

[First Reprint]

ASSEMBLY, No. 3965

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 1, 2020

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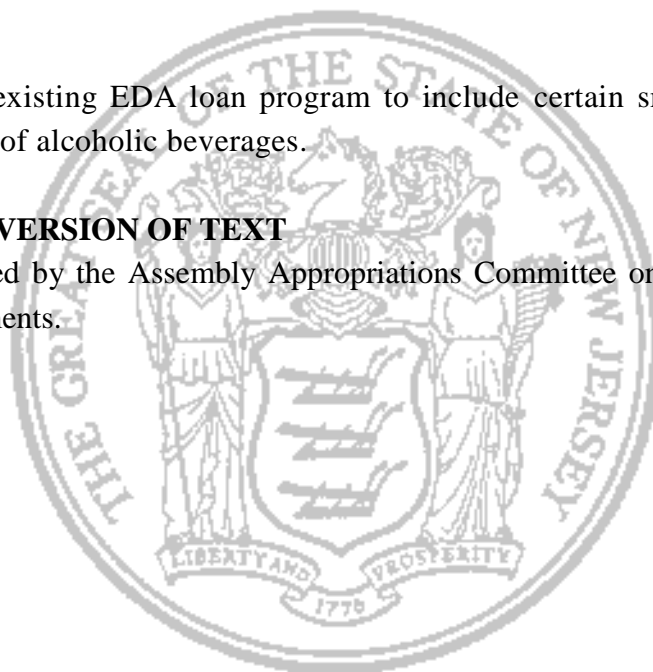
Assemblymen Spearman, DeAngelo, Senators Bateman and Turner

SYNOPSIS

Expands existing EDA loan program to include certain small producers and retailers of alcoholic beverages.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 4, 2020, with amendments.



(Sponsorship Updated As Of: 7/30/2020)

1 AN ACT concerning loans to small producers ¹and retailers¹ of
2 alcoholic beverages and amending P.L.2019, c.34.

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.2019, c.34 (C.34:1B-266) is amended to
8 read as follows:

9 1. As used in P.L.2019, c.34 (C.34:1B-266 et seq.):

10 "Authority" shall have the same meaning as provided in section 3
11 of P.L.1974, c.80 (C.34:1B-3).

12 "Department" means the Department of Agriculture established
13 pursuant to R.S.4:1-1.

14 "Division" means the Division of Alcoholic Beverage Control in
15 the Department of Law and Public Safety.

16 "Pandemic" means an outbreak of a disease of unusual virulence
17 characterized by very widespread growth or extent, which has a
18 significant impact on economic activity within this State, resulting
19 in the Governor declaring a public health emergency, pursuant to
20 section 3 of P.L.2005, c.222 (C.26:13-3), and a state of emergency,
21 pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), within this
22 State.

23 "Qualified small producer ¹or retailer¹ capital expense" means
24 amounts paid by a small producer ¹or retailer¹ of alcoholic
25 beverages for the purchase of **[items of]** plant, machinery,
26 equipment, or **[any]** other ¹associated¹ item, for ¹the purpose of
27 an expansion of the business model of the small producer or retailer
28 of alcoholic beverages to alleviate the financial burdens or
29 economic hardship imposed by a pandemic and¹ use by the small
30 producer ¹or retailer¹ of alcoholic beverages within the State in the
31 manufacture, sale, or both, of alcoholic beverages. For the purposes
32 of this section, "qualified small producer ¹or retailer¹ capital
33 expense" includes, but shall not be limited to:

34 a. amounts actually paid by the small producer ¹or retailer¹ of
35 alcoholic beverages; and

36 b. amounts promised to be paid under firm purchase contracts
37 actually executed during the tax year; provided, however, that a
38 small producer ¹or retailer¹ of alcoholic beverages shall not claim a
39 qualified small producer ¹or retailer¹ capital expense that was
40 claimed by the small producer ¹or retailer¹ of alcoholic beverages in
41 a prior tax year.

42 "Qualified vineyard or winery capital expense" means all
43 expenditures made by an eligible vineyard or winery for land
44 acquisition or improvement, infrastructure acquisition or

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:

¹Assembly AAP committee amendments adopted May 4, 2020.

- 1 modernization, and the purchase or modernization of machinery and
2 equipment, including:
- 3 a. barrels;
 - 4 b. bins;
 - 5 c. bottling equipment;
 - 6 d. canopy management machines;
 - 7 e. capsuling equipment;
 - 8 f. chemicals;
 - 9 g. corks;
 - 10 h. crushers;
 - 11 i. deer control fencing;
 - 12 j. destemmers;
 - 13 k. fermenters or other recognized fermentation devices;
 - 14 l. fertilizer and soil amendments;
 - 15 m. filters;
 - 16 n. fruit harvesters;
 - 17 o. fruit plants;
 - 18 p. hoses;
 - 19 q. irrigation equipment;
 - 20 r. labeling equipment;
 - 21 s. lugs;
 - 22 t. mowers;
 - 23 u. poles;
 - 24 v. posts;
 - 25 w. presses;
 - 26 x. pruning equipment;
 - 27 y. pumps;
 - 28 z. refractometers;
 - 29 aa. refrigeration equipment;
 - 30 bb. seeders;
 - 31 cc. soil;
 - 32 dd. small tools;
 - 33 ee. tanks;
 - 34 ff. tractors;
 - 35 gg. vats;
 - 36 hh. weeding and spraying equipment;
 - 37 ii. wine tanks;
 - 38 jj. wire; and
 - 39 kk. any other items as approved by the authority in consultation
40 with the department.

41 “Qualified vineyard or winery capital expense” may include a
42 qualified small producer¹ or retailer¹ capital expense, defined
43 pursuant to this section, as applicable to a small producer¹ or
44 retailer¹ of alcoholic beverages.

45 “Qualified operating expense” means the normal, day-to-day
46 operating expenditures made by an eligible small producer¹ or
47 retailer¹ of alcoholic beverages, including payroll, rent, utilities,

1 insurance, and marketing expenses and purchases of goods and
2 services. “Qualified operating expense” shall not include any
3 qualified small producer ¹or retailer¹ capital expense or qualified
4 vineyard or winery capital expense.

5 “Small producer ¹or retailer¹ of alcoholic beverages” means ¹:

6 a.¹ a business that has been issued, pursuant to R.S.33:1-10, and
7 is operating in compliance with, a limited brewery license, a
8 restricted brewery license, a plenary winery license, a farm winery
9 license, a cidery and meadery license, a limited distillery license, a
10 supplementary limited distillery license, or a craft distillery license
11 ¹;or

12 b. a business having 10 or fewer employees that has been
13 issued, pursuant to R.S.33:1-12, and is operating in compliance
14 with, a Class C license¹.

15 "Vineyard" means agricultural lands located in the State
16 consisting of at least one contiguous acre dedicated to the growing
17 of grapes or other fruit that are used or are intended to be used in
18 the production of wine by a winery as well as any other plants or
19 other improvements located thereon.

20 "Winery" means a commercial farm where the owner or operator
21 of the commercial farm has been issued and is operating in
22 compliance with a plenary winery license or farm winery license
23 pursuant to R.S.33:1-10.

24 (cf: P.L.2019, c.34, s.1)

25

26 2. Section 2 of P.L.2019, c.34 (C.34:1B-267) is amended to
27 read as follows:

28 2. a. The New Jersey Economic Development Authority, in
29 consultation with the **【Department of Agriculture】** department and
30 the division, shall maintain and administer a loan program and
31 application process for the purpose of providing:

32 (1) loans to eligible vineyards or wineries and eligible small
33 producers ¹or retailers¹ of alcoholic beverages to pay for qualified
34 small producer ¹or retailer¹ capital expenses and qualified vineyard
35 or winery capital expenses respectively; and

36 (2) loans to eligible small producers ¹or retailers¹ of alcoholic
37 beverages to pay for qualified operating expenses during a
38 pandemic having an interest rate equal to the prime rate or an
39 amount up to three percentage points above the prime rate.

40 b. A loan to an eligible vineyard **【or】**, winery, or small
41 producer ¹or retailer¹ of alcoholic beverages authorized under
42 P.L.2019, c.34 (C.34:1B-266 et seq.) shall be made pursuant to a
43 loan agreement with the authority and shall contain any terms and
44 conditions considered appropriate by the authority that are
45 consistent with the purposes of P.L.2019, c.34 (C.34:1B-266 et
46 seq.). The provisions of the loan agreement shall include, but not
47 be limited to, a statement of the proportional shares of ownership in

1 an eligible vineyard [or], winery, or small producer 'or retailer' of
2 alcoholic beverages, equipment usage and maintenance
3 responsibilities, and loan repayment responsibilities for any loan
4 proceeds received under the loan program.

5 c. The authority may, in its discretion, require an eligible
6 vineyard [or], winery, or small producer 'or retailer' of alcoholic
7 beverages that receives a loan authorized pursuant to P.L.2019, c.34
8 (C.34:1B-266 et seq.) to submit an annual audited financial
9 statement to the authority in order to ensure the continued viability
10 of **[all] the operations of the vineyard [or], winery [operations],**
11 or small producer 'or retailer' of alcoholic beverages.

12 d. The authority may, either through the adoption of rules and
13 regulations, or through the terms of the loan agreement made
14 pursuant to subsection **'[c.] b.'** of this section, establish terms
15 governing the incidence of default by an eligible vineyard [or],
16 winery, or small producer 'or retailer' of alcoholic beverages that
17 receives a loan under the program administered pursuant to
18 P.L.2019, c.34 (C.34:1B-266 et seq.).

19 e. The authority may discontinue providing loans, pursuant to
20 paragraph (2) of subsection a. of this section, once the Governor has
21 rescinded a declared public health emergency and state of
22 emergency pertaining to a pandemic.

23 (cf: P.L.2019, c.34, s.2)

24

25 3. Section 3 of P.L.2019, c.34 (C.34:1B-268) is amended to
26 read as follows:

27 3. The authority, in consultation with the department and the
28 division, may adopt rules and regulations, pursuant to the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.), as may be necessary to effectuate the purposes of P.L.2019,
31 c.34 (C.34:1B-266 et seq.).

32 (cf: P.L.2019, c.34, s.3)

33

34 4. This act shall take effect immediately.