

SENATE, No. 1466

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator NILSA CRUZ-PEREZ
District 5 (Camden and Gloucester)

SYNOPSIS

Removes plenary retail distribution license limit for certain stores.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning certain alcoholic beverage licenses, amending
2 R.S.33:1-12, 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. (New section) 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.

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

17 b. The provisions of section 1 of P.L.1962, c.152 (C.33:1-
18 12.31) shall not apply to the acquisition of an additional plenary
19 retail distribution license or licenses or an interest therein when that
20 license is issued to a person:

21 (1) for use in connection with the operation of a retail food store
22 at which the retail sale of groceries and other food stuffs is the
23 primary and principal business and constitutes at least 65 percent of
24 the store’s total annual sales in dollars in the last full calendar year
25 preceding that person’s initial acquisition of the additional plenary
26 retail distribution license or licenses or 65 percent of the total
27 annual sales of the New Jersey food stores if the additional plenary
28 distribution license or licenses is for a newly constructed or
29 acquired store; or

30 (2) who certifies to the licensing authority that the additional
31 plenary retail distribution license or licenses is to be used in
32 connection with the operation of a premises at which the sale of
33 alcoholic beverages is the primary and principal business and will
34 constitute at least 90 percent of the store’s annual sales.

35 c. Upon application for renewal of a plenary retail distribution
36 license acquired pursuant to paragraph 1 of subsection b. of this
37 section, a licensee that has used the plenary retail distribution
38 license in connection with a retail food store for at least 18 months
39 prior to the renewal date shall furnish adequate proof to the
40 licensing authority that the combination of groceries or other food
41 stuffs and alcoholic beverages constitutes at least 65 percent of the
42 retail food store’s total annual sales in dollars in the last full
43 calendar year.

44 d. Upon application for renewal of a plenary retail distribution
45 license acquired pursuant to paragraph 2 of subsection b. of this

**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 section, the licensee shall furnish adequate proof to the licensing
2 authority that the sale of alcoholic beverages constitutes at least 90
3 percent of the store's annual sales.

4 e. Immediately following the effective date of this act until the
5 first day of the 61st month following the effective date of this act, a
6 licensee who acquires an additional plenary retail distribution
7 license pursuant to this section shall be prohibited from acquiring or
8 owning all or part of an interest in more than five plenary retail
9 distribution licenses issued in this State, which number shall include
10 any plenary retail distribution license issued prior to the effective
11 date of this act.

12 f. On the first day of the 61st month following the effective
13 date of this act until the first day of the 121st month following the
14 effective date of this act, a licensee who acquires an additional
15 plenary retail distribution license pursuant to this section shall be
16 prohibited from acquiring or owning all or part of an interest in
17 more than seven plenary retail distribution licenses issued in this
18 State, which number shall include any plenary retail distribution
19 license issued prior to the effective date of this act.

20 g. On the first day of the 121st month following the effective
21 date of this act, a licensee who acquires an additional plenary retail
22 distribution license pursuant to this section shall be prohibited from
23 acquiring or owning all or part of an interest in more than 10
24 plenary retail distribution licenses issued in this State, which
25 number shall include any plenary retail distribution license issued
26 prior to the effective date of this act.

27 h. Nothing in this section shall be construed to authorize the
28 issuance of any new plenary retail distribution license in addition to
29 those currently permitted in a municipality pursuant to sections 2
30 and 3 of P.L.1947, c.94 (C.33:1-12.14 and 33:1-12.15).

31

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

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

35 Plenary retail consumption license. 1. The holder of this license
36 shall be entitled, subject to rules and regulations, to sell any
37 alcoholic beverages for consumption on the licensed premises by
38 the glass or other open receptacle, and also to sell any alcoholic
39 beverages in original containers for consumption off the licensed
40 premises; but this license shall not be issued to permit the sale of
41 alcoholic beverages in or upon any premises in which a grocery,
42 delicatessen, drug store or other mercantile business is carried on,
43 except as hereinafter provided. The holder of this license shall be
44 permitted to conduct consumer wine, beer and spirits tasting events
45 and samplings for a fee or on a complimentary basis pursuant to
46 conditions established by rules and regulations of the Division of
47 Alcoholic Beverage Control, provided however, that the holder of
48 this license complies with the terms and conditions set forth in

1 section 3 of P.L.2009, c.216 (C.33:1-12d). Subject to such rules
2 and regulations established from time to time by the director, the
3 holder of this license shall be permitted to sell alcoholic beverages
4 in or upon the premises in which any of the following is carried on:
5 the keeping of a hotel or restaurant including the sale of mercantile
6 items incidental thereto as an accommodation to patrons; the sale, at
7 an entertainment facility as defined in R.S.33:1-1, having a seating
8 capacity for no less than 4,000 patrons, of mercantile items
9 traditionally associated with the type of event or program held at
10 the site; the sale of distillers', brewers' and vintners' packaged
11 merchandise prepacked as a unit with other suitable objects as gift
12 items to be sold only as a unit; the sale of novelty wearing apparel
13 identified with the name of the establishment licensed under the
14 provisions of this section; the sale of cigars, cigarettes, packaged
15 crackers, chips, nuts and similar snacks and ice at retail as an
16 accommodation to patrons, or the retail sale of nonalcoholic
17 beverages as accessory beverages to alcoholic beverages; or, in
18 commercial bowling establishments, the retail sale or rental of
19 bowling accessories and the retail sale from vending machines of
20 candy, ice cream and nonalcoholic beverages. The fee for this
21 license shall be fixed by the governing board or body of the
22 municipality in which the licensed premises are situated, by
23 ordinance, at not less than \$250 and not more than \$2,500. No
24 ordinance shall be enacted which shall raise or lower the fee to be
25 charged for this license by more than 20% from that charged in the
26 preceding license year or \$500.00, whichever is the lesser. The
27 governing board or body of each municipality may, by ordinance,
28 enact that no plenary retail consumption license shall be granted
29 within its respective municipality.

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

36 Seasonal retail consumption license. 2. (1) The holder of this
37 license shall be entitled, subject to rules and regulations, to sell any
38 alcoholic beverages for consumption on the licensed premises by
39 the glass or other open receptacle, and also to sell any alcoholic
40 beverages in original containers for consumption off the licensed
41 premises, during the summer season from May 1 until November
42 14, inclusive, or during the winter season from November 15 until
43 April 30, inclusive.

44 (2) In addition, the director shall issue to the holder of this
45 license, upon request by the licensee, one-day permits that shall
46 entitle the license holder to sell alcoholic beverages for
47 consumption on the licensed premises during the season when the
48 license holder is not authorized to sell alcoholic beverages pursuant

1 to subparagraph (1) of this subsection. The number of one-day
2 permits issued to a licensee pursuant to this subsection shall not
3 exceed an aggregate of 14 permits in one calendar year. A one-day
4 permit issued pursuant to this subsection shall be valid for 24
5 consecutive hours. The fee for each one-day permit shall be \$500.

6 The governing body of the municipality in which the licensed
7 premises is situated may place reasonable conditions upon a one-
8 day permit for the purpose of maintaining public safety on the
9 licensed premises and immediately surrounding area. The costs
10 associated with the reasonable conditions placed on the one-day
11 permit shall be assumed by the holder of this license.

12 (3) This license shall not be issued to permit the sale of
13 alcoholic beverages in or upon any premises in which a grocery,
14 delicatessen, drug store or other mercantile business is carried on,
15 except as hereinafter provided. Subject to such rules and
16 regulations established from time to time by the director, the holder
17 of this license shall be permitted to sell alcoholic beverages in or
18 upon the premises in which any of the following is carried on: the
19 keeping of a hotel or restaurant including the sale of mercantile
20 items incidental thereto as an accommodation to patrons; the sale of
21 distillers', brewers' and vintners' packaged merchandise prepacked
22 as a unit with other suitable objects as gift items to be sold only as a
23 unit; the sale of novelty wearing apparel identified with the name of
24 the establishment licensed under the provisions of this section; the
25 sale of cigars, cigarettes, packaged crackers, chips, nuts and similar
26 snacks and ice at retail as an accommodation to patrons; or the retail
27 sale of nonalcoholic beverages as accessory beverages to alcoholic
28 beverages. The fee for this license shall be fixed by the governing
29 board or body of the municipality in which the licensed premises
30 are situated, by ordinance, at 75% of the fee fixed by said board or
31 body for plenary retail consumption licenses. The governing board
32 or body of each municipality may, by ordinance, enact that no
33 seasonal retail consumption license shall be granted within its
34 respective municipality.

35 Plenary retail distribution license. 3. a. The holder of this license
36 shall be entitled, subject to rules and regulations, to sell any
37 alcoholic beverages for consumption off the licensed premises, but
38 only in original containers; except that licensees shall be permitted
39 to conduct consumer wine, beer, and spirits tasting events and
40 samplings on a complimentary basis pursuant to conditions
41 established by rules and regulations of the Division of Alcoholic
42 Beverage Control, provided however, that the holder of this license
43 complies with the terms and conditions set forth in section 3 of
44 P.L.2009, c.216 (C.33:1-12d).

45 The governing board or body of each municipality may, by
46 ordinance, enact that this license shall not be issued to permit the
47 sale of alcoholic beverages in or upon any premises in which any
48 other mercantile business is carried on, except that any such

1 ordinance, heretofore or hereafter adopted, shall not prohibit the
2 retail sale of distillers', brewers' and vintners' packaged
3 merchandise prepacked as a unit with other suitable objects as gift
4 items to be sold only as a unit; the sale of novelty wearing apparel
5 identified with the name of the establishment licensed under the
6 provisions of this act; cigars, cigarettes, packaged crackers, chips,
7 nuts and similar snacks, ice, and nonalcoholic beverages as
8 accessory beverages to alcoholic beverages. The fee for this license
9 shall be fixed by the governing board or body of the municipality in
10 which the licensed premises are situated, by ordinance, at not less
11 than \$125 and not more than \$2,500. No ordinance shall be enacted
12 which shall raise or lower the fee to be charged for this license by
13 more than 20% from that charged in the preceding license year or
14 \$500.00, whichever is the lesser. The governing board or body of
15 each municipality may, by ordinance, enact that no plenary retail
16 distribution license shall be granted within its respective
17 municipality.

18 A license transfer fee shall be imposed on the initial transfer of
19 each plenary retail distribution license, which pursuant to section 1
20 of P.L. , c. (C.) (pending before the Legislature as this
21 bill), is transferred to a licensee holding two or more licenses. This
22 license transfer fee, which shall be equal to 10 percent of the price
23 paid for the plenary retail distribution license, shall be paid by the
24 acquiring licensee, at the time that the plenary retail distribution
25 license is transferred, to the municipality in which the licensed
26 premises is situated.

27 Limited retail distribution license. 3. b. The holder of this license
28 shall be entitled, subject to rules and regulations, to sell any
29 unchilled, brewed, malt alcoholic beverages in quantities of not less
30 than 72 fluid ounces for consumption off the licensed premises, but
31 only in original containers; provided, however, that this license
32 shall be issued only for premises operated and conducted by the
33 licensee as a bona fide grocery store, meat market, meat and
34 grocery store, delicatessen, or other type of bona fide food store at
35 which groceries or other foodstuffs are sold at retail; and provided
36 further that this license shall not be issued except for premises at
37 which the sale of groceries or other foodstuffs is the primary and
38 principal business and at which the sale of alcoholic beverages is
39 merely incidental and subordinate thereto. The fee for this license
40 shall be fixed by the governing body or board of the municipality in
41 which the licensed premises are situated, by ordinance, at not less
42 than \$31 and not more than \$63. The governing board or body of
43 each municipality may, by ordinance, enact that no limited retail
44 distribution license shall be granted within its respective
45 municipality.

46 Plenary retail transit license. 4. The holder of this license shall be
47 entitled, subject to rules and regulations, to sell any alcoholic
48 beverages, for consumption only, on railroad trains, airplanes,

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

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

38 The provisions of section 23 of P.L.2003, c.117 amendatory of
39 this section shall apply to licenses issued or transferred on or after
40 July 1, 2003, and to license renewals commencing on or after July
41 1, 2003.

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

1 following the effective date of the bill, a person may own or have
2 an interest in a maximum of five retail licenses, including any retail
3 license acquired prior to the bill's effective date. Five years
4 following the effective date of the bill, a person may hold no more
5 than a total of seven retail licenses. Finally, 10 years following the
6 bill's effective date, a person may hold no more than a total of 10
7 retail licenses.

8 Individuals who acquire more than two licenses under the
9 provisions of the bill are required to pay a license transfer fee on
10 each additional license that they acquire. The transfer fee is set at
11 10 percent of the amount the entity paid for the license and is
12 payable to the municipality in which the licensed premises is
13 situated.

14 It is important to note that this bill does not increase the number
15 of licenses that a municipality may issue.