

ASSEMBLY, No. 1711

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

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District 15 (Hunterdon and Mercer)

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District 18 (Middlesex)

SYNOPSIS

Allows municipality to renew or deny inactive Class C alcoholic beverage retail licenses.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning alcoholic beverage licenses and amending
2 P.L.1977, c.246.

3

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

6

7 1. Section 1 of P.L.1977, c.246, s.1 (C.33:1-12.39) is amended
8 to read as follows:

9 1. **[No]** a. The governing board or body of a municipality
10 may renew a Class C license [.] as [the same is] defined in
11 R.S.33:1-12 [.]shall be renewed if the same] regardless of whether
12 the license has been actively used in connection with the operation
13 of a licensed premises.

14 b. The governing board or body of a municipality may deny the
15 renewal of a Class C license that has not been actively used in
16 connection with the operation of a licensed premises within a period
17 of two years prior to the commencement date of the license period
18 for which the renewal application is filed **[unless the director, for**
19 **good cause and]** if, after a hearing, [authorizes a further application
20 for one or more renewals within a stated period of years ; provided,
21 however that,] it finds that the holder of the license has not made a
22 good faith effort to resume active use of the license.

23 c. The governing board or body of a municipality shall not
24 deny the renewal of an inactive Class C license pursuant to
25 subsection b. of this section if the licensee establishes by affidavit
26 filed with and approved by the governing board or body that the
27 licensee has been deprived of the use of the licensed premises as a
28 result of eminent domain [.] or fire or other casualty [, and
29 establishes by affidavit filed with the that is making a good faith
30 effort to resume active use of the license in connection with the
31 operation of a licensed premise then the period of two years
32 provided for in this section shall be automatically extended for an
33 additional period of] . A governing board or body that approves an
34 affidavit for relief filed pursuant to this subsection shall extend the
35 renewal period of the license for an additional two years.

36 **[Any request for relief under this section shall be accompanied**
37 **by a nonreturnable filing fee of \$100.00 payable to the director.]**

38 d. Notwithstanding the restriction in section 2 of P.L.1947,
39 c.94 (C.33:1-12.14) concerning the number of licenses that may be
40 issued in a municipality, a Class C license that has not been
41 renewed pursuant to this section may be reissued at public sale in a
42 manner consistent with the provisions of P.L.1975, c.275 (C.33:1-
43 19.1 et seq.) for use at a licensed premises located within the
44 municipality. The use of a plenary retail consumption license issued
45 pursuant to this subsection shall be in a manner consistent with the
46 provisions of Title 33 of the Revised Statutes and any regulations
47 promulgated by the director.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 e. Nothing in this section shall be construed to restrict the
2 authority of a governing board or body of a municipality or the
3 director to issue, renew, or deny a renewal of a license, including
4 but not limited to an inactive Class C license, on any other grounds.
5 (cf: P.L.1996, c.127, s.1)

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7 2. This act shall take effect immediately but shall not apply to
8 requests for relief

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11 STATEMENT

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13 This bill grants municipalities the authority to renew an inactive
14 Class C license to sell alcoholic beverages regardless of whether the
15 license has been actively used in connection with the operation of a
16 licensed premises. In addition, the bill allows a municipality to deny
17 the renewal of an inactive Class C license if the license holder has
18 not made a good faith effort to actively use the license.

19 A Class C license includes plenary retail consumption licenses
20 generally issued to bars and restaurants and plenary retail
21 distribution licenses issued to establishments that sell alcoholic
22 beverages for consumption off the licensed premises. An inactive
23 Class C license is a retail license that is not being used at an open
24 and operating licensed premise. A licensee is required to place the
25 license on “inactive status” when the licensed business ceases
26 operation and the license continues to be held by the licensee of
27 record.

28 Under current law, a municipality may renew an inactive license
29 annually for up to two years following the date it became inactive.
30 If the license has been inactive for more than two years, the licensee
31 is required to file a petition to maintain possession of the license
32 with the Director of the Division of ABC. The director has the
33 discretion to grant the petition by a special ruling, and there is no
34 limit to the number of special rulings that the director may make
35 with respect to one license.

36 This bill removes from current law the director’s authority to
37 grant petitions to renew inactive Class C licenses and grants the
38 authority to municipalities to renew these licenses regardless of
39 whether the license is actively used in connection with a premises.
40 Under the bill, the governing municipal board or body also may
41 deny a license renewal application if it finds that the license holder
42 has not made a good faith effort to resume active use of the license.
43 A municipal board or body would be prohibited from denying an
44 application for renewal by a licensee who establishes by affidavit
45 that he or she has been deprived of the use of the licensed premises
46 as a result of eminent domain, fire or other casualty. The bill allows
47 a municipal board or body that denies a license renewal to reissue
48 the license at public sale in accordance with current law.