SENATE, No. 1712

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)

SYNOPSIS

Allows municipality to issue permits to sell alcoholic beverages in residential redevelopment areas.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning alcoholic beverage licenses and supplementing Title 33 of the Revised Statutes

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

1. a. As used in this section,

"Eligible municipality" means a city of the second class located in a county of the first class in which a transit village is located and which has a population of greater than 40,000 but less than 49,000, according to the latest decennial census.

"Residential dwelling unit" means a house, townhouse, apartment, cooperative, or condominium for which a certificate of occupancy has been issued and which is occupied for dwelling purposes by one or more persons living independently of persons in similar dwelling units.

"Shopping mall" means an enclosed walkway or hall area under common ownership or control which is open to the public and connects with or provides access to separate retail establishments.

"Special permit" means a non-transferable permit issued pursuant to this section that allows the permit holder to sell any alcoholic beverages for consumption on the premises by the glass or other open receptacle.

"Transit village" means a community with a bus, train, light rail, or ferry station that has been designated by the New Jersey Department of Transportation as a transit village.

b. An eligible municipality in which the number of plenary retail consumption licenses has reached the population limitation established in section 2 of P.L.1947, c.94 (C.33:1-12.14) may issue one special permit for every 100 residential dwelling units constructed prior to or following the effective date of this act in accordance with a redevelopment plan adopted pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.).

c. Prior to issuing a permit pursuant to this section, the municipal issuing authority shall file an application with the director. The application shall be made on forms furnished by the director and shall require the eligible municipality to demonstrate that a certificate of occupancy has been approved for the required number of residential dwelling units necessary to issue additional permits.

d. The issuing municipality shall establish an application process for the permit. The person to whom the permit is issued shall be randomly selected by the eligible municipality from a pool of qualified applicants. Permits shall be issued only for use at a premises located in a redevelopment area as described in the redevelopment plan.

The municipal issuing authority may prescribe qualifications for prospective applicants including, but not limited to, the requirement that the applicant offer alcoholic beverages for sale during certain hours as a condition of being awarded the permit.

e. A permit issued pursuant to this section shall not be transferred to another premises. A permit shall not be issued to a person or entity which holds an interest in:

(1) a plenary retail consumption license in this State; or

(2) more than five licenses issued by out-of-State jurisdictions that allow the holder to sell alcoholic beverages for consumption on the licensed premises.

f. The permit shall be used in connection with the operation of a premises within six months of the date of issuance. The municipal issuing authority may acquire the permit for reissuance in accordance with subsection d. of this section if the permit is not actively used:

(1) within six months of the issuance date;

(2) for more than six months due to the establishment's closure;

(3) due to a suspension for more than six months or revocation for a violation of Title 2C of the New Jersey Statutes or Title 33 of the Revised Statutes; or

(4) to offer alcoholic beverages for sale during the hours prescribed by the municipal issuing authority as a condition of awarding the permit.

g. The fee for the permit shall be $25,000 for the first year of the permit's issuance and $15,000 for each year thereafter.

h. For 15 years immediately following the initial issuance of the permit the fee shall be distributed in the following manner:

(1) Twenty percent shall be paid to the eligible municipality wherein the redevelopment plan is adopted; and

(2) Eighty percent shall be divided equally among and paid to the active plenary retail consumption licensees in the eligible municipality or municipalities in which the premises will be located, excluding plenary consumption licensees located or affiliated with a shopping mall as defined in this bill.

i. On the first day of the 181st month following the initial issuance of the permit, the annual fee shall be paid to the eligible municipality wherein the redevelopment plan is adopted.

j. The holder of a permit who, following the effective date of this act, obtains an interest in a plenary retail consumption license within the eligible municipality shall not receive a fee pursuant to subsection h. of this section.

k. Except in the case of a revoked permit, the municipal issuing authority, for good cause and after a hearing, may authorize the person to whom the permit is issued to maintain the permit in an inactive status for more than six months upon demonstration that the person is making a good faith effort to use, or resume active use of, the permit.

l. Except as otherwise provided by this section, a permit shall be used in a manner consistent with a plenary retail consumption license issued pursuant to R.S.33:1-12 and shall be subject to any other fees and regulations promulgated by the director.

m. A permit shall not be issued pursuant to this section or used in connection with a premises connected to, located within, or under the control of a shopping mall.

2. This act shall take effect on the first day of the third month following enactment, but the Director of the Division of Alcoholic Beverage Control may take any administrative action in advance of that date as may be necessary for the timely implementation of this act.

STATEMENT

This bill allows for the issuance of permits to sell alcoholic beverages within the redevelopment district of certain municipalities that have adopted a Smart Growth Redevelopment Plan for the purpose of attracting residential development to transit hubs within and surrounding redevelopment districts. Specifically, the bill applies to cities of the second class located in a county of the first class with a population of greater than 40,000 but less than 49,000, according to the latest decennial census, which currently includes the municipality of Hackensack. Under the bill, a permit holder would be allowed to sell any alcoholic beverages for consumption on the premises by the glass or other open receptacle.

The bill allows a municipality to issue a special permit for every 100 residential dwelling units constructed prior to or following the bill's effective date in accordance with a redevelopment plan. Prior to issuing a permit, the municipality is required to file an application with the Director of the Division of Alcoholic Beverage Control (ABC) demonstrating that a certificate of occupancy has been approved for the required number of residential dwellings necessary to issue additional licenses.

The bill requires the municipal issuing authority to randomly select the person to whom the permit is issued from a pool of qualified applicants. The municipal issuing authority may prescribe qualifications for prospective applicants, as a condition of being awarded the permit, including the requirement that applicants operate during certain hours. The bill prohibits transferring a permit to another premises or individual.

In addition, the bill allows a municipality to acquire and reissue a permit that goes unused or is otherwise revoked or suspended. Under the bill, a municipality may acquire a permit that is not actively used within six months of the date of issuance or for more than six months due to the establishment's closure. A municipality also may acquire a permit that is suspended or revoked for more than six months due to a violation of the criminal code or the alcoholic beverage licensing statutes. The bill also allows a municipality to acquire a permit if the permit holder fails to offer alcoholic beverages for sale during the

times prescribed by the municipality. Except in the case of a revoked permit, a municipality may authorize the permit holder to maintain the permit in an inactive status for more than six months upon demonstration that the permit holder is making a good faith effort to use, or resume active use of, the permit.

The annual fee for the permit is to be $25,000 for the first year of the permit's issuance and $15,000 for each year thereafter. For 15 years immediately following the initial issuance of the permit, the fee is to be distributed to the eligible municipality (20%) and the other licensees in the municipality (80%) Following the initial 15 year period, the entire fee is to be distributed to the eligible municipality.

Under current law, a municipality may issue plenary retail consumption licenses until the combined total number in the municipality is fewer than one license for each 3,000 persons. Because of these restrictions, there is a shortage of licenses in some municipalities. This bill addresses this shortage by allowing an eligible municipality that has approved a redevelopment plan to issue permits to sell alcoholic beverages based on the number of newly constructed residential units.