

[First Reprint]

**ASSEMBLY, No. 3494**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

INTRODUCED MARCH 5, 2018

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

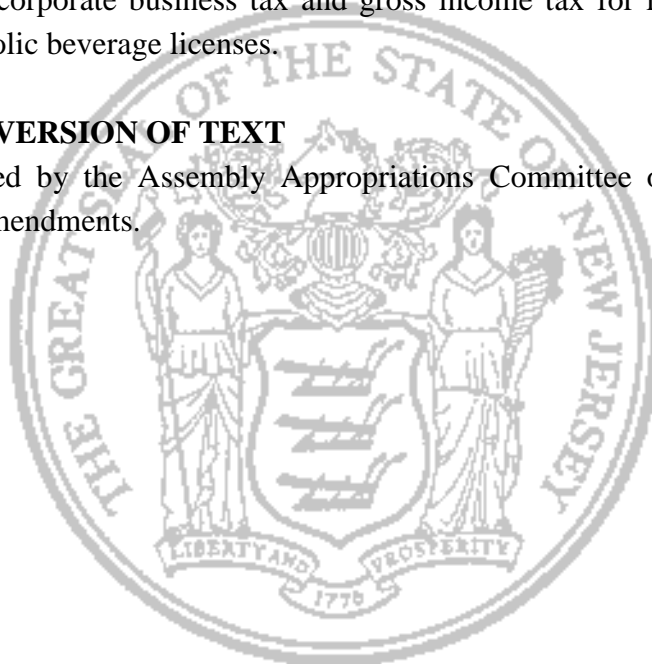
**Assemblywomen Reynolds-Jackson and Jimenez**

**SYNOPSIS**

Creates new permits to allow certain restaurants to sell alcoholic beverages and allows for issuance of additional alcoholic beverage licenses; provides tax credit under corporate business tax and gross income tax for loss in value to certain alcoholic beverage licenses.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on October 22, 2018, with amendments.



**(Sponsorship Updated As Of: 6/11/2019)**

A3494 BURZICHELLI, MUKHERJI

2

1 AN ACT concerning the sale of alcoholic beverages in certain  
2 restaurants, creating tax credits, supplementing and amending  
3 various sections of Title 33 of the Revised Statutes, and  
4 supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and Title  
5 54A of the New Jersey Statutes.

6

7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

9

10 <sup>1</sup>[1. (New section) The Legislature finds and declares that:

11 a. Under current law, a municipality may not issue a new  
12 plenary retail consumption license unless and until the combined  
13 total number of such licenses existing in the municipality is fewer  
14 than one for each 3,000 of its population according to the most  
15 recent estimates issued by the U.S. Bureau of the Census.

16 b. As a result of this restriction, there is an insufficient number  
17 or complete lack of available plenary retail consumption licenses in  
18 many municipalities, thereby unnecessarily inflating the value of  
19 existing consumption licenses and forcing prospective restaurateurs  
20 to purchase a license at an exorbitant price or operate without a  
21 license.

22 c. The presence of new restaurants serving alcoholic beverages  
23 in a municipality often promotes real estate development,  
24 contributes to the municipal revitalization, and enhances the overall  
25 quality of life for residents and visitors.

26 d. However, the introduction of a new restaurant license that is  
27 not subject to a population formula may cause existing plenary  
28 retail consumption licenses to lose value, thus creating the need to  
29 compensate certain existing license holders by issuing tax credits.

30 e. The State of New Jersey has a legitimate government  
31 interest in promoting business by issuing tax credits to the holders  
32 of plenary retail consumption licenses to compensate them for the  
33 devaluation of their licenses.

34 f. In order to foster and encourage economic development and  
35 growth in this State, it is appropriate to create a new restaurant  
36 license that would permit the licensee to sell alcoholic beverages for  
37 consumption on the premises and to provide financial compensation  
38 to certain plenary retail consumption licensees who already have  
39 established businesses and paid market value for their licenses.]<sup>1</sup>

40

41 <sup>1</sup>[2. R.S.33:1-12 is amended to read as follows:

42 33:1-12. Class C licenses shall be subdivided and classified as  
43 follows:

44 Plenary retail consumption license. 1. The holder of this license

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted October 22, 2018.

1 shall be entitled, subject to rules and regulations, to sell any  
2 alcoholic beverages for consumption on the licensed premises by  
3 the glass or other open receptacle, and also to sell any alcoholic  
4 beverages in original containers for consumption off the licensed  
5 premises; but this license shall not be issued to permit the sale of  
6 alcoholic beverages in or upon any premises in which a grocery,  
7 delicatessen, drug store or other mercantile business is carried on,  
8 except as hereinafter provided. The holder of this license shall be  
9 permitted to conduct consumer wine, beer and spirits tasting events  
10 and samplings for a fee or on a complimentary basis pursuant to  
11 conditions established by rules and regulations of the Division of  
12 Alcoholic Beverage Control, provided however, that the holder of  
13 this license complies with the terms and conditions set forth in  
14 section 3 of P.L.2009, c.216 (C.33:1-12d). Subject to such rules  
15 and regulations established from time to time by the director, the  
16 holder of this license shall be permitted to sell alcoholic beverages  
17 in or upon the premises in which any of the following is carried on:  
18 the keeping of a hotel or restaurant including the sale of mercantile  
19 items incidental thereto as an accommodation to patrons; the sale, at  
20 an entertainment facility as defined in R.S.33:1-1, having a seating  
21 capacity for no less than 4,000 patrons, of mercantile items  
22 traditionally associated with the type of event or program held at  
23 the site; the sale of distillers', brewers' and vintners' packaged  
24 merchandise prepacked as a unit with other suitable objects as gift  
25 items to be sold only as a unit; the sale of novelty wearing apparel  
26 identified with the name of the establishment licensed under the  
27 provisions of this section; the sale of cigars, cigarettes, packaged  
28 crackers, chips, nuts and similar snacks and ice at retail as an  
29 accommodation to patrons, or the retail sale of nonalcoholic  
30 beverages as accessory beverages to alcoholic beverages; or, in  
31 commercial bowling establishments, the retail sale or rental of  
32 bowling accessories and the retail sale from vending machines of  
33 candy, ice cream and nonalcoholic beverages. The fee for this  
34 license shall be fixed by the governing board or body of the  
35 municipality in which the licensed premises are situated, by  
36 ordinance, at not less than \$250 and not more than \$2,500. No  
37 ordinance shall be enacted which shall raise or lower the fee to be  
38 charged for this license by more than **【20%】** 20 percent from that  
39 charged in the preceding license year or **【\$500.00】** \$500, whichever  
40 is the lesser. The governing board or body of each municipality  
41 may, by ordinance, enact that no plenary retail consumption license  
42 shall be granted within its respective municipality.

43 The holder of this license shall be permitted to obtain a restricted  
44 brewery license issued pursuant to subsection 1c. of R.S.33:1-10  
45 and to operate a restricted brewery immediately adjoining the  
46 licensed premises in accordance with the restrictions set forth in  
47 that subsection. All fees related to the issuance of both licenses  
48 shall be paid in accordance with statutory law.

1 Seasonal retail consumption license. 2. The holder of this  
2 license shall be entitled, subject to rules and regulations, to sell any  
3 alcoholic beverages for consumption on the licensed premises by  
4 the glass or other open receptacle, and also to sell any alcoholic  
5 beverages in original containers for consumption off the licensed  
6 premises, during the summer season from May 1 until November  
7 14, inclusive, or during the winter season from November 15 until  
8 April 30, inclusive; but this license shall not be issued to permit the  
9 sale of alcoholic beverages in or upon any premises in which a  
10 grocery, delicatessen, drug store or other mercantile business is  
11 carried on, except as hereinafter provided. Subject to such rules  
12 and regulations established from time to time by the director, the  
13 holder of this license shall be permitted to sell alcoholic beverages  
14 in or upon the premises in which any of the following is carried on:  
15 the keeping of a hotel or restaurant including the sale of mercantile  
16 items incidental thereto as an accommodation to patrons; the sale of  
17 distillers', brewers' and vintners' packaged merchandise prepacked  
18 as a unit with other suitable objects as gift items to be sold only as a  
19 unit; the sale of novelty wearing apparel identified with the name of  
20 the establishment licensed under the provisions of this section; the  
21 sale of cigars, cigarettes, packaged crackers, chips, nuts and similar  
22 snacks and ice at retail as an accommodation to patrons; or the retail  
23 sale of nonalcoholic beverages as accessory beverages to alcoholic  
24 beverages. The fee for this license shall be fixed by the governing  
25 board or body of the municipality in which the licensed premises  
26 are situated, by ordinance, at **【75%】** 75 percent of the fee fixed by  
27 said board or body for plenary retail consumption licenses. The  
28 governing board or body of each municipality may, by ordinance,  
29 enact that no seasonal retail consumption license shall be granted  
30 within its respective municipality.

31 Plenary retail distribution license. 3. a. The holder of this  
32 license shall be entitled, subject to rules and regulations, to sell any  
33 alcoholic beverages for consumption off the licensed premises, but  
34 only in original containers; except that licensees shall be permitted  
35 to conduct consumer wine, beer, and spirits tasting events and  
36 samplings on a complimentary basis pursuant to conditions  
37 established by rules and regulations of the Division of Alcoholic  
38 Beverage Control, provided however, that the holder of this license  
39 complies with the terms and conditions set forth in section 3 of  
40 P.L.2009, c.216 (C.33:1-12d).

41 The governing board or body of each municipality may, by  
42 ordinance, enact that this license shall not be issued to permit the  
43 sale of alcoholic beverages in or upon any premises in which any  
44 other mercantile business is carried on, except that any such  
45 ordinance, heretofore or hereafter adopted, shall not prohibit the  
46 retail sale of distillers', brewers' and vintners' packaged  
47 merchandise prepacked as a unit with other suitable objects as gift  
48 items to be sold only as a unit; the sale of novelty wearing apparel

1 identified with the name of the establishment licensed under the  
2 provisions of this act; cigars, cigarettes, packaged crackers, chips,  
3 nuts and similar snacks, ice, and nonalcoholic beverages as  
4 accessory beverages to alcoholic beverages. The fee for this license  
5 shall be fixed by the governing board or body of the municipality in  
6 which the licensed premises are situated, by ordinance, at not less  
7 than \$125 and not more than \$2,500. No ordinance shall be enacted  
8 which shall raise or lower the fee to be charged for this license by  
9 more than ~~【20%】~~ 20 percent from that charged in the preceding  
10 license year or ~~【\$500.00】~~ \$500, whichever is the lesser. The  
11 governing board or body of each municipality may, by ordinance,  
12 enact that no plenary retail distribution license shall be granted  
13 within its respective municipality.

14 Limited retail distribution license. 3. b. The holder of this  
15 license shall be entitled, subject to rules and regulations, to sell any  
16 unchilled, brewed, malt alcoholic beverages in quantities of not less  
17 than 72 fluid ounces for consumption off the licensed premises, but  
18 only in original containers; provided, however, that this license  
19 shall be issued only for premises operated and conducted by the  
20 licensee as a bona fide grocery store, meat market, meat and  
21 grocery store, delicatessen, or other type of bona fide food store at  
22 which groceries or other foodstuffs are sold at retail; and provided  
23 further that this license shall not be issued except for premises at  
24 which the sale of groceries or other foodstuffs is the primary and  
25 principal business and at which the sale of alcoholic beverages is  
26 merely incidental and subordinate thereto. The fee for this license  
27 shall be fixed by the governing body or board of the municipality in  
28 which the licensed premises are situated, by ordinance, at not less  
29 than \$31 and not more than \$63. The governing board or body of  
30 each municipality may, by ordinance, enact that no limited retail  
31 distribution license shall be granted within its respective  
32 municipality.

33 Plenary retail transit license. 4. The holder of this license shall  
34 be entitled, subject to rules and regulations, to sell any alcoholic  
35 beverages, for consumption only, on railroad trains, airplanes,  
36 limousines and boats, while in transit. The fee for this license for  
37 use by a railroad or air transport company shall be \$375, for use by  
38 the owners of limousines shall be \$31 per vehicle, and for use on a  
39 boat shall be \$63 on a boat 65 feet or less in length, \$125 on a boat  
40 more than 65 feet in length but not more than 110 feet in length,  
41 and \$375 on a boat more than 110 feet in length; such boat lengths  
42 shall be determined in the manner prescribed by the Bureau of  
43 Customs of the United States Government or any federal agency  
44 successor thereto for boat measurement in connection with issuance  
45 of marine documents. A license issued under this provision to a  
46 railroad or air transport company shall cover all railroad cars and  
47 planes operated by any such company within the State of New  
48 Jersey. A license for a boat or limousine issued under this

1 provision shall apply only to the particular boat or limousine for  
2 which issued, and shall permit the purchase of alcoholic beverages  
3 for sale or service in a boat or limousine to be made from any Class  
4 A and B licensee or from any Class C licensee whose license  
5 privilege permits the sale of alcoholic beverages in original  
6 containers for off-premises consumption. An interest in a plenary  
7 retail transit license issued in accordance with this section shall be  
8 excluded in determining the maximum number of retail licenses  
9 permitted under P.L.1962, c.152 (C.33:1-12.31 et seq.).

10 Club license. 5. The holder of this license shall be entitled,  
11 subject to rules and regulations, to sell any alcoholic beverages but  
12 only for immediate consumption on the licensed premises and only  
13 to bona fide club members and their guests. The fee for this license  
14 shall be fixed by the governing board or body of the municipality in  
15 which the licensed premises are situated, by ordinance, at not less  
16 than \$63 and not more than \$188. The governing board or body of  
17 each municipality may, by ordinance, enact that no club licenses  
18 shall be granted within its respective municipality. Club licenses  
19 may be issued only to such corporations, associations and  
20 organizations as are operated for benevolent, charitable, fraternal,  
21 social, religious, recreational, athletic, or similar purposes, and not  
22 for private gain, and which comply with all conditions which may  
23 be imposed by the Director of the Division of Alcoholic Beverage  
24 Control by rules and regulations.

25 The provisions of section 23 of P.L.2003, c.117 amendatory of  
26 this section shall apply to licenses issued or transferred on or after  
27 July 1, 2003, and to license renewals commencing on or after July  
28 1, 2003.

29 Restricted restaurant license (R1). 6. The holder of this license  
30 shall be entitled, subject to rules and regulations, to sell any  
31 alcoholic beverages for consumption by the glass or other open  
32 receptacle in or upon the premises of a restaurant with a minimum  
33 square footage of 1,500 and a maximum square footage of 6,000  
34 and maintains a full-service kitchen with a minimum square footage  
35 of 500 regularly and principally used for the purpose of providing  
36 food to customers. The full-service kitchen shall be adequately  
37 equipped for the preparation and serving of food and shall have, at  
38 minimum, a dishwasher, range, sink, oven, refrigerator, and  
39 countertop. A licensed premises under the provisions of this  
40 paragraph shall encompass not more than one physical address.  
41 Alcoholic beverages only shall be sold in connection with the sale  
42 of food and served at a table by an employee of the restaurant.

43 The holder of this license shall not provide a bar area for  
44 customers of the restaurant to congregate and consume alcoholic  
45 beverages but may provide a service bar at which alcoholic  
46 beverages are prepared for service to customers at a table. An  
47 employee of the restaurant may be stationed at the service bar to  
48 prepare drinks for customers, but shall only transfer alcoholic

1 beverages to wait staff employed by the restaurant to be delivered  
2 to restaurant patrons who are seated or are waiting to be seated at a  
3 table; an employee preparing drinks at the service bar shall be  
4 prohibited from directly transferring alcoholic beverages to  
5 restaurant patrons. The restaurant operated by the licensee shall  
6 offer to customers a standard printed menu or menu board system or  
7 similar signage featuring a list of meals with separate prices listed  
8 adjacent to each meal, or for parties of 10 restaurant patrons or  
9 greater, the restaurant may offer a full course menu with a limited  
10 number of meal choices for a fixed price. The holder of this license  
11 may not sell or transfer the license.

12 Prior to issuing licenses pursuant to this paragraph, the  
13 governing board or body of the municipality shall adopt an  
14 ordinance or resolution authorizing the issuance of restricted  
15 restaurant licenses within its borders. The ordinance or resolution  
16 may establish the days and times during which the licensee is  
17 permitted to sell alcoholic beverages for consumption on the  
18 licensed premises and shall limit the sale of alcoholic beverages to  
19 one hour prior to the service of food until one hour after the service  
20 of food has ended. The hours during which the ordinance permits  
21 the holder of a restricted restaurant license to sell alcoholic  
22 beverages may differ from the hours during which other  
23 consumption or distribution licensees within the municipality are  
24 permitted to sell alcoholic beverages.

25 The governing board or body of the municipality shall issue  
26 restricted restaurant licenses for use in connection with a restaurant  
27 in accordance with this subsection. The issuance of a restricted  
28 beer and wine license shall not permit the licensee to operate  
29 without complying with all applicable zoning ordinances.

30 The restriction in section 2 of P.L.1947, c.94 (C.33:1-12.14)  
31 concerning the number of retail consumption licenses that may be  
32 issued in a municipality shall not be applicable to the license issued  
33 under this subsection. A municipality that prohibits the sale of  
34 alcoholic beverages within its borders may establish by ordinance  
35 or resolution that a restricted restaurant license may be issued in the  
36 municipality.

37 The initial fee and annual renewal fee for this license shall be  
38 \$3,000 for a restaurant with a square footage of 1,500 to 3,000, and  
39 \$10,000 for a restaurant with a square footage of 3,001 to 6,000.  
40 The initial fee and annual renewal fee for this license shall be  
41 distributed in the following manner:

42 (1) \$2,500 shall be paid to the municipality wherein the  
43 restaurant is located and if the restaurant is located within the  
44 boundaries of two or more municipalities, the fee shall be divided  
45 equally among those municipalities;

46 (2) The remainder of the fee shall be paid to the Director of the  
47 Division of Taxation to be used solely for the purposes of offsetting  
48 the costs associated with issuing tax credits pursuant to section 6 of

1 P.L. , c. (C. ) (pending before the Legislature as this bill)  
2 and section 7 of P.L. , c. (C. )(pending before the Legislature  
3 as this bill). After the Division of Taxation is reimbursed for costs  
4 associated with issuing tax credits pursuant to section 6 of P.L. ,  
5 c. (C. ) (pending before the Legislature as this bill) and  
6 section 7 of P.L. , c. (C. ) (pending before the Legislature  
7 as this bill), the full fee shall be paid to the municipality in the same  
8 manner as provided under paragraph (1) of this subsection.

9 In addition, the holder of a restricted restaurant license shall pay  
10 upon renewal of the license any applicable renewal fees which are  
11 otherwise required to be paid to the Director of the Division of  
12 Alcoholic Beverage Control by the holder of a plenary retail  
13 consumption license.

14 Restricted beer and wine license (R2). 7. The holder of this  
15 license shall be entitled, subject to rules and regulations, to sell any  
16 beer or wine by the can, bottle or other sealed receptacle used for  
17 holding alcoholic beverages for consumption in or upon the  
18 premises of a restaurant with a minimum square footage of 1,500  
19 and a maximum square footage of 6,000 and maintains a full-  
20 service kitchen with a minimum square footage of 500 regularly and  
21 principally used for the purpose of providing food to customers.  
22 The full-service kitchen shall be adequately equipped for the  
23 preparation and serving of food and shall have, at a minimum, a  
24 dishwasher, range, sink, oven, refrigerator, and countertop. A  
25 licensed premises under the provisions of this paragraph shall  
26 encompass not more than one physical address.

27 The holder of this license shall not provide a bar area for  
28 customers of the restaurant to congregate and consume alcoholic  
29 beverages. In addition, the holder of this license shall not provide  
30 a service bar. Alcoholic beverages only may be sold in connection  
31 with the service of food and served at a table by an employee of the  
32 restaurant. The restaurant operated by the licensee shall offer to  
33 customers a standard printed menu or menu board system or similar  
34 signage featuring a list of meals with separate prices listed adjacent  
35 to each meal, or for parties of 10 restaurant patrons or greater, the  
36 licensee may offer a full course menu with a limited number of  
37 meal choices for a fixed price. The holder of this license may not  
38 sell or transfer the license.

39 Prior to issuing licenses pursuant to this paragraph, the  
40 governing board or body of the municipality shall adopt an  
41 ordinance or resolution authorizing the issuance of restricted  
42 restaurant licenses within its borders. The ordinance or resolution  
43 may establish the days and times during which the licensee is  
44 permitted to sell alcoholic beverages for consumption on the  
45 licensed premises and shall limit the sale of alcoholic beverages to  
46 one hour prior to the service of food until one hour after the service  
47 of food has ended. The hours during which the ordinance permits  
48 the holder of a restricted restaurant license to sell alcoholic



1 beverages may differ from the hours during which other  
2 consumption or distribution licensees within the municipality are  
3 permitted to sell alcoholic beverages.

4 The governing board or body of the municipality shall issue  
5 restricted beer and wine licenses for use in connection with a  
6 restaurant in accordance with this subsection. The issuance of a  
7 restricted beer and wine license shall not permit the licensee to  
8 operate without complying with all applicable zoning ordinances.  
9 The restriction in section 2 of P.L.1947, c.94 (C.33:1-12.14)  
10 concerning the number of retail consumption licenses that may be  
11 issued in a municipality shall not be applicable to the license issued  
12 under this paragraph. A municipality that prohibits the sale of  
13 alcoholic beverages within its borders may establish by ordinance  
14 or resolution that a restricted beer and wine license may be issued in  
15 the municipality.

16 The initial fee and annual renewal fee for this license shall be  
17 \$1,500 for a restaurant with a square footage of 1,500 to 3,000 and  
18 \$5,000 for a restaurant with a square footage of 3,001 to 6,000. The  
19 initial fee and annual renewal fee for this license shall be distributed  
20 in the following manner:

21 (1) \$1,250 shall be paid to the municipality wherein the  
22 restaurant is located, and if the restaurant is located within the  
23 boundaries of two or more municipalities, the fee shall be divided  
24 equally among those municipalities;

25 (2) The remainder of the fee shall be paid to the Director of the  
26 Division of Taxation to be used solely for the purposes of offsetting  
27 the costs associated with issuing tax credits pursuant to section 6 of  
28 P.L. , c. (C. )(pending before the Legislature as this bill) and  
29 section 7 of P.L. , c. (C. )(pending before the Legislature as  
30 this bill). After the Division of Taxation is reimbursed for costs  
31 associated with issuing tax credits pursuant to section 6 of P.L. ,  
32 c. (C. )(pending before the Legislature as this bill) and section  
33 7 of P.L. , c. (C. )(pending before the Legislature as this  
34 bill), the full fee shall be paid to the municipality in the same  
35 manner as provided under paragraph (1) of this subsection.

36 In addition, the holder of a restricted beer and wine license shall  
37 pay upon renewal of the license any applicable renewal fees which  
38 are otherwise required to be paid to the Director of the Division of  
39 Alcoholic Beverage Control by the holder of a plenary retail  
40 consumption license.

41 Sporting facility license. 6. The holder of this license shall be  
42 entitled, subject to rules and regulations, to sell at retail or to serve  
43 any alcoholic beverages as the owner, operator, lessee, or  
44 concessionaire of a sporting facility by the glass or other receptacle  
45 or in original containers only on the premises of the sporting  
46 facility.

47 Notwithstanding any other provision of Title 33 of the Revised  
48 Statutes and subject to conditions established by the director, the

1 holder of this license may share direction and control of the  
2 premises to be licensed and share proceeds and profits from the sale  
3 of alcoholic beverages with the owner, operator, concessionaire, or  
4 lessee of the facility. The holder of this license shall be permitted  
5 to conduct consumer wine, beer, and spirits tasting events and  
6 samplings for a fee or on a complimentary basis provided, however,  
7 the license holder complies with the provisions of section 3 of  
8 P.L.2009, c.216 (C.33:1-12d) and rules and regulations promulgated  
9 thereto. Notwithstanding any law, rule or regulation to the  
10 contrary, the holder of this license shall be entitled to establish an  
11 all-inclusive area within the licensed sporting facility, provided the  
12 all-inclusive area is limited to one area within the sporting facility  
13 for each game or event and the capacity of the all-inclusive area  
14 does not exceed 500 persons.

15 The fee for this license shall be \$2,500 for venues with a  
16 capacity of less than 7,500 persons; \$5,000 for venues with a  
17 capacity of not less than 7,500 persons but not more than 14,999  
18 persons; \$7,500 for venues with a capacity of not less than 15,000  
19 persons but not more than 22,499 persons; and \$10,000 for venues  
20 with a capacity of 22,500 persons or more.

21 For the purposes of this subsection:

22 "Sporting facility" means a stadium, arena, team training facility,  
23 or similar venue located on public property where alcoholic  
24 beverages are served or sold at retail for consumption on the  
25 premises by the glass or other open receptacle or in original  
26 containers.

27 "Team training facility" shall include team offices and team  
28 headquarters.

29 (cf: P.L.2015, c.86, s.1)】<sup>1</sup>

30

31 <sup>1</sup>1. (New section) a. "Restaurant district" means:

32 (1) an urban enterprise zone designated pursuant to P.L.1983,  
33 c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et  
34 al.);

35 (2) a downtown business improvement zone designated pursuant  
36 to P.L.1998, c.115 (C.40:56-71.1 et seq.);

37 (3) a pedestrian mall or pedestrian mall improvement or special  
38 improvement district as defined in section 2 of P.L.1972, c.134  
39 (C.40:56-66);

40 (4) a transit oriented development as defined by section 2 of  
41 P.L.2011, c.149 (C.34:1B-243);

42 (5) an area determined to be in need of redevelopment pursuant  
43 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-  
44 6);

45 (6) an area determined to be in need of rehabilitation pursuant to  
46 section 14 of P.L.1992, c.79 (C.40A:12A-14); or

47 (7) any area designated by statute following the effective date of  
48 this act which authorizes a municipality to adopt a zoning ordinance

1 for the purpose of improvement, development, redevelopment,  
2 rehabilitation, or revitalization.

3 b. The governing board or body of a municipality may issue a  
4 special restricted restaurant permit which shall entitle the permit  
5 holder to sell any alcoholic beverage for consumption by the glass  
6 or other open receptacle in or upon the premises of a restaurant as  
7 defined in subsection t. of R.S.33:1-1 that is located within a  
8 restaurant district as defined in subsection a. of this section and has  
9 a minimum gross square footage of 800 and a maximum gross  
10 square footage of 4,500.

11 c. The holder of a special restricted restaurant permit only shall  
12 sell alcoholic beverages in connection with the sale of food and  
13 served at a table by an employee of the restaurant. The holder of  
14 this permit shall not provide a bar area for customers of the  
15 restaurant to congregate and consume alcoholic beverages but may  
16 provide a service bar at which alcoholic beverages are prepared for  
17 service to customers at a table. An employee of the restaurant may  
18 be stationed at the service bar to prepare drinks for customers, but  
19 shall only transfer alcoholic beverages to wait staff employed by the  
20 restaurant to be delivered to restaurant patrons who are seated or are  
21 waiting to be seated at a table; an employee preparing drinks at the  
22 service bar shall be prohibited from directly transferring alcoholic  
23 beverages to restaurant patrons.

24 The restaurant operated by the permit holder shall not be closed  
25 for business between the months of September and May for a period  
26 of more than 30 consecutive days. In addition, the restaurant shall  
27 offer to customers a standard printed menu or menu board system or  
28 similar signage featuring a list of meals with separate prices listed  
29 adjacent to each meal, or for parties of 10 restaurant patrons or  
30 greater the restaurant may offer a full course menu with a limited  
31 number of meal choices for a fixed price. The holder of this permit  
32 shall not sell or transfer the permit.

33 d. Prior to issuing special restricted restaurant permits pursuant  
34 to this section, the governing board or body of the municipality  
35 shall adopt an ordinance or resolution authorizing the issuance of  
36 special restricted restaurant permits within its borders. The  
37 ordinance or resolution may establish the days and times during  
38 which the permit holder may sell alcoholic beverages for  
39 consumption on the restaurant's premises and shall limit the sale of  
40 alcoholic beverages to one hour prior to the service of food until  
41 one hour after the service of food has ended. The hours during  
42 which the ordinance authorizes the holder of a special restricted  
43 restaurant permit to sell alcoholic beverages may differ from the  
44 hours during which plenary retail consumption or distribution  
45 licensees within the municipality are permitted to sell alcoholic  
46 beverages.

47 The governing board or body shall coordinate with the director  
48 pursuant to R.S.33:1-35 to require municipal law enforcement

1 officers to enforce Title 33 of the Revised Statutes governing the  
2 sale of alcoholic beverages by a special restricted restaurant permit.  
3 If the municipality does not have a municipal law enforcement  
4 agency, any additional enforcement of the provisions of Title 33 of  
5 the Revised Statutes required by the issuance of a special restricted  
6 restaurant permit shall be assumed by the appropriate law  
7 enforcement agency charged with enforcing the laws within the  
8 municipality.

9 e. A premises for which a permit is issued pursuant to this  
10 section shall encompass not more than one physical address. The  
11 issuance of a special restricted restaurant permit shall not allow the  
12 permit holder to operate without complying with all applicable  
13 zoning ordinances.

14 f. The governing board or body of the municipality may, by  
15 ordinance or resolution adopted pursuant to subsection d. of this  
16 section, establish the number of special restricted restaurant permits  
17 that may be issued within the borders of the municipality pursuant  
18 to this section. The restriction in section 2 of P.L.1947, c.94  
19 (C.33:1-12.14) concerning the number of retail consumption  
20 licenses that may be issued in a municipality shall not be applicable  
21 to a special restricted restaurant permit issued pursuant to this  
22 section. A municipality that prohibits the sale of alcoholic  
23 beverages within its borders may establish by ordinance or  
24 resolution that a special restricted restaurant permit may be issued  
25 in the municipality.

26 g. The special restricted restaurant permit shall be issued for a  
27 12 month period and renewed on an annual basis. The initial fee  
28 and annual renewal fee for this permit shall be \$7,500 for a  
29 restaurant with a gross square footage of 800 to 2,000, and \$10,000  
30 for a restaurant with a gross square footage of 2,001 to 4,500. The  
31 initial fee and annual renewal fee for this permit shall be distributed  
32 in the following manner:

33 (1) \$2,500 shall be paid to the municipality wherein the  
34 restaurant is located and if the restaurant is located within the  
35 boundaries of two or more municipalities, the fee shall be divided  
36 equally among those municipalities;

37 (2) The remainder of the fee shall be paid to the Director of the  
38 Division of Taxation to be used solely for the purposes of offsetting  
39 the costs associated with issuing tax credits pursuant to section 6 of  
40 P.L. , c. (C. ) (pending before the Legislature as this bill)  
41 and section 7 of P.L. , c. (C. )(pending before the Legislature  
42 as this bill). After the Division of Taxation is reimbursed for costs  
43 associated with issuing tax credits pursuant to section 6 of P.L. ,  
44 c. (C. ) (pending before the Legislature as this bill) and  
45 section 7 of P.L. , c. (C. ) (pending before the Legislature  
46 as this bill), the full fee shall be paid to the municipality in the same  
47 manner as provided under paragraph (1) of this subsection.

1 h. In addition, the holder of a special restricted restaurant  
2 permit shall pay upon renewal of the permit any applicable renewal  
3 fees which are otherwise required to be paid to the Director of the  
4 Division of Alcoholic Beverage Control by the holder of a plenary  
5 retail consumption license.

6 i. A special restricted restaurant permit shall not be issued  
7 pursuant to this section for use in connection with a premises that is  
8 located in a county of the fifth or sixth class having a population  
9 less than 200,000 according to the latest federal decennial census.

10 j. A person who would fail to qualify as a holder of a plenary  
11 retail consumption license under Title 33 of the Revised Statutes  
12 shall not be authorized to hold an interest in a special restricted  
13 restaurant permit issued pursuant to the provisions of this section.

14 k. Within 12 months following the effective date of this act and  
15 annually thereafter, the Director of the Division of Alcoholic  
16 Beverage Control shall submit a report to the Governor and the  
17 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).  
18 The report shall include, but not be limited to, the number of  
19 permits issued pursuant to this section; the locations for which the  
20 permits are issued; the number of permit suspensions or revocations  
21 initiated pursuant to section 4 of P.L.1991, c.164 (C. ) (pending  
22 before the Legislature as this bill); any information pertaining to  
23 violations committed by a permit holder under Title 2C of the New  
24 Jersey Statutes and Title 33 of the Revised Statutes; and the status  
25 of pending applications for a tax credit and the number of tax  
26 credits approved or denied pursuant to sections 6 and 7 of P.L. ,  
27 c. (C. ) (pending before the Legislature as this bill).<sup>1</sup>

28  
29 <sup>1</sup>2. (New section) a. "Restaurant district" means:

30 (1) an urban enterprise zone designated pursuant to P.L.1983,  
31 c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et  
32 al.);

33 (2) a downtown business improvement zone designated pursuant  
34 to P.L.1998, c.115 (C.40:56-71.1 et seq.);

35 (3) a pedestrian mall or pedestrian mall improvement or special  
36 improvement district as defined in section 2 of P.L.1972, c.134  
37 (C.40:56-66);

38 (4) a transit oriented development as defined by section 2 of  
39 P.L.2011, c.149 (C.34:1B-243);

40 (5) an area determined to be in need of redevelopment pursuant  
41 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-  
42 6);

43 (6) an area determined to be in need of rehabilitation pursuant to  
44 section 14 of P.L.1992, c.9 (C.40A:12A-14); or

45 (7) any area designated by statute following the effective date of  
46 this act which allows a municipality to adopt a zoning ordinance for  
47 the purpose of improvement, development, redevelopment,  
48 rehabilitation, or revitalization.

1        b. The governing board or body of a municipality may issue a  
2 restricted beer and wine permit which shall entitle the permit holder  
3 to sell any beer or wine by the can, bottle, or other sealed receptacle  
4 used for holding alcoholic beverages for consumption in or upon the  
5 premises of a restaurant as defined in subsection t. of R.S.33:1-1  
6 that is located within a restaurant district as defined in subsection a.  
7 of this section and has a minimum gross square footage of 800 and  
8 a maximum gross square footage of 4,500.

9        c. The holder of a restricted beer and wine permit shall not  
10 provide a bar area for customers of the restaurant to congregate and  
11 consume alcoholic beverages. In addition, the permit holder shall  
12 not provide a service bar. Alcoholic beverages only may be sold in  
13 connection with the service of food and served at a table by an  
14 employee of the restaurant. The restaurant operated by the permit  
15 holder shall offer to customers a standard printed menu or menu  
16 board system or similar signage featuring a list of meals with  
17 separate prices listed adjacent to each meal, or for parties of 10  
18 restaurant patrons or greater the licensee may offer a full course  
19 menu with a limited number of meal choices for a fixed price. The  
20 holder of this permit shall not sell or transfer the permit. A  
21 restaurant for which a permit is issued pursuant to this section shall  
22 not be closed for business between the months of September and  
23 May for a period of more than 30 consecutive days.

24        d. Prior to issuing special restricted beer and wine permits  
25 pursuant to this section, the governing board or body of the  
26 municipality shall adopt an ordinance or resolution authorizing the  
27 issuance of restricted beer and wine permits within its borders. The  
28 ordinance or resolution may establish the days and times during  
29 which the permit holder is permitted to sell alcoholic beverages for  
30 consumption on the restaurant's premises and shall limit the sale of  
31 alcoholic beverages to one hour prior to the service of food until  
32 one hour after the service of food has ended. The hours during  
33 which the ordinance permits the holder of a restricted beer and wine  
34 permit to sell alcoholic beverages may differ from the hours during  
35 which plenary retail consumption or distribution licensees within  
36 the municipality are permitted to sell alcoholic beverages.

37        The governing board or body shall coordinate with the director  
38 pursuant to R.S.33:1-35 to require municipal law enforcement  
39 officers to enforce Title 33 of the Revised Statutes governing the  
40 sale of alcoholic beverages by a restricted beer and wine permit. If  
41 the municipality does not have a municipal law enforcement  
42 agency, any additional enforcement of the provisions of Title 33 of  
43 the Revised Statutes required by the issuance of a restricted beer  
44 and wine permit shall be assumed by the appropriate law  
45 enforcement agency charged with enforcing the laws within the  
46 municipality.

47        e. A premises for which a restricted beer and wine permit is  
48 issued pursuant to this section shall encompass not more than one

1 physical address. The issuance of a restricted beer and wine permit  
2 shall not allow the permit holder to operate without complying with  
3 all applicable zoning ordinances.

4 f. The governing board or body of the municipality may, by  
5 ordinance or resolution adopted pursuant to subsection d. of this  
6 section, establish the number of permits that may be issued within  
7 the borders of the municipality pursuant to this section. The  
8 restriction in section 2 of P.L.1947, c.94 (C.33:1-12.14) concerning  
9 the number of retail consumption licenses that may be issued in a  
10 municipality shall not be applicable to a permit issued pursuant to  
11 this section. A municipality that prohibits the sale of alcoholic  
12 beverages within its borders may establish by ordinance or  
13 resolution that a restricted beer and wine permit may be issued in  
14 the municipality.

15 g. The restricted beer and wine permit shall be issued for a 12  
16 month period and renewed on an annual basis. The initial fee and  
17 annual renewal fee for this permit shall be \$3,000 for a restaurant  
18 with a gross square footage of 800 to 2,000, and \$5,000 for a  
19 restaurant with a gross square footage of 2,001 to 4,500. The initial  
20 fee and annual renewal fee for this permit shall be distributed in the  
21 following manner:

22 (1) \$1,250 shall be paid to the municipality wherein the  
23 restaurant is located, and if the restaurant is located within the  
24 boundaries of two or more municipalities, the fee shall be divided  
25 equally among those municipalities;

26 (2) The remainder of the fee shall be paid to the Director of the  
27 Division of Taxation to be used solely for the purposes of offsetting  
28 the costs associated with issuing tax credits pursuant to section 6 of  
29 P.L. , c. (C. ) (pending before the Legislature as this bill)  
30 and section 7 of P.L. , c. (C. )(pending before the  
31 Legislature as this bill). After the Division of Taxation is  
32 reimbursed for costs associated with issuing tax credits pursuant to  
33 section 6 of P.L. , c. (C. ) (pending before the Legislature as  
34 this bill) and section 7 of P.L. , c. (C. ) (pending before the  
35 Legislature as this bill), the full fee shall be paid to the municipality  
36 in the same manner as provided under paragraph (1) of this  
37 subsection.

38 h. The holder of a restricted beer and wine permit shall pay  
39 upon renewal of the permit any applicable renewal fees which are  
40 otherwise required to be paid to the Director of the Division of  
41 Alcoholic Beverage Control by the holder of a plenary retail  
42 consumption license.

43 i. A restricted beer and wine permit shall not be issued  
44 pursuant to this section for use in connection with a premises that is  
45 located in a county of the fifth or sixth class having a population  
46 less than 200,000 according to the latest federal decennial census.

47 j. A person who would fail to qualify as a holder of a plenary  
48 retail consumption license under Title 33 of the Revised Statutes

1 shall not be authorized to hold an interest in a restricted beer and  
2 wine permit issued pursuant to the provisions of this section.

3 k. Within 12 months following the effective date of this act and  
4 annually thereafter, the director shall submit a report to the  
5 Governor and the Legislature pursuant to section 2 of P.L.1991,  
6 c.164 (C.52:14-19.1). The report shall include, but not be limited  
7 to, the number of permits issued pursuant to this section; the  
8 locations for which the permits are issued; the number of permit  
9 suspensions or revocations initiated pursuant to section 4 of  
10 P.L.1991, c.164 (C. ) (pending before the Legislature as this  
11 bill); any information pertaining to violations committed by a  
12 permit holder under Title 2C of the New Jersey Statutes and Title  
13 33 of the Revised Statutes; and the status of pending applications  
14 for a tax credit and the number of tax credits approved or denied  
15 pursuant to sections 6 and 7 of P.L. , c. (C. ) (pending  
16 before the Legislature as this bill).<sup>1</sup>

17

18 3. Section 2 of P.L.1947, c.94 (C.33:1-12.14) is amended to  
19 read as follows:

20 2. a. Except as otherwise provided in this **[act]** title, no new  
21 plenary retail consumption or seasonal retail consumption license  
22 shall be issued in a municipality unless and until the combined total  
23 number of such licenses existing in the municipality is fewer than  
24 one for each 3,000 of its population according to the most recent  
25 estimates issued by the U.S. Bureau of the Census; provided,  
26 however, in the year that the official federal decennial counts are  
27 received by the Governor, those federal decennial counts shall be  
28 used. No new plenary retail distribution license shall be issued in a  
29 municipality unless and until the number of such licenses existing  
30 in the municipality is fewer than one for each 7,500 of its  
31 population according to the most recent estimates issued by the U.S.  
32 Bureau of the Census; provided, however, in the year that the  
33 official federal decennial counts are received by the Governor,  
34 those federal decennial counts shall be used.

35 b. (1) A municipality which has adopted a master plan pursuant  
36 to the provisions of section 19 of P.L.1975, c.291 (C.40:55D-28)  
37 may issue a plenary retail consumption license based upon the  
38 population projections for that municipality contained in the master  
39 plan and the schedule set forth in this subsection.

40 (2) A municipality may issue additional plenary retail  
41 consumption licenses based upon the peak population projection in  
42 the master plan. If the projected peak population supports the  
43 issuance of one or more additional plenary retail consumption  
44 licenses, the municipality may issue one additional license. The  
45 municipality may issue another plenary retail consumption license  
46 whenever there is an increase of 3,000 or more in the population of  
47 the municipality, according to the most recent estimates issued by  
48 the U.S. Bureau of the Census or the official federal decennial



1 counts in the years those counts are issued, until the maximum  
2 number of licenses supported by the projected peak population have  
3 been issued.

4 (cf: PL.1999, c.189, s.1)

5  
6 4. (New section) a. The holder of a <sup>1</sup>special<sup>1</sup> restricted  
7 restaurant <sup>1</sup>**【license】 permit**<sup>1</sup> or restricted beer and wine <sup>1</sup>**【license】**  
8 **permit**<sup>1</sup> who violates subsections a. through j. of R.S.33:1-31:

9 (1) for a first offense, shall be subject to a mandatory  
10 <sup>1</sup>**【license】**<sup>1</sup>suspension <sup>1</sup>**【in an amount of time determined by the**  
11 **director】 of the permit for six months**<sup>1</sup> and be liable for a civil  
12 penalty of \$5,000 which shall be imposed on a <sup>1</sup>holder of a special<sup>1</sup>  
13 restricted restaurant <sup>1</sup>**【licensee】 permit**<sup>1</sup>, and \$2,500 which shall be  
14 imposed on a <sup>1</sup>holder of a<sup>1</sup> restricted beer and wine <sup>1</sup>**【license**  
15 **licensee】 permit**<sup>1</sup>.

16 (2) for a second offense, shall be subject to a <sup>1</sup>**【permanent】**<sup>1</sup>  
17 revocation of the <sup>1</sup>special<sup>1</sup> restricted restaurant <sup>1</sup>**【license】 permit**<sup>1</sup>  
18 or restricted beer and wine <sup>1</sup>**【license】 permit**<sup>1</sup> and be liable for a  
19 civil penalty of <sup>1</sup>**【three times the fair market value of a plenary**  
20 **retail consumption license】 \$10,000**<sup>1</sup>. <sup>1</sup>**【The fair market value shall**  
21 **be based upon the average sales price of plenary retail consumption**  
22 **licenses in the municipality in which the licensed premises is**  
23 **located during the five years immediately preceding the effective**  
24 **date of P.L. , c. (pending before the Legislature as this bill). If**  
25 **the licensed premises is located within the boundaries of two or**  
26 **more municipalities, the highest average sale price of the two or**  
27 **more municipalities shall be used. If less than three plenary retail**  
28 **consumption licenses have been sold in the municipality or**  
29 **municipalities, as the case may be, within the previous five years,**  
30 **the municipality or municipalities shall obtain an appraisal, at the**  
31 **applicant's expense, to determine the appropriate fair market value**  
32 **of the license. The appraisal process shall include an examination**  
33 **of previous transactions in the municipality or municipalities, as the**  
34 **case may be, and shall reflect what a willing buyer, under no**  
35 **pressure to buy, would pay a willing seller, under no pressure to**  
36 **sell, for a plenary retail consumption license in that municipality or**  
37 **municipalities.】**

38 A revocation pursuant to this subsection shall render the permit  
39 holder and the officers, directors, and each owner, directly or  
40 indirectly, of more than 10 percent of the stock of a corporate  
41 permit holder ineligible to hold or receive any other special  
42 restricted restaurant permit or restricted beer and wine permit for a  
43 period of 10 years after the effective date of the revocation. A  
44 permit holder who is subject to revocation pursuant this section  
45 shall be afforded the same opportunity to appeal the revocation

1 pursuant to R.S.33:1-31 or any other appeal process afforded to the  
 2 holder of a plenary retail consumption license.<sup>1</sup>

3 b. The fines imposed pursuant to this section shall be collected  
 4 by the director and forwarded to the State Treasurer in accordance  
 5 with subsection b. of section 14 of P.L.1992, c.188 (C.33:1-4.1).

6  
 7 5. Section 14 of P.L.1992, c.188 (C.33:1-4.1) is amended to  
 8 read as follows:

9 14. a. All fees and penalties collected by the Director of the  
 10 Division of Alcoholic Beverage Control pursuant to the provisions  
 11 of Title 33 of the Revised Statutes shall be forwarded to the State  
 12 Treasurer for deposit in a special nonlapsing fund. Monies in the  
 13 fund shall be used exclusively for the operation of the Alcoholic  
 14 Beverage Control Enforcement Bureau in the Division of State  
 15 Police and the Division of Alcoholic Beverage Control and for  
 16 reimbursement of all additional costs of enforcement of the  
 17 provisions of Title 33 incurred by the Department of Law and  
 18 Public Safety.

19 b. Notwithstanding the provisions of subsection a. of this  
 20 section, 25 percent of the fines imposed pursuant to section 4 of  
 21 P.L. , c. (C. )(pending before the Legislature as this bill)  
 22 shall be collected by the director and forwarded to the State  
 23 Treasurer to be used for the purposes of <sup>1</sup>offsetting the costs  
 24 associated with issuing tax credits pursuant to section 7 of P.L. ,  
 25 c. (C. )(pending before the Legislature as this bill) and  
 26 section 8 of P.L. , c. (C. )(pending before the Legislature  
 27 as this bill). After the Division of Taxation is reimbursed for up to  
 28 75 percent of the projected estimated cost associated with issuing  
 29 tax credits pursuant to section 6 of P.L. , c. (C. )(pending  
 30 before the Legislature as this bill) and section 7 of P.L. , c. (C.  
 31 )(pending before the Legislature as this bill), the fines shall be used  
 32 exclusively for the operation of<sup>1</sup> operating<sup>1</sup> the Alcoholic Beverage  
 33 Control Enforcement Bureau in accordance with subsection a. of  
 34 this section.

35 <sup>1</sup>The remaining 75 percent of the fines imposed pursuant to  
 36 section 4 of P.L. , c. (C. )(pending before the Legislature  
 37 as this bill) shall be collected by the director and forwarded to the  
 38 municipality in which the violation occurred.<sup>1</sup>

39 (cf: P.L.1992, c.188, s.14)

40  
 41 6. (New section) a. As used in this act, “qualified loss in  
 42 value” means the loss in value to a taxpayer’s plenary retail  
 43 consumption license calculated pursuant to paragraph (3) of  
 44 subsection c. of this section.

45 b. A taxpayer who is certified as a qualified holder of a plenary  
 46 retail consumption license shall be allowed a credit against the  
 47 corporation business tax imposed pursuant to section 5 of P.L.1945,

1 c.162 (C.54:10A-5). The amount of the credit shall be equal to the  
2 qualified loss in value to the taxpayer's license, and shall be taken  
3 over a five-year period, in five annual installments, at the rate of  
4 one-fifth the total amount of the taxpayer's credit for each privilege  
5 period of the taxpayer, beginning with the privilege period in which  
6 the taxpayer is certified as a qualified holder of a plenary retail  
7 consumption license by the Director of the Division of Alcoholic  
8 Beverage Control in the Department of Law and Public Safety in  
9 accordance with subsection **1**[b.] c.<sup>1</sup> of this section.

10 c. (1) To be certified as a qualified holder of a plenary retail  
11 consumption license, a taxpayer shall make and file an application  
12 for certification with the Director of the Division of Alcoholic  
13 Beverage Control within five years of the effective date of P.L. ,  
14 c. (C. ) (pending before the Legislature as this bill). The  
15 application shall be made on forms furnished by the Director of the  
16 Division of Alcoholic Beverage Control, and shall require the  
17 taxpayer to demonstrate: the location of the premises operated in  
18 connection with the license; the number of years the taxpayer has  
19 held the license; the original amount paid by the taxpayer for the  
20 privilege of holding the license; and the purpose to which the  
21 license has been used by the taxpayer.

22 (2) The Director of the Division of Alcoholic Beverage Control  
23 shall review each application made and filed in accordance with  
24 paragraph (1) of this subsection and make a determination regarding  
25 the issuance of a certification within 180 days of the date a  
26 complete application is filed. The determination shall be made  
27 based upon the Director of the Division of Alcoholic Beverage  
28 Control's finding that: the taxpayer acquired the license prior to the  
29 date of enactment of P.L. , c. (C. ) (pending before the  
30 Legislature as this bill); the taxpayer held the license in an active  
31 status prior to the effective date of P.L. , c. (C. ) (pending  
32 before the Legislature as this bill); and the license is used directly  
33 by the taxpayer to sell alcoholic beverages for consumption on a  
34 licensed premises in accordance with the provisions of R.S.33:1-12.

35 (3) The Director of the Division of Alcoholic Beverage Control  
36 shall, at the time a determination regarding the issuance of a  
37 certification is made, establish the qualified loss in value to the  
38 taxpayer's license. To establish the qualified loss in value, the  
39 taxpayer shall issue to the director two separate independent  
40 appraisals of the taxpayer's plenary retail consumption license. The  
41 appraisals shall demonstrate the fair market value of the license  
42 prior to the date of enactment of P.L. , c. (C. ) (pending  
43 before the Legislature as this bill) and the fair market value of the  
44 license at the time taxpayer files an application for certification  
45 with the Director of the Division of Alcoholic Beverage Control.  
46 The difference between fair market value of the license prior to the  
47 date of enactment of P.L. , c. (C. ) (pending before the  
48 Legislature as this bill) and the fair market value of the license at

1 the time the taxpayer files an application for certification shall  
2 represent the qualified loss in value to the taxpayer's license.

3 To assist in assessing the qualified loss in value to a license, the  
4 Director of the Division of Alcoholic Beverage Control may  
5 appoint an advisory committee composed of representatives with  
6 knowledge and experience in the appraisal of alcoholic beverage  
7 licenses in this State. The director or the advisory committee, as the  
8 case may be, shall have the authority to review, approve, or  
9 disapprove appraisals issued by the taxpayer.

10 The fair market value of the license prior to the date of  
11 enactment of P.L. , c. (C. ) (pending before the Legislature  
12 as this bill) shall be based upon the average sales price of plenary  
13 retail consumption licenses in the municipality in which the  
14 licensed premises is located during the five years immediately  
15 preceding the date of enactment of P.L. , c. (C. ) (pending  
16 before the Legislature as this bill). If the licensed premises is  
17 located within the boundaries of two or more municipalities, the fair  
18 market value shall be based on the average sale price of plenary  
19 retail consumption licenses issued in the municipality in which the  
20 structure of licensed premises is primarily situated. If less than  
21 three plenary retail consumption licenses have been sold in the  
22 municipality or municipalities, as the case may be, within the  
23 previous five years, the taxpayer shall obtain an appraisal, at the  
24 taxpayer's expense, to determine the appropriate fair market value  
25 of the license. The appraisal process shall include an examination  
26 of previous transactions in the municipality or municipalities, as the  
27 case may be, and shall reflect what a willing buyer, under no  
28 pressure to buy, would pay a willing seller, under no pressure to  
29 sell, for a plenary retail consumption license in that municipality or  
30 municipalities, as the case may be.

31 The fair market value of the license at the time that the taxpayer  
32 files an application for certification shall be based on an appraisal,  
33 obtained at the taxpayer's expense, to determine the appropriate  
34 value of the license. The appraisal shall include, but not be limited  
35 to, an examination of the following:

36 (a) the average sales price of plenary retail consumption  
37 licenses in the municipality in which the licensed premises is  
38 located following the date of enactment of P.L. , c. (C. )  
39 (pending before the Legislature as this bill);

40 (b) the number of <sup>1</sup>special<sup>1</sup> restricted restaurant <sup>1</sup>[licenses]  
41 permits<sup>1</sup> and restricted beer and wine <sup>1</sup>[licenses] permits<sup>1</sup> issued  
42 <sup>1</sup>in<sup>1</sup> the municipality in which the licensed premises is located  
43 following the date of enactment of P.L. , c. (C. )  
44 (pending before the Legislature as this bill); and

45 (c) whether the <sup>1</sup>[in]<sup>1</sup> municipality in which the licensed  
46 premises is located has undertaken comprehensive plans for future  
47 development that would most likely necessitate the issuance of

1 <sup>1</sup>special<sup>1</sup> restricted restaurant <sup>1</sup>licenses permits<sup>1</sup> and restricted  
2 beer and wine <sup>1</sup>licenses permits<sup>1</sup>.

3 If a single plenary retail consumption license is used in  
4 connection with the operation of multiple restaurants or other  
5 establishments located on the same licensed premises, the qualified  
6 loss in value established under this paragraph shall be divided by  
7 the number of restaurants or establishments operating in connection  
8 with that plenary retail consumption license.

9 (4) The Director of the Division of Alcoholic Beverage Control  
10 shall issue a written certification to each taxpayer that has made and  
11 filed an application that has been reviewed, approved, or  
12 disapproved in accordance with paragraphs (2) and (3) of this  
13 subsection within 10 days of the date the determination is made.  
14 The written certification shall include a detailed explanation of the  
15 fair market value of the taxpayer's license established in accordance  
16 with paragraph (3) of this subsection. The division shall submit to a  
17 taxpayer whose application is disapproved a detailed statement  
18 explaining the reasons for which the appraisals did not adequately  
19 reflect the qualified loss in value. Each taxpayer issued a  
20 certification shall include a copy of the written certification, along  
21 with the detailed explanation of the qualified loss in value to the  
22 taxpayer's license, when filing a return that includes a claim for the  
23 credit allowed in accordance with this section.

24 (5) The Director of the Division of Alcoholic Beverage Control  
25 shall provide a copy of each written certification issued in  
26 accordance with paragraph (4) of this subsection to the Director of  
27 the Division of Taxation in the Department of the Treasury within  
28 10 days of the date the certification is issued, and shall prepare a  
29 report regarding the administration of the certification process  
30 established in accordance with this subsection. The report shall  
31 specify: the number of applications made and filed; the number of  
32 certifications issued; and the qualified loss in value to each license  
33 for which a certification is issued. The report shall be submitted to  
34 the Governor, the State Treasurer, and the Legislature, in  
35 accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1), within  
36 450 days of the effective date of P.L. , c. (C. ) (pending  
37 before the Legislature as this bill).

38 d. The order of priority of the application of an annual  
39 installment of the credit allowed pursuant to this section and any  
40 other credit allowed against the corporation business tax for a  
41 privilege period shall be as prescribed by the Director of the  
42 Division of Taxation in the Department of the Treasury. The  
43 amount of an annual installment of the credit applied under this  
44 section against the corporation business tax for a privilege period,  
45 together with any other annual installment and any other credits  
46 allowed against the corporation business tax, shall not reduce the  
47 tax liability of the taxpayer to an amount less than the statutory  
48 minimum provided in subsection (e) of section 5 of P.L.1945, c.162

1 (C.54:10A-5). No amount of the qualified loss in value to the  
2 taxpayer's license that is used as the basis of the credit allowed  
3 pursuant to this section shall be allowed as an amount used to  
4 calculate a loss or expense of the taxpayer or otherwise reduce or  
5 offset that taxpayer's liability for tax pursuant to any other  
6 exclusion, deduction, or credit allowed under the corporation  
7 business tax. The amount of an annual installment of the credit  
8 allowable under this section which cannot be applied for a privilege  
9 period due to the limitations of this subsection may be carried  
10 forward, if necessary, to the earliest available use within the 20  
11 privilege periods immediately following the privilege period for  
12 which the credit is allowed.

13 e. A taxpayer may, upon issuance of a certification as a  
14 qualified holder of a plenary retail consumption license by the  
15 Director of the Division of Alcoholic Beverage Control in  
16 accordance with subsection c. of this section, make and file an  
17 application to the Director of the Division of Taxation for a tax  
18 credit transfer certificate in lieu of the taxpayer being allowed an  
19 annual installment of the credit or any amount of an annual  
20 installment of the credit that may be taken against the corporation  
21 business tax liability of the taxpayer. The Director of the Division  
22 of Taxation may prescribe the form and manner by which a  
23 taxpayer may make and file a separate application in connection  
24 with each annual installment of the credit or any amount of each  
25 annual installment of the credit, and may consult with the Director  
26 of the Division of Alcoholic Beverage Control in reviewing and  
27 approving any application for a tax credit transfer certificate of a  
28 taxpayer. The tax credit transfer certificate, upon issuance thereof  
29 by the Director of the Division of Taxation, may be sold or  
30 assigned, in whole or in part, to any other taxpayer that may have a  
31 corporation business tax or a gross income tax liability, in exchange  
32 for private financial assistance to be provided by the purchaser or  
33 assignee to the taxpayer that is allowed a credit under this section.  
34 The certificate issued to the taxpayer shall include a statement  
35 waiving the taxpayer's right to claim that amount of the annual  
36 installment of the credit against the corporation business tax that the  
37 taxpayer has elected to sell or assign. The sale or assignment of any  
38 amount of a tax credit transfer certificate allowed under this  
39 subsection shall not be exchanged for consideration received by the  
40 taxpayer of less than 75 percent of the transferred credit amount.  
41 Any amount of a tax credit transfer certificate used by a purchaser  
42 or assignee against a corporation business tax liability shall be  
43 subject to the same limitations and conditions that apply to the use  
44 of a credit pursuant to subsection d. of this section. Any amount of  
45 a tax credit transfer certificate obtained by a purchaser or assignee  
46 under this section may be applied against the purchaser's or  
47 assignee's gross income tax liability and shall be subject to the same  
48 limitations and conditions that apply to the use of a credit pursuant

1 to subsection d. of section 7 of P.L. , c. (C. ) (pending  
2 before the Legislature as this bill).

3 f. (1) If, in the five-year period beginning with the privilege  
4 period in which the taxpayer is certified as a qualified holder of a  
5 plenary retail consumption license, the taxpayer sells or transfers  
6 any part of the taxpayer's interest in the license to another person,  
7 the taxpayer shall forfeit that portion of the taxpayer's credit that is  
8 equal to the amount of consideration received by the taxpayer from  
9 the sale or transfer of the license. The forfeited portion shall first  
10 reduce the balance of any annual installment of a credit of the  
11 taxpayer that is allowed but that has not been applied against the tax  
12 liability of the taxpayer, or converted into a tax credit transfer  
13 certificate and sold or assigned to another taxpayer in accordance  
14 with subsection e. of this section, during the privilege period in  
15 which the sale or transfer of the license occurs, and then shall  
16 reduce the balance of any future annual installment of a credit of a  
17 taxpayer who is allowed but that has not been applied, or converted  
18 and sold or assigned to another taxpayer, beginning with future  
19 annual installments allowed during the privilege period immediately  
20 following the privilege period in which the sale or transfer occurs.  
21 If, after being used to reduce future annual installments, the  
22 forfeited portion exceeds the amount of any allowable credit  
23 remaining, the taxpayer shall repay the amount of that excess to the  
24 Director of the Division of Taxation; provided however, that if the  
25 taxpayer converted an annual installment of the credit or any  
26 amount of an annual installment of the credit into a tax credit  
27 transfer certificate in accordance with subsection d. of this section,  
28 the amount of the excess required to be repaid to the Director of the  
29 Division of Taxation shall be reduced, if necessary, in proportion to  
30 the amount of consideration received by the taxpayer from the sale  
31 or assignment of the tax credit transfer certificate.

32 (2) If, in the 15-year period beginning with the fifth privilege  
33 period immediately following the privilege period in which the  
34 taxpayer is certified as a qualified holder of a plenary retail  
35 consumption license, the taxpayer sells or transfers any part of the  
36 taxpayer's interest in the license to another person, the taxpayer  
37 shall forfeit that portion of the taxpayer's credit that is equal to the  
38 amount of consideration received by the taxpayer from the sale or  
39 transfer of the license. The forfeited portion shall first reduce the  
40 balance of any tax credit carryforward from a prior privilege period  
41 that is allowed but that has not been applied against the tax liability  
42 of the taxpayer during the privilege period in which the sale or  
43 transfer of the license occurs, and then shall reduce the balance of  
44 any tax credit carryforward from a prior privilege period that  
45 otherwise would have been applied against future tax liabilities of  
46 the taxpayer. If, after being used to reduce carryforwards from prior  
47 privilege periods, the forfeited portion exceeds the amount of any  
48 allowable credit remaining, the taxpayer shall repay the amount of

1 that excess to the Director of the Division of Taxation subject to the  
2 following limitations:

3 (a) if the taxpayer is required to repay the amount of any excess  
4 as a result of the sale or transfer of the taxpayer's license occurring  
5 in the first five years of the 15-year period, the amount of the  
6 excess shall be multiplied by 0.75 to determine the amount of the  
7 excess required to be repaid to the Director of the Division of  
8 Taxation;

9 (b) if the taxpayer is required to repay the amount of any excess  
10 as a result of the sale or transfer of the taxpayer's license occurring  
11 in the second five years of the 15-year period, the amount of the  
12 excess shall be multiplied by 0.50 to determine the amount of the  
13 excess required to be repaid to the Director of the Division of  
14 Taxation; and

15 (c) if the taxpayer is required to repay the amount of any excess  
16 as a result of the sale or transfer of the taxpayer's license occurring  
17 in the third five years of the 15-year period, the amount of the  
18 excess shall be multiplied by 0.25 to determine the amount of the  
19 excess required to be repaid to the Director of the Division of  
20 Taxation.

21 In addition, if the taxpayer converted the credit or any amount of  
22 the credit into a tax credit transfer certificate in accordance with  
23 subsection d. of this section, the amount of the excess required to be  
24 repaid to the Director of the Division of Taxation shall be further  
25 reduced, if necessary, in proportion to the amount of consideration  
26 received by the taxpayer from the sale or assignment of the tax  
27 credit transfer certificate.

28 (3) The amount of excess required to be repaid to the Director of  
29 the Division of Taxation pursuant to paragraph (1) or (2) of this  
30 subsection shall be a deficiency with respect to the payment of a  
31 State tax. The Director of the Division of Taxation shall have all  
32 rights, powers and duties authorized under the State Uniform Tax  
33 Procedure Law, R.S.54:48-1 et seq., to ensure payment, collection,  
34 or recovery of the deficiency, and the taxpayer shall be afforded all  
35 protections, rights, and remedies allowed under R.S.54:48-1 et seq.  
36 to challenge, protest, or appeal the deficiency or any determination  
37 or decision made in connection with the deficiency.

38 The holder of a plenary retail consumption license that has been  
39 inactive for more than two years immediately preceding the  
40 effective date of P.L. , c. (C. ) (pending before the  
41 Legislature as this bill) shall not be eligible for the tax credit issued  
42 pursuant to this section.

43

44 7. (New section) a. As used in this act, "qualified loss in  
45 value" means the loss in value to a taxpayer's plenary retail  
46 consumption license calculated pursuant to paragraph (3) of  
47 subsection c. of this section.



1        b. A taxpayer who is certified as a qualified holder of a plenary  
2 retail consumption license shall be allowed a credit against the tax  
3 imposed pursuant to the “New Jersey Gross Income Tax Act,”  
4 N.J.S.54A:1-1 et seq. The amount of the credit shall be equal to the  
5 qualified loss in value to the taxpayer’s license and shall be taken  
6 over a five-year period, in five annual installments, at the rate of  
7 one-fifth the total amount of the taxpayer’s credit for each taxable  
8 year of the taxpayer, beginning with the taxable year in which the  
9 taxpayer is certified as a qualified holder of a plenary retail  
10 consumption license by the Director of the Division of Alcoholic  
11 Beverage Control in the Department of Law and Public Safety in  
12 accordance with subsection <sup>1</sup>[b.] c.<sup>1</sup> of this section.

13        c. (1) To be certified as a qualified holder of a plenary retail  
14 consumption license, a taxpayer shall make and file an application  
15 for certification with the Director of the Division of Alcoholic  
16 Beverage Control within five years of the effective date of P.L.     ,  
17 c. (C.     ) (pending before the Legislature as this bill). The  
18 application shall be made on forms furnished by the Director of the  
19 Division of Alcoholic Beverage Control, and shall require the  
20 taxpayer to demonstrate: the location of the premises operated in  
21 connection with the license; the number of years the taxpayer has  
22 held the license; the original amount paid by the taxpayer for the  
23 privilege of holding the license; and the purpose to which the  
24 license has been used by the taxpayer.

25        (2) The Director of the Division of Alcoholic Beverage Control  
26 shall review each application made and filed in accordance with  
27 paragraph (1) of this subsection and make a determination regarding  
28 the issuance of a certification within 180 days of the date a  
29 complete application is filed. The determination shall be made  
30 based upon the Director of the Division of Alcoholic Beverage  
31 Control’s finding that: the taxpayer acquired the license prior to the  
32 date of enactment of P.L.     , c. (C.     ) (pending before the  
33 Legislature as this bill); the taxpayer held the license in an active  
34 status prior to the effective date of P.L.     , c. (C.     ) (pending  
35 before the Legislature as this bill); and the license is used directly  
36 by the taxpayer to sell alcoholic beverages for consumption on a  
37 licensed premises in accordance with the provisions of R.S.33:1-12.

38        (3) The Director of the Division of Alcoholic Beverage Control  
39 shall, at the time a determination regarding the issuance of a  
40 certification is made, establish the loss in value to the taxpayer’s  
41 license. To establish the qualified loss in value, the taxpayer shall  
42 issue to the director two separate independent appraisals of the  
43 taxpayer’s plenary retail consumption license. The appraisals shall  
44 demonstrate the fair market value of the license prior to the date of  
45 enactment of P.L.     , c. (C.     ) (pending before the Legislature  
46 as this bill) and the fair market value of the license at the time the  
47 taxpayer files an application for certification with the Director of  
48 the Division of Alcoholic Beverage Control. The difference

1 between the fair market value of the license prior to the date of  
2 enactment of P.L. , c. (C. ) (pending before the Legislature  
3 as this bill) and the fair market value of the license at the time the  
4 taxpayer files an application for certification shall represent the  
5 qualified loss in value to the taxpayer's license.

6 To assist in assessing the qualified loss in value to a license, the  
7 Director of the Division of Alcoholic Beverage Control may  
8 appoint an advisory committee composed of representatives with  
9 knowledge and experience in the appraisal of alcoholic beverage  
10 licenses in this State. The director or the advisory committee, as the  
11 case may be, shall have the authority to review, approve, or  
12 disapprove appraisals issued by the taxpayer.

13 The fair market value of the license prior to the date of  
14 enactment of P.L. , c. (C. ) (pending before the Legislature  
15 as this bill) shall be based upon the average sales price of plenary  
16 retail consumption licenses in the municipality in which the  
17 licensed premises is located during the five years immediately  
18 preceding the date of enactment of P.L. , c. (C. ) (pending  
19 before the Legislature as this bill). If the licensed premises is  
20 located within the boundaries of two or more municipalities, the fair  
21 market value shall be based on the average sale price of plenary  
22 retail consumption licenses issued in the municipality in which the  
23 structure of licensed premises is primarily situated. If less than  
24 three plenary retail consumption licenses have been sold in the  
25 municipality or municipalities, as the case may be, within the  
26 previous five years, the taxpayer shall obtain an appraisal, at the  
27 taxpayer's expense, to determine the appropriate fair market value  
28 of the license. The appraisal process shall include an examination  
29 of previous transactions in the municipality or municipalities, as the  
30 case may be, and shall reflect what a willing buyer, under no  
31 pressure to buy, would pay a willing seller, under no pressure to  
32 sell, for a plenary retail consumption license in that municipality or  
33 municipalities, as the case may be.

34 The fair market value of the license at the time that the taxpayer  
35 files an application for certification shall be based on an appraisal,  
36 obtained at the taxpayer's expense, to determine the appropriate  
37 value of the license. The appraisal shall include, but not be limited  
38 to, an examination of the following:

39 (a) the average sales price of plenary retail consumption  
40 licenses in the municipality in which the licensed premises is  
41 located following the date of enactment of P.L. , c. (C. )  
42 (pending before the Legislature as this bill);

43 (b) the number of <sup>1</sup>special<sup>1</sup> restricted restaurant <sup>1</sup>licenses<sup>1</sup>  
44 permits<sup>1</sup> and restricted beer and wine <sup>1</sup>licenses<sup>1</sup> permits<sup>1</sup> issued in  
45 the municipality in which the licensed premises is located following  
46 the date of enactment of P.L. , c. (C. ) (pending before the  
47 Legislature as this bill); and

1 (c) whether the municipality in which the licensed premises is  
2 located has undertaken comprehensive plans for future development  
3 that would most likely necessitate the issuance of 'special'  
4 restricted restaurant 'licenses permits' and restricted beer and  
5 wine 'licenses permits'.

6 If a single plenary retail consumption license is used in  
7 connection with the operation of multiple restaurants or other  
8 establishments located on the same licensed premises, the qualified  
9 loss in value established under this paragraph shall be divided by  
10 the number of restaurants or establishments operating in connection  
11 with that plenary retail consumption license.

12 (4) The Director of the Division of Alcoholic Beverage Control  
13 shall issue a written certification to each taxpayer that has made and  
14 filed an application that has been reviewed, approved, or  
15 disapproved in accordance with paragraphs (2) and (3) of this  
16 subsection within 10 days of the date the determination is made.  
17 The written certification shall include a detailed explanation of the  
18 qualified loss in value to the taxpayer's license established in  
19 accordance with paragraph (3) of this subsection. The division  
20 shall submit to a taxpayer whose application is disapproved a  
21 detailed statement explaining the reasons for which the appraisals  
22 did not adequately reflect the qualified loss in value. Each taxpayer  
23 issued a certification shall include a copy of the written  
24 certification, along with the detailed explanation of the fair market  
25 value of the taxpayer's license, when filing a return that includes a  
26 claim for the credit allowed in accordance with this section.

27 (5) The Director of the Division of Alcoholic Beverage Control  
28 shall provide a copy of each written certification issued in  
29 accordance with paragraph (4) of this subsection to the Director of  
30 the Division of Taxation in the Department of the Treasury within  
31 10 days of the date the certification is issued, and shall prepare a  
32 report regarding the administration of the certification process  
33 established in accordance with this subsection. The report shall  
34 specify: the number of applications made and filed; the number of  
35 certifications issued; and the qualified loss in value to each license  
36 for which a certification is issued. The report shall be submitted to  
37 the Governor, the State Treasurer, and the Legislature, in  
38 accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1), within  
39 450 days of the effective date of P.L. , c. (C. ) (pending  
40 before the Legislature as this bill).

41 d. (1) The order of priority of the application of an annual  
42 installment of the credit allowed pursuant to this section and any  
43 other credit allowed against the gross income tax for a taxable year  
44 shall be as prescribed by the Director of the Division of Taxation in  
45 the Department of the Treasury. The amount of an annual  
46 installment of the credit applied under this section against the gross  
47 income tax for a taxable year, together with any other annual  
48 installment and any other credits allowed against the gross income

1 tax, shall not reduce the tax liability of the taxpayer to an amount  
2 less than zero. No amount of the qualified loss in value to the  
3 taxpayer's license that is used as the basis of the credit allowed  
4 pursuant to this section shall be allowed as an amount used to  
5 calculate a loss or expense of the taxpayer or otherwise reduce or  
6 offset that taxpayer's liability for tax pursuant to any other  
7 exclusion, deduction, or credit allowed under the gross income tax.  
8 The amount of an annual installment of the credit allowable under  
9 this section which cannot be applied for a taxable year due to the  
10 limitations of this subsection may be carried forward, if necessary,  
11 to the earliest available use within the 20 taxable years immediately  
12 following the taxable year for which the credit is allowed.

13 (2) A business entity classified as a partnership for federal  
14 income tax purposes shall not be allowed a credit under this section  
15 directly, but the amount of credit of a taxpayer in respect of a  
16 distributive share of entity income, shall be determined by  
17 allocating to the taxpayer that proportion of the credit acquired by  
18 the entity that is equal to the taxpayer's share, whether or not  
19 distributed, of the total distributive income or gain of the entity for  
20 its taxable year ending within or with the taxpayer's taxable year  
21 except as otherwise provided by law. A New Jersey S Corporation  
22 shall not be allowed a credit under this section directly, but the  
23 amount of credit of a taxpayer in respect of a pro rata share of S  
24 Corporation income, shall be determined by allocating to the  
25 taxpayer that proportion of the credit acquired by the New Jersey S  
26 Corporation that is equal to the taxpayer's share, whether or not  
27 distributed, of the total pro rata share of S Corporation income of  
28 the New Jersey S Corporation for its privilege period ending within  
29 or with the taxpayer's taxable year.

30 e. A taxpayer may, upon issuance of a certification as a  
31 qualified holder of a plenary retail consumption license by the  
32 Director of the Division of Alcoholic Beverage Control in  
33 accordance with subsection c. of this section, make and file an  
34 application to the Director of the Division of Taxation for a tax  
35 credit transfer certificate in lieu of the taxpayer being allowed an  
36 annual installment of the credit or any amount of an annual  
37 installment of the credit that may be taken against the gross income  
38 tax liability of the taxpayer. The Director of the Division of  
39 Taxation may prescribe the form and manner by which a taxpayer  
40 may make and file a separate application in connection with each  
41 annual installment of the credit or any amount of each annual  
42 installment of the credit, and may consult with the Director of the  
43 Division of Alcoholic Beverage Control in reviewing and approving  
44 any application for a tax credit transfer certificate of a  
45 taxpayer. The tax credit transfer certificate, upon issuance thereof  
46 by the Director of the Division of Taxation, may be sold or  
47 assigned, in whole or in part, to any other taxpayer that may have a  
48 corporation business tax or a gross income tax liability, in exchange

1 for private financial assistance to be provided by the purchaser or  
2 assignee to the taxpayer that is allowed a credit under this section.  
3 The certificate issued to the taxpayer shall include a statement  
4 waiving the taxpayer's right to claim that amount of the annual  
5 installment of the credit against the gross income tax that the  
6 taxpayer has elected to sell or assign. The sale or assignment of any  
7 amount of a tax credit transfer certificate allowed under this  
8 subsection shall not be exchanged for consideration received by the  
9 taxpayer of less than 75 percent of the transferred credit amount.  
10 Any amount of a tax credit transfer certificate used by a purchaser  
11 or assignee against a gross income tax liability shall be subject to  
12 the same limitations and conditions that apply to the use of a credit  
13 pursuant to subsection d. of this section. Any amount of a tax credit  
14 transfer certificate obtained by a purchaser or assignee under this  
15 section may be applied against the purchaser's or assignee's  
16 corporation business tax liability and shall be subject to the same  
17 limitations and conditions that apply to the use of a credit pursuant  
18 to subsection d. of section 6 of P.L. , c. (C. ) (pending  
19 before the Legislature as this bill).

20 f. (1) If, in the five-year period beginning with the taxable  
21 year in which the taxpayer is certified as a qualified holder of a  
22 plenary retail consumption license, the taxpayer sells or transfers  
23 any part of the taxpayer's interest in the license to another person,  
24 the taxpayer shall forfeit that portion of the taxpayer's credit that is  
25 equal to the amount of consideration received by the taxpayer from  
26 the sale or transfer of the license. The forfeited portion shall first  
27 reduce the balance of any annual installment of a credit of the  
28 taxpayer that is allowed but that has not been applied against the tax  
29 liability of the taxpayer, or converted into a tax credit transfer  
30 certificate and sold or assigned to another taxpayer in accordance  
31 with subsection e. of this section, during the taxable year in which  
32 the sale or transfer of the license occurs, and then shall reduce the  
33 balance of any future annual installment of a credit of a taxpayer  
34 who is allowed but that has not been applied, or converted and sold  
35 or assigned to another taxpayer, beginning with future annual  
36 installments allowed during the taxable year immediately following  
37 the taxable year in which the sale or transfer occurs. If, after being  
38 used to reduce future annual installments, the forfeited portion  
39 exceeds the amount of any allowable credit remaining, the taxpayer  
40 shall repay the amount of that excess to the Director of the Division  
41 of Taxation; provided however, that if the taxpayer converted an  
42 annual installment of the credit or any amount of an annual  
43 installment of the credit into a tax credit transfer certificate in  
44 accordance with subsection e. of this section, the amount of the  
45 excess required to be repaid to the director shall be reduced, if  
46 necessary, in proportion to the amount of consideration received by  
47 the taxpayer from the sale or assignment of the tax credit transfer  
48 certificate.

1 (2) If, in the 15-year period beginning with the fifth taxable year  
2 immediately following the taxable year in which the taxpayer is  
3 certified as a qualified holder of a plenary retail consumption  
4 license, the taxpayer sells or transfers any part of the taxpayer's  
5 interest in the license to another person, the taxpayer shall forfeit  
6 that portion of the taxpayer's credit that is equal to the amount of  
7 consideration received by the taxpayer from the sale or transfer of  
8 the license. The forfeited portion shall first reduce the balance of  
9 any tax credit carryforward from a prior taxable year that is allowed  
10 but that has not been applied against the tax liability of the taxpayer  
11 during the taxable year in which the sale or transfer of the license  
12 occurs, and then shall reduce the balance of any tax credit  
13 carryforward from a prior taxable year that otherwise would have  
14 been applied against future tax liabilities of the taxpayer. If, after  
15 being used to reduce carryforwards from prior taxable years, the  
16 forfeited portion exceeds the amount of any allowable credit  
17 remaining, the taxpayer shall repay the amount of that excess to the  
18 Director of the Division of Taxation subject to the following  
19 limitations:

20 (a) if the taxpayer is required to repay the amount of any excess  
21 as a result of the sale or transfer of the taxpayer's license occurring  
22 in the first five years of the 15-year period, the amount of the  
23 excess shall be multiplied by 0.75 to determine the amount of the  
24 excess required to be repaid to the Director of the Division of  
25 Taxation;

26 (b) if the taxpayer is required to repay the amount of any excess  
27 as a result of the sale or transfer of the taxpayer's license occurring  
28 in the second five years of the 15-year period, the amount of the  
29 excess shall be multiplied by 0.50 to determine the amount of the  
30 excess required to be repaid to the Director of the Division of  
31 Taxation; and

32 (c) if the taxpayer is required to repay the amount of any excess  
33 as a result of the sale or transfer of the taxpayer's license occurring  
34 in the third five years of the 15-year period, the amount of the  
35 excess shall be multiplied by 0.25 to determine the amount of the  
36 excess required to be repaid to the Director of the Division of  
37 Taxation.

38 In addition, if the taxpayer converted the credit or any amount of  
39 the credit into a tax credit transfer certificate in accordance with  
40 subsection d. of this section, the amount of the excess required to be  
41 repaid to the Director of the Division of Taxation shall be further  
42 reduced, if necessary, in proportion to the amount of consideration  
43 received by the taxpayer from the sale or assignment of the tax  
44 credit transfer certificate.

45 (3) The amount of excess required to be repaid to the Director of  
46 the Division of Taxation pursuant to paragraph (1) or (2) of this  
47 subsection shall be a deficiency with respect to the payment of a  
48 State tax. The Director of the Division of Taxation shall have all

1 rights, powers and duties authorized under the State Uniform Tax  
2 Procedure Law, R.S.54:48-1 et seq., to ensure payment, collection,  
3 or recovery of the deficiency, and the taxpayer shall be afforded all  
4 protections, rights, and remedies allowed under R.S.54:48-1 et seq.  
5 to challenge, protest, or appeal the deficiency or any determination  
6 or decision made in connection with the deficiency.

7 The holder of a plenary retail consumption license that has been  
8 inactive for more than two years immediately preceding the  
9 effective date of P.L. , c. (C. ) (pending before the  
10 Legislature as this bill) shall not be eligible for the tax credit issued  
11 pursuant to this section.

12

13 8. R.S.33:1-76 is amended to read as follows:

14 33:1-76. Anything to the contrary hereinbefore notwithstanding,  
15 and for the benefit not of property but of persons attendant therein,  
16 no license shall be issued for the sale of alcoholic beverages within  
17 **two hundred** 200 feet of any church or public schoolhouse or  
18 private schoolhouse not conducted for pecuniary profit, except to  
19 manufacturers, wholesalers, hotels, clubs, and fraternal  
20 organizations which owned or were actually in possession of the  
21 licensed premises on **December sixth, one thousand nine hundred**  
22 **and thirty-three** December 6, 1933. The protection of this section  
23 may be waived at the issuance of the license and at each renewal  
24 thereafter, by the duly authorized governing body on authority of  
25 **such** the church or school, **such** and the waiver is to be  
26 effective until the date of the next renewal of the license. **Said**  
27 **two hundred** The 200 feet shall be measured in the normal way  
28 that a pedestrian would properly walk from the nearest entrance of  
29 said church or school to the nearest entrance of the premises sought  
30 to be licensed.

31 The prohibition contained in this section shall not apply to  
32 special restricted restaurant **licenses** permits or restricted beer  
33 and wine **licenses** permits issued pursuant to R.S.33:1-12. In  
34 addition, the prohibition contained in this section shall not apply to  
35 the renewal of any license where no **such** church or schoolhouse  
36 was located within **two hundred** 200 feet of the licensed  
37 premises **as aforesaid** at the time of the issuance of the license,  
38 nor to the issuance or renewal, or both, of any license where **such**  
39 the premises have been heretofore licensed for the sale of alcoholic  
40 beverages or intoxicating liquors, and **such** the church or  
41 schoolhouse was constructed or established, or both, during the  
42 time **said** the premises were operated under **said** the previous  
43 license.

44 (cf: R.S.33:1-76)

45

46 <sup>1</sup>9. R.S.33:1-31 is amended to read as follows:

1 33:1-31. Any license, whether issued by the director or any  
2 other issuing authority, may be suspended or revoked by the  
3 director, or the other issuing authority may suspend or revoke any  
4 license issued by it, for any of the following causes:

- 5 a. Violation of any of the provisions of this chapter;
- 6 b. Manufacture, transportation, distribution or sale of alcoholic  
7 beverages in a manner or to an extent not permitted by the license  
8 or by law;
- 9 c. Nonpayment of any excise tax or other payment required by  
10 law to be paid to the State Tax Commissioner;
- 11 d. Failure to comply with any of the provisions of subtitle 8 of  
12 the Title Taxation ( s.54:41-1 et seq.);
- 13 e. Failure to have at all times a valid, unrevoked permit, license  
14 or special tax stamp, or other indicia of payment, of all fees, taxes,  
15 penalties and payments required by any law of the United States;
- 16 f. Failure to have at all times proper stamps or other proper  
17 evidence of payment of any tax required to be paid by any law of  
18 this State;
- 19 g. Any violation of rules and regulations;
- 20 h. Any violation of any ordinance, resolution or regulation of  
21 any other issuing authority or governing board or body;
- 22 i. Any other act or happening, occurring after the time of  
23 making of an application for a license which if it had occurred  
24 before said time would have prevented the issuance of the license;  
25 or
- 26 j. For any other cause designated by this chapter.

27 No suspension or revocation of any license shall be made until a  
28 five-day notice of the charges preferred against the licensee shall  
29 have been given to him personally or by mailing the same by  
30 registered mail addressed to him at the licensed premises and a  
31 reasonable opportunity to be heard thereon afforded to him.

32 A suspension or revocation of license shall be effected by a  
33 notice in writing of such suspension or revocation, designating the  
34 effective date thereof, and in case of suspension, the term of such  
35 suspension, which notice may be served upon the licensee  
36 personally or by mailing the same by registered mail addressed to  
37 him at the licensed premises. Such suspension or revocation shall  
38 apply to the licensee and to the licensed premises.

39 A revocation shall render the licensee and the officers, directors  
40 and each owner, directly or indirectly, of more than 10 **【%】** percent  
41 of the stock of a corporate licensee ineligible to hold or receive any  
42 other license, of any kind or class under this chapter, for a period of  
43 two years from the effective date of such revocation and a second  
44 revocation shall render the licensee and the officers, directors and  
45 each owner, directly or indirectly, of more than 10 **【%】** percent of  
46 the stock of a corporate licensee ineligible to hold or receive any  
47 such license at any time thereafter. Any revocation may, in the  
48 discretion of the director or other issuing authority as the case may



1 be, render the licensed premises ineligible to become the subject of  
2 any further license, of any kind or class under this chapter, during a  
3 period of two years from the effective date of the revocation.

4 The director may, in his discretion and subject to rules and  
5 regulations, accept from any licensee an offer in compromise in  
6 such amount as may in the discretion of the director be proper under  
7 the circumstances in lieu of any suspension of any license by the  
8 director or any other issuing authority. The director also may, in  
9 the director's discretion and subject to rules and regulations, accept  
10 from the holder of a special restricted restaurant permit or a  
11 restricted beer and wine permit issued pursuant to section 1 or  
12 section 2 of P.L. , c. (C. )(pending before the Legislature  
13 as this bill) a compromise in lieu of any suspension or revocation  
14 pursuant to section 4 of P.L. , c. (C. )(pending before the  
15 Legislature as this bill).

16 No refund, except as expressly permitted by section 33:1-26 of  
17 this Title, shall be made of any portion of a license fee after  
18 issuance of a license; but if any licensee, except a seasonal retail  
19 consumption licensee, shall voluntarily surrender his license, there  
20 shall be returned to him, after deducting as a surrender fee 50 **[%]**  
21 percent of the license fee paid by him, the prorated fee for the  
22 unexpired term; provided, that such licensee shall not have  
23 committed any violation of this chapter or of any rule or regulation  
24 or done anything which in the fair discretion of the director or other  
25 issuing authority, as the case may be, should bar or preclude such  
26 licensee from making such claim for refund and that all taxes and  
27 other set-offs or counterclaims which shall have accrued and shall  
28 have become due and payable to this State or any municipality, or  
29 both, have been paid. Such refund, if any, shall be made as of the  
30 date of such surrender. The surrender of a license shall not bar  
31 proceedings to revoke such license. The refusal of the other issuing  
32 authority to grant any refund hereunder shall be subject to appeal to  
33 the director within 30 days after notice of such refusal is mailed to  
34 or served upon the licensee. Surrenders of retail licenses shall be  
35 promptly certified by the issuing authority to the director.  
36 Surrender fees shall be accounted for as are investigation fees. If  
37 any licensee to whom a refund shall become due under the  
38 provisions of this section shall be indebted to the State of New  
39 Jersey for any taxes, penalties or interest by virtue of the provisions  
40 of subtitle 8 of the Title Taxation (s. 54:41-1 et seq.), it shall be the  
41 duty of the issuing authority before making any such refund, upon  
42 receipt of a certificate of the State Tax Commissioner evidencing  
43 the said indebtedness to the State of New Jersey, to deduct  
44 therefrom, and to remit forthwith to the State Tax Commissioner the  
45 amount of such taxes, penalties and interest.

46 In the event of any suspension or revocation of any license by  
47 the other issuing authority, the licensee may, within 30 days after  
48 the date of service or of mailing of said notice of suspension or of

1 revocation, upon payment to the director of a nonreturnable filing  
2 fee of \$100.00, appeal to the director from the action of the other  
3 issuing authority in suspending or revoking such license which  
4 appeal shall act as a stay of such suspension or revocation pending  
5 the determination thereof unless the director shall otherwise order.  
6 When any person files with any other issuing authority written  
7 complaint against a licensee specifying charges and requesting that  
8 proceedings be instituted to revoke or suspend such license, he may  
9 appeal to the director from its refusal to revoke or suspend such  
10 license or other action taken by it in connection therewith within 30  
11 days from the time of service upon or mailing of notice to him of  
12 such refusal or action. The director shall thereupon fix a time for  
13 the hearing of the appeal and before hearing the same shall give at  
14 least five days' notice of the time so fixed to such licensee, other  
15 issuing authority and appellant.<sup>1</sup>  
16 (cf: P.L.1992, c.188, s.11)

17

18 <sup>1</sup>10. R.S.33:1-35 is amended to read as follows:

19 33:1-35. The Director of the Division of Alcoholic Beverage  
20 Control and each other issuing authority may make, or cause to be  
21 made, such investigations as he or it shall deem proper in the  
22 administration of this chapter and of any and all other laws now or  
23 which may hereafter be in force and effect concerning alcoholic  
24 beverages, or the manufacture, distribution or sale thereof, or the  
25 collection of taxes thereon, including the inspection and search of  
26 premises for which the license is sought or has been issued, of any  
27 building containing the same, of licensed buildings, examination of  
28 the books, records, accounts, documents and papers of the licensees  
29 or on the licensed premises.

30 Every applicant for a license, and every licensee, and every  
31 director, officer, agent and employee of every licensee, shall, on  
32 demand, exhibit to the director or other issuing authority, as the  
33 case may be, or to his or its deputies or investigators, or inspectors  
34 or agents all of the matters and things which the director of the  
35 division or other issuing authority, as the case may be, is hereby  
36 authorized or empowered to investigate, inspect or examine, and to  
37 facilitate, as far as may be in their power so to do, in any such  
38 investigation, examination or inspection, and they shall not in any  
39 way hinder or delay or cause the hindrance or delay of same, in any  
40 manner whatsoever. Investigations, inspections and searches of  
41 licensed premises may be made without search warrant by the  
42 director, his deputies, inspectors or investigators, by each other  
43 issuing authority and by any officer.

44 For the purpose of any investigation, examination or inspection,  
45 revocation, rule to show cause and every other proceeding  
46 authorized under this chapter or appropriate for its enforcement,  
47 the director, his deputy directors, attorneys and legal assistants  
48 designated to act on his behalf, and each other issuing authority

1 may examine, under oath, any and all persons whatsoever and  
2 compel by subpoena the attendance of witnesses and the production  
3 of books, records, accounts, papers and documents of any person or  
4 persons and the director, his deputy directors, inspectors and  
5 investigators and each other issuing authority may take any oath or  
6 affirmation of any person to any deposition, statement, report or  
7 application required in the administration of this chapter, or of any  
8 and all other laws now or which may hereafter be in force and effect  
9 concerning alcoholic beverages, or the manufacture, distribution  
10 and the sale thereof, or the collection of taxes thereon.

11 The director shall authorize law enforcement officers who serve  
12 a municipality to coordinate with the Division of Alcoholic  
13 Beverage Control to enforce Title 33 of the Revised Statutes  
14 governing the sale of alcoholic beverages by a special restricted  
15 restaurant permit or a restricted beer and wine permit issued  
16 pursuant to section 1 or section 2 of P.L. , c. (C. )(pending  
17 before the Legislature as this bill). A law enforcement officer  
18 authorized to coordinate with the Division of Alcoholic Beverage  
19 Control to enforce Title 33 of the Revised Statutes shall receive  
20 appropriate training by the division.

21 The fees of witnesses required to attend before the director or  
22 other issuing authority shall be the same as those allowed to  
23 witnesses in the Superior Court.

24 The above enumerations of purposes and powers shall not be  
25 construed as exclusive and shall not limit such power to investigate,  
26 examine and subpoena for any purpose consonant with the  
27 administration and enforcement of this chapter.

28 If a person subpoenaed to attend any hearing refuses or fails to  
29 appear or to be examined, or to answer any question or to produce  
30 any books, records, accounts, papers and documents when ordered  
31 so to do by the director, the director or other issuing authority, as  
32 the case may be, may apply to the Superior Court to compel the  
33 person to comply forthwith with the subpoena, direction or order of  
34 the director or the other issuing authority, as the case may be.

35 Each deputy director shall have and exercise all the powers  
36 conferred by this chapter upon the director to the extent that the  
37 same shall be delegated to him by the director by rules and  
38 regulations.

39 One of such deputy directors shall be designated by the director  
40 with power to perform all of the duties of the director in case of his  
41 absence or inability to act for any cause and who shall also have  
42 authority to so act in the event of the death of the director until a  
43 successor has been appointed and qualified.<sup>1</sup>

44 (cf: P.L.1953, c.32, s.2)

45  
46 <sup>1</sup>11. (New section) The provisions of P.L. ,  
47 c. (C. )(pending before the Legislature as this bill) are  
48 severable; if any provision, or application of any provision, of

1 P.L. , c. (C. )(pending before the Legislature as this bill) is  
2 held invalid by any court, the holding or judgment shall not affect  
3 the remaining provisions or applications of the provisions thereof.<sup>1</sup>  
4

5 <sup>1</sup>**[9.] 12.**<sup>1</sup> This act shall take effect on the first day of the  
6 nineteenth month following enactment.