

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4319

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4319, with committee amendments.

As amended and reported by the committee, this bill establishes certain temporary benefits for the holders of alcoholic beverage retail and manufacturer's licenses.

P.L.2020, c.33 was enacted in response to the COVID-19 pandemic to allow the holders of plenary retail consumption licenses and concessionaire permits, generally issued to bars and restaurants, to sell and deliver alcoholic beverages in closed and sealed containers, which would include crowlers and growlers of beer. P.L.2020, c.33 expires six months following the date on which: (1) the state of emergency has ended; or (2) the coronavirus-related occupancy or customer seating restrictions no longer apply to these licensed premises, whichever date occurs later. This bill allows these licensees and permit holders who purchased additional equipment necessary to sell crowlers and growlers following the enactment of P.L.2020, c.33 until this bill's expiration to continue to use the equipment. The provisions of the bill would not apply to holders of hotel or motel licenses or single licenses used in connection with multiple restaurants located on the same licensed premises.

This bill also allows the holder of a winery, limited brewery, craft distillery, or cidery and meadery license to hold certain activities and events both on and off the licensed premises: 1) for up to 12 months following the bill's enactment; or 2) or until the date on which the customer seating restrictions no longer apply to these licensed premises, whichever date occurs earlier. Under the bill, the holder of a winery, limited brewery, craft distillery, or cidery and meadery license may hold an unlimited number of on-premises activities. The bill defines on-premises activity as an activity that is open to the public and held on the licensed premises of a limited brewery, craft distillery, cidery, meadery, or other outdoor area, including but not limited to a parking lot, that is owned by the license holder and is adjacent to or adjoining the licensed premises. On-premises activities are to include:

(1) private parties, birthdays, weddings, anniversaries, civic and political functions, professional and trade association events, class reunion and alumni events;

- (2) video games;
- (3) board games;
- (4) card games for which wagers are not placed;
- (5) trivia and quizzo;
- (6) paint and sip events;
- (7) craftmaking;
- (8) shuffleboard;
- (9) yard games;
- (10) background or radio music;
- (11) live music or music played by a disk jockey;
- (12) educational events and seminars;
- (13) movies and theatrical events;
- (14) animal adoption, to the extent permitted by local ordinance;
- (15) yoga and exercise classes; or
- (16) any other similar activity held on the licensed premises or other area owned by the licensee that is adjacent to or adjoining the licensed premises.

A municipality may, by ordinance or resolution, as appropriate, limit the types of on-premises activities that the licensee may hold on the licensed premises.

The holder of a winery, limited brewery, craft distillery, or cidery and meadery license also may hold extended premises activities which would include activities occurring on an outdoor area either adjacent to or adjoining the licensed premises of a limited or restricted brewery, distillery, cidery, or meadery that is not owned by the license holder and may include, but not be limited to, a sidewalk or parking lot. The holder of the license would be required to obtain, at least 10 days prior to an extended premises activity, the approval of the governing body of the municipality in which the extended premises activity is to be held. However, a municipality may approve an extended premises activity less than 10 days prior to the activity date.

Under the bill, approval by the Director of the Division of Alcoholic Beverage Control (ABC) would not be required to hold on-premises or extended premises activities. However, the bill requires the licensee to notify the director at least 10 days prior to an extended premises activity for which tickets are sold in advance.

The bill also allows the holder of a winery, limited brewery, craft distillery, or cidery and meadery license to participate in up to 25 off-premises events per year. In order to participate in an off-premises event, the holder of the license would be required to apply to the governing body of the municipality in which the event is to be held. The application process for holding an off-premises event would be the same process to hold an extended premises activity. In addition, the license holder also would be required to provide electronic notification to the division at least 10 days prior to hosting an off-premises event. The notification shall include the name of the license holder, the hours during which the activity is to be held, and the

anticipated number of attendees of the activity. A licensee shall submit to the division a \$250 filing fee with the notification required pursuant to this section.

The bill allows the holder of a winery, limited brewery, distillery, or cidery and meadery license to host another mercantile business on the licensed premises to sell goods or merchandise that are not related or incidental to the licensed business. The holder of the license would be prohibited from owning an interest in, or profiting from, the sale of goods by the mercantile establishment. The license holder also would be prohibited from hosting any mercantile business on the licensed premises on more than four days during each month.

The bill also establishes guidelines for beer, wine, and distilled spirits festivals. Under the bill, the holder of a valid winery license, limited brewery license, craft distillery license, or cidery and meadery license, retail consumption license, concessionaire permit, or a social affairs permit may hold a festival that showcases beer, wine, and distilled spirits or a combination thereof. The bill requires the festival host to provide notice to the Director of ABC at least 45 days prior to a festival. The notification would include the name of the license or permit holder, the date and hours during which the festival is to be held, the expected attendance of the festival. The licensee also would be required to submit an application to hold a festival to the municipal clerk, who would notify the governing body of the municipality and chief law enforcement officer with jurisdiction over the municipality. An application for a festival must be approved by the governing body of the municipality. The bill also establishes certain requirements and a fee schedule for holding a festival.

In addition, the bill increases the production limits placed on craft distillery licensees from 20,000 gallons to 100,000 gallons provided the license holder applies prior to the bill's expiration. The bill establishes a graduated fee schedule that would be based on the amount of spirits annually distilled by the license holder.

The bill also increase the increases the production limits placed on restricted brewery licensees from 10,000 gallons to 100,000 gallons provided the license holder applies for the increase prior to the bill's expiration. A restricted brewery license, also known as a "brew pub" license, is only issued to a person who also holds a Class C consumption license generally issued to bars and restaurants. The brew pub license allows the licensee to brew the beer, while the Class C license allows the licensee to sell that beer directly to restaurant patrons. A brew pub licensee must also operate a restaurant with a working kitchen in connection with the sale of beer. Under this bill, the holder of a concessionaire permit also would be allowed to hold a restricted brewery license.

The bill also temporarily removes from current law a provision requiring the holder of a limited brewery license or distillery license to

provide a tour of the facility when selling the brewery's or distillery's respective products for consumption on the licensed premises.

The bill also clarifies that certain activities are authorized prior to the bill's expiration provided licensees adhere to executive or administrative orders issued by the Governor or Commissioner of Health establishing coronavirus-related occupancy or customer seating restrictions applicable to licensed premises. Specifically, the holder of a limited brewery, craft distillery, or cidery and meadery license also would be authorized to sell non-alcoholic beverages, whether or not manufactured by the license holder; coordinate with a restaurant, food vendor, or food truck to provide food on the licensed premises; and provide menus to consumers. These licensees would continue to be prohibited from operating a restaurant on the licensed premises as required by current law.

The bill also requires holders of Class A licenses (manufacturing) and Class C licenses (retailing) who host off-premises events or festivals to obtain liability insurance to insure against loss resulting from liability imposed by law for bodily injury or death sustained by any person resulting from the consumption of alcoholic beverages while on the licensed premises.

This bill also allows a municipality to enact an ordinance prior to the bill's expiration permitting the holder of plenary retail consumption licenses, hotel or motel licenses, seasonal retail consumption licenses, or concessionaire permits, generally issued to bars and restaurants, to sell and deliver alcoholic beverages in original containers or in closed and sealed containers and mixed cocktails in closed and sealed containers for consumption off the licensed premises.

In addition, the bill allows a municipality to enact an ordinance prior to the bill's expiration permitting craft distillery licensees to sell for consumption off the licensed premises distilled alcoholic beverages that are manufactured on the licensed premises and mixed or blended with other alcoholic or nonalcoholic beverages and sold in closed and sealed containers. The bill also allows craft distilleries to sell distilled alcoholic beverages in original containers accompanied by one or more nonalcoholic beverages or food stuffs that may be combined by the consumer to prepare a mixed drink.

Under the bill, mixed cocktails are to be sold in closed and sealed containers that are affixed with a tamper evident seal and hold not more than 16 fluid ounces. Any other alcoholic beverages may be sold and delivered in original containers of any size.

This bill makes permanent provisions of P.L.2020, c.33, which temporarily granted retail licensees and craft distillery licensees certain privileges. P.L.2020, c.33 was enacted in response to the COVID-19 pandemic and expires: 1) six months following the date on which the state of emergency has ended; or (2) the date on which the

coronavirus-related occupancy or customer seating restrictions no longer apply, whichever date occurs later.

Finally, the bill allows the holder of a plenary retail consumption license to apply to the director prior to the bill's expiration to hold up to 12 "open bar" events that allow for the unlimited availability of alcoholic beverages for consumption on the licensed premises for a set price or cover charge. The bill requires the holder of this license to apply to hold these events prior to the bill's expiration. The bill requires the "open bar" event to be held in conjunction with a food pairing and an educational component relating to the type of alcoholic beverages served or promoted at the event. In addition, the holder of a plenary retail consumption license may hold an "open bar" event on New Year's Eve. An event held on New Year's Eve would not be required to have a food pairing or educational component. Under the New Jersey administrative code, these events are prohibited unless the "open bar" is for a private party, an event for which tickets are sold by a non-profit organization that is not advertised to the general public, or held on New Year's Eve.

COMMITTEE AMENDMENTS

The committee amendments:

1) remove from the bill a provision allowing a municipal governing body or local alcoholic beverage licensing board, by ordinance, to extend the licensed premises to allow for the sale and outdoor consumption of alcoholic beverages;

2) allow craft distilleries to apply prior to the bill's expiration to increase their gallonage production from 20,000 to 100,000 gallons per year;

3) allow restricted breweries to apply prior to the bill's expiration to increase their gallonage production from 10,000 to 100,000 gallons per year;

4) allow the holders of concessionaire permits to hold a restricted brewery license;

5) allow plenary retail consumption licensees to apply prior to the bill's expiration to hold open bar events;

6) remove from the bill a provision allowing limited brewery licensees to deliver their products from consumer's homes that conflicts with the provisions of P.L.2020, c.33;

7) makes permanent provisions of P.L.2020, c.33, which temporarily granted retail licensees and craft distillery licensees permission to sell alcoholic beverages in containers for off-premises consumption; and

8) require the bill's provisions to expire: 1) 12 months following the bill's enactment; or 2) the date on which the customer seating restrictions no longer apply to these licensed premises, whichever date occurs earlier.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill will result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS, however, cannot assess the direction of the net effect of the increases given the absence of information on the potential revenue collected from the sale of the total number of expanded licenses, applications fees, permits, and sales tax on products sold. It is unknown if there will be additional revenues from penalty collections which would be offset by expenditures for increased regulation and enforcement and additional costs for the Division of Alcoholic Beverage Control (ABC) in the Department of Law and Public Safety, and municipalities' increased workload.

The bill may increase the division's workload depending on the number of applications received for the expanded licenses and permits. Depending on the division's resource allocation policies, the added workload may or may not augment State administrative expenditures.

The bill may increase the municipal revenue from the expanded permits and licenses and any annual renewal fees charged. These fees may offset the indeterminate increased costs to municipalities to administer, regulate, and enforce the expanded permits and licenses.