

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3364

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED FEBRUARY 11, 2021

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Permits certain licensees to acquire alcoholic beverage license from retail food store that is bankruptcy asset.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.



1 **AN ACT** concerning alcoholic beverage licenses and certain retail
2 stores.

3

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

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7 1. a. For the purposes of this act:

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

12 “Groceries and other foodstuffs” means dairy products; meat and
13 delicatessen products; produce products; seafood products;
14 carbonated beverages; coffee and other beverages; snack foods;
15 candy products; baked products; paper products; household
16 cleaning items; health and beauty products; frozen foods; pet foods
17 and supplies; and any other edible product not previously listed.

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

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

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

39 The provisions of this subsection shall not apply to:

40 (1) a person who held a beneficial interest in less than two
41 licenses at the time of acquiring the inactive license in the
42 bankruptcy proceeding and is entitled to hold not more than two
43 retail licenses pursuant to section 1 of P.L.1962, c.152 (C.33:1-
44 12.31); or

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

9 e. A person shall not be entitled to acquire any additional
10 plenary retail distribution license or an interest therein pursuant to
11 this section unless the person purchases or successfully bids in the
12 bankruptcy sale on the assets associated with the retail food store
13 where the license was previously sited.
14

15 2. a. The provisions of section 1 of P.L.1962, c.152 (C.33:1-
16 12.31) shall not apply to the holder of any plenary retail distribution
17 license or licenses who uses the holder's license or licenses, subject
18 to rules and regulations, in connection with the operation of a retail
19 food store and who acquires any additional alcoholic beverage retail
20 license or licenses in connection with the acquisition of any retail
21 food store as an asset in bankruptcy.

22 The license holder shall be entitled to sell alcoholic beverages on
23 separate contiguous licensed premises with a separate point of sale
24 situated adjacent to the retail food store or in a separated area
25 within the retail food store, subject to rules and regulations, in
26 connection with the operation of a retail food store selling alcoholic
27 beverages, and shall be prohibited from selling alcoholic beverages
28 within the public retail floor area where merchandise including, but
29 not limited to, groceries and other foodstuffs or any other
30 mercantile products are sold at retail.

31 b. The provisions of section 1 of P.L.1962, c.152 (C.33:1-
32 12.31) shall not apply to the holder of any plenary retail distribution
33 license or licenses who used the holder's license or licenses in
34 connection with the operation of one or more retail food stores prior
35 to January 1, 2018 and who acquires or acquired any additional
36 plenary retail distribution license in connection with the acquisition
37 of any retail food store as an asset in bankruptcy.

38 A license holder authorized to acquire an additional license or
39 licenses in accordance with this subsection shall be exempt from the
40 restrictions established in subsection a. of this section and shall be
41 entitled to offer alcoholic beverages for sale at such retail food store
42 so acquired in the same public retail store floor area as merchandise
43 including, but not limited to, groceries and other food stuffs on the
44 same licensed premises, except in connection with a relocation of
45 an existing retail food store to a new location in the same licensing
46 municipality that will employ all of the existing prevailing wage

1 positions at the new location of the retail food store. The
2 exemption established pursuant to this subsection shall not be
3 transferred to any other location unless the operation of such retail
4 food store, along with the plenary retail consumption license, is so
5 transferred.

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7 3. This act shall take effect immediately, be retroactive to the
8 first day of the 85th month prior to the date of enactment, and
9 expire 90 days next following the date of enactment.