

[First Reprint]

SENATE, No. 2869

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Establishes wine consultant permit; increases solicitor's permit fee.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on March 11, 2021, with amendments.



1 AN ACT concerning wine ¹**【consultants】** consultant permits and
2 solicitor's permits, amending R.S.33:1-67,¹ and supplementing
3 Title 33 of the Revised Statutes.

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

7
8 1. As used in this act:

9 "Online" means any public-facing Internet website, Internet web
10 application, or computer or mobile application, including a social
11 networking website or publication.

12 "Private educational tasting event" means a scheduled event hosted
13 by a resident of New Jersey at a private residence, at which samples
14 may be provided and which shall not be open to the general public, but
15 shall be limited by invitation and for which invitations are provided to
16 guests not less than 24 hours in advance.

17 "Private residence" means a structure or portion of a structure that
18 is used as a dwelling, including single family dwellings, multifamily
19 dwellings as defined under subsection (k) of section 3 of the "Hotel
20 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and
21 other rental unit property, and individual residences within a horizontal
22 property regime as defined pursuant to the "Horizontal Property Act,"
23 P.L.1963, c.168 (C.46:8A-1 et seq.), or a condominium as defined
24 pursuant to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et
25 seq.), units in a cooperative, and units in a mutual housing corporation.
26 The term also shall include common areas for use by residents that are
27 not available for commercial purposes.

28 "Sampling" means an offering by a wine consultant to a consumer
29 of not more than one and one-half ounces of wine per portion from
30 each of an assortment of not more than ¹**【six】** five¹ bottles of wine,
31 for the purpose of education or inducing or promoting a sale.

32 "Virtual tasting event" means a scheduled event in a private
33 residence, at which samples are discussed and orders are solicited
34 online.

35 "Wine consultant" means a person permitted under section 2 of
36 P.L. , c. (C.) (pending before the Legislature as this bill), to
37 describe and pour samples of wine to consumers attending private
38 educational tasting events and hold virtual tasting events. A wine
39 consultant ¹**【may】** shall¹ be ¹**【:** (1) an independent contractor; or (2)**】**¹
40 an authorized representative or employee of a licensed supplier,
41 manufacturer, importer, or wholesaler licensed or permitted by the
42 Division of Alcoholic Beverage Control.

43
44 2. a. The Director of the Division of Alcoholic Beverage Control
45 ¹, subject to rules and regulations,¹ may issue a wine consultant permit
46 ¹, which shall authorize the permit holder to act on behalf of a licensee

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted March 11, 2021.

1 to be named and designated in the permit,¹ for the purposes of: (1)
2 education of and sampling of wine directly by consumers at least 21
3 years of age; and (2) soliciting of orders for the sale of wines tasted
4 during a private educational tasting event at a private residence or an
5 online virtual educational tasting. ¹The permit shall establish legal
6 liability and responsibility on the part of the licensee for any violation
7 of Title 33 of the Revised Statutes or regulations promulgated thereto
8 made by the permit holder while acting on behalf of the licensee.

9 The director only shall issue a wine consultant permit to a person
10 who is eligible, as defined in this chapter and in accordance with rules
11 and regulations. The director shall not issue a wine consultant permit
12 to the holder of a solicitor's permit, issued pursuant to R.S.33:1-67.¹

13 b. A person shall apply to the director for a wine consultant
14 permit in a form and manner to be prescribed by the director. The
15 permit shall be issued on an annual basis.

16 c. An application for a permit or a permit renewal shall include
17 the applicant's:

- 18 (1) full name;
19 (2) residential address; and
20 (3) driver's license number.

21 The application shall be accompanied by a non-refundable
22 application fee of ¹~~twenty five dollars~~ \$50¹.

23 d. A copy of the wine consultant permit shall be kept in any
24 vehicle transporting alcoholic beverages to or from an educational
25 event.

26 e. Wine consultants or wineries employing or contracting with a
27 wine consultant shall electronically register each educational event
28 with the director at least three days prior to the event.
29

30 3. a. ¹A¹ wine consultant shall not offer a sample at a tasting
31 event to any person under the legal age for consuming alcoholic
32 beverages or to an intoxicated person. The director shall permanently
33 revoke the permit if a wine consultant serves or allows to be served
34 alcoholic beverages to a person under 21 years of age.

35 b. A wine consultant shall not deliver or provide wine for sale
36 during an educational event. All wine used for educational events
37 shall be purchased from a licensed retailer or from a winery authorized
38 to engage in direct shipping pursuant to R.S.33:1-12.

39 c. If any unused wine remains in an open container at the end of
40 the educational event, a wine consultant shall:

41 (1) dispose of the unused wine through a sink or other permanent
42 method of disposal and dispose of the container; or

43 (2) securely reseal the open container of wine, place the container
44 in a tamper-proof, transparent bag which is sealed in a manner that
45 makes it visibly apparent if the bag is subsequently tampered with or
46 opened, and remove the container from the premises.

1 4. A solicitor permit issued pursuant to R.S.33:1-67 and valid
2 on the date of enactment of P.L. , c. (C.) (pending before the
3 Legislature as this bill) or that expired after September 1, 2018 may
4 be converted to a wine consultant permit at the discretion of the
5 director.

6
7 5. The director shall promulgate rules and regulations to
8 effectuate the purposes of P.L. , c. (C.) (pending before the
9 Legislature as this bill.

10
11 6. R.S.33:1-67 is amended to read as follows:

12 No individual shall offer for sale or solicit any order in the State
13 for the purchase or sale of any alcoholic beverage, whether such sale is
14 to be made within or without this State, unless such person shall have a
15 solicitor's permit issued by the director hereunder.

16 Nothing contained in this section shall prohibit such offer or
17 solicitation by any licensee himself or any employee of any retail
18 licensee in connection with and in the course of the licensed business.

19 The director is empowered to issue, subject to rules and regulations,
20 solicitor's permits, which shall set forth such facts as may be
21 prescribed by the director and shall authorize the permittee to make
22 offers for such sales and solicit orders for such sales of alcoholic
23 beverages as are in accordance with this chapter, and any rules and
24 regulations promulgated thereunder, on behalf of any vendor or
25 vendors represented by the solicitor and designated in the permit. The
26 fee for such permits shall be ¹~~["\$15.00"]~~ \$50¹ per annum or any part
27 thereof for solicitors employed exclusively by licensees whose licenses
28 permit sale of malt alcoholic beverages only, and ¹~~["\$25.00"]~~ \$50¹ per
29 annum or any part thereof for solicitors employed by other licensees.
30 A separate fee shall be paid for each vendor designated in the permit.
31 Such permits shall expire on June 30 following their issuance, except
32 as otherwise specified therein.

33 Any person who violates any provisions of this section shall be
34 guilty of a misdemeanor and punished by a fine of not less than
35 ¹~~["\$50.00"]~~ \$50¹ and not more than ¹~~["\$200.00"]~~ \$200¹ or imprisonment
36 for not less than 10 days or not more than ¹~~[3]~~ three¹ months, or both
37 (cf: P.L.1970, c.78, s.7)

38
39 ¹~~[6.]~~ 7.¹ This act shall take effect on the first day of the third
40 month next following the date of enactment.