

**ASSEMBLY CONCURRENT  
RESOLUTION No. 117**

**STATE OF NEW JERSEY  
219th LEGISLATURE**

INTRODUCED FEBRUARY 3, 2020

**Sponsored by:**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**SYNOPSIS**

Determines that State Agriculture Development Committee rule to implement pilot program allowing certain wineries to hold special events is inconsistent with legislative intent.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/20/2020)**

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1 **A CONCURRENT RESOLUTION** concerning legislative review of the  
2 State Agriculture Development Committee rules and regulations  
3 pursuant to Article V, Section IV, paragraph 6 of the  
4 Constitution of the State of New Jersey.  
5  
6 **WHEREAS**, Article V, Section IV, paragraph 6 of the Constitution of  
7 the State of New Jersey provides that the Legislature may review  
8 any rule or regulation of an administrative agency to determine if  
9 the rule or regulation is consistent with the intent of the Legislature  
10 and, upon a finding that the rule or regulation is not consistent with  
11 legislative intent, may transmit such finding to the Governor and  
12 the head of the agency; and  
13 **WHEREAS**, Upon finding that a rule or regulation, either proposed or  
14 adopted, is not consistent with legislative intent, Article V, Section  
15 IV, paragraph 6 provides that the Legislature shall transmit its  
16 findings in the form of a concurrent resolution to the Governor and  
17 the head of the Executive Branch agency which promulgated, or  
18 plans to promulgate, the rule or regulation, and the agency shall  
19 have 30 days from the time the concurrent resolution is transmitted  
20 to amend or withdraw the rule or regulation; and  
21 **WHEREAS**, If the agency does not amend or withdraw the existing or  
22 proposed rule or regulation, Article V, Section IV, paragraph 6  
23 provides that the Legislature may invalidate or prohibit the adoption  
24 of the proposed rule or regulation, following a public hearing held  
25 by either House on the invalidation or prohibition, the placement of  
26 a transcript of the public hearing on the desks of the members of  
27 each House of the Legislature in open meeting followed by the  
28 passage of at least 20 calendar days, and a vote of a majority of the  
29 authorized membership of each House in favor of a concurrent  
30 resolution invalidating or prohibiting the adoption of the rule or  
31 regulation; and  
32 **WHEREAS**, On March 27, 2014, the New Jersey State Legislature  
33 passed Senate Bill No. 837 (1R), which allowed special occasion  
34 events, including weddings and other life milestones, to be  
35 conducted on a winery premises in order to promote agritourism  
36 under the State's Right to Farm Act and the Farmland Preservation  
37 Program; and  
38 **WHEREAS**, On May 12, 2014, Governor Christie exercised his  
39 authority pursuant to Article V, Section I, Paragraph 14 of the New  
40 Jersey Constitution to conditionally veto Senate Bill No. 837 (1R)  
41 and recommend specific amendments for consideration by the  
42 Legislature; and  
43 **WHEREAS**, The amendments recommended in the conditional veto  
44 directed the State Agriculture Development Committee (SADC) to  
45 establish by regulation a pilot program to permit special occasion  
46 events to be conducted on New Jersey wineries that are located on  
47 preserved farmland; and

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1   **WHEREAS**, In his conditional veto message, the Governor expressed  
2       his shared desire with the Legislature “to help the State’s forty eight  
3       licensed wineries to flourish”; and  
4   **WHEREAS**, The conditional veto message further expressed the  
5       intention to allow New Jersey wineries “to continue to gain national  
6       recognition for their quality, sophistication, and enjoyment”; and  
7   **WHEREAS**, The conditional veto message also commented that “as  
8       New Jersey’s wine production grows, the State will become an even  
9       bigger destination for cultural and personal events”; and  
10  **WHEREAS**, Relying on the intention to promote New Jersey wineries  
11       expressed in the Governor’s conditional veto message, the  
12       Legislation reconsidered and passed Senate Bill No. 837 (1R) with  
13       the Governor’s recommended amendments on June 26, 2014 and it  
14       was thereafter enacted as P.L.2014, c.16 (C.4:1C-32.7 et seq.) on  
15       July 2, 2014; and  
16  **WHEREAS**, P.L.2014, c.16 (C.4:1C-32.7 et seq.) required the SADC to  
17       establish a pilot program permitting special occasion events to be  
18       conducted on preserved farmland at a winery, gave the county  
19       agriculture development board or the SADC the authority to audit  
20       theses wineries for the purpose of a compliance with the program,  
21       and established penalties for failing to comply with the program  
22       requirements; and  
23  **WHEREAS**, Pursuant to section 5 of P.L.2014, c.16 (C.4:1C-32.11), the  
24       SADC proposed a new rule on August 7, 2017 entitled “Winery  
25       Special Events on Preserved Farmland” and on October 26, 2017  
26       the rule was adopted as N.J.A.C. 2:76-27 et seq.; and  
27  **WHEREAS**, N.J.A.C. 2:76-27 et seq. imposes onerous and burdensome  
28       registration, compliance, income certification, and financial  
29       reporting requirements on wineries operating on preserved farmland  
30       that frustrate and undermine the intention expressed in the  
31       conditional veto statement to Senate Bill No. 837 (1R); and  
32  **WHEREAS**, As part of the registration procedure, N.J.A.C 2:76-27 et  
33       seq. requires winery owners or operators to submit a property  
34       survey or site plan prepared by a New Jersey-licensed surveyor or  
35       engineer and provide by March 31 of each year a list of all special  
36       occasion events for the previous calendar year including the event  
37       name, number of attendees, location on the premises, and event  
38       frequency and dates; and  
39  **WHEREAS**, A winery that fails to fully complete the registration form  
40       may be subject to civil penalties, which include a civil penalty of up  
41       to \$1,000 for a first offense, \$2,000 for a second offense, and  
42       \$3,000 for a third or subsequent offense; and  
43  **WHEREAS**, N.J.A.C. 2:76-27.6 establishes a detailed certification of  
44       income procedure that was not contemplated by Senate Bill No. 837  
45       (1R) and requires a full itemized accounting of winery sales made  
46       on and off the licensed premises, which far exceeds the statutory  
47       requirement that gross sales from income generated by the winery

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1 from special occasion events account for less than 50 percent of the  
2 winery's annual gross income; and

3 **WHEREAS**, In an interim report to the Legislature and Governor by the  
4 New Jersey SADC on June 2018 regarding the progress of the pilot  
5 program it was acknowledged that "some wineries indicate that the  
6 reporting and documentation requirements are overly burdensome  
7 and counter to efficient use of their resources"; and

8 **WHEREAS**, These stringent registration and income reporting  
9 requirements in addition to the other requirements imposed by  
10 N.J.A.C 2:76-27 et seq. inhibit the ability of wineries located on  
11 preserved farmland from holding special occasion events and  
12 contravene the intention expressed in the conditional veto message  
13 of Senate Bill No. 837 (1R), which is to allow "licensed wineries to  
14 flourish" and "continue to gain national recognition for their  
15 quality, sophistication, and enjoyment"; and

16 **WHEREAS**, Section 2 of P.L.2018, c.30 (C.4:1C-32.13) requires the  
17 SADC to submit to the Governor and Legislature an interim and  
18 final report to review the implementation and operation of the pilot  
19 program and summarize the activities of wineries on preserved  
20 farmland in their respective counties; and

21 **WHEREAS**, The SADC has circulated for discussion purposes a final  
22 draft report that proposes to extend the report's parameters from  
23 wineries located on preserved farmland to all preserved farms,  
24 those with and without wineries on the premises; and

25 **WHEREAS**, A final report that addresses all preserved farms would fall  
26 outside of the scope of the Legislative mandate requiring the SADC  
27 to address the pilot program and the activities of wineries on  
28 preserved farmland; and

29 **WHEREAS**, The regulations adopted by the New Jersey SADC to  
30 implement a pilot program allowing wineries on preserved  
31 farmland to hold special events are overly burdensome and  
32 undermine the intent of the Legislature to promote the burgeoning  
33 wine industry in this State; and

34 **WHEREAS**, Statutory law requires the final report by the SADC to  
35 address the pilot program and the activities of wineries on  
36 preserved farmland, rather than all preserved farms; now, therefore,  
37

38 **BE IT RESOLVED** by the General Assembly of the State of New  
39 Jersey (the Senate concurring):  
40

41 1. The Legislature declares that N.J.A.C. 2:76-27 et seq.  
42 adopted by the New Jersey State Agriculture Development  
43 Committee to implement a pilot program allowing wineries on  
44 preserved farm land to hold special events is inconsistent with  
45 legislative intent.  
46

47 2. Copies of this concurrent resolution, as filed with the  
48 Secretary of State, shall be transmitted by the Clerk of the General

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1 Assembly or the Secretary of the Senate to the Governor, Secretary  
2 of Agriculture, and the chair of the State Agriculture Development  
3 Committee.

4  
5 3. Pursuant to Article V, Section IV, paragraph 6 of the  
6 Constitution of the State of New Jersey, the State Agriculture  
7 Development Committee shall have 30 days following transmittal of  
8 this resolution to amend or withdraw the adopted rules and regulations  
9 or the Legislature may, by passage of another concurrent resolution,  
10 exercise its authority under the Constitution to invalidate the rules and  
11 regulations in whole or in part.

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STATEMENT

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16 This concurrent resolution embodies the finding of the  
17 Legislature that the State Agriculture Development Committee  
18 regulations entitled "Winery Special Events on Preserved  
19 Farmland" and adopted as N.J.A.C. 2:76-27 et seq. are not  
20 consistent with the intent of the Legislature.

21 The State Agriculture Development Committee will have 30 days  
22 from the date of transmittal of this resolution to amend or withdraw the  
23 rules and regulations or the Legislature may, by passage of another  
24 concurrent resolution, exercise its authority under the Constitution to  
25 invalidate the rules and regulations in whole or in part.