty
40 of \$500 for the first offense and \$1,000 for any subsequent offense,
41 to be collected in a civil action commenced by the State Agriculture
42 Development Committee.

43 Any penalty imposed pursuant to this section may be collected,
44 with costs, in a summary proceeding pursuant to the "Penalty
45 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
46 The Superior Court and the municipal court shall have jurisdiction
47 to enforce the provisions of the "Penalty Enforcement Law of 1999"
48 in connection with this act.

1 6. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as
2 follows:

3 6. Notwithstanding the provisions of any municipal or county
4 ordinance, resolution, or regulation to the contrary, the owner or
5 operator of a commercial farm, located in an area in which, as of
6 December 31, 1997 or thereafter, agriculture is a permitted use
7 under the municipal zoning ordinance and is consistent with the
8 municipal master plan, or which commercial farm is in operation as
9 of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the
10 operation of which conforms to agricultural management practices
11 recommended by the committee and adopted pursuant to the
12 provisions of the "Administrative Procedure Act," P.L.1968, c.410
13 (C.52:14B-1 et seq.), or whose specific operation or practice has
14 been determined by the appropriate county board, or in a county
15 where no county board exists, the committee, to constitute a
16 generally accepted agricultural operation or practice, and all
17 relevant federal or State statutes or rules and regulations adopted
18 pursuant thereto, and which does not pose a direct threat to public
19 health and safety may:

20 a. Produce agricultural and horticultural crops, trees and forest
21 products, livestock, and poultry and other commodities as described
22 in the Standard Industrial Classification for agriculture, forestry,
23 fishing, and trapping or, after the operative date of the regulations
24 adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1),
25 included under the corresponding classification under the North
26 American Industry Classification System;

27 b. Process and package the agricultural output of the
28 commercial farm;

29 c. Provide for the operation of a farm market, including the
30 construction of building and parking areas in conformance with
31 municipal standards;

32 d. Replenish soil nutrients and improve soil tilth;

33 e. Control pests, predators, and diseases of plants and animals;

34 f. Clear woodlands using open burning and other techniques,
35 install and maintain vegetative and terrain alterations and other
36 physical facilities for water and soil conservation and surface water
37 control in wetland areas;

38 g. Conduct on-site disposal of organic agricultural wastes;

39 h. Conduct agriculture-related educational and farm-based
40 recreational activities, including agricultural tourism activities and
41 events, provided that the activities and events are related to
42 marketing and advancing the agricultural or horticultural output of
43 the commercial farm;

44 i. Engage in the generation of power or heat from biomass,
45 solar, or wind energy, provided that the energy generation is
46 consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et
47 al.), as applicable, and the rules and regulations adopted therefor
48 and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2); and

1 j. Engage in any other agricultural activity as determined by
2 the State Agriculture Development Committee and adopted by rule
3 or regulation pursuant to the provisions of the "Administrative
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
5 (cf: P.L.2009, c.213, s.2)

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7 7. (New section) Each county agriculture development board
8 with a farm brewery in its jurisdiction shall prepare and submit to
9 the Governor and, pursuant to section 2 of P.L.1991, c.164
10 (C.52:14-19.1), to the Legislature an annual report, which shall
11 include findings that summarize the activities of farm breweries and
12 make recommendations for their continued operation, if
13 appropriate.

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15 8. (New section) a. The committee shall adopt, pursuant to the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.), rules and regulations as may be necessary for the
18 implementation of P.L. , c. (C.) (pending before the
19 Legislature as this bill).

20 b. Notwithstanding any provision of P.L.1968, c.410
21 (C.52:14B-1 et seq.) to the contrary, within two years after the date
22 of enactment of P.L. , c. (C.) (pending before the
23 Legislature as this bill), the committee shall adopt, immediately
24 upon filing with the Office of Administrative Law, agricultural
25 management practices for agricultural tourism activities and events
26 on commercial farms, which shall be effective for a period not to
27 exceed two years following the date of enactment of P.L. ,
28 c. (C.) (pending before the Legislature as this bill) and shall
29 thereafter be amended, adopted, or readopted by the committee in
30 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
31 et seq.). During the two year period after the date of enactment of
32 P.L. , c. (C.) (pending before the Legislature as this bill) and
33 prior to the filing and adoption of the agricultural management
34 practices pursuant to this subsection, a commercial farm shall be
35 permitted to continue planning and conducting agricultural tourism
36 activities and events.

37 c. For the purposes of this section and subsection h. of section
38 6 of P.L.1983, c.31 (C.4:1C-9), an agricultural tourism event
39 includes a "special occasion event" as defined pursuant to section 2
40 of P.L. , c. (C.) (pending before the Legislature as this
41 bill).

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43 9. This act shall take effect immediately.

STATEMENT

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This bill allows special occasion events that promote agricultural tourism to be conducted at breweries located on preserved farmland (known under the bill as “farm breweries”) under certain circumstances, and protects these activities under the “Right to Farm Act,” P.L.1983, c.31 (C.4:1C-1 et seq.).

The bill permits a special occasion event to be conducted at a farm brewery provided that:

- 1) the farm brewery meets the gross income requirements set forth in section 4 of the bill;
- 2) the special occasion event uses the agricultural output of the farm brewery, to the maximum extent practicable, to promote agricultural tourism and advance the agricultural or horticultural output of the preserved farm;
- 3) the special occasion event is conducted on a Friday, Saturday, Sunday, or federal or State holiday, except that a special occasion event may be conducted on any other day of the week with the approval of the appropriate county agriculture development board (CADB);
- 4) the special occasion event is conducted in a temporary structure, an existing permanent agricultural building, a farm or open air pavilion, or another structure used in the normal course of farm brewery operations and activities;
- 5) the special occasion event complies with applicable State laws, rules and regulations, and municipal ordinances, resolutions, or regulations concerning litter, noise, solid waste, and traffic, and the protection of public health and safety; and
- 6) the farm brewery hosting a special occasion event enforces State and federal requirements concerning the legal drinking age.

Each CADB would be tasked with monitoring and confirming compliance with these provisions.

The bill defines a “special occasion event” to mean a wedding, lifetime milestone event, or other cultural or social event as defined by the appropriate CADB, and conducted pursuant to the requirements set forth in the bill.

An owner or operator of a farm brewery engaged in conducting special occasion events would be required to annually certify to the CADB that the special occasion events together account for less than 50 percent of the annual gross income of the farm brewery during each calendar year or less than 50 percent of the average of the annual gross income of the farm brewery over the preceding three-year period. A CADB would forward the certification of annual gross income to the State Agriculture Development Committee (SADC).

An owner or operator of a farm brewery who violates the provisions of the bill would be liable to a civil penalty of \$500 for

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1 the first offense and \$1,000 for any subsequent offense, to be
2 collected in a civil action commenced by the SADC.

3 Additionally, this bill amends the “Right to Farm Act,” P.L.1983,
4 c.31 (C.4:1C-1 et seq.) to include certain events as permitted activities
5 under the law, by allowing a farm to conduct agriculture-related
6 educational and farm-based recreational events provided that the
7 events are related to marketing and advancing the agricultural or
8 horticultural output of the commercial farm. The bill requires the
9 SADC to develop agricultural management practices – known as
10 AMPs – for agricultural tourism events, which would include special
11 occasion events.