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SENATE COMMITTEE SUBSTITUTE FOR

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STATE OF NEW JERSEY

219th LEGISLATURE

ADOPTED FEBRUARY 11, 2021

Sponsored by:
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District 3 (Cumberland, Gloucester and Salem)
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SYNOPSIS

Permits certain licensees to acquire alcoholic beverage license from retail food store that is bankruptcy asset; permits sell, display, and offer for sale alcoholic beverages within physically separated area in retail food store.

CURRENT VERSION OF TEXT

As reported by the Assembly Oversight, Reform and Federal Relations Committee on March 8, 2021, with amendments.

(Sponsorship Updated As Of: 3/25/2021)

AN ACT concerning alcoholic beverage licenses and certain retail stores [1]and supplementing Title 33 of the Revised Statutes[1].

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

1. a. For the purposes of this act:

"Retail food store" means any retail establishment where groceries and other foodstuffs are regularly and customarily sold in a bona fide manner for off-premises consumption and constitute at least 65 percent of the store's total annual sales in dollars.

"Groceries and other foodstuffs" means dairy products; meat and delicatessen products; produce products; seafood products; carbonated beverages; coffee and other beverages; snack foods; candy products; baked products; paper products; household cleaning items; health and beauty products; frozen foods; pet foods and supplies; and any other edible product not previously listed.

b. The provisions of section 1 of P.L.1962, c.152 (C.33:1-12.31) shall not apply to the acquisition of any additional plenary retail distribution license or any interest therein when [1]**[**the**]** that acquired[1] license [1]**[**or licenses are**]** was, prior to the acquisition,[1] used in connection with a retail food store that [1]**[**was**]** became[1] an asset in bankruptcy pursuant to Chapter 7 of the federal Bankruptcy Code, 11 U.S.C. s.701 et seq. or Chapter 11 of the federal Bankruptcy Code, 11 U.S.C. s.1101 et seq. and is transferred for use in connection with another or the same retail food store.

c. The holder of a plenary retail distribution license acquired pursuant to this section shall be prohibited from transferring the license from the premises of the retail food store for which the license was used prior to the bankruptcy proceeding to another location, other than to another retail food store, except in connection with a relocation of the retail food store to a new location within the same municipality that issued the license.

d. A plenary retail distribution license that was in an inactive status pursuant to section 1 of P.L.1977, c.246 (C.33:1-12.39) at the time that the license was transferred as an asset in bankruptcy shall be transferred again within two years following the [1]transfer in the[1] bankruptcy proceeding to a person or entity who does not hold a beneficial interest in the license.

The provisions of this subsection shall not apply to:

(1) a person who held a beneficial interest in [1]**[**less**]** fewer[1] than two licenses at the time of acquiring the inactive license in the bankruptcy proceeding and is entitled to hold not more than two

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:
[1] Assembly AOF committee amendments adopted March 8, 2021.

retail licenses pursuant to section 1 of P.L.1962, c.152 (C.33:1-12.31); or

(2) the holder of plenary retail distribution licenses used in connection with retail food stores who acquires any additional plenary retail distribution license or an interest therein when that license was used in connection with a retail food store that was an asset in bankruptcy pursuant to Chapter 7 of the federal Bankruptcy Code, 11 U.S.C. s.701 et seq., or Chapter 11 of the federal Bankruptcy Code, 11 U.S.C. s.1101 et seq., and when the interest in the retail food store is also acquired.

e. [1]Plenary Retail Consumption licenses, pursuant to this act, shall be licenses with "Broad C Package Privileges."

f.[1] A person shall not be entitled to acquire any additional plenary retail distribution license or an interest therein pursuant to this section unless the person purchases or successfully bids in the bankruptcy sale on the assets associated with the retail food store where the license was previously sited.

2. a. The provisions of section 1 of P.L.1962, c.152 (C.33:1-12.31) shall not apply to the holder of any plenary retail distribution license or licenses who uses the holder's license or licenses, subject to rules and regulations, in connection with the operation of a retail food store and who acquires any additional alcoholic beverage retail license or licenses in connection with the acquisition of any retail food store as an asset in bankruptcy.

The license holder shall be entitled to sell [1], display, and offer for sale[1] alcoholic beverages on separate contiguous licensed premises with a separate point of sale situated adjacent to the retail food store or in a separated area within the retail food store [1]consistent with the requirements of section 3 of this act, P.L. c. (C.)(pending before the Legislature as this bill)[1], subject to rules and regulations, in connection with the operation of a retail food store selling alcoholic beverages, and shall [1]otherwise[1] be prohibited from selling alcoholic beverages within the public retail floor area where merchandise including, but not limited to, groceries and other foodstuffs or any other mercantile products are sold at retail.

b. The provisions of section 1 of P.L.1962, c.152 (C.33:1-12.31) shall not apply to the holder of any plenary retail distribution license or licenses who used the holder's license or licenses in connection with the operation of one or more retail food stores prior to [1][January 1, 2018] the effective date of this act, P.L. c. (C.)(pending before the Legislature as this bill)[1] and who acquires or acquired any additional plenary retail distribution license in connection with the acquisition of any retail food store as an asset in bankruptcy.

A license holder authorized to acquire an additional license or licenses in accordance with this subsection shall be exempt from the restrictions established in [1]⟦subsection a. of this section and shall be entitled to offer alcoholic beverages for sale at such retail food store so acquired in the same public retail store floor area as merchandise including, but not limited to, groceries and other food stuffs on the same licensed premises, except in connection with a relocation of an existing retail food store to a new location in the same licensing municipality that will employ all of the existing prevailing wage positions at the new location of the retail food store⟧ section 3 of this act, P.L. c. (C.)(pending before the Legislature as this bill)[1]. The exemption established pursuant to this subsection shall not be transferred to any other location unless the operation of such retail food store, along with the plenary retail [1]⟦consumption⟧ distribution[1] license, is so transferred.

[1]3. Notwithstanding any other law, rule, or regulation to the contrary, a license holder may only sell, display, or offer for sale alcoholic beverages within a retail food store if the area containing the alcoholic beverages is capable of being physically separated from customers during the hours when the sale of alcoholic beverages is restricted by applicable State law or local ordinance. The physical separation shall be by a means reasonably designed to restrict customer access to alcoholic beverages during the prohibited time periods including, but not limited to, the use of a movable gate or fence. Nothing in this section shall require any license holder who, as of the effective date of this act, P.L. c. (C.)(pending before the Legislature as this bill) does not physically separate an area containing alcoholic beverages in a retail food store from establishing the physical separation in the future.[1]

[1]⟦3.⟧ 4.[1] This act shall take effect immediately [1]⟦,⟧ and[1] be retroactive to the first day of the 85th month prior to the date of enactment [1]⟦, and expire 90 days⟧ . Sections 1 and 2 shall not apply on or after the 180th day[1] next following the date of enactment.