ASSEMBLY, No. 2989

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Permits students over age 18 years to taste wine, spirits, or malt alcoholic beverage for educational purposes while enrolled in authorized enology, distilling, or brewing training program.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the tasting of alcoholic beverages by certain underage persons and amending P.L.1979, c.264 and P.L.1985, c.311.

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

1. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to read as follows:

1. a. Any person under the legal age to purchase alcoholic beverages who knowingly possesses without legal authority or who knowingly consumes any alcoholic beverage in any school, public conveyance, public place, or place of public assembly, or motor vehicle, is guilty of a disorderly persons offense, and shall be fined not less than $500.

b. Whenever this offense is committed in a motor vehicle, the court shall, in addition to the sentence authorized for the offense, suspend or postpone for six months the driving privilege of the defendant. Upon the conviction of any person under this section, the court shall forward a report to the New Jersey Motor Vehicle Commission stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.

If a person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court shall immediately collect the license and forward it to the commission along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person as well as the first and last date of the license suspension period imposed by the court.

The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40.

If the person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the non-

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 <u>thus</u> is new matter.

resident driving privilege of the person based on the age of the person and submit to the commission the required report. The court shall not collect the license of a non-resident convicted under this section. Upon receipt of a report by the court, the commission shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

c. In addition to the general penalty prescribed for a disorderly persons offense, the court may require any person who violates this act to participate in an alcohol education or treatment program, authorized by the Division of Mental Health and Addiction Services in the Department of Human Services, for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted.

d. Nothing in this **[**act**]** section shall apply to possession of alcoholic beverages by any **[**such**]** person while **[**actually**]** actively engaged in any of the following activities:

(1) the performance of employment pursuant to an employment permit issued by the Director of the Division of Alcoholic Beverage Control, or for a bona fide hotel or restaurant, in accordance with the provisions of R.S.33:1-26 **[**, or while actively engaged in**]**;

(2) the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post secondary educational institution; or

(3) the production of wine, distilled alcoholic beverages, or malt alcoholic beverages while enrolled in an enology, distilling, or brewing training program at an institution of higher education, during which time a qualified student may taste a sample of the wine, distilled alcoholic beverage, or malt alcoholic beverage to be produced, provided all of the following criteria are met:

(a) the qualified student tastes the wine, distilled alcoholic beverage, or malt alcoholic beverage for educational purposes during the instruction in a course, either on-campus or off-campus, as required to complete the enology, distilling, or brewing training program;

(b) the qualified student does not swallow or otherwise consume the alcoholic beverage;

(c) the alcoholic beverage sample remains in the control of an authorized instructor; and

(d) the institution of higher education shall be exempt from any licensing and permit requirement under Title 33 of the Revised Statutes, provided that no extra charge or fee is imposed on the qualified student for tasting the alcoholic beverage.

e. The provisions of section 3 of P.L.1991, c.169 (C.33:1-81.1a) shall apply to a parent, guardian or other person with legal custody of a person under 18 years of age who is found to be in violation of this section.

f. An underage person and one or two other persons shall be immune from prosecution under this section if:

(1) one of the underage persons called 9-1-1 and reported that another underage person was in need of medical assistance due to alcohol consumption;

(2) the underage person who called 9-1-1 and, if applicable, one or two other persons acting in concert with the underage person who called 9-1-1 provided each of their names to the 9-1-1 operator;

(3) the underage person was the first person to make the 9-1-1 report; and

(4) the underage person and, if applicable, one or two other persons acting in concert with the underage person who made the 9-1-1 call remained on the scene with the person under the legal age in need of medical assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.

The underage person who received medical assistance also shall be immune from prosecution under this section.

g. For purposes of this section **[**, an alcoholic beverage**]**:

"Alcoholic beverage" includes powdered alcohol as defined by R.S.33:1-1.

"Authorized instructor" means a person who is 21 years of age or older and actively employed by an institution of higher education to instruct an enology, distilling, or brewing training program.

"Enology, distilling, or brewing training program" means an Associate's or Bachelor's degree program that is offered at an institution of higher education and designed to train industry professionals in the production of wine, distilled alcoholic beverages, or malt alcoholic beverages.

"Qualified student" means a person who is 18 years of age or older and actively enrolled in an enology, distilling, or brewing training program at an institution of higher education.

"Sample" means an amount not to exceed 1.5 ounces of wine or malt alcoholic beverage or one-half ounce serving of distilled alcoholic beverage.

"Taste" means to draw a beverage into the mouth, but does not include swallowing or otherwise consuming the beverage.

(cf: P.L.2015, c.137, s.3)

2. Section 1 of P.L.1985, c.311 (C.2C:33-17) is amended to read as follows:

1. a. Anyone who purposely or knowingly offers or serves or makes available an alcoholic beverage to a person under the legal age for consuming alcoholic beverages or entices or encourages that person to drink an alcoholic beverage is a disorderly person.

This subsection shall not apply to a parent or guardian of the person under legal age for consuming alcoholic beverages if the parent or guardian is of the legal age to consume alcoholic beverages or to a religious observance, ceremony or rite. This subsection shall also not apply to any person in his home who is of the legal age to consume alcoholic beverages who offers or serves or makes available an

alcoholic beverage to a person under the legal age for consuming alcoholic beverages or entices that person to drink an alcoholic beverage in the presence of and with the permission of the parent or guardian of the person under the legal age for consuming alcoholic beverages if the parent or guardian is of the legal age to consume alcoholic beverages.

This subsection shall not apply to any authorized instructor of an enology, distilling, or brewing training program at an institution of higher education who makes available a sample of wine, distilled alcoholic beverage, or malt alcoholic beverage to a qualified student to be tasted pursuant to the provisions of paragraph (3) of subsection d. of section 1 of P.L.1979, c.264 (C.2C:33-15).

b. A person who makes real property owned, leased or managed by him available to, or leaves that property in the care of, another person with the purpose that alcoholic beverages will be made available for consumption by, or will be consumed by, persons who are under the legal age for consuming alcoholic beverages is guilty of a disorderly persons offense.

This subsection shall not apply if:

(1) the real property is licensed or required to be licensed by the Division of Alcoholic Beverage Control in accordance with the provisions of R.S.33:1-1 et seq.;

(2) the person making the property available, or leaving it in the care of another person, is of the legal age to consume alcoholic beverages and is the parent or guardian of the person who consumes alcoholic beverages while under the legal age for consuming alcoholic beverages; or

(3) the alcoholic beverages are consumed by a person under the legal age for consuming alcoholic beverages during a religious observance, ceremony or rite.

c. For purposes of this section [, an alcoholic beverage] :

"Alcoholic beverage" includes powdered alcohol as defined by R.S.33:1-1.

"Sample" means an amount not to exceed 1.5 ounces of wine or malt alcoholic beverage or one-half ounce serving of distilled alcoholic beverage per serving.

(cf: P.L.2015, c.137, s.4)

3. This act shall take effect immediately.

STATEMENT

This bill, permits a person who is 18 years of age or older and actively enrolled in an enology, brewing, or distilling training program at an institution of higher education to taste a sample of wine, beer, or spirits for educational purposes during the instruction of a required course.

The bill, exempts students and their instructors from the criminal penalties imposed for the possession of alcoholic beverages by underage persons if all the following conditions are met:

1) the student tastes the wine, beer, or spirits sample for educational purposes during the instruction of a required course for an enology, brewing, or distilling training program offered at an institution of higher education;

2) the student does not swallow or otherwise consume the wine, beer, or spirits sample;

3) the student is at least 18 years of age;

4) the wine, beer, or spirits sample remains in the control of the course's instructor, who is at least 21 years of age; and

5) the institution is exempt from any licensing or permit requirement because it does not impose an extra charge on the student for tasting the wine, beer, or spirits sample.

The bill also specifies that nothing in the bill is to be interpreted to allow a person under 21 years of age to consume any alcoholic beverage.

Under current law, it is unlawful for a student under 21 years of age to possess or taste any alcoholic beverage during the course of study; it also is unlawful for an instructor to make available any alcoholic beverage to an underage student. A student or instructor who violates this law is guilty of a disorderly persons offense and subject to a fine of not less than $500.

This prohibition limits the in-State educational opportunities available to students seeking to become professionals in the beer and wine industries.