SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3364

STATE OF NEW JERSEY

DATED: FEBRUARY 11, 2021

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 3364.

As reported by the committee, the Senate Committee Substitute for Senate Bill No. 3364 allows a person to hold more than two plenary retail distribution licenses when the additional license or an interest therein was used in connection with a retail food store that was an asset in bankruptcy and is transferred for use in connection with another retail food store.

A plenary retail distribution license is generally issued to retail liquor or food stores and allows the licensee to sell any alcoholic beverage for consumption off the licensed premises. Current law prohibits any person or corporate entity from holding more than two plenary retail distribution licenses. This bill waives this two license limitation when an additional license is acquired from a retail food store that was an asset in a bankruptcy proceeding and the license is transferred for use in connection with another retail food store.

The committee substitute places certain restrictions on a plenary retail distribution license used in connection with the retail food store that was acquired following the bankruptcy proceeding. Under the substitute, the holder of a plenary retail distribution license or licenses acquired from a bankruptcy proceeding would be prohibited from transferring the license or licenses from the retail food store to another premises other than another retail food store. This restriction would not apply to a retail food store that relocates to another location within the same municipality that issued the license.

Under current law, an inactive Class C license or "pocket license" is a retail license that is not being used at an open and operating licensed premises. The licensee is required to place the license on "inactive status" when the licensed business ceases operation and the license continues to be held by the licensee of record. The substitute provides that a plenary retail distribution license that was held in inactive status at the time that the license was transferred as an asset in bankruptcy is to be transferred again within two years following the bankruptcy proceeding to an unrelated third party that does not have an interest in the license. This restriction would not apply if the person acquiring the inactive license held less than two licenses at the time of the acquisition

in accordance with current law. The restriction also would not apply to the holder of a plenary retail distribution license used in connection with retail food stores and 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 and when the interest in the retail food store is also acquired.

The committee substitute also provides that a person would be prohibited from holding more than two licenses pursuant to the bill's provisions unless the person purchases or successfully bids in the bankruptcy sale on the assets associated with the retail food store where the license was sited.

Finally, the committee substitute requires these retail food stores to sell alcoholic beverages in a separate premises that is situated adjacent to the food store or in a separated area within the food store, and prohibits food stores from selling alcoholic beverages on the floor area where merchandise including, but not limited to, groceries or other foodstuffs or any other mercantile products are sold at retail. A license holder used in connection with a retail food store or stores prior to January 1, 2018 would be entitled to continue to offer alcoholic beverages for sale in the same public retail store floor area as other merchandise, including groceries and other foodstuffs. However, this exemption would not be transferable to any other location unless the operation of such retail food store, along with the liquor license, is so transferred.

The committee substitute would take effect immediately and be retroactive to the first day of the 85th month prior to the date of enactment. This temporary enactment will expire 90 days following the bill's effective date.

FISCAL IMPACT:

This bill not certified as requiring a fiscal note.