

ASSEMBLY, No. 2998

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

Assemblyman ADAM J. TALIAFERRO

District 3 (Cumberland, Gloucester and Salem)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Exempts certain plenary winery licensees from filing requirements imposed on retail sellers of litter-generating products.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/5/2020)

1 AN ACT concerning plenary winery licensees and litter-generating
2 products and amending P.L.2002, c.128.

3

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

6

7 1. Section 4 of P.L.2002, c.128 (C.13:1E-216) is amended to read
8 as follows:

9 4. a. There is imposed upon each person engaged in business in
10 the State as a manufacturer, wholesaler, or distributor of litter-
11 generating products a user fee of 3/100 of 1% (.0003) on sales of those
12 products within the State, and each person engaged in business in the
13 State as a retailer of litter-generating products a user fee of 2.25/100 of
14 1% (.000225) on sales of those products within the State, except any
15 retailer with less than **[\$500,000.00]** \$500,000 in annual retail sales of
16 litter-generating products is exempt from the user fee imposed under
17 this section. A sale by a wholesaler or distributor to another
18 wholesaler or distributor, a sale by a company to another company
19 owned wholly by the same individuals or companies, or a sale by a
20 wholesaler or distributor owned cooperatively by retailers to those
21 retailers is not subject to the user fee imposed under this section. For
22 the purposes of this section, "retailer" includes the owner or operator
23 of a take-out or drive-thru restaurant, the principal activity of which
24 consists of selling for consumption off the premises of the restaurant a
25 meal or food prepared and ready to be eaten. A retailer shall not
26 include (1) the owner or operator of a restaurant with less than 10% in
27 annual retail sales of meals or food prepared and ready to be eaten for
28 consumption off the premises of the restaurant; or (2) the owner or
29 operator of a restaurant, the principal activity of which consists of
30 preparing for consumption within the restaurant a meal or food to be
31 eaten on the premises.

32 b. Every person subject to the user fee on the sale of litter-
33 generating products imposed pursuant to subsection a. of this section
34 shall file with the director a certificate of registration on a form
35 prescribed by the director. Any person who is registered under any
36 law administered by the division or who is subject to and files returns
37 under any of these laws shall not be required to comply with the
38 provisions of this subsection.

39 c. Every person subject to the user fee on the sale of litter-
40 generating products imposed pursuant to subsection a. of this section
41 shall, on or before March 15 of each year, prepare and file a return,
42 under oath, for the preceding calendar year with the director on forms
43 and containing any information as the director shall prescribe. The
44 return shall indicate the dollar value of the sales within the State of
45 litter-generating products and at the same time the person shall pay the

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 full amount of user fees due. The holder of a plenary winery license
2 issued pursuant to R.S.33:1-10 who generates less than \$500,000 in
3 annual retail sales of litter-generating products is exempt from the
4 return filing requirements established in this section or any other law,
5 rule, or regulation.

6 d. If a return required by this section is not filed, or if a return
7 when filed is incorrect or insufficient in the opinion of the director, the
8 amount of user fees due shall be determined by the director based on
9 collections from the person liable for the payment of the user fees
10 during the previous five years. Notice of the determination shall be
11 given to the person liable for the payment of the user fees. The
12 determination shall finally and irrevocably fix the user fees unless the
13 person against whom it is assessed, within 90 days after the giving of
14 the notice of the determination, shall file a protest in writing as
15 provided in R.S.54:49-18 and request a hearing, or unless the director
16 on the director's own motion shall redetermine the same. After the
17 hearing the director shall give notice of the determination to the person
18 to whom the user fees are assessed.

19 e. Any person who shall fail to file a return when due or to pay
20 any user fee when the user fee becomes due, as herein provided, shall
21 be subject to such penalties and interest as may be provided by law. If
22 the director determines that the failure to comply with any provision of
23 this section was excusable under the circumstances, the director may
24 remit any part of the penalty as shall be appropriate under the
25 circumstances.

26 f. In addition to the other powers granted by this section, the
27 director may:

28 (1) Delegate to any officer or employee of the division those
29 powers and duties as the director may deem necessary to carry out
30 efficiently the provisions of this section, and the person or persons to
31 whom the powers have been delegated shall possess and may exercise
32 all of the powers and perform all of the duties delegated by the
33 director;

34 (2) Prescribe and distribute all necessary forms for the
35 implementation of this section; and

36 (3) Adopt any rules and regulations necessary for the
37 implementation of this section.

38 g. Notwithstanding the provisions of subparagraph of paragraph
39 (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), if
40 any, to the contrary, any deduction of the user fee imposed pursuant to
41 subsection a. of this section allowed in computing a taxpayer's taxable
42 income which the taxpayer is required to report to the United States
43 Treasury Department for the purpose of computing its federal taxable
44 income shall be allowed in determining the taxpayer's "entire net
45 income" pursuant to subsection (k) of section 4 of P.L.1945, c.162
46 (C.54:10A-4).

47 h. Subsections a. through g. of this section shall be without effect
48 on and after the tenth day following a certification by the Director of

1 the Division of Budget and Accounting in the Department of the
2 Treasury pursuant to subsection b. of section 13 of P.L.2002, c.128
3 (C.13:1E-223).
4 (cf: P.L.2002, c.128, s.4)

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6 2. This act shall take effect immediately.

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STATEMENT

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11 This bill would exempt the holder of a plenary winery license, in
12 most cases, from filing requirements with regard to the user fee
13 imposed on retail sellers of litter-generating products. Current law
14 exempts from the user fee a retail seller of less than \$500,000 in
15 annual retail sales of litter-generating products and requires a return
16 to be filed by retail sellers upon whom the user fee is imposed. The
17 bill, would affirmatively establish the exemption from the return
18 filing requirement for a holder of a plenary winery license who has
19 less than \$500,000 in annual retail sales of litter-generating
20 products and who is already exempt from the user fee.