ASSEMBLY, No. 4718

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:
Assemblyman ERIC HOUGHTALING
District 11 (Monmouth)

SYNOPSIS

Allows certain restaurants to advertise that patrons may consume alcohol purchased off the restaurant premises; allows restaurants to charge corkage or service fee.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the consumption of alcoholic beverage and amending P.L.1999, c.90.

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

1. Section 5 of P.L.1999, c.90 (C.2C:33-27) is amended to read as follows:

5. Consumption of alcohol in restaurants.

a. **[**No**]** A person who owns or operates a restaurant, dining room or other public place where food or liquid refreshments are sold or served to the general public, and for which premises a license or permit authorizing the sale of alcoholic beverages for on-premises consumption has not been issued shall not:

(1) **[**Shall**]** allow the consumption of alcoholic beverages, other than wine **[**or**]**, a malt alcoholic beverage, cider, or mead, in a portion of the premises which is open to the public; or

(2) **[**Shall charge any admission fee or cover, corkage, or service charge or advertise inside or outside of such premises that patrons may bring and consume their own wine or malt alcoholic beverages in a portion of the premises which is open to the public.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

(3) **[**Shall**]** allow the consumption of wine **[**or**]** , malt alcoholic beverages , cider, or mead at times or by persons to whom the service or consumption **[**or**]** of alcoholic beverages on the licensed premises is prohibited by State or municipal law or regulation.

b. **[**Nothing in this act**]** (1) This act shall not restrict the right of a municipality or an owner or operator of a restaurant, dining room, or other public place where food or liquid refreshments are sold or served to the general public from prohibiting the consumption of alcoholic beverages on those premises.

(2) The owner or operator of a restaurant for which a license or permit authorizing the sale of alcoholic beverages for on-premises consumption has not been issued shall be entitled to:

(a) charge an admission fee or cover, corkage, or service charge for patrons who bring and consume their own malt alcoholic beverages, wine, cider, or mead on the restaurant premises; and

(b) advertise inside or outside of the restaurant premises that patrons may bring and consume their own wine, malt alcoholic beverages, cider, or mead in a portion of the premises which is open to the public.

c. A person who violates any provision of this act is a disorderly person, and the court, in addition to the sentence imposed for the disorderly person violation, may by its judgment bar the owner 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.

operator from allowing consumption of wine or malt alcoholic beverages in his premises as authorized by this act.
(cf: P.L.1999, c.90, s.5)

2. This act shall take effect immediately.

STATEMENT

This bill removes from current law the statutory provision that prohibits restaurants without a liquor license from advertising that their patrons may bring their own beer or wine ("BYOB") for consumption on the premises. The bill also clarifies that patrons may consume on the restaurant premises cider and mead in addition to wine and beer. Finally, the bill allows the restaurant owners to charge a service or corkage fee to patrons who bring their own beer, wine, cider, or mead for consumption on the restaurant premises.

Under current law, a person who owns or operates a restaurant, dining room, or other public place where food or liquid refreshments are sold or served to the general public, but is not licensed to sell alcoholic beverages for on-premises consumption, may allow the consumption of wine or beer in portions of the premises that are open to the public. However, the owner or operator is prohibited from advertising this option inside or outside of the premises. An owner or operator who violates the prohibition on advertising BYOB is guilty of a disorderly persons offense, which is punishable by a term of imprisonment of up to six months, a fine of up to $1,000, or both.

This bill removes the prohibition on advertising that a restaurant is BYOB in response to a recent decision by the United States District Court for the District of New Jersey, GJJM Enterprises, LLC v. City of Atlantic City, holding that the State's prohibition on BYOB advertising is an unconstitutional violation of the First Amendment right to free speech.