

SENATE, No. 2236

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 16, 2020

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

SYNOPSIS

Authorizes certain restaurants to advertise that patrons may bring their own beer or wine or purchase wine from on premises salesroom.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT authorizing certain restaurants to advertise the availability
 2 of wine or beer and amending P.L.1999, c.90.

3
 4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 5 *of New Jersey:*

6
 7 1. Section 5 of P.L.1999, c.90 (C.2C:33-27) is amended to read
 8 as follows:

9 5. Consumption of alcohol in restaurants.

10 a. **[No]** A person who owns or operates a restaurant, dining
 11 room, or other public place where food or liquid refreshments are
 12 sold or served to the general public, and for which premises a
 13 license or permit authorizing the sale of alcoholic beverages for on-
 14 premises consumption has not been issued shall not:

15 (1) **[Shall]** allow the consumption of alcoholic beverages, other
 16 than wine or a malt alcoholic beverage, in a portion of the premises
 17 which is open to the public; **[or]**

18 (2) **[Shall]** charge any admission fee or cover, corkage, or
 19 service charge **[or]** advertise inside or outside of such premises that
 20 patrons may bring and consume their own wine or malt alcoholic
 21 beverages in a portion of the premises which is open to the public. **];**
 22 or

23 (3) **[Shall]** allow the consumption of wine or malt alcoholic
 24 beverages at times or by persons to whom the service or
 25 consumption **[or]** of alcoholic beverages on the licensed premises
 26 is prohibited by State or municipal law or regulation.

27 b. (1) Nothing in this act shall restrict the right of a
 28 municipality or an owner or operator of a restaurant, dining room,
 29 or other public place where food or liquid refreshments are sold or
 30 served to the general public from prohibiting the consumption of
 31 alcoholic beverages on those premises.

32 (2) Nothing in this act shall restrict the right of an owner or
 33 operator of a restaurant, dining room, or other unlicensed public
 34 premises where food or liquid refreshments are sold or served to the
 35 general public from advertising inside or outside of the premises
 36 that patrons may:

37 (a) bring and consume their own wine or malt alcoholic
 38 beverages in a portion of the premises which is open to the public;
 39 or

40 (b) purchase wine from a salesroom located on the premises as
 41 authorized by subsections 2a., 2b., or 2e. of R.S.33:1-10.

42 c. A person who violates any provision of this act is a
 43 disorderly person, and the court, in addition to the sentence imposed
 44 for the disorderly person violation, may by its judgment bar the
 45 owner or operator from allowing consumption of wine or malt

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 alcoholic beverages **【in his】** on the premises as authorized by this
2 act.

3 (cf: P.L.1999, c.90, s.5)
4

5 2. This act shall take effect immediately.
6
7

8 STATEMENT
9

10 This bill removes the State’s statutory prohibition on restaurants
11 without liquor licenses advertising that their patrons may bring their
12 own beer or wine (“BYOB”) for consumption on the premises. The
13 bill also authorizes restaurants to advertise that certain wines in
14 winery salesrooms located on the premises are available for
15 purchase.

16 Under current statutory law, a person who owns or operates a
17 restaurant, dining room, or other public place where food or liquid
18 refreshments are sold or served to the general public, but is not
19 licensed to sell alcoholic beverages for on-premises consumption,
20 may allow the consumption of wine or beer in those portions of the
21 premises open to the public. But the owner or operator is
22 prohibited from advertising this option inside or outside of the
23 premises. An owner or operator who violates the prohibition on
24 advertising BYOB is guilty of a disorderly persons offense, which
25 is punishable by a term of imprisonment of up to six months, a fine
26 of up to \$1,000, or both. The bill removes the prohibition on
27 advertising that a restaurant is BYOB in response to a recent
28 decision by the United States District Court for the District of New
29 Jersey, GJJM Enterprises, LLC v. City of Atlantic City, holding that
30 the State’s prohibition on BYOB advertising is an unconstitutional
31 violation of the First Amendment right to free speech.

32 Also, current law authorizes plenary wineries which produce less
33 than 250,000 gallons of wine per year, as well as farm wineries, to
34 sell their wines in 15 salesrooms off the winery premises for
35 consumption on and off the premises and for sampling purposes.
36 “Sampling” is defined as selling at a nominal charge or the
37 gratuitous offering of an open container not exceeding one and one-
38 half ounces of any wine. Out-of-State wineries which produce less
39 than 250,000 gallons of wine per year similarly are authorized to
40 sell their wine in up to 16 salesrooms. Under the bill, restaurants
41 which have a salesroom on the premises would be authorized to
42 advertise that these wines are available for purchase.