

SENATE, No. 156

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen and Passaic)

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Authorizes retailer to accept exchange of unopened container of wine.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the retail sale of alcoholic beverages and
2 amending R.S.33:1-12.

3

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

6

7 1. R.S.33:1-12 is amended to read as follows:

8 33:1-12. Class C licenses shall be subdivided and classified as
9 follows:

10 Plenary retail consumption license. 1. The holder of this
11 license shall be entitled, subject to rules and regulations, to sell any
12 alcoholic beverages for consumption on the licensed premises by
13 the glass or other open receptacle, and also to sell any alcoholic
14 beverages in original containers for consumption off the licensed
15 premises; but this license shall not be issued to permit the sale of
16 alcoholic beverages in or upon any premises in which a grocery,
17 delicatessen, drug store or other mercantile business is carried on,
18 except as hereinafter provided. The holder of this license shall be
19 permitted to conduct consumer wine, beer and spirits tasting events
20 and samplings for a fee or on a complimentary basis pursuant to
21 conditions established by rules and regulations of the Division of
22 Alcoholic Beverage Control~~[,]~~; provided~~,~~ however, that the holder
23 of this license complies with the terms and conditions set forth in
24 section 3 of P.L.2009, c.216 (C.33:1-12d). Subject to **[such]** rules
25 and regulations established **[from time to time]** by the director, the
26 holder of this license shall be permitted to sell alcoholic beverages
27 in or upon the premises in which any of the following is carried on:
28 the keeping of a hotel or restaurant including the sale of mercantile
29 items incidental thereto as an accommodation to patrons; the sale, at
30 an entertainment facility as defined in R.S.33:1-1, having a seating
31 capacity for no less than 4,000 patrons, of mercantile items
32 traditionally associated with the type of event or program held at
33 the site; the sale of distillers', brewers' and vintners' packaged
34 merchandise prepacked as a unit with other suitable objects as gift
35 items to be sold only as a unit; the sale of novelty wearing apparel
36 identified with the name of the establishment licensed under the
37 provisions of this section; the sale of cigars, cigarettes, packaged
38 crackers, chips, nuts, and similar snacks and ice at retail as an
39 accommodation to patrons, or the retail sale of nonalcoholic
40 beverages as accessory beverages to alcoholic beverages; or, in
41 commercial bowling establishments, the retail sale or rental of
42 bowling accessories and the retail sale from vending machines of
43 candy, ice cream and nonalcoholic beverages. The fee for this
44 license shall be fixed by the governing board or body of the
45 municipality in which the licensed premises are situated, by
46 ordinance, at not less than \$250 and not more than \$2,500. **[No]** An

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.

1 ordinance shall not be enacted ~~【which shall】~~ to raise or lower the
2 fee to be charged for this license by more than ~~【20%】~~ 20 percent
3 from that charged in the preceding license year or ~~【\$500.00】~~ \$500,
4 whichever is ~~【the lesser】~~ less. The governing board or body of
5 each municipality may, by ordinance, enact that ~~【no】~~ a plenary
6 retail consumption license shall not be granted within its respective
7 municipality.

8 The holder of this license shall be permitted to obtain a restricted
9 brewery license issued pursuant to subsection 1c. of R.S.33:1-10
10 and to operate a restricted brewery immediately adjoining the
11 licensed premises in accordance with the restrictions set forth in
12 that subsection. All fees related to the issuance of both licenses
13 shall be paid in accordance with statutory law.

14 Seasonal retail consumption license. 2. The holder of this
15 license shall be entitled, subject to rules and regulations, to sell any
16 alcoholic beverages for consumption on the licensed premises by
17 the glass or other open receptacle, and also to sell any alcoholic
18 beverages in original containers for consumption off the licensed
19 premises, during the summer season from May 1 until November
20 14, inclusive, or during the winter season from November 15 until
21 April 30, inclusive; but this license shall not be issued to permit the
22 sale of alcoholic beverages in or upon any premises in which a
23 grocery, delicatessen, drug store or other mercantile business is
24 carried on, except as hereinafter provided. Subject to ~~【such】~~ rules
25 and regulations established ~~【from time to time】~~ by the director, the
26 holder of this license shall be permitted to sell alcoholic beverages
27 in or upon the premises in which any of the following is carried on:
28 the keeping of a hotel or restaurant including the sale of mercantile
29 items incidental thereto as an accommodation to patrons; the sale of
30 distillers', brewers' and vintners' packaged merchandise prepacked
31 as a unit with other suitable objects as gift items to be sold only as a
32 unit; the sale of novelty wearing apparel identified with the name of
33 the establishment licensed under the provisions of this section; the
34 sale of cigars, cigarettes, packaged crackers, chips, nuts, and similar
35 snacks and ice at retail as an accommodation to patrons; or the retail
36 sale of nonalcoholic beverages as accessory beverages to alcoholic
37 beverages. The fee for this license shall be fixed by the governing
38 board or body of the municipality in which the licensed premises
39 are situated, by ordinance, at ~~【75%】~~ 75 percent of the fee fixed by
40 ~~【said】~~ the board or body for plenary retail consumption licenses.
41 The governing board or body of each municipality may, by
42 ordinance, enact that ~~【no】~~ a seasonal retail consumption license
43 shall not be granted within its respective municipality.

44 Plenary retail distribution license. 3. a The holder of this
45 license shall be entitled, subject to rules and regulations, to sell any
46 alcoholic beverages for consumption off the licensed premises, but
47 only in original containers; except that licensees shall be permitted

1 to conduct consumer wine, beer, and spirits tasting events and
2 samplings on a complimentary basis pursuant to conditions
3 established by rules and regulations of the Division of Alcoholic
4 Beverage Control~~[,]~~ ; provided, however, that the holder of this
5 license complies with the terms and conditions set forth in section 3
6 of P.L.2009, c.216 (C.33:1-12d). The holder of this license shall
7 also be entitled, subject to the licensee's discretion, to accept an
8 exchange of an unopened container of wine which was not
9 purchased from the licensee. The licensee shall retain a record of
10 the exchange, at the discretion of the director.

11 The governing board or body of each municipality may, by
12 ordinance, enact that this license shall not be issued to permit the
13 sale of alcoholic beverages in or upon any premises in which any
14 other mercantile business is carried on, except that any ~~[such]~~
15 ordinance~~[,]~~ heretofore or hereafter adopted, shall not prohibit the
16 retail sale of distillers', brewers' and vintners' packaged
17 merchandise prepacked as a unit with other suitable objects as gift
18 items to be sold only as a unit; the sale of novelty wearing apparel
19 identified with the name of the establishment licensed under the
20 provisions of this act; cigars, cigarettes, packaged crackers, chips,
21 nuts, and similar snacks, ice, and nonalcoholic beverages as
22 accessory beverages to alcoholic beverages. The fee for this license
23 shall be fixed by the governing board or body of the municipality in
24 which the licensed premises are situated, by ordinance, at not less
25 than \$125 and not more than \$2,500. ~~[No]~~ An ordinance shall not
26 be enacted ~~[which shall]~~ to raise or lower the fee to be charged for
27 this license by more than ~~[20%]~~ 20 percent from that charged in the
28 preceding license year or ~~[\$500.00]~~ \$500, whichever is ~~[the lesser]~~
29 less. The governing board or body of each municipality may, by
30 ordinance, enact that ~~[no]~~ a plenary retail distribution license shall
31 not be granted within its respective municipality.

32 Limited retail distribution license. 3. b. The holder of this
33 license shall be entitled, subject to rules and regulations, to sell any
34 unchilled, brewed, malt alcoholic beverages in quantities of not less
35 than 72 fluid ounces for consumption off the licensed premises, but
36 only in original containers; provided, however, that this license
37 shall be issued only for premises operated and conducted by the
38 licensee as a bona fide grocery store, meat market, meat and
39 grocery store, delicatessen, or other type of bona fide food store at
40 which groceries or other foodstuffs are sold at retail; and provided
41 further that this license shall not be issued except for premises at
42 which the sale of groceries or other foodstuffs is the primary and
43 principal business and at which the sale of alcoholic beverages is
44 merely incidental and subordinate thereto. The fee for this license
45 shall be fixed by the governing body or board of the municipality in
46 which the licensed premises are situated, by ordinance, at not less
47 than \$31 and not more than \$63. The governing board or body of

1 each municipality may, by ordinance, enact that **【no】** a limited
2 retail distribution license shall not be granted within its respective
3 municipality.

4 Plenary retail transit license. 4. The holder of this license
5 shall be entitled, subject to rules and regulations, to sell any
6 alcoholic beverages, for consumption only, on railroad trains,
7 airplanes, limousines and boats, while in transit. The fee for this
8 license for use by a railroad or air transport company shall be \$375,
9 for use by the owners of limousines shall be \$31 per vehicle, and
10 for use on a boat shall be \$63 on a boat 65 feet or less in length,
11 \$125 on a boat more than 65 feet in length but not more than 110
12 feet in length, and \$375 on a boat more than 110 feet in length;
13 **【such】** the boat lengths shall be determined in the manner
14 prescribed by the Bureau of Customs of the United States
15 Government or any federal agency successor thereto for boat
16 measurement in connection with issuance of marine documents. A
17 license issued under this provision to a railroad or air transport
18 company shall cover all railroad cars and planes operated by **【any**
19 **such】** the company within the State of New Jersey. A license for a
20 boat or limousine issued under this provision shall apply only to the
21 particular boat or limousine for which it is issued, and shall permit
22 the purchase of alcoholic beverages for sale or service in a boat or
23 limousine to be made from any Class A and B licensee or from any
24 Class C licensee whose license privilege permits the sale of
25 alcoholic beverages in original containers for off-premises
26 consumption. An interest in a plenary retail transit license issued in
27 accordance with this section shall be excluded in determining the
28 maximum number of retail licenses permitted under P.L.1962, c.152
29 (C.33:1-12.31 et seq.).

30 Club license. 5. The holder of this license shall be entitled,
31 subject to rules and regulations, to sell any alcoholic beverages but
32 only for immediate consumption on the licensed premises and only
33 to bona fide club members and their guests. The fee for this license
34 shall be fixed by the governing board or body of the municipality in
35 which the licensed premises are situated, by ordinance, at not less
36 than \$63 and not more than \$188. The governing board or body of
37 each municipality may, by ordinance, enact that **【no】** club licenses
38 shall not be granted within its respective municipality. Club
39 licenses may be issued only to **【such】** corporations, associations
40 and organizations **【as】** that are operated for benevolent, charitable,
41 fraternal, social, religious, recreational, athletic, or similar
42 purposes, and not for private gain, and which comply with all
43 conditions which may be imposed by the Director of the Division of
44 Alcoholic Beverage Control by rules and regulations.

45 The provisions of section 23 of P.L.2003, c.117 amendatory of
46 this section shall apply to licenses issued or transferred on or after

1 July 1, 2003, and to license renewals commencing on or after July
2 1, 2003.

3 Sporting facility license. 6. The holder of this license shall be
4 entitled, subject to rules and regulations, to sell at retail or to serve
5 any alcoholic beverages as the owner, operator, lessee, or
6 concessionaire of a sporting facility by the glass or other receptacle
7 or in original containers only on the premises of the sporting
8 facility.

9 Notwithstanding any other provision of Title 33 of the Revised
10 Statutes and subject to conditions established by the director, the
11 holder of this license may share direction and control of the
12 premises to be licensed and share proceeds and profits from the sale
13 of alcoholic beverages with the owner, operator, concessionaire, or
14 lessee of the facility. The holder of this license shall be permitted
15 to conduct consumer wine, beer, and spirits tasting events and
16 samplings for a fee or on a complimentary basis; provided,
17 however, the license holder complies with the provisions of section
18 3 of P.L.2009, c.216 (C.33:1-12d) and rules and regulations
19 promulgated thereto. Notwithstanding any law, rule, or regulation
20 to the contrary, the holder of this license shall be entitled to
21 establish an all-inclusive area within the licensed sporting facility,
22 provided the all-inclusive area is limited to one area within the
23 sporting facility for each game or event and the capacity of the all-
24 inclusive area does not exceed 500 persons.

25 The fee for this license shall be \$2,500 for venues with a
26 capacity of less than 7,500 persons; \$5,000 for venues with a
27 capacity of not less than 7,500 persons but not more than 14,999
28 persons; \$7,500 for venues with a capacity of not less than 15,000
29 persons but not more than 22,499 persons; and \$10,000 for venues
30 with a capacity of 22,500 persons or more.

31 For the purposes of this subsection:

32 "Sporting facility" means a stadium, arena, team training facility,
33 or similar venue located on public property where alcoholic
34 beverages are served or sold at retail for consumption on the
35 premises by the glass or other open receptacle or in original
36 containers.

37 "Team training facility" shall include team offices and team
38 headquarters.

39 (cf: P.L.2015, c.86, s.1)
40

41 2. This act shall take effect immediately.
42
43

44 STATEMENT

45
46 This bill authorizes certain retailers to accept an exchange of an
47 unopened container of wine which was not purchased from that
48 retailer.

1 Under the bill, a plenary retail distribution licensee is entitled, at
2 the licensee’s discretion, to exchange an unopened container of
3 wine. The customer could select a replacement wine for this
4 exchange. This legislation is similar to laws in other states,
5 including New York.