

P.L. 2021, CHAPTER 48, *approved April 16, 2021*
Senate Committee Substitute (*First Reprint*) for
Senate, No. 3364

1 **AN ACT** concerning alcoholic beverage licenses and certain retail
2 stores ¹and supplementing Title 33 of the Revised Statutes¹.

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
9 groceries and other foodstuffs are regularly and customarily sold in
10 a bona fide manner for off-premises consumption and constitute at
11 least 65 percent 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;
14 carbonated beverages; coffee and other beverages; snack foods;
15 candy products; baked products; paper products; household
16 cleaning items; health and beauty products; frozen foods; pet foods
17 and supplies; and any other 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 ¹~~the~~ that
21 ¹acquired¹ license ¹~~or licenses are~~ was, prior to the acquisition,¹
22 used in connection with a retail food store that ¹~~was~~ became¹ an
23 asset in bankruptcy pursuant to Chapter 7 of the federal Bankruptcy
24 Code, 11 U.S.C. s.701 et seq. or Chapter 11 of the federal
25 Bankruptcy Code, 11 U.S.C. s.1101 et seq. and is transferred for use
26 in connection with another or the same retail food store.

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

34 d. A plenary retail distribution license that was in an inactive
35 status pursuant to section 1 of P.L.1977, c.246 (C.33:1-12.39) at the
36 time that the license was transferred as an asset in bankruptcy shall

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:

¹ Assembly AOF committee amendments adopted March 8, 2021.

1 be transferred again within two years following the ¹transfer in the¹
2 bankruptcy proceeding to a person or entity who does not hold a
3 beneficial interest in the license.

4 The provisions of this subsection shall not apply to:

5 (1) a person who held a beneficial interest in ¹~~["less"]~~ fewer¹ than
6 two licenses at the time of acquiring the inactive license in the
7 bankruptcy proceeding and is entitled to hold not more than two
8 retail licenses pursuant to section 1 of P.L.1962, c.152 (C.33:1-
9 12.31); or

10 (2) the holder of plenary retail distribution licenses used in
11 connection with retail food stores who acquires any additional
12 plenary retail distribution license or an interest therein when that
13 license was used in connection with a retail food store that was an
14 asset in bankruptcy pursuant to Chapter 7 of the federal Bankruptcy
15 Code, 11 U.S.C. s.701 et seq., or Chapter 11 of the federal
16 Bankruptcy Code, 11 U.S.C. s.1101 et seq., and when the interest in
17 the retail food store is also acquired.

18 e. ¹Plenary Retail Consumption licenses, pursuant to this act,
19 shall be licenses with "Broad C Package Privileges."

20 f.¹ A person shall not be entitled to acquire any additional
21 plenary retail distribution license or an interest therein pursuant to
22 this section unless the person purchases or successfully bids in the
23 bankruptcy sale on the assets associated with the retail food store
24 where the license was previously sited.

25
26 2. a. The provisions of section 1 of P.L.1962, c.152 (C.33:1-
27 12.31) shall not apply to the holder of any plenary retail distribution
28 license or licenses who uses the holder's license or licenses, subject
29 to rules and regulations, in connection with the operation of a retail
30 food store and who acquires any additional alcoholic beverage retail
31 license or licenses in connection with the acquisition of any retail
32 food store as an asset in bankruptcy.

33 The license holder shall be entitled to sell ¹, display, and offer
34 for sale¹ alcoholic beverages on separate contiguous licensed
35 premises with a separate point of sale situated adjacent to the retail
36 food store or in a separated area within the retail food store
37 ¹consistent with the requirements of section 3 of this act,
38 P.L. c. (C.)(pending before the Legislature as this bill)¹,
39 subject to rules and regulations, in connection with the operation of
40 a retail food store selling alcoholic beverages, and shall ¹otherwise¹
41 be prohibited from selling alcoholic beverages within the public
42 retail floor area where merchandise including, but not limited to,
43 groceries and other foodstuffs or any other mercantile products are
44 sold at retail.

45 b. The provisions of section 1 of P.L.1962, c.152 (C.33:1-
46 12.31) shall not apply to the holder of any plenary retail distribution

license or licenses who used the holder's license or licenses in connection with the operation of one or more retail food stores prior to ¹January 1, 2018 the effective date of this act, P.L. c. (C.)(pending before the Legislature as this bill)¹ and who acquires or acquired any additional plenary retail distribution license in connection with the acquisition of any retail food store as an asset in bankruptcy.

A license holder authorized to acquire an additional license or licenses in accordance with this subsection shall be exempt from the restrictions established in ¹subsection a. of this section and shall be entitled to offer alcoholic beverages for sale at such retail food store so acquired in the same public retail store floor area as merchandise including, but not limited to, groceries and other food stuffs on the same licensed premises, except in connection with a relocation of an existing retail food store to a new location in the same licensing municipality that will employ all of the existing prevailing wage positions at the new location of the retail food store section 3 of this act, P.L. c. (C.)(pending before the Legislature as this bill)¹. The exemption established pursuant to this subsection shall not be transferred to any other location unless the operation of such retail food store, along with the plenary retail ¹consumption distribution¹ license, is so transferred.

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

¹[3.] 4.¹ This act shall take effect immediately ¹[.] and¹ be retroactive to the first day of the 85th month prior to the date of enactment ¹[, and expire 90 days]. Sections 1 and 2 shall not apply on or after the 180th day¹ next following the date of enactment.

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