

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 5267

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED MARCH 8, 2021

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

SYNOPSIS

Permits certain licensees to acquire alcoholic beverage license from retail food store that is bankruptcy asset; permits sell, display, and offer for sale alcoholic beverages within physically separated area in retail food store.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Oversight, Reform and Federal Relations Committee.



(Sponsorship Updated As Of: 3/25/2021)

1 **AN ACT** concerning alcoholic beverage licenses and certain retail
2 stores and supplementing Title 33 of the Revised Statutes.

3

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

6

7 1. a. For the purposes of this act:

8 “Retail food store” means any retail establishment where groceries
9 and other foodstuffs are regularly and customarily sold in a bona fide
10 manner for off-premises consumption and constitute at least 65 percent
11 of the store’s total annual sales in dollars.

12 “Groceries and other foodstuffs” means dairy products; meat and
13 delicatessen products; produce products; seafood products; carbonated
14 beverages; coffee and other beverages; snack foods; candy products;
15 baked products; paper products; household cleaning items; health and
16 beauty products; frozen foods; pet foods and supplies; and any other
17 edible product not previously listed.

18 b. The provisions of section 1 of P.L.1962, c.152 (C.33:1-12.31)
19 shall not apply to the acquisition of any additional plenary retail
20 distribution license or any interest therein when that acquired license
21 was, prior to the acquisition, used in connection with a retail food store
22 that became an asset in bankruptcy pursuant to Chapter 7 of the federal
23 Bankruptcy Code, 11 U.S.C. s.701 et seq. or Chapter 11 of the federal
24 Bankruptcy Code, 11 U.S.C. s.1101 et seq. and is transferred for use in
25 connection with another or the same retail food store.

26 c. The holder of a plenary retail distribution license acquired
27 pursuant to this section shall be prohibited from transferring the
28 license from the premises of the retail food store for which the license
29 was used prior to the bankruptcy proceeding to another location, other
30 than to another retail food store, except in connection with a relocation
31 of the retail food store to a new location within the same municipality
32 that issued the license.

33 d. A plenary retail distribution license that was in an inactive
34 status pursuant to section 1 of P.L.1977, c.246 (C.33:1-12.39) at the
35 time that the license was transferred as an asset in bankruptcy shall be
36 transferred again within two years following the transfer in the
37 bankruptcy proceeding to a person or entity who does not hold a
38 beneficial interest in the license.

39 The provisions of this subsection shall not apply to:

40 (1) a person who held a beneficial interest in fewer than two
41 licenses at the time of acquiring the inactive license in the bankruptcy
42 proceeding and is entitled to hold not more than two retail licenses
43 pursuant to section 1 of P.L.1962, c.152 (C.33:1-12.31); or

44 (2) the holder of plenary retail distribution licenses used in
45 connection with retail food stores who acquires any additional plenary
46 retail distribution license or an interest therein when that license was
47 used in connection with a retail food store that was an asset in

1 bankruptcy pursuant to Chapter 7 of the federal Bankruptcy Code,
2 11 U.S.C. s.701 et seq., or Chapter 11 of the federal Bankruptcy Code,
3 11 U.S.C. s.1101 et seq., and when the interest in the retail food store
4 is also acquired.

5 e. Plenary Retail Consumption licenses, pursuant to this act, shall
6 be licenses with “Broad C Package Privileges.”

7 f. A person shall not be entitled to acquire any additional plenary
8 retail distribution license or an interest therein pursuant to this section
9 unless the person purchases or successfully bids in the bankruptcy sale
10 on the assets associated with the retail food store where the license was
11 previously sited.

12

13 2. a. The provisions of section 1 of P.L.1962, c.152 (C.33:1-
14 12.31) shall not apply to the holder of any plenary retail distribution
15 license or licenses who uses the holder’s license or licenses, subject to
16 rules and regulations, in connection with the operation of a retail food
17 store and who acquires any additional alcoholic beverage retail license
18 or licenses in connection with the acquisition of any retail food store as
19 an asset in bankruptcy.

20 The license holder shall be entitled to sell, display, and offer for
21 sale alcoholic beverages on separate contiguous licensed premises with
22 a separate point of sale situated adjacent to the retail food store or in a
23 separated area within the retail food store consistent with the
24 requirements of section 3 of this act, P.L. c. (C.)(pending before
25 the Legislature as this bill), subject to rules and regulations, in
26 connection with the operation of a retail food store selling alcoholic
27 beverages, and shall otherwise be prohibited from selling alcoholic
28 beverages within the public retail floor area where merchandise
29 including, but not limited to, groceries and other foodstuffs or any
30 other mercantile products are sold at retail.

31 b. The provisions of section 1 of P.L.1962, c.152 (C.33:1-12.31)
32 shall not apply to the holder of any plenary retail distribution license or
33 licenses who used the holder’s license or licenses in connection with
34 the operation of one or more retail food stores prior to the effective
35 date of this act, P.L. c. (C.)(pending before the Legislature as this
36 bill) and who acquires or acquired any additional plenary retail
37 distribution license in connection with the acquisition of any retail
38 food store as an asset in bankruptcy.

39 A license holder authorized to acquire an additional license or
40 licenses in accordance with this subsection shall be exempt from the
41 restrictions established in section 3 of this act,
42 P.L. c. (C.)(pending before the Legislature as this bill). The
43 exemption established pursuant to this subsection shall not be
44 transferred to any other location unless the operation of such retail
45 food store, along with the plenary retail distribution license, is so
46 transferred.

1 3. Notwithstanding any other law, rule, or regulation to the
2 contrary, a license holder may only sell, display, or offer for sale
3 alcoholic beverages within a retail food store if the area containing the
4 alcoholic beverages is capable of being physically separated from
5 customers during the hours when the sale of alcoholic beverages is
6 restricted by applicable State law or local ordinance. The physical
7 separation shall be by a means reasonably designed to restrict
8 customer access to alcoholic beverages during the prohibited time
9 periods including, but not limited to, the use of a movable gate or
10 fence. Nothing in this section shall require any license holder who, as
11 of the effective date of this act, P.L. c. (C.)(pending before the
12 Legislature as this bill) does not physically separate an area containing
13 alcoholic beverages in a retail food store from establishing the physical
14 separation in the future.

15
16 4. This act shall take effect immediately and be retroactive to the
17 first day of the 85th month prior to the date of enactment. Sections 1
18 and 2 shall not apply on or after the 180th day next following the date
19 of enactment.