

# ASSEMBLY, No. 2452

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 4, 2016

**Sponsored by:**

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**Assemblyman RAJ MUKHERJI**  
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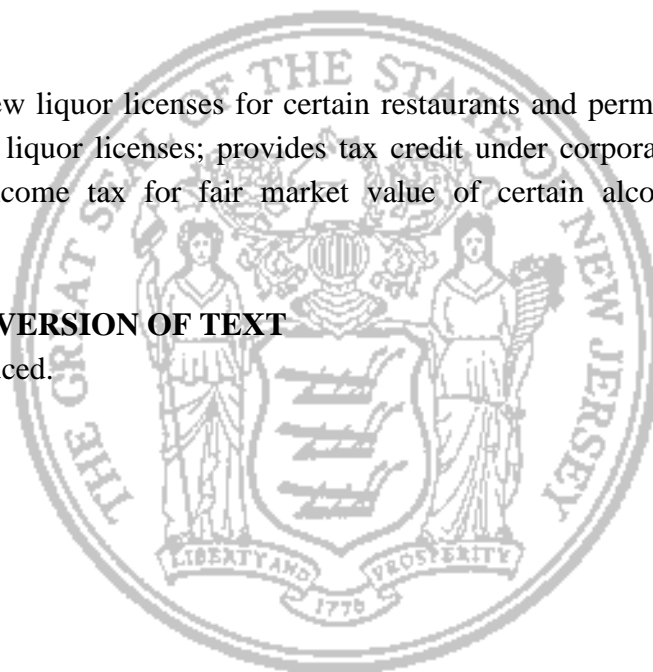
**Assemblymen Gusciora, Zwicker and Assemblywoman Jones**

**SYNOPSIS**

Creates new liquor licenses for certain restaurants and permits the issuance of additional liquor licenses; provides tax credit under corporate business tax and gross income tax for fair market value of certain alcoholic beverage licenses.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/23/2017)**

1 AN ACT concerning the sale of alcoholic beverages in certain  
2 restaurants, creating tax credits, supplementing and amending  
3 various sections of Title 33 of the Revised Statutes, and  
4 supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and chapter  
5 4 of Title 54A of the New Jersey Statutes.

6  
7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

9  
10 1. (New section) The Legislature finds and declares that:

11 a. Under current law, a municipality may not issue a new  
12 plenary retail consumption license unless and until the combined  
13 total number of such licenses existing in the municipality is fewer  
14 than one for each 3,000 of its population according to the most  
15 recent estimates issued by the U.S. Bureau of the Census.

16 b. As a result of this restriction, there is an insufficient number  
17 or complete lack of available plenary retail consumption licenses in  
18 many municipalities, thereby unnecessarily inflating the value of  
19 existing consumption licenses and forcing prospective restaurateurs  
20 to purchase a license at an exorbitant price or operate without a  
21 license.

22 c. The presence of new restaurants serving alcoholic beverages  
23 in a municipality often promotes real estate development,  
24 contributes to the municipal revitalization, and enhances the overall  
25 quality of life for residents and visitors.

26 d. However, the introduction of a new restaurant license that is  
27 not subject to a population formula may cause existing plenary  
28 retail consumption licenses to lose value, thus creating the need to  
29 compensate certain existing license holders by issuing tax credits.

30 e. The State of New Jersey has a legitimate government  
31 interest in promoting business by issuing tax credits to the holders  
32 of plenary retail consumption licenses to compensate them for the  
33 devaluation of their licenses.

34 f. In order to foster and encourage economic development and  
35 growth in this State, it is appropriate to create a new restaurant  
36 license that would permit the licensee to sell alcoholic beverages for  
37 consumption on the premises and to provide financial compensation  
38 to certain plenary retail consumption licensees who already have  
39 established businesses and paid market value for their licenses.

40  
41 2. R.S.33:1-12 is amended to read as follows:

42 33:1-12. Class C licenses shall be subdivided and classified as  
43 follows:

44 Plenary retail consumption license. 1. The holder of this license  
45 shall be entitled, subject to rules and regulations, to sell any

**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 alcoholic beverages for consumption on the licensed premises by  
2 the glass or other open receptacle, and also to sell any alcoholic  
3 beverages in original containers for consumption off the licensed  
4 premises; but this license shall not be issued to permit the sale of  
5 alcoholic beverages in or upon any premises in which a grocery,  
6 delicatessen, drug store or other mercantile business is carried on,  
7 except as hereinafter provided. The holder of this license shall be  
8 permitted to conduct consumer wine, beer and spirits tasting events  
9 and samplings for a fee or on a complimentary basis pursuant to  
10 conditions established by rules and regulations of the Division of  
11 Alcoholic Beverage Control, provided however, that the holder of  
12 this license complies with the terms and conditions set forth in  
13 section 3 of P.L.2009, c.216 (C.33:1-12d). Subject to such rules  
14 and regulations established from time to time by the director, the  
15 holder of this license shall be permitted to sell alcoholic beverages  
16 in or upon the premises in which any of the following is carried on:  
17 the keeping of a hotel or restaurant including the sale of mercantile  
18 items incidental thereto as an accommodation to patrons; the sale, at  
19 an entertainment facility as defined in R.S.33:1-1, having a seating  
20 capacity for no less than 4,000 patrons, of mercantile items  
21 traditionally associated with the type of event or program held at  
22 the site; the sale of distillers', brewers' and vintners' packaged  
23 merchandise prepacked as a unit with other suitable objects as gift  
24 items to be sold only as a unit; the sale of novelty wearing apparel  
25 identified with the name of the establishment licensed under the  
26 provisions of this section; the sale of cigars, cigarettes, packaged  
27 crackers, chips, nuts and similar snacks and ice at retail as an  
28 accommodation to patrons, or the retail sale of nonalcoholic  
29 beverages as accessory beverages to alcoholic beverages; or, in  
30 commercial bowling establishments, the retail sale or rental of  
31 bowling accessories and the retail sale from vending machines of  
32 candy, ice cream and nonalcoholic beverages. The fee for this  
33 license shall be fixed by the governing board or body of the  
34 municipality in which the licensed premises are situated, by  
35 ordinance, at not less than \$250 and not more than \$2,500. No  
36 ordinance shall be enacted which shall raise or lower the fee to be  
37 charged for this license by more than 20% from that charged in the  
38 preceding license year or \$500.00, whichever is the lesser. The  
39 governing board or body of each municipality may, by ordinance,  
40 enact that no plenary retail consumption license shall be granted  
41 within its respective municipality.

42 The holder of this license shall be permitted to obtain a restricted  
43 brewery license issued pursuant to subsection 1c. of R.S.33:1-10  
44 and to operate a restricted brewery immediately adjoining the  
45 licensed premises in accordance with the restrictions set forth in  
46 that subsection. All fees related to the issuance of both licenses  
47 shall be paid in accordance with statutory law.

1 Seasonal retail consumption license. 2. The holder of this  
2 license shall be entitled, subject to rules and regulations, to sell any  
3 alcoholic beverages for consumption on the licensed premises by  
4 the glass or other open receptacle, and also to sell any alcoholic  
5 beverages in original containers for consumption off the licensed  
6 premises, during the summer season from May 1 until November  
7 14, inclusive, or during the winter season from November 15 until  
8 April 30, inclusive; but this license shall not be issued to permit the  
9 sale of alcoholic beverages in or upon any premises in which a  
10 grocery, delicatessen, drug store or other mercantile business is  
11 carried on, except as hereinafter provided. Subject to such rules  
12 and regulations established from time to time by the director, the  
13 holder of this license shall be permitted to sell alcoholic beverages  
14 in or upon the premises in which any of the following is carried on:  
15 the keeping of a hotel or restaurant including the sale of mercantile  
16 items incidental thereto as an accommodation to patrons; the sale of  
17 distillers', brewers' and vintners' packaged merchandise prepacked  
18 as a unit with other suitable objects as gift items to be sold only as a  
19 unit; the sale of novelty wearing apparel identified with the name of  
20 the establishment licensed under the provisions of this section; the  
21 sale of cigars, cigarettes, packaged crackers, chips, nuts and similar  
22 snacks and ice at retail as an accommodation to patrons; or the retail  
23 sale of nonalcoholic beverages as accessory beverages to alcoholic  
24 beverages. The fee for this license shall be fixed by the governing  
25 board or body of the municipality in which the licensed premises  
26 are situated, by ordinance, at 75% of the fee fixed by said board or  
27 body for plenary retail consumption licenses. The governing board  
28 or body of each municipality may, by ordinance, enact that no  
29 seasonal retail consumption license shall be granted within its  
30 respective municipality.

31 Plenary retail distribution license. 3. a. The holder of this license  
32 shall be entitled, subject to rules and regulations, to sell any  
33 alcoholic beverages for consumption off the licensed premises, but  
34 only in original containers; except that licensees shall be permitted  
35 to conduct consumer wine, beer, and spirits tasting events and  
36 samplings on a complimentary basis pursuant to conditions  
37 established by rules and regulations of the Division of Alcoholic  
38 Beverage Control, provided however, that the holder of this license  
39 complies with the terms and conditions set forth in section 3 of  
40 P.L.2009, c.216 (C.33:1-12d).

41 The governing board or body of each municipality may, by  
42 ordinance, enact that this license shall not be issued to permit the  
43 sale of alcoholic beverages in or upon any premises in which any  
44 other mercantile business is carried on, except that any such  
45 ordinance, heretofore or hereafter adopted, shall not prohibit the  
46 retail sale of distillers', brewers' and vintners' packaged  
47 merchandise prepacked as a unit with other suitable objects as gift  
48 items to be sold only as a unit; the sale of novelty wearing apparel

1 identified with the name of the establishment licensed under the  
2 provisions of this act; cigars, cigarettes, packaged crackers, chips,  
3 nuts and similar snacks, ice, and nonalcoholic beverages as  
4 accessory beverages to alcoholic beverages. The fee for this license  
5 shall be fixed by the governing board or body of the municipality in  
6 which the licensed premises are situated, by ordinance, at not less  
7 than \$125 and not more than \$2,500. No ordinance shall be enacted  
8 which shall raise or lower the fee to be charged for this license by  
9 more than 20% from that charged in the preceding license year or  
10 ~~[\$500.00]~~ \$500, whichever is the lesser. The governing board or  
11 body of each municipality may, by ordinance, enact that no plenary  
12 retail distribution license shall be granted within its respective  
13 municipality.

14 Limited retail distribution license. 3. b. The holder of this license  
15 shall be entitled, subject to rules and regulations, to sell any  
16 unchilled, brewed, malt alcoholic beverages in quantities of not less  
17 than 72 fluid ounces for consumption off the licensed premises, but  
18 only in original containers; provided, however, that this license  
19 shall be issued only for premises operated and conducted by the  
20 licensee as a bona fide grocery store, meat market, meat and  
21 grocery store, delicatessen, or other type of bona fide food store at  
22 which groceries or other foodstuffs are sold at retail; and provided  
23 further that this license shall not be issued except for premises at  
24 which the sale of groceries or other foodstuffs is the primary and  
25 principal business and at which the sale of alcoholic beverages is  
26 merely incidental and subordinate thereto. The fee for this license  
27 shall be fixed by the governing body or board of the municipality in  
28 which the licensed premises are situated, by ordinance, at not less  
29 than \$31 and not more than \$63. The governing board or body of  
30 each municipality may, by ordinance, enact that no limited retail  
31 distribution license shall be granted within its respective  
32 municipality.

33 Plenary retail transit license. 4. The holder of this license shall be  
34 entitled, subject to rules and regulations, to sell any alcoholic  
35 beverages, for consumption only, on railroad trains, airplanes,  
36 limousines and boats, while in transit. The fee for this license for  
37 use by a railroad or air transport company shall be \$375, for use by  
38 the owners of limousines shall be \$31 per vehicle, and for use on a  
39 boat shall be \$63 on a boat 65 feet or less in length, \$125 on a boat  
40 more than 65 feet in length but not more than 110 feet in length,  
41 and \$375 on a boat more than 110 feet in length; such boat lengths  
42 shall be determined in the manner prescribed by the Bureau of  
43 Customs of the United States Government or any federal agency  
44 successor thereto for boat measurement in connection with issuance  
45 of marine documents. A license issued under this provision to a  
46 railroad or air transport company shall cover all railroad cars and  
47 planes operated by any such company within the State of New  
48 Jersey. A license for a boat or limousine issued under this

1 provision shall apply only to the particular boat or limousine for  
2 which issued, and shall permit the purchase of alcoholic beverages  
3 for sale or service in a boat or limousine to be made from any Class  
4 A and B licensee or from any Class C licensee whose license  
5 privilege permits the sale of alcoholic beverages in original  
6 containers for off-premises consumption. An interest in a plenary  
7 retail transit license issued in accordance with this section shall be  
8 excluded in determining the maximum number of retail licenses  
9 permitted under P.L.1962, c.152 (C.33:1-12.31 et seq.).

10 Club license. 5. The holder of this license shall be entitled,  
11 subject to rules and regulations, to sell any alcoholic beverages but  
12 only for immediate consumption on the licensed premises and only  
13 to bona fide club members and their guests. The fee for this license  
14 shall be fixed by the governing board or body of the municipality in  
15 which the licensed premises are situated, by ordinance, at not less  
16 than \$63 and not more than \$188. The governing board or body of  
17 each municipality may, by ordinance, enact that no club licenses  
18 shall be granted within its respective municipality. Club licenses  
19 may be issued only to such corporations, associations and  
20 organizations as are operated for benevolent, charitable, fraternal,  
21 social, religious, recreational, athletic, or similar purposes, and not  
22 for private gain, and which comply with all conditions which may  
23 be imposed by the Director of the Division of Alcoholic Beverage  
24 Control by rules and regulations.

25 Restricted restaurant license (R1). 6. The holder of this license  
26 shall be entitled, subject to rules and regulations, to sell any  
27 alcoholic beverages for consumption by the glass or other open  
28 receptacle in or upon the premises of a restaurant with a minimum  
29 square footage of 1,500 and a maximum square footage of 6,000  
30 and maintains a full-service kitchen with a minimum square footage  
31 of 500 regularly and principally used for the purpose of providing  
32 food to customers. The full-service kitchen shall be adequately  
33 equipped for the preparation and serving of food and shall have, at  
34 minimum, a dishwasher, range, sink, oven, refrigerator, and  
35 countertop. A licensed premises under the provisions of this  
36 paragraph shall encompass not more than one physical address.  
37 Alcoholic beverages only shall be sold in connection with the  
38 service of food and served at a table by an employee of the  
39 restaurant. The sale of alcoholic beverages shall begin at 12 p.m. or  
40 one hour prior to the service of food, whichever time is later in the  
41 day, and may continue until 10 p.m. on Sunday through Thursday,  
42 and until 11 p.m. on Friday and Saturday.

43 The holder of this license shall not provide a bar area for  
44 customers of the restaurant to congregate and consume alcoholic  
45 beverages but may provide a service bar at which alcoholic  
46 beverages are prepared for service to customers at a table. An  
47 employee of the restaurant may be stationed at the service bar to  
48 prepare drinks for customers, but shall only transfer alcoholic

1 beverages to wait staff employed by the restaurant to be delivered  
2 to restaurant patrons who are seated or are waiting to be seated at a  
3 table; an employee preparing drinks at the service bar shall be  
4 prohibited from directly transferring alcoholic beverages to  
5 restaurant patrons. The restaurant operated by the licensee shall  
6 offer to customers a standard printed menu or menu board system or  
7 similar signage featuring a list of meals with separate prices listed  
8 adjacent to each meal, or for parties of 10 restaurant patrons or  
9 greater, the restaurant may offer a full course menu with a limited  
10 number of meal choices for a fixed price.

11 The holder of this license may not sell or transfer the license.  
12 The governing board or body of the municipality shall not limit the  
13 number of restricted restaurant licenses issued within the  
14 municipality, and the restriction in section 2 of P.L.1947, c.94  
15 (C.33:1-12.14) concerning the number of retail consumption  
16 licenses that may be issued in a municipality shall not be applicable  
17 to the license issued under this paragraph. A municipality that  
18 prohibits the sale of alcoholic beverages within its borders may  
19 establish by ordinance or resolution that a restricted restaurant  
20 license may be issued in the municipality.

21 The initial fee and annual renewal fee for this license shall be  
22 \$3,000 for a restaurant with a square footage of 1,500 to 3,000, and  
23 \$10,000 for a restaurant with a square footage of 3,001 to 6,000.  
24 The initial fee and annual renewal fee for this license shall be  
25 distributed in the following manner:

26 (1) \$2,500 shall be paid to the municipality wherein the  
27 restaurant is located and if the restaurant is located within the  
28 boundaries of two or more municipalities, the fee shall be divided  
29 equally among those municipalities;

30 (2) The remainder of the fee shall be paid to the Director of the  
31 Division of Taxation to be used solely for the purposes of offsetting  
32 the costs associated with issuing tax credits pursuant to section 6 of  
33 P.L. , c. (C. )(pending before the Legislature as this bill)  
34 and section 7 of P.L. , c. (C. )(pending before the  
35 Legislature as this bill). After the Division of Taxation is  
36 reimbursed for costs associated with issuing tax credits pursuant to  
37 section 6 of P.L. , c. (C. )(pending before the Legislature as  
38 this bill) and section 7 of P.L. , c. (C. )(pending before the  
39 Legislature as this bill), the full fee shall be paid to the municipality  
40 in the same manner as provided under paragraph (1) of this  
41 subsection.

42 In addition, the holder of a restricted restaurant license shall pay  
43 upon renewal of the license any applicable renewal fees which are  
44 otherwise required to be paid to the Director of the Division of  
45 Alcoholic Beverage Control by the holder of a plenary retail  
46 consumption license.

47 Restricted beer and wine license (R2). 7. The holder of this  
48 license shall be entitled, subject to rules and regulations, to sell any

1 beer or wine by the can, bottle or other sealed receptacle used for  
2 holding alcoholic beverages for consumption in or upon the premises  
3 of a restaurant with a minimum square footage of 1,500 and a  
4 maximum square footage of 6,000 and maintains a full-service  
5 kitchen with a minimum square footage of 500 regularly and  
6 principally used for the purpose of providing food to customers.  
7 The full-service kitchen shall be adequately equipped for the  
8 preparation and serving of food and shall have, at a minimum, a  
9 dishwasher, range, sink, oven, refrigerator, and countertop. A  
10 licensed premises under the provisions of this paragraph shall  
11 encompass not more than one physical address.

12 The holder of this license shall not provide a bar area for  
13 customers of the restaurant to congregate and consume alcoholic  
14 beverages. In addition, the holder of this license shall not provide  
15 a service bar. Alcoholic beverages only may be sold in connection  
16 with the service of food and served at a table by an employee of the  
17 restaurant. The sale of beer and wine shall begin at 12 p.m. or one  
18 hour prior to the service of food, whichever time is later in the day,  
19 and may continue until 10 p.m. on Sunday through Thursday, and  
20 until 11 p.m. on Friday and Saturday. The restaurant operated by  
21 the licensee shall offer to customers a standard printed menu or  
22 menu board system or similar signage featuring a list of meals with  
23 separate prices listed adjacent to each meal, or for parties of 10  
24 restaurant patrons or greater, the licensee may offer a full course  
25 menu with a limited number of meal choices for a fixed price.

26 The holder of this license may not sell or transfer the license.  
27 The governing board or body of the municipality shall not limit the  
28 number of restricted beer and wine licenses issued within the  
29 municipality, and the restriction in section 2 of P.L.1947, c.94  
30 (C.33:1-12.14) concerning the number of retail consumption  
31 licenses that may be issued in a municipality shall not be applicable  
32 to the license issued under this paragraph. A municipality that  
33 prohibits the sale of alcoholic beverages within its borders may  
34 establish by ordinance or resolution that a restricted beer and wine  
35 license may be issued in the municipality.

36 The initial fee and annual renewal fee for this license shall be  
37 \$1,500 for a restaurant with a square footage of 1,500 to 3,000 and  
38 \$5,000 for a restaurant with a square footage of 3,001 to 6,000. The  
39 initial fee and annual renewal fee for this license shall be distributed  
40 in the following manner:

41 (1) \$1,250 shall be paid to the municipality wherein the  
42 restaurant is located, and if the restaurant is located within the  
43 boundaries of two or more municipalities, the fee shall be divided  
44 equally among those municipalities;

45 (2) The remainder of the fee shall be paid to the Director of the  
46 Division of Taxation to be used solely for the purposes of offsetting  
47 the costs associated with issuing tax credits pursuant to section 6 of  
48 P.L. , c. (C. )(pending before the Legislature as this bill)



1 and section 7 of P.L. , c. (C. )(pending before the  
2 Legislature as this bill). After the Division of Taxation is  
3 reimbursed for costs associated with issuing tax credits pursuant to  
4 section 6 of P.L. , c. (C. )(pending before the Legislature as  
5 this bill) and section 7 of P.L. , c. (C. )(pending before the  
6 Legislature as this bill), the full fee shall be paid to the municipality  
7 in the same manner as provided under paragraph (1) of this  
8 subsection.

9 In addition, the holder of a restricted restaurant license shall pay  
10 upon renewal of the license any applicable renewal fees which are  
11 otherwise required to be paid to the Director of the Division of  
12 Alcoholic Beverage Control by the holder of a plenary retail  
13 consumption license.

14 The provisions of section 23 of P.L.2003, c.117 amendatory of  
15 this section shall apply to licenses issued or transferred on or after  
16 July 1, 2003, and to license renewals commencing on or after July  
17 1, 2003.

18 Sporting facility license. 6. The holder of this license shall be  
19 entitled, subject to rules and regulations, to sell at retail or to serve  
20 any alcoholic beverages as the owner, operator, lessee, or  
21 concessionaire of a sporting facility by the glass or other receptacle  
22 or in original containers only on the premises of the sporting  
23 facility.

24 Notwithstanding any other provision of Title 33 of the Revised  
25 Statutes and subject to conditions established by the director, the  
26 holder of this license may share direction and control of the  
27 premises to be licensed and share proceeds and profits from the sale  
28 of alcoholic beverages with the owner, operator, concessionaire, or  
29 lessee of the facility. The holder of this license shall be permitted  
30 to conduct consumer wine, beer, and spirits tasting events and  
31 samplings for a fee or on a complimentary basis provided, however,  
32 the license holder complies with the provisions of section 3 of  
33 P.L.2009, c.216 (C.33:1-12d) and rules and regulations promulgated  
34 thereto. Notwithstanding any law, rule or regulation to the  
35 contrary, the holder of this license shall be entitled to establish an  
36 all-inclusive area within the licensed sporting facility, provided the  
37 all-inclusive area is limited to one area within the sporting facility  
38 for each game or event and the capacity of the all-inclusive area  
39 does not exceed 500 persons.

40 The fee for this license shall be \$2,500 for venues with a  
41 capacity of less than 7,500 persons; \$5,000 for venues with a  
42 capacity of not less than 7,500 persons but not more than 14,999  
43 persons; \$7,500 for venues with a capacity of not less than 15,000  
44 persons but not more than 22,499 persons; and \$10,000 for venues  
45 with a capacity of 22,500 persons or more.

46 For the purposes of this subsection:

47 "Sporting facility" means a stadium, arena, team training facility,  
48 or similar venue located on public property where alcoholic

1 beverages are served or sold at retail for consumption on the  
2 premises by the glass or other open receptacle or in original  
3 containers.

4 "Team training facility" shall include team offices and team  
5 headquarters.

6 (cf: P.L.2015, c.86, s.1)

7

8 3. Section 2 of P.L.1947, c.94 (C.33:1-12.14) is amended to  
9 read as follows:

10 2. a. Except as otherwise provided in this **[act]** title, no new  
11 plenary retail consumption or seasonal retail consumption license  
12 shall be issued in a municipality unless and until the combined total  
13 number of such licenses existing in the municipality is fewer than  
14 one for each 3,000 of its population according to the most recent  
15 estimates issued by the U.S. Bureau of the Census; provided,  
16 however, in the year that the official federal decennial counts are  
17 received by the Governor, those federal decennial counts shall be  
18 used. No new plenary retail distribution license shall be issued in a  
19 municipality unless and until the number of such licenses existing  
20 in the municipality is fewer than one for each 7,500 of its  
21 population according to the most recent estimates issued by the U.S.  
22 Bureau of the Census; provided, however, in the year that the  
23 official federal decennial counts are received by the Governor,  
24 those federal decennial counts shall be used.

25 b. (1) A municipality which has adopted a master plan pursuant  
26 to the provisions of section 19 of P.L.1975, c.291 (C.40:55D-28)  
27 may issue a plenary retail consumption license based upon the  
28 population projections for that municipality contained in the master  
29 plan and the schedule set forth in this subsection.

30 (2) A municipality may issue additional plenary retail  
31 consumption licenses based upon the peak population projection in  
32 the master plan. If the projected peak population supports the  
33 issuance of one or more additional plenary retail consumption  
34 licenses, the municipality may issue one additional license. The  
35 municipality may issue another plenary retail consumption license  
36 whenever there is an increase of 3,000 or more in the population of  
37 the municipality, according to the most recent estimates issued by  
38 the U.S. Bureau of the Census or the official federal decennial  
39 counts in the years those counts are issued, until the maximum  
40 number of licenses supported by the projected peak population have  
41 been issued.

42 (cf: PL.1999, c.189, s.1)

43

44 4. (New section) a. The holder of a restricted restaurant  
45 license or restricted beer and wine license who violates subsections  
46 a. through j. of R.S.33:1-31:

47 (1) for a first offense, shall be subject to a mandatory license  
48 suspension in an amount of time determined by the director and be

1 liable for a civil penalty of \$5,000 which shall be imposed on a  
2 restricted restaurant licensee, and \$2,500 which shall be imposed on  
3 a restricted beer and wine license licensee.

4 (2) for a second offense, shall be subject to a permanent  
5 revocation of the restricted restaurant license or restricted beer and  
6 wine license and be liable for a civil penalty of three times the fair  
7 market value of a plenary retail consumption license. The fair  
8 market value shall be based upon the average sales price of plenary  
9 retail consumption licenses in the municipality in which the  
10 licensed premises is located during the five years immediately  
11 preceding the effective date of P.L. , c. (pending before the  
12 Legislature as this bill). If the licensed premises is located within  
13 the boundaries of two or more municipalities, the highest average  
14 sale price of the two or more municipalities shall be used. If less  
15 than three plenary retail consumption licenses have been sold in the  
16 municipality or municipalities, as the case may be, within the  
17 previous five years, the municipality or municipalities shall obtain  
18 an appraisal, at the applicant's expense, to determine the  
19 appropriate fair market value of the license. The appraisal process  
20 shall include an examination of previous transactions in the  
21 municipality or municipalities, as the case may be, and shall reflect  
22 what a willing buyer, under no pressure to buy, would pay a willing  
23 seller, under no pressure to sell, for a plenary retail consumption  
24 license in that municipality or municipalities.

25 b. The fines imposed pursuant to this section shall be collected  
26 by the director and forwarded to the State Treasurer in accordance  
27 with subsection b. of section 14 of P.L.1992, c.188 (C.33:1-4.1).

28

29 5. Section 14 of P.L.1992, c.188 (C.33:1-4.1) is amended to  
30 read as follows:

31 14. a. All fees and penalties collected by the Director of the  
32 Division of Alcoholic Beverage Control pursuant to the provisions  
33 of Title 33 of the Revised Statutes shall be forwarded to the State  
34 Treasurer for deposit in a special nonlapsing fund. Monies in the  
35 fund shall be used exclusively for the operation of the Alcoholic  
36 Beverage Control Enforcement Bureau in the Division of State  
37 Police and the Division of Alcoholic Beverage Control and for  
38 reimbursement of all additional costs of enforcement of the  
39 provisions of Title 33 incurred by the Department of Law and  
40 Public Safety.

41 b. Notwithstanding the provisions of subsection a. of this  
42 section, the fines imposed pursuant to section 4 of P.L. ,  
43 c. (C. )(pending before the Legislature as this bill) shall be  
44 collected by the director and forwarded to the State Treasurer to be  
45 used for the purposes of offsetting the costs associated with issuing  
46 tax credits pursuant to section 6 of P.L. , c. (C. )(pending  
47 before the Legislature as this bill) and section 7 of P.L. ,  
48 c. (C. )(pending before the Legislature as this bill). After the

1 Division of Taxation is reimbursed for up to 75 percent of the  
2 projected estimated cost associated with issuing tax credits pursuant  
3 to section 6 of P.L. , c. (C. )(pending before the Legislature  
4 as this bill) and section 7 of P.L. , c. (C. )(pending before the  
5 Legislature as this bill), the fines shall be used exclusively for the  
6 operation of the Alcoholic Beverage Control Enforcement Bureau  
7 in accordance with subsection a. of this section.

8 (cf: P.L.1992, c.188, s.14)

9  
10 6. (New section) a. A taxpayer that is certified as a qualified  
11 holder of a plenary retail consumption license shall be allowed a  
12 credit against the corporation business tax imposed pursuant to  
13 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the  
14 credit shall be equal to 100 percent of the fair market value of the  
15 taxpayer's license prior to the date of enactment of P.L. ,  
16 c. (C. ) (pending before the Legislature as this bill), and shall  
17 be taken over a five-year period, in five annual installments, at the  
18 rate of one-fifth the total amount of the taxpayer's credit for each  
19 privilege period of the taxpayer, beginning with the privilege period  
20 in which the taxpayer is certified as a qualified holder of a plenary  
21 retail consumption license by the Director of the Division of  
22 Alcoholic Beverage Control in the Department of Law and Public  
23 Safety in accordance with subsection b. of this section.

24 b. (1) To be certified as a qualified holder of a plenary retail  
25 consumption license, a taxpayer shall make and file an application  
26 for certification with the Director of the Division of Alcoholic  
27 Beverage Control within 360 days of the effective date of P.L. ,  
28 c. (C. ) (pending before the Legislature as this bill). The  
29 application shall be made on forms furnished by the Director of the  
30 Division of Alcoholic Beverage Control, and shall require the  
31 taxpayer to demonstrate: the location of the premises operated in  
32 connection with the license; the number of years the taxpayer has  
33 held the license; the original amount paid by the taxpayer for the  
34 privilege of holding the license; and the purpose to which the  
35 license has been used by the taxpayer.

36 (2) The Director of the Division of Alcoholic Beverage Control  
37 shall review each application made and filed in accordance with  
38 paragraph (1) of this subsection and make a determination regarding  
39 the issuance of a certification within 180 days of the date a  
40 complete application is filed. The determination shall be made  
41 based upon the Director of the Division of Alcoholic Beverage  
42 Control's finding that: the taxpayer acquired the license prior to the  
43 date of enactment of P.L. , c. (C. ) (pending before the  
44 Legislature as this bill); the taxpayer held the license in an active  
45 status prior to the effective date of P.L. , c. (C. ) (pending  
46 before the Legislature as this bill); and the license is used directly  
47 by the taxpayer to sell alcoholic beverages for consumption on a  
48 licensed premises in accordance with the provisions of R.S.33:1-12.

1 (3) The Director of the Division of Alcoholic Beverage Control  
2 shall, at the time a determination regarding the issuance of a  
3 certification is made, establish the fair market value of the  
4 taxpayer's license prior to the date of enactment of P.L. ,  
5 c. (C. ) (pending before the Legislature as this bill). To assist  
6 in establishing the fair market value of a license, the Director of the  
7 Division of Alcoholic Beverage Control may appoint an advisory  
8 committee composed of representatives with knowledge and  
9 experience in the appraisal of alcoholic beverage licenses in this  
10 State. The fair market value of the license shall be based upon the  
11 average sales price of plenary retail consumption licenses in the  
12 municipality in which the licensed premises is located during the  
13 five years immediately preceding the date of enactment of P.L. ,  
14 c. (C. ) (pending before the Legislature as this bill). If the  
15 licensed premises is located within the boundaries of two or more  
16 municipalities, the fair market value shall be based on the average  
17 sale price of plenary retail consumption licenses issued in the  
18 municipality in which the structure of licensed premises is primarily  
19 situated. If less than three plenary retail consumption licenses have  
20 been sold in the municipality or municipalities, as the case may be,  
21 within the previous five years, the taxpayer shall obtain an  
22 appraisal, at the taxpayer's expense, to determine the appropriate  
23 fair market value of the license. The appraisal process shall include  
24 an examination of previous transactions in the municipality or  
25 municipalities, as the case may be, and shall reflect what a willing  
26 buyer, under no pressure to buy, would pay a willing seller, under  
27 no pressure to sell, for a plenary retail consumption license in that  
28 municipality or municipalities, as the case may be.

29 If a single plenary retail consumption license is used in  
30 connection with the operation of multiple restaurants or other  
31 establishments located on the same licensed premises, the fair  
32 market value established under this paragraph shall be divided by  
33 the number of restaurants or establishments operating in connection  
34 with that plenary retail consumption license.

35 (4) The Director of the Division of Alcoholic Beverage Control  
36 shall issue a written certification to each taxpayer that has made and  
37 filed an application that has been reviewed and approved in  
38 accordance with paragraph (2) of this subsection within 10 days of  
39 the date the determination is made. The written certification shall  
40 include a detailed explanation of the fair market value of the  
41 taxpayer's license established in accordance with paragraph (3) of  
42 this subsection. Each taxpayer issued a certification shall include a  
43 copy of the written certification, along with the detailed explanation  
44 of the fair market value of the taxpayer's license, when filing a  
45 return that includes a claim for the credit allowed in accordance  
46 with this section.

47 (5) The Director of the Division of Alcoholic Beverage Control  
48 shall provide a copy of each written certification issued in

1 accordance with paragraph (4) of this subsection to the Director of  
2 the Division of Taxation in the Department of the Treasury within  
3 10 days of the date the certification is issued, and shall prepare a  
4 report regarding the administration of the certification process  
5 established in accordance with this subsection. The report shall  
6 specify: the number of applications made and filed; the number of  
7 certifications issued; and the fair market value of each license for  
8 which a certification is issued. The report shall be submitted to the  
9 Governor, the State Treasurer, and the Legislature, in accordance  
10 with section 2 of P.L.1991, c.164 (C.52:14-19.1), within 450 days  
11 of the effective date of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill).

13 c. The order of priority of the application of an annual  
14 installment of the credit allowed pursuant to this section and any  
15 other credit allowed against the corporation business tax for a  
16 privilege period shall be as prescribed by the Director of the  
17 Division of Taxation in the Department of the Treasury. The  
18 amount of an annual installment of the credit applied under this  
19 section against the corporation business tax for a privilege period,  
20 together with any other annual installment and any other credits  
21 allowed against the corporation business tax, shall not reduce the  
22 tax liability of the taxpayer to an amount less than the statutory  
23 minimum provided in subsection (e) of section 5 of P.L.1945, c.162  
24 (C.54:10A-5). No amount of the fair market value of the taxpayer's  
25 license that is used as the basis of the credit allowed pursuant to this  
26 section shall be allowed as an amount used to calculate a loss or  
27 expense of the taxpayer or otherwise reduce or offset that  
28 taxpayer's liability for tax pursuant to any other exclusion,  
29 deduction, or credit allowed under the corporation business tax. The  
30 amount of an annual installment of the credit allowable under this  
31 section which cannot be applied for a privilege period due to the  
32 limitations of this subsection may be carried forward, if necessary,  
33 to the earliest available use within the 20 privilege periods  
34 immediately following the privilege period for which the credit is  
35 allowed.

36 d. A taxpayer may, upon issuance of a certification as a  
37 qualified holder of a plenary retail consumption license by the  
38 Director of the Division of Alcoholic Beverage Control in  
39 accordance with subsection b. of this section, make and file an  
40 application to the Director of the Division of Taxation for a tax  
41 credit transfer certificate in lieu of the taxpayer being allowed an  
42 annual installment of the credit or any amount of an annual  
43 installment of the credit that may be taken against the corporation  
44 business tax liability of the taxpayer. The Director of the Division  
45 of Taxation may prescribe the form and manner by which a  
46 taxpayer may make and file a separate application in connection  
47 with each annual installment of the credit or any amount of each  
48 annual installment of the credit, and may consult with the Director

1 of the Division of Alcoholic Beverage Control in reviewing and  
2 approving any application for a tax credit transfer certificate of a  
3 taxpayer. The tax credit transfer certificate, upon issuance thereof  
4 by the Director of the Division of Taxation, may be sold or  
5 assigned, in whole or in part, to any other taxpayer that may have a  
6 corporation business tax or a gross income tax liability, in exchange  
7 for private financial assistance to be provided by the purchaser or  
8 assignee to the taxpayer that is allowed a credit under this section.  
9 The certificate issued to the taxpayer shall include a statement  
10 waiving the taxpayer's right to claim that amount of the annual  
11 installment of the credit against the corporation business tax that the  
12 taxpayer has elected to sell or assign. The sale or assignment of any  
13 amount of a tax credit transfer certificate allowed under this  
14 subsection shall not be exchanged for consideration received by the  
15 taxpayer of less than 75 percent of the transferred credit amount.  
16 Any amount of a tax credit transfer certificate used by a purchaser  
17 or assignee against a corporation business tax liability shall be  
18 subject to the same limitations and conditions that apply to the use  
19 of a credit pursuant to subsection c. of this section. Any amount of a  
20 tax credit transfer certificate obtained by a purchaser or assignee  
21 under this section may be applied against the purchaser's or  
22 assignee's gross income tax liability and shall be subject to the same  
23 limitations and conditions that apply to the use of a credit pursuant  
24 to subsection c. of section 7 of P.L. , c. (C. ) (pending  
25 before the Legislature as this bill).

26 e. (1) If, in the five-year period beginning with the privilege  
27 period in which the taxpayer is certified as a qualified holder of a  
28 plenary retail consumption license, the taxpayer sells or transfers  
29 any part of the taxpayer's interest in the license to another person,  
30 the taxpayer shall forfeit that portion of the taxpayer's credit that is  
31 equal to the amount of consideration received by the taxpayer from  
32 the sale or transfer of the license. The forfeited portion shall first  
33 reduce the balance of any annual installment of a credit of the  
34 taxpayer that is allowed but that has not been applied against the tax  
35 liability of the taxpayer, or converted into a tax credit transfer  
36 certificate and sold or assigned to another taxpayer in accordance  
37 with subsection d. of this section, during the privilege period in  
38 which the sale or transfer of the license occurs, and then shall  
39 reduce the balance of any future annual installment of a credit of a  
40 taxpayer that is allowed but that has not been applied, or converted  
41 and sold or assigned to another taxpayer, beginning with future  
42 annual installments allowed during the privilege period immediately  
43 following the privilege period in which the sale or transfer occurs.  
44 If, after being used to reduce future annual installments, the  
45 forfeited portion exceeds the amount of any allowable credit  
46 remaining, the taxpayer shall repay the amount of that excess to the  
47 Director of the Division of Taxation; provided however, that if the  
48 taxpayer converted an annual installment of the credit or any

1 amount of an annual installment of the credit into a tax credit  
2 transfer certificate in accordance with subsection d. of this section,  
3 the amount of the excess required to be repaid to the Director of the  
4 Division of Taxation shall be reduced, if necessary, in proportion to  
5 the amount of consideration received by the taxpayer from the sale  
6 or assignment of the tax credit transfer certificate.

7 (2) If, in the 15-year period beginning with the fifth privilege  
8 period immediately following the privilege period in which the  
9 taxpayer is certified as a qualified holder of a plenary retail  
10 consumption license, the taxpayer sells or transfers any part of the  
11 taxpayer's interest in the license to another person, the taxpayer  
12 shall forfeit that portion of the taxpayer's credit that is equal to the  
13 amount of consideration received by the taxpayer from the sale or  
14 transfer of the license. The forfeited portion shall first reduce the  
15 balance of any tax credit carryforward from a prior privilege period  
16 that is allowed but that has not been applied against the tax liability  
17 of the taxpayer during the privilege period in which the sale or  
18 transfer of the license occurs, and then shall reduce the balance of  
19 any tax credit carryforward from a prior privilege period that  
20 otherwise would have been applied against future tax liabilities of  
21 the taxpayer. If, after being used to reduce carryforwards from prior  
22 privilege periods, the forfeited portion exceeds the amount of any  
23 allowable credit remaining, the taxpayer shall repay the amount of  
24 that excess to the Director of the Division of Taxation subject to the  
25 following limitations:

26 (a) if the taxpayer is required to repay the amount of any excess  
27 as a result of the sale or transfer of the taxpayer's license occurring  
28 in the first five years of the 15-year period, the amount of the  
29 excess shall be multiplied by 0.75 to determine the amount of the  
30 excess required to be repaid to the Director of the Division of  
31 Taxation;

32 (b) if the taxpayer is required to repay the amount of any excess  
33 as a result of the sale or transfer of the taxpayer's license occurring  
34 in the second five years of the 15-year period, the amount of the  
35 excess shall be multiplied by 0.50 to determine the amount of the  
36 excess required to be repaid to the Director of the Division of  
37 Taxation; and

38 (c) if the taxpayer is required to repay the amount of any excess  
39 as a result of the sale or transfer of the taxpayer's license occurring  
40 in the third five years of the 15-year period, the amount of the  
41 excess shall be multiplied by 0.25 to determine the amount of the  
42 excess required to be repaid to the Director of the Division of  
43 Taxation.

44 In addition, if the taxpayer converted the credit or any amount of  
45 the credit into a tax credit transfer certificate in accordance with  
46 subsection d. of this section, the amount of the excess required to be  
47 repaid to the Director of the Division of Taxation shall be further  
48 reduced, if necessary, in proportion to the amount of consideration



1 received by the taxpayer from the sale or assignment of the tax  
2 credit transfer certificate.

3 (3) The amount of excess required to be repaid to the Director of  
4 the Division of Taxation pursuant to paragraph (1) or (2) of this  
5 subsection shall be a deficiency with respect to the payment of a  
6 State tax. The Director of the Division of Taxation shall have all  
7 rights, powers and duties authorized under the State Uniform Tax  
8 Procedure Law, R.S.54:48-1 et seq., to ensure payment, collection,  
9 or recovery of the deficiency, and the taxpayer shall be afforded all  
10 protections, rights, and remedies allowed under R.S.54:48-1 et seq.  
11 to challenge, protest, or appeal the deficiency or any determination  
12 or decision made in connection with the deficiency.

13  
14 7. (New section) a. A taxpayer that is certified as a qualified  
15 holder of a plenary retail consumption license shall be allowed a  
16 credit against the tax imposed pursuant to the "New Jersey Gross  
17 Income Tax Act," N.J.S.54A:1-1 et seq. The amount of the credit  
18 shall be equal to 100 percent of the fair market value of the  
19 taxpayer's license prior to the date of enactment of P.L. ,  
20 c. (C. ) (pending before the Legislature as this bill), and shall  
21 be taken over a five-year period, in five annual installments, at the  
22 rate of one-fifth the total amount of the taxpayer's credit for each  
23 taxable year of the taxpayer, beginning with the taxable year in  
24 which the taxpayer is certified as a qualified holder of a plenary  
25 retail consumption license by the Director of the Division of  
26 Alcoholic Beverage Control in the Department of Law and Public  
27 Safety in accordance with subsection b. of this section.

28 b. (1) To be certified as a qualified holder of a plenary retail  
29 consumption license, a taxpayer shall make and file an application  
30 for certification with the Director of the Division of Alcoholic  
31 Beverage Control within 360 days of the effective date of P.L. ,  
32 c. (C. ) (pending before the Legislature as this bill). The  
33 application shall be made on forms furnished by the Director of the  
34 Division of Alcoholic Beverage Control, and shall require the  
35 taxpayer to demonstrate: the location of the premises operated in  
36 connection with the license; the number of years the taxpayer has  
37 held the license; the original amount paid by the taxpayer for the  
38 privilege of holding the license; and the purpose to which the  
39 license has been used by the taxpayer.

40 (2) The Director of the Division of Alcoholic Beverage Control  
41 shall review each application made and filed in accordance with  
42 paragraph (1) of this subsection and make a determination regarding  
43 the issuance of a certification within 180 days of the date a  
44 complete application is filed. The determination shall be made  
45 based upon the Director of the Division of Alcoholic Beverage  
46 Control's finding that: the taxpayer acquired the license prior to the  
47 date of enactment of P.L. , c. (C. ) (pending before the  
48 Legislature as this bill); the taxpayer held the license in an active

1 status prior to the effective date of P.L. , c. (C. ) (pending  
2 before the Legislature as this bill); and the license is used directly  
3 by the taxpayer to sell alcoholic beverages for consumption on a  
4 licensed premises in accordance with the provisions of R.S.33:1-12.

5 (3) The Director of the Division of Alcoholic Beverage Control  
6 shall, at the time a determination regarding the issuance of a  
7 certification is made, establish the fair market value of the  
8 taxpayer's license prior to the date of enactment of P.L. ,  
9 c. (C. ) (pending before the Legislature as this bill). To assist  
10 in establishing the fair market value of a license, the Director of the  
11 Division of Alcoholic Beverage Control may appoint an advisory  
12 committee composed of representatives with knowledge and  
13 experience in the appraisal of alcoholic beverage licenses in this  
14 State. The fair market value of the license shall be based upon the  
15 average sales price of plenary retail consumption licenses in the  
16 municipality in which the licensed premises is located during the  
17 five years immediately preceding the date of enactment of P.L. ,  
18 c. (C. ) (pending before the Legislature as this bill). If the  
19 licensed premises is located within the boundaries of two or more  
20 municipalities, the fair market value shall be based on the average  
21 sale price of plenary retail consumption licenses issued in the  
22 municipality in which the structure of licensed premises is primarily  
23 situated. If less than three plenary retail consumption licenses have  
24 been sold in the municipality or municipalities, as the case may be,  
25 within the previous five years, the taxpayer shall obtain an  
26 appraisal, at the taxpayer's expense, to determine the appropriate  
27 fair market value of the license. The appraisal process shall include  
28 an examination of previous transactions in the municipality or  
29 municipalities, as the case may be, and shall reflect what a willing  
30 buyer, under no pressure to buy, would pay a willing seller, under  
31 no pressure to sell, for a plenary retail consumption license in that  
32 municipality or municipalities, as the case may be.

33 If a single plenary retail consumption license is used in  
34 connection with the operation of multiple restaurants or other  
35 establishments located on the same licensed premises, the fair  
36 market value established under this paragraph shall be divided by  
37 the number of restaurants or establishments operating in connection  
38 with that plenary retail consumption license.

39 (4) The Director of the Division of Alcoholic Beverage Control  
40 shall issue a written certification to each taxpayer that has made and  
41 filed an application that has been reviewed and approved in  
42 accordance with paragraph (2) of this subsection within 10 days of  
43 the date the determination is made. The written certification shall  
44 include a detailed explanation of the fair market value of the  
45 taxpayer's license established in accordance with paragraph (3) of  
46 this subsection. Each taxpayer issued a certification shall include a  
47 copy of the written certification, along with the detailed explanation  
48 of the fair market value of the taxpayer's license, when filing a

1 return that includes a claim for the credit allowed in accordance  
2 with this section.

3 (5) The Director of the Division of Alcoholic Beverage Control  
4 shall provide a copy of each written certification issued in  
5 accordance with paragraph (4) of this subsection to the Director of  
6 the Division of Taxation in the Department of the Treasury within  
7 10 days of the date the certification is issued, and shall prepare a  
8 report regarding the administration of the certification process  
9 established in accordance with this subsection. The report shall  
10 specify: the number of applications made and filed; the number of  
11 certifications issued; and the fair market value of each license for  
12 which a certification is issued. The report shall be submitted to the  
13 Governor, the State Treasurer, and the Legislature, in accordance  
14 with section 2 of P.L.1991, c.164 (C.52:14-19.1), within 450 days  
15 of the effective date of P.L. , c. (C. ) (pending before the  
16 Legislature as this bill).

17 c. (1) The order of priority of the application of an annual  
18 installment of the credit allowed pursuant to this section and any  
19 other credit allowed against the gross income tax for a taxable year  
20 shall be as prescribed by the Director of the Division of Taxation in  
21 the Department of the Treasury. The amount of an annual  
22 installment of the credit applied under this section against the gross  
23 income tax for a taxable year, together with any other annual  
24 installment and any other credits allowed against the gross income  
25 tax, shall not reduce the tax liability of the taxpayer to an amount  
26 less than zero. No amount of the fair market value of the taxpayer's  
27 license that is used as the basis of the credit allowed pursuant to this  
28 section shall be allowed as an amount used to calculate a loss or  
29 expense of the taxpayer or otherwise reduce or offset that  
30 taxpayer's liability for tax pursuant to any other exclusion,  
31 deduction, or credit allowed under the gross income tax. The  
32 amount of an annual installment of the credit allowable under this  
33 section which cannot be applied for a taxable year due to the  
34 limitations of this subsection may be carried forward, if necessary,  
35 to the earliest available use within the 20 taxable years immediately  
36 following the taxable year for which the credit is allowed.

37 (2) A business entity classified as a partnership for federal  
38 income tax purposes shall not be allowed a credit under this section  
39 directly, but the amount of credit of a taxpayer in respect of a  
40 distributive share of entity income, shall be determined by  
41 allocating to the taxpayer that proportion of the credit acquired by  
42 the entity that is equal to the taxpayer's share, whether or not  
43 distributed, of the total distributive income or gain of the entity for  
44 its taxable year ending within or with the taxpayer's taxable year  
45 except as otherwise provided by law. A New Jersey S Corporation  
46 shall not be allowed a credit under this section directly, but the  
47 amount of credit of a taxpayer in respect of a pro rata share of S  
48 Corporation income, shall be determined by allocating to the

1 taxpayer that proportion of the credit acquired by the New Jersey S  
2 Corporation that is equal to the taxpayer's share, whether or not  
3 distributed, of the total pro rata share of S Corporation income of  
4 the New Jersey S Corporation for its privilege period ending within  
5 or with the taxpayer's taxable year.

6 d. A taxpayer may, upon issuance of a certification as a  
7 qualified holder of a plenary retail consumption license by the  
8 Director of the Division of Alcoholic Beverage Control in  
9 accordance with subsection b. of this section, make and file an  
10 application to the Director of the Division of Taxation for a tax  
11 credit transfer certificate in lieu of the taxpayer being allowed an  
12 annual installment of the credit or any amount of an annual  
13 installment of the credit that may be taken against the gross income  
14 tax liability of the taxpayer. The Director of the Division of  
15 Taxation may prescribe the form and manner by which a taxpayer  
16 may make and file a separate application in connection with each  
17 annual installment of the credit or any amount of each annual  
18 installment of the credit, and may consult with the Director of the  
19 Division of Alcoholic Beverage Control in reviewing and approving  
20 any application for a tax credit transfer certificate of a  
21 taxpayer. The tax credit transfer certificate, upon issuance thereof  
22 by the Director of the Division of Taxation, may be sold or  
23 assigned, in whole or in part, to any other taxpayer that may have a  
24 corporation business tax or a gross income tax liability, in exchange  
25 for private financial assistance to be provided by the purchaser or  
26 assignee to the taxpayer that is allowed a credit under this section.  
27 The certificate issued to the taxpayer shall include a statement  
28 waiving the taxpayer's right to claim that amount of the annual  
29 installment of the credit against the gross income tax that the  
30 taxpayer has elected to sell or assign. The sale or assignment of any  
31 amount of a tax credit transfer certificate allowed under this  
32 subsection shall not be exchanged for consideration received by the  
33 taxpayer of less than 75 percent of the transferred credit amount.  
34 Any amount of a tax credit transfer certificate used by a purchaser  
35 or assignee against a gross income tax liability shall be subject to  
36 the same limitations and conditions that apply to the use of a credit  
37 pursuant to subsection c. of this section. Any amount of a tax credit  
38 transfer certificate obtained by a purchaser or assignee under this  
39 section may be applied against the purchaser's or assignee's  
40 corporation business tax liability and shall be subject to the same  
41 limitations and conditions that apply to the use of a credit pursuant  
42 to subsection c. of section 6 of P.L. , c. (C. ) (pending  
43 before the Legislature as this bill).

44 e. (1) If, in the five-year period beginning with the taxable year  
45 in which the taxpayer is certified as a qualified holder of a plenary  
46 retail consumption license, the taxpayer sells or transfers any part of  
47 the taxpayer's interest in the license to another person, the taxpayer  
48 shall forfeit that portion of the taxpayer's credit that is equal to the

1 amount of consideration received by the taxpayer from the sale or  
2 transfer of the license. The forfeited portion shall first reduce the  
3 balance of any annual installment of a credit of the taxpayer that is  
4 allowed but that has not been applied against the tax liability of the  
5 taxpayer, or converted into a tax credit transfer certificate and sold  
6 or assigned to another taxpayer in accordance with subsection d. of  
7 this section, during the taxable year in which the sale or transfer of  
8 the license occurs, and then shall reduce the balance of any future  
9 annual installment of a credit of a taxpayer that is allowed but that  
10 has not been applied, or converted and sold or assigned to another  
11 taxpayer, beginning with future annual installments allowed during  
12 the taxable year immediately following the taxable year in which  
13 the sale or transfer occurs. If, after being used to reduce future  
14 annual installments, the forfeited portion exceeds the amount of any  
15 allowable credit remaining, the taxpayer shall repay the amount of  
16 that excess to the Director of the Division of Taxation; provided  
17 however, that if the taxpayer converted an annual installment of the  
18 credit or any amount of an annual installment of the credit into a tax  
19 credit transfer certificate in accordance with subsection d. of this  
20 section, the amount of the excess required to be repaid to the  
21 director shall be reduced, if necessary, in proportion to the amount  
22 of consideration received by the taxpayer from the sale or  
23 assignment of the tax credit transfer certificate.

24 (2) If, in the 15-year period beginning with the fifth taxable year  
25 immediately following the taxable year in which the taxpayer is  
26 certified as a qualified holder of a plenary retail consumption  
27 license, the taxpayer sells or transfers any part of the taxpayer's  
28 interest in the license to another person, the taxpayer shall forfeit  
29 that portion of the taxpayer's credit that is equal to the amount of  
30 consideration received by the taxpayer from the sale or transfer of  
31 the license. The forfeited portion shall first reduce the balance of  
32 any tax credit carryforward from a prior taxable year that is allowed  
33 but that has not been applied against the tax liability of the taxpayer  
34 during the taxable year in which the sale or transfer of the license  
35 occurs, and then shall reduce the balance of any tax credit  
36 carryforward from a prior taxable year that otherwise would have  
37 been applied against future tax liabilities of the taxpayer. If, after  
38 being used to reduce carryforwards from prior taxable years, the  
39 forfeited portion exceeds the amount of any allowable credit  
40 remaining, the taxpayer shall repay the amount of that excess to the  
41 Director of the Division of Taxation subject to the following  
42 limitations:

43 (a) if the taxpayer is required to repay the amount of any excess  
44 as a result of the sale or transfer of the taxpayer's license occurring  
45 in the first five years of the 15-year period, the amount of the  
46 excess shall be multiplied by 0.75 to determine the amount of the  
47 excess required to be repaid to the Director of the Division of  
48 Taxation;

1 (b) if the taxpayer is required to repay the amount of any excess  
2 as a result of the sale or transfer of the taxpayer's license occurring  
3 in the second five years of the 15-year period, the amount of the  
4 excess shall be multiplied by 0.50 to determine the amount of the  
5 excess required to be repaid to the Director of the Division of  
6 Taxation; and

7 (c) if the taxpayer is required to repay the amount of any excess  
8 as a result of the sale or transfer of the taxpayer's license occurring  
9 in the third five years of the 15-year period, the amount of the  
10 excess shall be multiplied by 0.25 to determine the amount of the  
11 excess required to be repaid to the Director of the Division of  
12 Taxation.

13 In addition, if the taxpayer converted the credit or any amount of  
14 the credit into a tax credit transfer certificate in accordance with  
15 subsection d. of this section, the amount of the excess required to be  
16 repaid to the Director of the Division of Taxation shall be further  
17 reduced, if necessary, in proportion to the amount of consideration  
18 received by the taxpayer from the sale or assignment of the tax  
19 credit transfer certificate.

20 (3) The amount of excess required to be repaid to the Director of  
21 the Division of Taxation pursuant to paragraph (1) or (2) of this  
22 subsection shall be a deficiency with respect to the payment of a  
23 State tax. The Director of the Division of Taxation shall have all  
24 rights, powers and duties authorized under the State Uniform Tax  
25 Procedure Law, R.S.54:48-1 et seq., to ensure payment, collection,  
26 or recovery of the deficiency, and the taxpayer shall be afforded all  
27 protections, rights, and remedies allowed under R.S.54:48-1 et seq.  
28 to challenge, protest, or appeal the deficiency or any determination  
29 or decision made in connection with the deficiency.

30  
31 8. This act shall take effect on the first day of the nineteenth  
32 month following enactment.

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#### STATEMENT

36

37 This bill creates a restricted restaurant license (R1) which permits  
38 the holder to sell any alcoholic beverages for consumption on the  
39 premises of certain restaurants. In addition, the bill creates a  
40 restricted beer and wine license (R2) which permits the holder to  
41 sell only beer and wine by the bottle or can. These licenses would  
42 only be available for use in connection with restaurants that occupy  
43 a minimum square footage of 1,500 and a maximum square footage  
44 of 6,000 and maintain a full-service kitchen with a minimum square  
45 footage of 500. The governing board or body of a municipality may  
46 issue an unlimited number of these licenses within the municipality.

47 Under the provisions of the bill, alcoholic beverages only may be  
48 sold in connection with the service of food at a table by an

1 employee of the restaurant, and may begin at 12 p.m. or one hour  
2 prior to the service of food, whichever is later in time, and continue  
3 until 10 p.m. on Sunday through Thursday, and until 11 p.m. on  
4 Friday and Saturday.

5 A license holder is prohibited from providing a bar area for  
6 customers of the restaurant to congregate and consume alcoholic  
7 beverages. However, the holder of a restricted restaurant license  
8 (R1) may provide a service bar at which alcoholic beverages are  
9 prepared for customers at a table. An employee of the restaurant  
10 may be stationed at the service bar to prepare drinks for customers,  
11 but may only transfer alcoholic beverages to the wait staff at the  
12 restaurant. The bill prohibits the employee stationed at the service  
13 bar from serving drinks directly to restaurant patrons. The holder of  
14 a restricted beer and wine license (R2) is prohibited from having a  
15 service bar.

16 The license holder is required to offer a standard printed menu or  
17 menu board system or similar signage featuring a list of meals with  
18 separate prices listed adjacent to each meal. For parties of 10  
19 restaurant patrons or greater, the bill allows a licensee to offer a full  
20 course menu with a limited number of meal choices for a fixed  
21 price.

22 The licensed premises of the restaurant would be limited to only  
23 one physical address. A municipality that prohibits the sale of  
24 alcoholic beverages within its borders may establish by ordinance  
25 or resolution that a restricted restaurant license may be issued in  
26 that municipality.

27 The bill establishes a fee schedule for the initial issuance and  
28 annual renewal fee for the restricted restaurant license and restricted  
29 beer and wine license based on the square footage of the restaurant.  
30 The initial fee and annual renewal fee for this for the restricted  
31 restaurant license is \$3,000 for a restaurant with a square footage of  
32 1,500 to 3,000, and \$10,000 for a restaurant with a square footage  
33 of 3,001 to 6,000. The fees imposed for the restricted beer and wine  
34 license are half the amount imposed for the restricted restaurant  
35 license, and are set at \$1,500 for a restaurant with a square footage  
36 of 1,500 to 3,000 and \$5,000 for a restaurant with a square footage  
37 of 3,001 to 6,000.

38 The initial fee and renewal fee are to be paid in the following  
39 manner: \$2,500 of the fee for the restricted restaurant license and  
40 \$1250 for the fee for the restricted beer and wine license is to be paid  
41 to the municipality where the restaurant is located and if the restaurant  
42 is located within the boundaries of two or more municipalities, the fee  
43 is to be divided equally among those municipalities; the remainder of  
44 the fee is to be paid to the to the Director Division of Taxation to be  
45 used solely for the purposes of offsetting the costs associated with  
46 issuing tax credits provided under the bill. After the Division of  
47 Taxation is reimbursed for costs associated with issuing tax credits,  
48 the full fee is to be paid to the municipality. In addition, the bill

1 requires licensees to pay to the Director of the Division of  
2 Alcoholic Beverage Control any applicable renewal fees that the  
3 holder of a plenary retail consumption license is required to pay  
4 under current law.

5 The bill imposes certain penalties on the holders of the restricted  
6 restaurant license or restricted beer and wine license who violate the  
7 law. For a first offense, a restricted restaurant licensee is required  
8 to pay a civil penalty of \$5,000 and a restricted beer and wine  
9 licensee is required to pay \$2,500. Both licensees are subject to a  
10 mandatory license suspension for a period of time determined by  
11 the ABC director for a first time offense. For a second offense,  
12 both licensees are subject to a permanent license revocation and are  
13 required to pay a fine that is equal to three times the amount of the  
14 fair market value of a plenary retail consumption license in that  
15 municipality. Any fine money collected is to be paid to the Director  
16 of the Division of Taxation to be used solely for the purposes of  
17 offsetting the costs associated with issuing tax credits provided  
18 under the bill. After the Division of Taxation is reimbursed for up  
19 to 75 percent of the projected estimated cost associated with issuing  
20 tax credits, the full fee is to be paid to the municipality.

21 This bill further provides for the issuance of additional plenary  
22 retail consumption licenses by municipalities that have adopted a  
23 master plan pursuant to the provisions of section 19 of P.L.1975,  
24 c.291 (C.40:55D-28). These municipalities may issue the additional  
25 plenary retail consumption licenses based upon the population  
26 projections for that municipality contained in the master plan and  
27 the schedule set forth under the bill. The schedule relies upon the  
28 population projection in the master plan. If the projected peak  
29 population supports the issuance of one or more additional plenary  
30 retail consumption licenses, the municipality immediately may issue  
31 one additional license. The municipality may issue another plenary  
32 retail consumption license whenever an additional 3,000 or more  
33 persons are added to the municipality's population, until the  
34 maximum number of licenses supported by the projected peak  
35 population in the master plan has been issued.

36 This bill also provides a tax credit against the corporation  
37 business tax and gross income tax to compensate license holders for  
38 the expected loss in value resulting from the creation of the new  
39 restricted licenses. Under the bill, the tax credit is equal to 100  
40 percent of the fair market value of taxpayer's plenary retail  
41 consumption license prior to the date of enactment of the bill. The  
42 bill reduces the fair market value of licenses used in connection  
43 with multiple restaurants or other establishments that are located on  
44 the same licensed premises. In cases where a single license is used  
45 in connection with multiple restaurants or establishments, the fair  
46 market value is divided by the number of restaurants or  
47 establishments operating in connection with the license. The tax  
48 credit is required to be taken over a five-year period, in five annual



1 installments, at the rate of one-fifth the total amount of the  
2 taxpayer's allowable credit.

3 In order to claim the credit, a license holder is required to make  
4 and file an application with the Director of the Division of  
5 Alcoholic Beverage Control (ABC), who is responsible for  
6 certifying eligible licensees as qualified holders of a plenary retail  
7 consumption license based on certain factors related to the licensee,  
8 and the status of the license held by the licensee. In addition, the  
9 Director of the Division of A.B.C. is responsible for determining  
10 the fair market value of each license. To assist in determining fair  
11 market value, the bill allows the Director of ABC to appoint an  
12 advisory committee composed of representatives with knowledge  
13 and experience in the appraisal of alcoholic beverage licenses in  
14 this State. Upon certification, the bill requires the Director of ABC  
15 to submit the written certification to the licensee (to be used in  
16 filing a return that includes a claim for the credit) and to prepare a  
17 report regarding the administration of the certification process that  
18 will indicate the number of applications made, the number of  
19 certifications issued, and the fair market value of each license for  
20 which a certification is issued.

21 The bill permits qualified license holders to convert allowable  
22 tax credits to tax credit transfer certificates upon application to and  
23 approval by the Director of the Division of Taxation in the  
24 Department of the Treasury. The bill authorizes qualified license  
25 holders to sell any amount of the credit that is converted to a tax  
26 credit transfer certificate to another taxpayer in exchange for private  
27 financial consideration, but stipulates that the consideration  
28 received by the qualified license holder from the sale cannot be less  
29 than 75 percent of the transferred credit amount.

30 The bill provides that a qualified license holder who is allowed a  
31 credit is permitted to maintain the plenary retail consumption  
32 license and operate a licensed premises in this State. However, the  
33 bill provides that taxpayers who sell their interest in the  
34 consumption license during the five year tax period in which they  
35 are eligible to receive annual installments of the credit, must forfeit  
36 that portion of the qualified licensee's credit that is equal to the  
37 amount of consideration received from the sale or transfer of the  
38 license. The bill provides that the forfeited amount will reduce any  
39 unused credit of the taxpayer that has not been used, sold, or  
40 assigned to another taxpayer and, if after the forfeited amount is  
41 used to reduce any allowable credit of the taxpayer, the balance of  
42 the forfeited portion remaining must be repaid to the Director of the  
43 Division of Taxation.

44 Additionally, the bill provides that taxpayers who sell their  
45 interest in the consumption license during a fifteen-year period  
46 following the five-year tax period in which they are eligible to  
47 receive annual installments of the credit, must similarly forfeit that  
48 portion of the qualified licensee's credit that is equal to the amount

1 of consideration received from the sale or transfer of the license.  
2 The bill provides that the forfeited amount will reduce any tax  
3 credit carryover that is allowed but has not been used by the  
4 taxpayer, and, if after the forfeited amount is used to reduce any  
5 allowable credit of the taxpayer, the balance of the forfeited portion  
6 remaining must be repaid to the Director of the Division of  
7 Taxation, at reduced amounts based upon when the sale or transfer  
8 of the license occurs.

9 It is the sponsor's intent to foster and encourage economic  
10 development and growth in this State by creating a new less-costly  
11 restaurant license that permits the licensee to sell alcoholic  
12 beverages and to provide financial compensation to certain plenary  
13 retail consumption licensees who already have established  
14 businesses and paid market value for their licenses.