SENATE, No. 1533

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator JAMES BEACH
District 6 (Burlington and Camden)

SYNOPSIS

Exempts certain plenary winery licensees from filing requirements imposed on retail sellers of litter-generating products.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning plenary winery licensees and litter-generating products and amending P.L.2002, c.128.

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

1. Section 4 of P.L.2002, c.128 (C.13:1E-216) is amended to read as follows:

4. a. There is imposed upon each person engaged in business in the State as a manufacturer, wholesaler, or distributor of litter-generating products a user fee of 3/100 of 1 **[**%**]** percent (.0003) on sales of those products within the State, and each person engaged in business in the State as a retailer of litter-generating products a user fee of 2.25/100 of 1 **[**%**]** percent (.000225) on sales of those products within the State, except any retailer with less than **[**$500,000.00**]** $500,000 in annual retail sales of litter-generating products is exempt from the user fee imposed under this section. A sale by a wholesaler or distributor to another wholesaler or distributor, a sale by a company to another company owned wholly by the same individuals or companies, or a sale by a wholesaler or distributor owned cooperatively by retailers to those retailers is not subject to the user fee imposed under this section. For the purposes of this section, "retailer" includes the owner or operator of a take-out or drive-thru restaurant, the principal activity of which consists of selling for consumption off the premises of the restaurant a meal or food prepared and ready to be eaten. A retailer shall not include (1) the owner or operator of a restaurant with less than 10 **[**%**]** percent in annual retail sales of meals or food prepared and ready to be eaten for consumption off the premises of the restaurant; or (2) the owner or operator of a restaurant, the principal activity of which consists of preparing for consumption within the restaurant a meal or food to be eaten on the premises.

b. Every person subject to the user fee on the sale of litter-generating products imposed pursuant to subsection a. of this section shall file with the director a certificate of registration on a form prescribed by the director. Any person who is registered under any law administered by the division or who is subject to and files returns under any of these laws shall not be required to comply with the provisions of this subsection.

c. Every person subject to the user fee on the sale of litter-generating products imposed pursuant to subsection a. of this section shall, on or before March 15 of each year, prepare and file a return, under oath, for the preceding calendar year with the director on forms and containing any information as the director shall prescribe. The return shall indicate the dollar value of the sales within the State of litter-generating products and at the same time the person shall pay the

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.

full amount of user fees due. The holder of a plenary winery license issued pursuant to R.S.33:1-10 who generates less than $500,000 in annual retail sales of litter-generating products is exempt from the return filing requirements established in this section or any other law, rule, or regulation.

d. If a return required by this section is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of user fees due shall be determined by the director based on collections from the person liable for the payment of the user fees during the previous five years. Notice of the determination shall be given to the person liable for the payment of the user fees. The determination shall finally and irrevocably fix the user fees unless the person against whom it is assessed, within 90 days after the giving of the notice of the determination, shall file a protest in writing as provided in R.S.54:49-18 and request a hearing, or unless the director on the director's own motion shall redetermine the same. After the hearing the director shall give notice of the determination to the person to whom the user fees are assessed.

e. Any person who shall fail to file a return when due or to pay any user fee when the user fee becomes due, as herein provided, shall be subject to such penalties and interest as may be provided by law. If the director determines that the failure to comply with any provision of this section was excusable under the circumstances, the director may remit any part of the penalty as shall be appropriate under the circumstances.

f. In addition to the other powers granted by this section, the director may:

(1) Delegate to any officer or employee of the division those powers and duties as the director may deem necessary to carry out efficiently the provisions of this section, and the person or persons to whom the powers have been delegated shall possess and may exercise all of the powers and perform all of the duties delegated by the director;

(2) Prescribe and distribute all necessary forms for the implementation of this section; and

(3) Adopt any rules and regulations necessary for the implementation of this section.

g. Notwithstanding the provisions of subparagraph (C) of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), if any, to the contrary, any deduction of the user fee imposed pursuant to subsection a. of this section allowed in computing a taxpayer's taxable income which the taxpayer is required to report to the United States Treasury Department for the purpose of computing its federal taxable income shall be allowed in determining the taxpayer's "entire net income" pursuant to subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4).

h. Subsections a. through g. of this section shall be without effect on and after the tenth day following a certification by the

Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 13 of P.L.2002, c.128 (C.13:1E-223).
(cf: P.L.2002, c.128, s.4)

2. This act shall take effect immediately.

STATEMENT

This bill would exempt the holder of a plenary winery license, in most cases, from filing requirements with regard to the user fee imposed on retail sellers of litter-generating products. Current law exempts from the user fee a retail seller of less than $500,000 in annual retail sales of litter-generating products and requires a return to be filed by retail sellers upon whom the user fee is imposed. The bill would affirmatively establish the exemption from the return filing requirement for a holder of a plenary winery license who has less than $500,000 in annual retail sales of litter-generating products and who is already exempt from the user fee.