

SENATE, No. 2912

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 15, 2015

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Senator PETER J. BARNES, III

District 18 (Middlesex)

Co-Sponsored by:

Senators Weinberg and A.R.Bucco

SYNOPSIS

Authorizes restricted breweries to annually sell up to 1,000 barrels of beer to in-State and out-of-state retailers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/14/2015)

1 AN ACT concerning restricted breweries and amending R.S.33:1-10.

2

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

5

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

7 33:1-10. Plenary brewery license. 1a. The holder of this
8 license shall be entitled, subject to rules and regulations, to brew
9 any malt alcoholic beverages and to sell and distribute his products
10 to wholesalers and retailers licensed in accordance with this
11 chapter, and to sell and distribute without this State to any persons
12 pursuant to the laws of the places of such sale and distribution, and
13 to maintain a warehouse; provided, however, that the delivery of
14 this product by the holder of this license to retailers licensed under
15 this title shall be from inventory in a warehouse located in this State
16 which is operated under a plenary brewery license. The fee for this
17 license shall be \$10,625.

18 Limited brewery license. 1b. The holder of this license shall be
19 entitled, subject to rules and regulations, to brew any malt alcoholic
20 beverages in a quantity to be expressed in said license, dependent
21 upon the following fees and not in excess of 300,000 barrels of 31
22 fluid gallons capacity per year and to sell and distribute this product
23 to wholesalers and retailers licensed in accordance with this
24 chapter, and to sell and distribute without this State to any persons
25 pursuant to the laws of the places of such sale and distribution, and
26 to maintain a warehouse; provided, however, that the delivery of
27 this product by the holder of this license to retailers licensed under
28 this title shall be from inventory in a warehouse located in this State
29 which is operated under a limited brewery license. The holder of
30 this license shall be entitled to sell this product at retail to
31 consumers on the licensed premises of the brewery for consumption
32 on the premises, but only in connection with a tour of the brewery,
33 or for consumption off the premises in a quantity of not more than
34 15.5 fluid gallons per person, and to offer samples for sampling
35 purposes only pursuant to an annual permit issued by the director.
36 The holder of this license shall not sell food or operate a restaurant
37 on the licensed premises. The fee for this license shall be graduated
38 as follows:

39 to so brew not more than 50,000 barrels of 31 liquid gallons
40 capacity per annum, \$1,250;

41 to so brew not more than 100,000 barrels of 31 fluid gallons
42 capacity per annum, \$2,500;

43 to so brew not more than 200,000 barrels of 31 fluid gallons
44 capacity per annum, \$5,000;

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 to so brew not more than 300,000 barrels of 31 fluid gallons
2 capacity per annum, \$7,500.

3 For the purposes of this subsection, "sampling" means the selling
4 at a nominal charge or the gratuitous offering of an open container
5 not exceeding four ounces of any malt alcoholic beverage. For the
6 purposes of this subsection, "product" means any malt alcoholic
7 beverage that is produced on the premises licensed under this
8 subsection.

9 Restricted brewery license. 1c. The holder of this license shall
10 be entitled, subject to rules and regulations, to brew any malt
11 alcoholic beverages in a quantity to be expressed in such license not
12 in excess of 10,000 barrels of 31 gallons capacity per year.
13 Notwithstanding the provisions of R.S.33:1-26, the director shall
14 issue a restricted brewery license only to a person or an entity
15 which has identical ownership to an entity which holds a plenary
16 retail consumption license issued pursuant to R.S.33:1-12, provided
17 that such plenary retail consumption license is operated in
18 conjunction with a restaurant regularly and principally used for the
19 purpose of providing meals to its customers and having adequate
20 kitchen and dining room facilities, and that the licensed restaurant
21 premises is immediately adjoining the premises licensed under this
22 subsection. The holder of this license shall be entitled to sell or
23 deliver the product to that restaurant premises. The holder of this
24 license also shall be entitled to sell and distribute the product to
25 wholesalers licensed in accordance with this chapter, and to
26 annually sell and distribute up to 1,000 barrels in aggregate to
27 retailers licensed in accordance with this chapter and to retailers
28 without this State pursuant to the laws of the places of the sale and
29 distribution. The fee for this license shall be \$1,250, which fee
30 shall entitle the holder to brew up to 1,000 barrels of 31 liquid
31 gallons per annum. The licensee also shall pay an additional \$250
32 for every additional 1,000 barrels of 31 fluid gallons produced. The
33 fee shall be paid at the time of application for the license, and
34 additional payments based on barrels produced shall be paid within
35 60 days following the expiration of the license term upon
36 certification by the licensee of the actual gallons brewed during the
37 license term. No more than 10 restricted brewery licenses shall be
38 issued to a person or entity which holds an interest in a plenary
39 retail consumption license. If the governing body of the
40 municipality in which the licensed premises will be located should
41 file a written objection, the director shall hold a hearing and may
42 issue the license only if the director finds that the issuance of the
43 license will not be contrary to the public interest. All fees related to
44 the issuance of both licenses shall be paid in accordance with
45 statutory law. The provisions of this subsection shall not be
46 construed to limit or restrict the rights and privileges granted by the
47 plenary retail consumption license held by the holder of the
48 restricted brewery license issued pursuant to this subsection.

1 The holder of this license shall be entitled to offer samples of its
2 product for promotional purposes at charitable or civic events off
3 the licensed premises pursuant to an annual permit issued by the
4 director.

5 For the purposes of this subsection, "sampling" means the selling
6 at a nominal charge or the gratuitous offering of an open container
7 not exceeding four ounces of any malt alcoholic beverage product.
8 For the purposes of this subsection, "product" means any malt
9 alcoholic beverage that is produced on the premises licensed under
10 this subsection.

11 Plenary winery license. 2a. Provided that the holder is engaged
12 in growing and cultivating grapes or fruit used in the production of
13 wine on at least three acres on, or adjacent to, the winery premises,
14 the holder of this license shall be entitled, subject to rules and
15 regulations, to produce any fermented wines, and to blend, fortify
16 and treat wines, and to sell and distribute his products to
17 wholesalers licensed in accordance with this chapter and to
18 churches for religious purposes, and to sell and distribute without
19 this State to any persons pursuant to the laws of the places of such
20 sale and distribution, and to maintain a warehouse, and to sell his
21 products at retail to consumers on the licensed premises of the
22 winery for consumption on or off the premises and to offer samples
23 for sampling purposes only. The fee for this license shall be \$938.
24 A holder of this license who produces not more than 250,000
25 gallons per year shall also have the right to sell and distribute his
26 products to retailers licensed in accordance with this chapter, except
27 that the holder of this license shall not use a common carrier for
28 such distribution. The fee for this additional privilege shall be
29 graduated as follows: a licensee who manufactures more than
30 150,000 gallons, but not in excess of 250,000 gallons per annum,
31 \$1,000; a licensee who manufactures more than 100,000 gallons,
32 but not in excess of 150,000 gallons per annum, \$500; a licensee
33 who manufactures more than 50,000 gallons, but not in excess of
34 100,000 gallons per annum, \$250; a licensee who manufactures
35 50,000 gallons or less per annum, \$100. A holder of this license
36 who produces not more than 250,000 gallons per year shall have the
37 right to sell such wine at retail in original packages in 15
38 salesrooms apart from the winery premises for consumption on or
39 off the premises and for sampling purposes for consumption on the
40 premises, at a fee of \$250 for each salesroom. Licensees shall not
41 jointly control and operate salesrooms. Additionally, the holder of
42 this license who produces not more than 250,000 gallons per year
43 may ship not more than 12 cases of wine per year, subject to
44 regulation, to any person within or without this State over 21 years
45 of age for personal consumption and not for resale. A case of wine
46 shall not exceed a maximum of nine liters. A copy of the original
47 invoice shall be available for inspection by persons authorized to
48 enforce the alcoholic beverage laws of this State for a minimum

1 period of three years at the licensed premises of the winery. For the
2 purposes of this subsection, "sampling" means the selling at a
3 nominal charge or the gratuitous offering of an open container not
4 exceeding one and one-half ounces of any wine.

5 A holder of this license who produces not more than 250,000
6 gallons per year shall not own, either in whole or in part, or hold,
7 either directly or indirectly, any interest in a winery that produces
8 more than 250,000 gallons per year. In addition, a holder of this
9 license who produces more than 250,000 gallons per year shall not
10 own, either in whole or in part, or hold, either directly or indirectly,
11 any interest in a winery that produces not more than 250,000
12 gallons per year. For the purposes of this subsection, "product"
13 means any wine that is produced, blended, fortified, or treated by
14 the licensee on its licensed premises situated in the State of New
15 Jersey.

16 Farm winery license. 2b. The holder of this license shall be
17 entitled, subject to rules and regulations, to manufacture any
18 fermented wines and fruit juices in a quantity to be expressed in
19 said license, dependent upon the following fees and not in excess of
20 50,000 gallons per year and to sell and distribute his products to
21 wholesalers and retailers licensed in accordance with this chapter
22 and to churches for religious purposes and to sell and distribute
23 without this State to any persons pursuant to the laws of the places
24 of such sale and distribution, and to maintain a warehouse and to
25 sell at retail to consumers for consumption on or off the licensed
26 premises and to offer samples for sampling purposes only. The
27 license shall be issued only when the winery at which such
28 fermented wines and fruit juices are manufactured is located and
29 constructed upon a tract of land exclusively under the control of the
30 licensee, provided that the licensee is actively engaged in growing
31 and cultivating an area of not less than three acres on or adjacent to
32 the winery premises and on which are growing grape vines or fruit
33 to be processed into wine or fruit juice; and provided, further, that
34 for the first five years of the operation of the winery such fermented
35 wines and fruit juices shall be manufactured from at least 51%
36 grapes or fruit grown in the State and that thereafter they shall be
37 manufactured from grapes or fruit grown in this State at least to the
38 extent required for labeling as "New Jersey Wine" under the
39 applicable federal laws and regulations. The containers of all wine
40 sold to consumers by such licensee shall have affixed a label stating
41 such information as shall be required by the rules and regulations of
42 the Director of the Division of Alcoholic Beverage Control. The
43 fee for this license shall be graduated as follows: to so manufacture
44 between 30,000 and 50,000 gallons per annum, \$375; to so
45 manufacture between 2,500 and 30,000 gallons per annum, \$250; to
46 so manufacture between 1,000 and 2,500 gallons per annum, \$125;
47 to so manufacture less than 1,000 gallons per annum, \$63. No farm

1 winery license shall be held by the holder of a plenary winery
2 license or be situated on a premises licensed as a plenary winery.

3 The holder of this license shall also have the right to sell and
4 distribute his products to retailers licensed in accordance with this
5 chapter, except that the holder of this license shall not use a
6 common carrier for such distribution. The fee for this additional
7 privilege shall be \$100. The holder of this license shall have the
8 right to sell his products in original packages at retail to consumers
9 in 15 salesrooms apart from the winery premises for consumption
10 on or off the premises, and for sampling purposes for consumption
11 on the premises, at a fee of \$250 for each salesroom. Licensees
12 shall not jointly control and operate salesrooms. Additionally, the
13 holder of this license may ship not more than 12 cases of wine per
14 year, subject to regulation, to any person within or without this
15 State over 21 years of age for personal consumption and not for
16 resale. A case of wine shall not exceed a maximum of nine liters.
17 A copy of the original invoice shall be available for inspection by
18 persons authorized to enforce the alcoholic beverage laws of this
19 State for a minimum period of three years at the licensed premises
20 of the winery. For the purposes of this subsection, "sampling"
21 means the selling at a nominal charge or the gratuitous offering of
22 an open container not exceeding one and one-half ounces of any
23 wine.

24 A holder of this license who produces not more than 250,000
25 gallons per year shall not own, either in whole or in part, or hold,
26 either directly or indirectly, any interest in a winery that produces
27 more than 250,000 gallons per year.

28 Unless otherwise indicated, for the purposes of this subsection,
29 with respect to farm winery licenses, "manufacture" means the
30 vinification, aging, storage, blending, clarification, stabilization and
31 bottling of wine or juice from New Jersey fruit to the extent
32 required by this subsection.

33 Wine blending license. 2c. The holder of this license shall be
34 entitled, subject to rules and regulations, to blend, treat, mix, and
35 bottle fermented wines and fruit juices with non-alcoholic
36 beverages, and to sell and distribute his products to wholesalers and
37 retailers licensed in accordance with this chapter, and to sell and
38 distribute without this State to any persons pursuant to the laws of
39 the places of such sale and distribution, and to maintain a
40 warehouse. The fee for this license shall be \$625.

41 Instructional winemaking facility license. 2d. The holder of this
42 license shall be entitled, subject to rules and regulations, to instruct
43 persons in and provide them with the opportunity to participate
44 directly in the process of winemaking and to directly assist such
45 persons in the process of winemaking while in the process of
46 instruction on the premises of the facility. The holder of this
47 license also shall be entitled to manufacture wine on the premises
48 not in excess of an amount of 10% of the wine produced annually

1 on the premises of the facility, which shall be used only to replace
2 quantities lost or discarded during the winemaking process, to
3 maintain a warehouse, and to offer samples produced by persons
4 who have received instruction in winemaking on the premises by
5 the licensee for sampling purposes only on the licensed premises for
6 the purpose of promoting winemaking for personal or household use
7 or consumption. Wine produced on the premises of an instructional
8 winemaking facility shall be used, consumed or disposed of on the
9 facility's premises or distributed from the facility's premises to a
10 person who has participated directly in the process of winemaking
11 for the person's personal or household use or consumption. The
12 holder of this license may sell mercantile items traditionally
13 associated with winemaking and novelty wearing apparel identified
14 with the name of the establishment licensed under the provisions of
15 this section. The holder of this license may use the licensed
16 premises for an event or affair, including an event or affair at which
17 a plenary retail consumption licensee serves alcoholic beverages in
18 compliance with all applicable statutes and regulations promulgated
19 by the director. The fee for this license shall be \$1,000. For the
20 purposes of this subsection, "sampling" means the gratuitous
21 offering of an open container not exceeding one and one-half
22 ounces of any wine.

23 Out-of-State winery license. 2e. Provided that the applicant
24 does not produce more than 250,000 gallons of wine per year, the
25 holder of a valid winery license issued in any other state may make
26 application to the director for this license. The holder of this
27 license shall have the right to sell and distribute his products to
28 wholesalers licensed in accordance with this chapter and to sell
29 such wine at retail in original packages in 16 salesrooms apart from
30 the winery premises for consumption on or off the premises at a fee
31 of \$250 for each salesroom. Licensees shall not jointly control and
32 operate salesrooms. The annual fee for this license shall be \$938.
33 A copy of a current license issued by another state shall accompany
34 the application. The holder of this license also shall have the right
35 to sell and distribute his products to retailers licensed in accordance
36 with this chapter, except that the holder of this license shall not use
37 a common carrier for such distribution. The fee for this additional
38 privilege shall be graduated as follows: a licensee who
39 manufactures more than 150,000 gallons, but not in excess of
40 250,000 gallons per annum, \$1,000; a licensee who manufactures
41 more than 100,000 gallons, but not in excess of 150,000 gallons per
42 annum, \$500; a licensee who manufactures more than 50,000
43 gallons, but not in excess of 100,000 gallons per annum, \$250; a
44 licensee who manufactures 50,000 gallons or less per annum, \$100.
45 Additionally, the holder of this license may ship not more than 12
46 cases of wine per year, subject to regulation, to any person within or
47 without this State over 21 years of age for personal consumption
48 and not for resale. A case of wine shall not exceed a maximum of

1 nine liters. A copy of the original invoice shall be available for
2 inspection by persons authorized to enforce the alcoholic beverage
3 laws of this State for a minimum period of three years at the
4 licensed premises of the winery.

5 The licensee shall collect from the customer the tax due on the
6 sale pursuant to the "Sales and Use Tax Act," P.L.1966,
7 c.30 (C.54:32B-1 et seq.) and shall pay the tax due on the delivery
8 of alcoholic beverages pursuant to the "Alcoholic beverage tax
9 law," R.S.54:41-1 et seq. The Director of the Division of Taxation
10 in the Department of the Treasury shall promulgate such rules and
11 regulations necessary to effectuate the provisions of this paragraph,
12 and may provide by regulation for the co-administration of the tax
13 due on the delivery of alcoholic beverages pursuant to the
14 "Alcoholic beverage tax law," R.S.54:41-1 et seq. with the
15 administration of the tax due on the sale pursuant to the "Sales and
16 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

17 A holder of this license who produces not more than 250,000
18 gallons per year shall not own, either in whole or in part, or hold,
19 either directly or indirectly, any interest in a winery that produces
20 more than 250,000 gallons per year.

21 Plenary distillery license. 3a. The holder of this license shall be
22 entitled, subject to rules and regulations, to manufacture any
23 distilled alcoholic beverages and rectify, blend, treat and mix, and
24 to sell and distribute his products to wholesalers and retailers
25 licensed in accordance with this chapter, and to sell and distribute
26 without this State to any persons pursuant to the laws of the places
27 of such sale and distribution, and to maintain a warehouse. The fee
28 for this license shall be \$12,500.

29 Limited distillery license. 3b. The holder of this license shall be
30 entitled, subject to rules and regulations, to manufacture and bottle
31 any alcoholic beverages distilled from fruit juices and rectify,
32 blend, treat, mix, compound with wine and add necessary
33 sweetening and flavor to make cordial or liqueur, and to sell and
34 distribute to wholesalers and retailers licensed in accordance with
35 this chapter, and to sell and distribute without this State to any
36 persons pursuant to the laws of the places of such sale and
37 distribution and to warehouse these products. The fee for this
38 license shall be \$3,750.

39 Supplementary limited distillery license. 3c. The holder of this
40 license shall be entitled, subject to rules and regulations, to bottle
41 and rebottle, in a quantity to be expressed in said license, dependent
42 upon the following fees, alcoholic beverages distilled from fruit
43 juices by such holder pursuant to a prior plenary or limited distillery
44 license, and to sell and distribute his products to wholesalers and
45 retailers licensed in accordance with this chapter, and to sell and
46 distribute without this State to any persons pursuant to the laws of
47 the places of such sale and distribution, and to maintain a
48 warehouse. The fee for this license shall be graduated as follows:

1 to so bottle and rebottle not more than 5,000 wine gallons per
2 annum, \$313; to so bottle and rebottle not more than 10,000 wine
3 gallons per annum, \$625; to so bottle and rebottle without limit as
4 to amount, \$1,250.

5 Craft distillery license. 3d. The holder of this license shall be
6 entitled, subject to rules and regulations, to manufacture not more
7 than 20,000 gallons of distilled alcoholic beverages, to rectify,
8 blend, treat and mix distilled alcoholic beverages, to sell and
9 distribute this product to wholesalers and retailers licensed in
10 accordance with this chapter, and to sell and distribute without this
11 State to any persons pursuant to the laws of the places of such sale
12 and distribution, and to maintain a warehouse. The holder of this
13 license shall be entitled to sell this product at retail to consumers on
14 the licensed premises of the distillery for consumption on the
15 premises, but only in connection with a tour of the distillery, and
16 for consumption off the premises in a quantity of not more than five
17 liters per person. In addition, the holder of this license may offer
18 any person not more than three samples per calendar day for
19 sampling purposes only. For the purposes of this subsection,
20 "sampling" means the gratuitous offering of an open container not
21 exceeding one-half ounce serving of distilled alcoholic beverage
22 produced on the distillery premises. Nothing in this subsection
23 shall be deemed to permit the direct shipment of distilled spirits
24 either within or without this State.

25 The holder of this license shall not sell food or operate a
26 restaurant on the licensed premises. A holder of this license who
27 certifies that not less than 51% of the raw materials used in the
28 production of distilled alcoholic beverages under this section are
29 grown in this State or purchased from providers located in this State
30 may, consistent with all applicable federal laws and regulations,
31 label these distilled alcoholic beverages as "New Jersey Distilled."
32 The fee for this license shall be \$938.

33 Rectifier and blender license. 4. The holder of this license shall
34 be entitled, subject to rules and regulations, to rectify, blend, treat
35 and mix distilled alcoholic beverages, and to fortify, blend, and
36 treat fermented alcoholic beverages, and prepare mixtures of
37 alcoholic beverages, and to sell and distribute his products to
38 wholesalers and retailers licensed in accordance with this chapter,
39 and to sell and distribute without this State to any persons pursuant
40 to the laws of the places of such sale and distribution, and to
41 maintain a warehouse. The fee for this license shall be \$7,500.

42 Bonded warehouse bottling license. 5. The holder of this license
43 shall be entitled, subject to rules and regulations, to bottle alcoholic
44 beverages in bond on behalf of all persons authorized by federal and
45 State law and regulations to withdraw alcoholic beverages from
46 bond. The fee for this license shall be \$625. This license shall be
47 issued only to persons holding permits to operate Internal Revenue
48 bonded warehouses pursuant to the laws of the United States.

1 The provisions of section 21 of P.L.2003, c.117 amendatory of
2 this section shall apply to licenses issued or transferred on or after
3 July 1, 2003, and to license renewals commencing on or after July
4 1, 2003.

5 (cf: P.L.2013, c.92, s.1)

6

7 2. This act shall take effect immediately.

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9

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STATEMENT

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12 This bill authorizes restricted breweries, commonly referred to as
13 brew pubs, to annually sell and distribute up to 1,000 barrels of malt
14 alcoholic beverages to State-licensed retailers and retailers licensed
15 in other states.

16 Under current law, a restricted brewery is required to be operated
17 in conjunction with a restaurant which is immediately adjoining the
18 restricted brewery premises. The product of the restricted brewery
19 may only be delivered to that restaurant premises and to
20 wholesalers licensed under Title 33. Under this bill, restricted
21 breweries also would be authorized to sell and distribute up to 1,000
22 barrels of the product, in aggregate, to retailers licensed pursuant to
23 the laws of this State and retailers licensed in other states pursuant
24 to the laws of those states.