

SENATE, No. 1366

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 10, 2020

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Prohibits possession or consumption of alcoholic beverages on private property by persons under legal drinking age.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning possession and consumption of alcoholic
2 beverages by underaged persons, supplementing Title 33 of the
3 Revised Statutes, amending P.L.1985, c.311 and R.S.40:48-1,
4 and repealing section 1 of P.L.2000, c.33.

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

8
9 1. (New section) a. Any person under the legal age to
10 purchase alcoholic beverages who knowingly possesses or
11 knowingly consumes an alcoholic beverage on private property
12 shall be fined \$250 for a first offense and \$350 for a subsequent
13 offense. In addition, the court shall suspend or postpone the
14 person's drivers license for six months. If a person at the time of
15 the imposition of a sentence is less than 17 years of age, the period
16 of license postponement, including a suspension or postponement of
17 the privilege of operating a motorized bicycle, shall commence on
18 the day the sentence is imposed and shall run for a period of six
19 months after the person reaches the age of 17 years. All penalties
20 assessed under this section shall be paid to the State Treasurer and
21 may be recovered in a summary proceeding pursuant to "The
22 Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
23 seq.).

24 b. This section shall not apply to an underaged person who
25 consumes or possesses an alcoholic beverage in connection with a
26 religious observance, ceremony, or rite or to an underaged person
27 who consumes or possesses an alcoholic beverage in the presence of
28 and with the permission of a parent, guardian, or relative who has
29 attained the legal age to purchase and consume alcoholic beverages.

30 c. Nothing in this act shall apply to possession of alcoholic
31 beverages by any person while actually engaged in the performance
32 of employment by a person who is licensed under Title 33 of the
33 Revised Statutes; however, this subsection shall not be construed to
34 preclude the imposition of a penalty under this section, R.S.33:1-81,
35 or any other section of law against a person who is convicted of
36 unlawful alcoholic beverage activity on or at premises licensed for
37 the sale of alcoholic beverages.

38 d. For the purposes of this section:

39 "Guardian" means a person who has qualified as a guardian of
40 the underaged person pursuant to testamentary or court
41 appointment.

42 "Relative" means the underaged person's grandparent, aunt or
43 uncle, sibling, or any other person related by blood or affinity.

44
45 2. Section 1 of P.L.1985, c.311 (C.2C:33-17) is amended to

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 read as follows:

2 1. a. Anyone who purposely or knowingly offers or serves or
3 makes available an alcoholic beverage to a person under the legal
4 age for consuming alcoholic beverages or entices or encourages that
5 person to drink an alcoholic beverage is a disorderly person and
6 shall, upon conviction, be fined \$1,000.

7 This subsection shall not apply to a parent or guardian of the
8 person under legal age for consuming alcoholic beverages if the
9 parent or guardian is of the legal age to consume alcoholic
10 beverages or to a religious observance, ceremony or rite. This
11 subsection shall also not apply to any person in his home who is of
12 the legal age to consume alcoholic beverages who offers or serves
13 or makes available an alcoholic beverage to a person under the legal
14 age for consuming alcoholic beverages or entices that person to
15 drink an alcoholic beverage in the presence of and with the
16 permission of the parent or guardian of the person under the legal
17 age for consuming alcoholic beverages if the parent or guardian is
18 of the legal age to consume alcoholic beverages.

19 b. A person who makes real property owned, leased or
20 managed by him available to, or leaves that property in the care of,
21 another person with the purpose that alcoholic beverages will be
22 made available for consumption by, or will be consumed by,
23 persons who are under the legal age for consuming alcoholic
24 beverages is guilty of a disorderly persons offense.

25 This subsection shall not apply if:

26 (1) the real property is licensed or required to be licensed by the
27 Division of Alcoholic Beverage Control in accordance with the
28 provisions of R.S.33:1-1 et seq.;

29 (2) the person making the property available, or leaving it in the
30 care of another person, is of the legal age to consume alcoholic
31 beverages and is the parent or guardian of the person who consumes
32 alcoholic beverages while under the legal age for consuming
33 alcoholic beverages; or

34 (3) the alcoholic beverages are consumed by a person under the
35 legal age for consuming alcoholic beverages during a religious
36 observance, ceremony or rite.

37 c. For purposes of this section, an alcoholic beverage includes
38 powdered alcohol as defined by R.S.33:1-1.

39 (cf: P.L.2015, c.137, s.4)

40

41 3. R.S.40:48-1 is amended to read as follows:

42 40:48-1. Ordinances; general purpose. The governing body of
43 every municipality may make, amend, repeal and enforce
44 ordinances to:

45 Finances and property. 1. Manage, regulate and control the
46 finances and property, real and personal, of the municipality;

1 Contracts and contractor's bonds. 2. Prescribe the form and
2 manner of execution and approval of all contracts to be executed by
3 the municipality and of all bonds to be given to it;

4 Officers and employees; duties, terms and salaries. 3. Prescribe
5 and define, except as otherwise provided by law, the duties and
6 terms of office or employment, of all officers and employees; and to
7 provide for the employment and compensation of such officials and
8 employees, in addition to those provided for by statute, as may be
9 deemed necessary for the efficient conduct of the affairs of the
10 municipality;

11 Fees. 4. Fix the fees of any officer or employee of the
12 municipality for any service rendered in connection with his office
13 or position, for which no specific fee or compensation is provided.
14 In the case of salaried officers or employees, such fee shall be paid
15 into the municipal treasury;

16 Salaries instead of fees; disposition of fees. 5. Provide that any
17 officer or employee receiving compensation for his services, in
18 whole or in part by fees, whether paid by the municipality or
19 otherwise, shall be paid a salary to be fixed in the ordinance, and
20 thereafter all fees received by such officer or employee shall be
21 paid into the municipal treasury;

22 Maintain order. 6. Prevent vice, drunkenness and immorality; to
23 preserve the public peace and order; to prevent and quell riots,
24 disturbances and disorderly assemblages; **to prohibit the**
25 consumption of alcoholic beverages by underage persons on private
26 property pursuant to section 1 of P.L.2000, c.33 (C.40:48-1.2);**】**

27 Punish beggars; prevention of loitering. 7. Restrain and punish
28 drunkards, vagrants, mendicants and street beggars; to prevent
29 loitering, lounging or sleeping in the streets, parks or public places;

30 Auctions and noises. 8. Regulate the ringing of bells and the
31 crying of goods and other commodities for sale at auction or
32 otherwise, and to prevent disturbing noises;

33 Swimming; bathing costume; prohibition of public nudity. 9.
34 Regulate or prohibit swimming or bathing in the waters of, in, or
35 bounding the municipality, and to regulate or prohibit persons from
36 appearing upon the public streets, parks and places clad in bathing
37 costumes or robes, or costumes of a similar character; regulate or
38 prohibit persons from appearing in a state of nudity upon all lands
39 within its borders which are under the jurisdiction of the State
40 including, without limitation, all lands owned by, controlled by,
41 managed by or leased by the State;

42 Prohibit annoyance of persons or animals. 10. Regulate or
43 prohibit any practice tending to frighten animals, or to annoy or
44 injure persons in the public streets;

45 Animals; pounds; establishment and regulation. 11. Establish
46 and regulate one or more pounds, and to prohibit or regulate the
47 running at large of horses, cattle, dogs, swine, goats and other
48 animals, and to authorize their impounding and sale for the penalty

1 incurred, and the costs of impounding, keeping and sale; to regulate
2 or prohibit the keeping of cattle, goats or swine in any part of the
3 municipality; to authorize the destruction of dogs running at large
4 therein;

5 Hucksters. 12. Prescribe and regulate the place of vending or
6 exposing for sale articles of merchandise from vehicles;

7 Building regulations; wooden structures. 13. Regulate and
8 control the construction, erection, alteration and repair of buildings
9 and structures of every kind within the municipality; and to
10 prohibit, within certain limits, the construction, erection or
11 alteration of buildings or structures of wood or other combustible
12 material;

13 Inflammable materials; inspect docks and buildings. 14.
14 Regulate the use, storage, sale and disposal of inflammable or
15 combustible materials, and to provide for the protection of life and
16 property from fire, explosions and other dangers; to provide for
17 inspections of buildings, docks, wharves, warehouses and other
18 places, and of goods and materials contained therein, to secure the
19 proper enforcement of such ordinance;

20 Dangerous structures; removal or destruction; procedure. 15.
21 Provide for the removal or destruction of any building, wall or
22 structure which is or may become dangerous to life or health, or
23 might tend to extend a conflagration; and to assess the cost thereof
24 as a municipal lien against the premises;

25 Chimneys and boilers. 16. Regulate the construction and setting
26 up of chimneys, furnaces, stoves, boilers, ovens and other
27 contrivances in which fire is used;

28 Explosives. 17. Regulate, in conformity with the statutes of this
29 State, the manufacture, storage, sale, keeping or conveying of
30 gunpowder, nitroglycerine, dynamite and other explosives;

31 Firearms and fireworks. 18. Regulate and prohibit the sale and
32 use of guns, pistols, firearms, and fireworks of all descriptions;

33 Soft coal. 19. Regulate the use of soft coal in locomotives,
34 factories, power houses and other places;

35 Theaters, schools, churches and public places. 20. Regulate the
36 use of theaters, cinema houses, public halls, schools, churches, and
37 other places where numbers of people assemble, and the exits
38 therefrom, so that escape therefrom may be easily and safely made
39 in case of fire or panic; and to regulate any machinery, scenery,
40 lights, wires and other apparatus, equipment or appliances used in
41 all places of public amusement;

42 Excavations. 21. Regulate excavations below the established
43 grade or curb line of any street, not greater than eight feet, which
44 the owner of any land may make, in the erection of any building
45 upon his own property; and to provide for the giving of notice, in
46 writing, of such intended excavation to any adjoining owner or
47 owners, and that they will be required to protect and care for their
48 several foundation walls that may be endangered by such

1 excavation; and to provide that in case of the neglect or refusal, for
2 10 days, of such adjoining owner or owners to take proper action to
3 secure and protect the foundations of any adjacent building or other
4 structure, that the party or parties giving such notice, or their
5 agents, contractors or employees, may enter into and upon such
6 adjoining property and do all necessary work to make such
7 foundations secure, and may recover the cost of such work and
8 labor in so protecting such adjacent property; and to make such
9 further and other provisions in relation to the proper conduct and
10 performance of said work as the governing body or board of the
11 municipality may deem necessary and proper;

12 Sample medicines. 22. Regulate and prohibit the distribution,
13 depositing or leaving on the public streets or highways, public
14 places or private property, or at any private place or places within
15 any such municipality, any medicine, medicinal preparation or
16 preparations represented to cure ailments or diseases of the body or
17 mind, or any samples thereof, or any advertisements or circulars
18 relating thereto, but no ordinance shall prohibit a delivery of any
19 such article to any person above the age of 12 years willing to
20 receive the same;

21 Boating. 23. Regulate the use of motor and other boats upon
22 waters within or bounding the municipality;

23 Fire escapes. 24. Provide for the erection of fire escapes on
24 buildings in the municipality, and to provide rules and regulations
25 concerning the construction and maintenance of the same, and for
26 the prevention of any obstruction thereof or thereon;

27 Care of injured employees. 25. Provide for the payment of
28 compensation and for medical attendance to any officer or
29 employee of the municipality injured in the performance of his
30 duty;

31 Bulkheads and other structures. 26. Fix and determine the lines
32 of bulkheads or other works or structures to be erected, constructed
33 or maintained by the owners of lands facing upon any navigable
34 water in front of their lands, and in front of or along any highway or
35 public lands of said municipality, and to designate the materials to
36 be used, and the type, height and dimensions thereof;

37 Lifeguard. 27. Establish, maintain, regulate and control a
38 lifeguard upon any beach within or bordering on the municipality;

39 Appropriation for life-saving apparatus. 28. Appropriate
40 moneys to safeguard people from drowning within its borders, by
41 location of apparatus or conduct of educational work in harmony
42 with the plans of the United States volunteer life-saving corps in
43 this State;

44 Fences. 29. Regulate the size, height and dimensions of any
45 fences between the lands of adjoining owners, whether built or
46 erected as division or partition fences between such lands, and
47 whether the same exist or be erected entirely or only partly upon the
48 lands of any such adjoining owners, or along or immediately

1 adjacent to any division or partition line of such lands. To provide,
2 in such ordinance, the manner of securing, fastening or shoring such
3 fences, and for surveying the land when required by statute, and to
4 prohibit in any such ordinance the use at a height of under 10 feet
5 from the ground, of any device, such as wire or cable, that would be
6 dangerous to pedestrians, equestrians, bicyclists, or drivers of off-
7 the-road vehicles, unless that device is clearly visible to pedestrians,
8 equestrians, bicyclists or drivers of off-the-road vehicles. In the
9 case of fences thereafter erected contrary to the provisions thereof,
10 the governing body may provide for a penalty for the violation of
11 such ordinance, and in the case of such fence or fences erected or
12 existing at the time of the passage of any such ordinance, may
13 provide therein for the removal, change or alteration thereof, so as
14 to make such fence or fences comply with the provisions of any
15 such ordinance;

16 Advertise municipality. 30. Appropriate funds for advertising
17 the advantages of the municipality;

18 Government Energy Aggregation Programs. 31. Establish
19 programs and procedures pursuant to which the municipality may
20 act as a government aggregator pursuant to sections 40 through 43
21 of P.L.1999, c.23 (C.48:3-89 through C.48:3-92), section 45 of
22 P.L.1999, c.23 (C.48:3-94), and sections 1, 2 and 6 of P.L.2003,
23 c.24 (C.48:3-93.1 through C.48:3-93.3). Notwithstanding the
24 provisions of any other law, rule or regulation to the contrary, a
25 municipality acting as a government aggregator pursuant to
26 P.L.1999, c.23 (C.48:3-49 et al.) shall not be deemed to be a public
27 utility pursuant to R.S.40:62-24 or R.S.48:1-1 et seq. or be deemed
28 to be operating any form of public utility service pursuant to
29 R.S.40:62-1 et seq., to the extent such municipality is solely
30 engaged in the provision of such aggregation service and not
31 otherwise owning or operating any plant or facility for the
32 production or distribution of gas, electricity, steam or other product
33 as provided in R.S.40:62-12;

34 Joint municipal action on consent for the provision of cable
35 television service. 32. Establish programs and procedures pursuant
36 to which a municipality may act together with one or more
37 municipalities in granting municipal consent for the provision of
38 cable television service pursuant to the provisions of the "Cable
39 Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended
40 and supplemented. Notwithstanding the provisions of any other
41 law, rule or regulation to the contrary, two or more municipalities
42 acting jointly pursuant to the provisions of P.L.1972, c.186
43 (C.48:5A-1 et seq.) shall not be deemed a public utility pursuant to
44 R.S.48:1-1 et seq., to the extent those municipalities are solely
45 engaged in granting municipal consent jointly and are not otherwise
46 owning or operating any facility for the provision of cable
47 television service as provided in P.L.1972, c.186 (C.48:5A-1 et
48 seq.);

1 Private cable television service aggregation programs. 33.
2 Establish programs and procedures pursuant to which a
3 municipality may employ the services of a private aggregator for
4 the purpose of facilitating the joint action of two or more
5 municipalities in granting municipal consent for the provision of
6 cable television service provided that any such municipality shall
7 adhere to the provisions of the "Cable Television Act," P.L.1972,
8 c.186 (C.48:5A-1 et seq.) as amended and supplemented, and to the
9 provisions of the "Local Public Contracts Law," P.L.1971, c.198
10 (C.40A:11-1 et seq.) as amended and supplemented.
11 Notwithstanding the provisions of any other law, rule or regulation
12 to the contrary, a municipality that employs the services of a private
13 aggregator pursuant to the provisions of P.L.1972, c.186 (C.48:5A-
14 1 et seq.) shall not be deemed a public utility pursuant to R.S.48:1-
15 1 et seq., to the extent that the municipality is solely engaged in
16 employing the services of a private aggregator for the purpose of
17 facilitating the joint action of two or more municipalities in
18 granting municipal consent and is not otherwise owning or
19 operating any facility for the provision of cable television service as
20 provided in P.L.1972, c.186 (C.48:5A-1 et seq.);

21 Protective Custody. 34. Provide protective custody to persons
22 arrested for operating a motor vehicle under the influence of
23 alcoholic beverages, any chemical substance, or any controlled
24 dangerous substance in violation of R.S.39:4-50 as provided in
25 section 1 of P.L.2003, c.164 (C.40:48-1.3);

26 Private Outdoor Video Surveillance Camera Registry. 35.
27 Establish a private outdoor video surveillance camera registry and
28 allow voluntary registration of private outdoor video surveillance
29 cameras as provided in P.L.2015, c.142 (C.40:48-1.6 et al.).
30 (cf: P.L.2015, c.142, s.3)

31

32 4. Section 1 of P.L.2000, c.33 (C.40:48-1.2) is repealed.

33

34 5. This act shall take effect immediately.

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36

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STATEMENT

38

39 The bill provides that an underaged person is prohibited from
40 possessing or consuming an alcoholic beverage on private property,
41 unless that possession or consumption is in connection with a
42 religious observance, ceremony or rite, or the underaged person
43 possesses or consumes that beverage in the presence of and with the
44 permission of a parent, guardian or relative who is of legal age. In
45 addition, this bill establishes a mandatory \$1,000 fine for
46 knowingly offering or serving an alcoholic beverage to a person
47 under the legal drinking age.

1 Under the provisions of the bill, underaged violators possessing
2 or consuming an alcoholic beverage on private property would be
3 subject to a \$250 fine for a first offense and a \$350 fine for any
4 subsequent offense. The bill also provides that the underaged
5 person's drivers license would be suspended or postponed for six
6 months.

7 The bill includes an exemption for underaged persons who are
8 employed by alcoholic beverage licensees. This provision makes it
9 permissible for underaged persons who, for example, are working
10 as waiters, waitresses, busboys, or stock boys in restaurants or
11 liquor stores to legally possess the alcoholic beverage they are
12 delivering to a customer or placing on display for sale.

13 Finally, this bill repeals a statute that permits municipalities to
14 enact an ordinance making it unlawful for an underaged person to
15 possesses or consume an alcoholic beverage on private property.