

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2869

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 11, 2021

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2869.

As amended, this bill creates a wine consultant permit for the purposes of: (1) education of and sampling of wine directly by consumers at least 21 years of age; and (2) soliciting orders for the sale of wines tasted during a private educational tasting event at a private residence or a virtual educational tasting held online.

Under the bill, a wine consultant is defined as a person authorized to describe and pour samples of wine to consumers attending private educational tasting events and to hold virtual tasting events. A wine consultant may be an authorized representative or employee of a licensed supplier, manufacturer, importer, or wholesaler licensed or permitted by the Division of Alcoholic Beverage Control. The bill provides that a permit holder would be authorized to act on behalf of a licensee, who would be named and designated in the permit. The bill specifies that a permit establishes legal liability and responsibility on the part of the licensee for any violation of Title 33 of the Revised Statutes made by the permit holder while acting on behalf of the licensee. Additionally, the bill provides that a permit only would be issued to an eligible applicant, as defined in Title 33 and in accordance with rules and regulations, and to specify that the holder of a solicitor's permit would be ineligible

Under the bill, a private educational tasting event is defined as a scheduled event hosted by a resident of New Jersey at a private residence, at which up to five one and one-half ounce samples may be provided per guest, and which is not to be open to the general public. Such an event is invitation only, and the invitation is to be sent to guests not less than 24 hours in advance. A virtual tasting event is defined as a scheduled event at a private residence, at which samples are discussed and orders are solicited online.

The bill sets forth an application process and registration and recordkeeping requirements for wine consultants. Under the bill, the application fee for a permit or a permit renewal would be \$50. The bill also amends current law to increase the solicitor's permit fee to \$50. A person with a wine consult permit would be required to apply for a renewal annually. The bill requires a copy of the wine consultant

permit to be kept in any vehicle transporting alcoholic beverages to or from an educational event. Additionally, wine consultants or wineries employing or contracting with wine consultants would be required to electronically register each educational event with the director of the Division of Alcoholic Beverage control at least three days prior to the event.

The bill also sets forth requirements for delivery, sale, and removal of wine by wine consultants. Under the bill, a wine consultant would not be permitted to offer a sample at a tasting event to any person under the legal age for consuming alcoholic beverages or to an intoxicated person. The permit of a wine consultant who serves or allows to be served alcoholic beverages to a person under 21 years of age would be permanently revoked.

The bill provides that a wine consultant would not be permitted to deliver or provide wine for sale during an educational event. All wine used for educational events would be required to be purchased from a licensed retailer or from a winery holding a valid direct shipping license. Any unused wine in an open container remaining at the end of the educational event would be disposed of or resealed in a tamper-proof manner prior to the wine consultant leaving the premises.

Finally the bill provides that a solicitor permit valid on the date of enactment, or which expired after September 1, 2018 could be converted to a wine consultant permit at the discretion of the director.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- provide that the holder of a wine consultant permit would be allowed to pour up to five one and one-half ounce samples of wine per guest at an educational event. Under the bill as introduced, a permit holder was allowed to pour six samples per guest;
- remove the provision of the bill allowing permit holders to be independent contractors of a licensee. Under the amendments, a permit holder would be required to be an employee or authorized representative;
- clarify that a permit holder would be authorized to act on behalf of a licensee, who would be named and designated in the permit. As introduced, the bill did not require the permit to be linked to a specific licensee;
- provide that the permit establishes legal liability and responsibility on the part of the licensee for any violation of Title 33 of the Revised Statutes made by the permit holder while acting on behalf of the licensee;
- provide that a permit only would be issued to an eligible applicant, as defined in Title 33 and in accordance with rules and regulations, and to specify that the holder of a solicitor's permit would be ineligible;

- increase the wine consult permit fee from \$25 to \$50 and amend current law to increase the solicitor's permit fee from \$15 or \$25, depending on the type of licensee the permit holder represents, to \$50 for all solicitor's permit holders; and
- make technical changes to the bill.