

ASSEMBLY, No. 3257

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblywoman Vainieri Huttie

SYNOPSIS

Permits wineries to operate salesrooms in certain municipalities with restrictions on the sale of alcoholic beverages.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/16/2020)

1 AN ACT concerning the operation of winery salesrooms,
2 supplementing Title 33 of the Revised Statutes and amending
3 R.S.33:1-44 and R.S.33:1-45.

4

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

7

8 1. (New section) A municipality which prohibits the retail sale
9 of wine pursuant to the provisions of any statute, regulation,
10 ordinance, referendum, or resolution shall not prohibit a winery
11 from operating a salesroom pursuant to the provisions of R.S.33:1-
12 10 if the operation of that salesroom would otherwise be approved
13 by the Director of the Division of Alcoholic Beverage Control and
14 the director finds no other bar to operation of the salesroom.

15

16 2. R.S.33:1-44 is amended to read as follows:

17 33:1-44. Whenever a petition, signed by at least fifteen per
18 centum (15%) of the qualified electors of any municipality as
19 evidenced by the total number of votes cast for members of the
20 General Assembly, at the then next preceding general election held
21 for the election of all of the members of the General Assembly, in
22 such municipality, shall be presented to the governing board or
23 body thereof, requesting a referendum on the question hereinafter
24 stated, such governing board or body shall adopt forthwith a
25 resolution directing the clerk of the county in which such
26 municipality is situated to print, pursuant to Title 19, Elections,
27 hereinafter referred to as the "general election law," upon the
28 official ballot to be used in such municipality at the next ensuing
29 general election a question to read: "Shall the retail sale of
30 alcoholic beverages other than brewed malt alcoholic beverages and
31 naturally fermented wine, for consumption on the licensed premises
32 by the glass or other open receptacle pursuant to chapter one of the
33 Title Intoxicating Liquors of the Revised Statutes (s. 33:1-1 et seq.),
34 be permitted in this municipality?" The official ballot also shall
35 indicate that the referendum shall not be applicable to sales or
36 tastings conducted in a salesroom of a winery licensed pursuant to
37 R.S.33:1-10. Thereupon the clerk or secretary of said governing
38 board or body shall forthwith deliver to the county clerk a certified
39 copy of such resolution. If the copy shall be delivered to the county
40 clerk not less than thirty days before such general election, he shall
41 cause such question to be printed in an appropriate place on the
42 ballot to be used in such municipality at the next ensuing general
43 election pursuant to the general election law and thereupon all
44 proceedings with respect to the referendum on such question shall
45 be subject to and governed by the general election law as in other
46 cases of the submission of public questions to the electorate.

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 If a majority of the legal voters voting upon the question shall
2 vote "Yes," the clerk of the governing board or body of such
3 municipality shall forthwith in writing notify the commissioner and
4 municipal board, if any, having authority to issue such licenses, of
5 the action taken by the legal voters of such municipality and the
6 retail sales as aforesaid of such alcoholic beverages and the issuing
7 of licenses pursuant to this chapter shall be permitted in such
8 municipality.

9 If a majority of the legal voters voting upon the question shall
10 vote "No," then the clerk of the governing board or body of the
11 municipality shall forthwith in writing notify the commissioner and
12 municipal board, if any, having authority to issue such licenses, of
13 the action taken by the legal voters of the municipality, and after
14 thirty days have elapsed after the date of such vote the retail sale of
15 alcoholic beverages, other than brewed malt alcoholic beverages
16 and naturally fermented wines and products sold on the premises of
17 a winery salesroom, for consumption on the licensed premises by
18 the glass or other open receptacle (such retail sale being sometimes
19 hereinafter called "prohibited sale"), shall be unlawful in such
20 municipality and constitute a violation of this chapter, and it shall
21 forthwith upon such vote be unlawful for the other issuing authority
22 of the municipality, having authority to issue licenses, to issue any
23 license in respect to such municipality which shall permit such
24 prohibited sale, and all licenses theretofore issued in respect to such
25 municipality which shall have licensed such prohibited sale shall, to
26 the extent that they permitted such prohibited sale, become void and
27 inoperative thirty days after the date of such vote. Notwithstanding
28 the foregoing provisions, the director shall not prohibit a winery
29 from operating a salesroom in the municipality pursuant to the
30 provisions of R.S.33:1-10 if the director finds no other bar to the
31 operation of the salesroom other than a referendum disapproved by
32 the voters pursuant to this paragraph.

33 Whenever a referendum shall have been had in any municipality
34 pursuant to this section, no further referendum on the same question
35 shall be held therein prior to the general election to be held in such
36 municipality in the fifth year thereafter and so long as such
37 referendum remains effective, all ordinances, resolutions or
38 regulations inconsistent with the result of such referendum shall
39 have no effect within such municipality.

40 (cf: P.L.1949, c.296, s.1)

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42 3. R.S.33:1-45 is amended to read as follows:

43 33:1-45. Whenever a petition signed by at least fifteen per
44 centum (15%) of the qualified electors of any municipality as
45 evidenced by the total number of votes cast for members of the
46 General Assembly, at the then next preceding general election held
47 for the election of all of the members of the General Assembly, in
48 such municipality, shall be presented to the governing board or

1 body thereof, requesting a referendum on the question hereinafter
2 stated, such governing board or body shall adopt forthwith a
3 resolution directing the clerk of the county in which such
4 municipality is situated to print, pursuant to Title 19, Elections,
5 hereinafter referred to as the "general election law," upon the
6 official ballot to be used in such municipality at the next ensuing
7 general election a question to read: "Shall the retail sale of all kinds
8 of alcoholic beverages, for consumption on the licensed premises by
9 the glass or other open receptacle pursuant to chapter one of the
10 Title Intoxicating Liquors of the Revised Statutes (s. 33:1-1 et seq.),
11 be permitted in this municipality?" The official ballot also shall
12 indicate that the referendum shall not be applicable to sales or
13 tastings conducted in a salesroom of a winery licensed pursuant to
14 R.S.33:1-10. Thereupon the clerk or secretary of such governing
15 board or body shall forthwith deliver to such county clerk a
16 certified copy of the resolution. If the copy shall be delivered to the
17 county clerk not less than thirty days before such general election,
18 he shall cause such question to be printed in an appropriate place on
19 the ballot to be used in such municipality at the next ensuing
20 general election pursuant to the general election law and thereupon
21 all proceedings with respect to the referendum on such question
22 shall be subject to and governed by the general election law as in
23 other cases of the submission of public questions to the electorate.

24 If a majority of the legal voters voting upon the question shall
25 vote "Yes," the clerk of the governing board or body of such
26 municipality shall forthwith in writing notify the commissioner and
27 municipal board, if any, having authority to issue such licenses, of
28 the action taken by the legal voters of such municipality and the
29 retail sales as aforesaid of such alcoholic beverages and the issuing
30 of licenses pursuant to this chapter shall be permitted in such
31 municipality.

32 If a majority of the legal voters voting upon the question shall
33 vote "No," then the clerk of the governing board or body of such
34 municipality shall forthwith in writing notify the commissioner and
35 municipal board, if any, having authority to issue such licenses, of
36 the action taken by the legal voters of the municipality, and after
37 thirty days have elapsed after the date of such vote, the retail sale of
38 all kinds of alcoholic beverages for consumption on the licensed
39 premises by the glass or other open receptacle (such retail sale
40 being sometimes hereinafter called "prohibited sale") , except for
41 products sold on the premises of a winery salesroom, shall be
42 unlawful in such municipality and constitute a violation of this
43 chapter, and it shall forthwith upon such vote be unlawful for the
44 other issuing authority of such municipality having authority to
45 issue licenses to issue any license in respect to such municipality
46 which shall permit such prohibited sale and all licenses theretofore
47 issued in respect to such municipality which shall have licensed
48 such prohibited sale shall, to the extent that they permitted such

1 prohibited sale, become void and inoperative thirty days after the
2 date of such vote. The director shall not prohibit a winery from
3 operating a salesroom in the municipality pursuant to the provisions
4 of R.S.33:1-10 if the director finds no other bar to the operation of
5 the salesroom other than a referendum disapproved by the voters
6 pursuant to this paragraph.

7 Whenever a referendum shall have been had in any municipality
8 pursuant to this section, no further referendum on the same question
9 shall be held therein prior to the general election to be held in such
10 municipality in the fifth year thereafter and so long as such
11 referendum remains effective, all ordinances, resolutions or
12 regulations inconsistent with the result of such referendum shall
13 have no effect within such municipality.

14 (cf: P.L.1949, c.296, s.2)

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16 4. This act shall take effect immediately.

17 18 19 STATEMENT

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21 This bill requires the Director of the Division of Alcoholic
22 Beverage Control to authorize a winery to operate a salesroom in a
23 municipality that prohibits the retail sale of all alcoholic beverages,
24 including wine, or certain types of wine for consumption on the
25 licensed premises. Provided there is no other impediment to its
26 operation, the director would authorize the salesroom, regardless of
27 whether the sale of all alcoholic beverages, including wine, or
28 certain types of wine for consumption in bars and restaurants has
29 been prohibited by a statute or regulation, or a local ordinance,
30 referendum or resolution.

31 State law currently permits small plenary and farm wineries to
32 operate 15 salesrooms apart from the winery premises for the retail
33 sale of a winery's products. Additionally, small out-of-State
34 wineries licensed in New Jersey are permitted to operate up to 16
35 salesrooms. The fee for each salesroom is \$250. Under regulations
36 of the division, the winery is required to receive approval from the
37 director to operate each of these additional premises.

38 At the salerooms, wineries are permitted to sell their products by
39 the bottle or in other original packaging for consumption on or off
40 the premises of the salesroom, and to sell samples of their products
41 for consumption on the premises.