

SENATE, No. 1793

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 15, 2010

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

Senator RAYMOND J. LESNIAK

District 20 (Union)

Co-Sponsored by:

Senators T.Kean and Sacco

SYNOPSIS

Creates cooperative farm winery licenses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/11/2010)

1 AN ACT concerning winery licensing 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. Class A licenses shall be subdivided and classified as
8 follows:

9 Plenary brewery license. 1a. The holder of this license shall be
10 entitled, subject to rules and regulations, to brew any malt alcoholic
11 beverages and to sell and distribute his products to wholesalers and
12 retailers licensed in accordance with this chapter, and to sell and
13 distribute without this State to any persons pursuant to the laws of
14 the places of such sale and distribution, and to maintain a
15 warehouse. The fee for this license shall be \$10,625.

16 Limited brewery license. 1b. The holder of this license shall be
17 entitled, subject to rules and regulations, to brew any malt alcoholic
18 beverages in a quantity to be expressed in said license, dependent
19 upon the following fees and not in excess of 300,000 barrels of 31
20 fluid gallons capacity per year and to sell and distribute this product
21 to wholesalers and retailers licensed in accordance with this
22 chapter, and to sell and distribute without this State to any persons
23 pursuant to the laws of the places of such sale and distribution, and
24 to maintain a warehouse. The fee for this license shall be graduated
25 as follows: to so brew not more than 50,000 barrels of 31 fluid
26 gallons capacity per annum, \$1,250; to so brew not more than
27 100,000 barrels of 31 fluid gallons capacity per annum, \$2,500; to
28 so brew not more than 200,000 barrels of 31 fluid gallons capacity
29 per annum, \$5,000; to so brew not more than 300,000 barrels of 31
30 fluid gallons capacity per annum, \$7,500.

31 Restricted brewery license. 1c. The holder of this license shall
32 be entitled, subject to rules and regulations, to brew any malt
33 alcoholic beverages in a quantity to be expressed in such license not
34 in excess of 3,000 barrels of 31 fluid gallons capacity per year.
35 Notwithstanding the provisions of R.S.33:1-26, the director shall
36 issue a restricted brewery license only to a person or an entity
37 which has identical ownership to an entity which holds a plenary
38 retail consumption license issued pursuant to R.S.33:1-12, provided
39 that such plenary retail consumption license is operated in
40 conjunction with a restaurant regularly and principally used for the
41 purpose of providing meals to its customers and having adequate
42 kitchen and dining room facilities, and that the licensed restaurant
43 premises is immediately adjoining the premises licensed as a
44 restricted brewery. The holder of this license shall only be entitled
45 to sell or deliver the product to that restaurant premises. The fee for

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 this license shall be \$1,250, which fee shall entitle the holder to
2 brew up to 1,000 barrels of 31 fluid gallons per annum. The
3 licensee also shall pay an additional \$625 for every additional 1,000
4 barrels of 31 fluid gallons produced. No more than two restricted
5 brewery licenses shall be issued to a person or entity which holds an
6 interest in a plenary retail consumption license. If the governing
7 body of the municipality in which the licensed premises will be
8 located should file a written objection, the director shall hold a
9 hearing and may issue the license only if the director finds that the
10 issuance of the license will not be contrary to the public interest.
11 All fees related to the issuance of both licenses shall be paid in
12 accordance with statutory law.

13 Plenary winery license. 2a. Provided that the holder is engaged
14 in growing and cultivating grapes or fruit used in the production of
15 wine on at least three acres on, or adjacent to, the winery premises,
16 the holder of this license shall be entitled, subject to rules and
17 regulations, to produce any fermented wines, and to blend, fortify
18 and treat wines, and to sell and distribute his products to
19 wholesalers and retailers licensed in accordance with this chapter
20 and to churches for religious purposes, and to sell and distribute
21 without this State to any persons pursuant to the laws of the places
22 of such sale and distribution, and to maintain a warehouse, and to
23 sell his products at retail to consumers on the licensed premises of
24 the winery for consumption on or off the premises and to offer
25 samples for sampling purposes only. The fee for this license shall
26 be \$938. The holder of this license shall also have the right to sell
27 such wine at retail in original packages in six salesrooms apart from
28 the winery premises for consumption on or off the premises and for
29 sampling purposes for consumption on the premises, at a fee of
30 \$250 for each salesroom. Additionally, subject to rules and
31 regulations, one salesroom per county may be jointly controlled and
32 operated by at least two plenary or farm winery licensees for the
33 sale of the products of any plenary or farm winery licensee for
34 consumption on or off the premises and for consumption on the
35 licensed premises for sampling purposes at an additional fee of
36 \$625 per county salesroom. For the purposes of this subsection,
37 "sampling" means the selling at a nominal charge or the gratuitous
38 offering of an open container not exceeding one and one-half
39 ounces of any wine.

40 For the purposes of this subsection, "product" means any wine
41 that is produced, blended, fortified, or treated by the licensee on its
42 licensed premises situated in the State of New Jersey.

43 Any holder of a plenary winery license who sold wine which was
44 produced, bottled, and labelled by that holder in a place other than
45 its licensed New Jersey premises between July 1, 1992 and June 30,
46 1993, may continue to sell that wine provided no more than 25,000
47 cases, each case consisting of 12 750 milliliter bottles or the
48 equivalent, are sold in any single license year. This privilege shall

1 terminate upon, and not survive, any transfer of the license to
2 another person or entity subsequent to the effective date of this
3 1993 amendatory act or any transfer of stock of the licensed
4 corporation other than to children, grandchildren, parents, spouses
5 or siblings of the existing stockholders.

6 Farm winery license. 2b. The holder of this license shall be
7 entitled, subject to rules and regulations, to manufacture any
8 fermented wines and fruit juices in a quantity to be expressed in
9 said license, dependent upon the following fees and not in excess of
10 50,000 gallons per year and to sell and distribute his products to
11 wholesalers and retailers licensed in accordance with this chapter
12 and to churches for religious purposes and to sell and distribute
13 without this State to any persons pursuant to the laws of the places
14 of such sale and distribution, and to maintain a warehouse and to
15 sell at retail to consumers for consumption on or off the licensed
16 premises and to offer samples for sampling purposes only. The
17 license shall be issued only when the winery at which such
18 fermented wines and fruit juices are manufactured is located and
19 constructed upon a tract of land exclusively under the control of the
20 licensee, provided that the licensee is actively engaged in growing
21 and cultivating an area of not less than three acres on or adjacent to
22 the winery premises and on which are growing grape vines or fruit
23 to be processed into wine or fruit juice; and provided, further, that
24 for the first five years of the operation of the winery such fermented
25 wines and fruit juices shall be manufactured from at least 51%
26 grapes or fruit grown in the State and that thereafter they shall be
27 manufactured from grapes or fruit grown in this State at least to the
28 extent required for labeling as "New Jersey Wine" under the
29 applicable federal laws and regulations. The containers of all wine
30 sold to consumers by such licensee shall have affixed a label stating
31 such information as shall be required by the rules and regulations of
32 the Director of the Division of Alcoholic Beverage Control. The
33 fee for this license shall be graduated as follows: to so manufacture
34 between 30,000 and 50,000 gallons per annum, \$375; to so
35 manufacture between 2,500 and 30,000 gallons per annum, \$250; to
36 so manufacture between 1,000 and 2,500 gallons per annum, \$125;
37 to so manufacture less than 1,000 gallons per annum, \$63. No farm
38 winery license shall be held by the holder of a plenary winery
39 license or be situated on a premises licensed as a plenary winery.

40 The holder of this license shall also have the right to sell his
41 products in original packages at retail to consumers in six
42 salesrooms apart from the winery premises for consumption on or
43 off the premises, and for sampling purposes for consumption on the
44 premises, at a fee of \$250 for each salesroom. Additionally, subject
45 to rules and regulations, one salesroom per county may be jointly
46 controlled and operated by at least two plenary or farm winery
47 licensees for the sale of the products of any plenary or farm winery
48 licensee for consumption on or off the premises and for

1 consumption on the licensed premises for sampling purposes only,
2 at an additional fee of \$625 per county salesroom. For the purposes
3 of this subsection, "sampling" means the selling at a nominal charge
4 or the gratuitous offering of an open container not exceeding one
5 and one-half ounces of any wine.

6 Unless otherwise indicated, for the purposes of this subsection,
7 with respect to farm winery licenses, "manufacture" means the
8 vinification, aging, storage, blending, clarification, stabilization and
9 bottling of wine or juice from New Jersey fruit to the extent
10 required by this subsection.

11 Wine blending license. 2c. The holder of this license shall be
12 entitled, subject to rules and regulations, to blend, treat, mix, and
13 bottle fermented wines and fruit juices with non-alcoholic
14 beverages, and to sell and distribute his products to wholesalers and
15 retailers licensed in accordance with this chapter, and to sell and
16 distribute without this State to any persons pursuant to the laws of
17 the places of such sale and distribution, and to maintain a
18 warehouse. The fee for this license shall be \$625.

19 Instructional winemaking facility license. 2d. The holder of this
20 license shall be entitled, subject to rules and regulations, to instruct
21 persons in and provide them with the opportunity to participate
22 directly in the process of winemaking and to directly assist such
23 persons in the process of winemaking while in the process of
24 instruction on the premises of the facility. The holder of this
25 license also shall be entitled to manufacture wine on the premises
26 not in excess of an amount of 10% of the wine produced annually
27 on the premises of the facility, which shall be used only to replace
28 quantities lost or discarded during the winemaking process, to
29 maintain a warehouse, and to offer samples produced by persons
30 who have received instruction in winemaking on the premises by
31 the licensee for sampling purposes only on the licensed premises for
32 the purpose of promoting winemaking for personal or household use
33 or consumption. Wine produced on the premises of an instructional
34 winemaking facility shall be used, consumed or disposed of on the
35 facility's premises or distributed from the facility's premises to a
36 person who has participated directly in the process of winemaking
37 for the person's personal or household use or consumption. The
38 holder of this license may sell mercantile items traditionally
39 associated with winemaking and novelty wearing apparel identified
40 with the name of the establishment licensed under the provisions of
41 this section. The holder of this license may use the licensed
42 premises for an event or affair, including an event or affair at which
43 a plenary retail consumption licensee serves alcoholic beverages in
44 compliance with all applicable statutes and regulations promulgated
45 by the director. The fee for this license shall be \$1,000. For the
46 purposes of this subsection, "sampling" means the gratuitous
47 offering of an open container not exceeding one and one-half
48 ounces of any wine.

1 Cooperative farm winery license. 2e. The holders of this license
2 shall be entitled, subject to rules and regulations, to manufacture
3 any fermented wines and fruit juices in a quantity to be expressed in
4 said license, dependent upon the following fees and not in excess of
5 50,000 gallons per year and to sell and distribute products to
6 wholesalers and retailers licensed in accordance with this chapter
7 and to churches for religious purposes and to sell and distribute
8 without this State to any persons pursuant to the laws of the places
9 of such sale and distribution, and to maintain a warehouse and to
10 sell at retail to consumers for consumption on or off the licensed
11 premises and to offer samples for sampling purposes only. This
12 license shall be issued to any two or more individuals or entities
13 that have entered into a cooperative agreement to share
14 manufacturing costs and responsibilities. The cooperative
15 agreement shall be made in accordance with regulations
16 promulgated by the Director of the Division of Alcoholic Beverage
17 Control. Documentation of this agreement shall be kept on file by
18 the director. The license shall be issued only when each individual
19 or entity entering into the cooperative agreement respectively owns,
20 and is actively engaged in growing and cultivating an area of not
21 less than three acres on which are growing grape vines or fruit to be
22 processed into wine or fruit juice. Individuals or entities shall not
23 enter into more than one cooperative agreement. All wines and fruit
24 juices manufactured by cooperative farm winery license holders
25 shall be from grapes or fruit grown in this State at least to the extent
26 required for labeling as "New Jersey Wine" under the applicable
27 federal laws and regulations. The containers of all wine sold to
28 consumers by such licensee shall have affixed a label stating such
29 information as shall be required by the rules and regulations of the
30 Director of the Division of Alcoholic Beverage Control. The fee
31 for this license shall be graduated as follows: to so manufacture
32 between 30,000 and 50,000 gallons per annum, \$550; to so
33 manufacture between 2,500 and 30,000 gallons per annum, \$375; to
34 so manufacture between 1,000 and 2,500 gallons per annum, \$200;
35 to so manufacture less than 1,000 gallons per annum, \$100. No
36 cooperative farm winery license shall be held by the holder of either
37 a farm winery license or plenary winery license, or be situated on a
38 premises licensed as either a farm winery or a plenary winery.

39 Any farm winery cooperative shall have the right to sell products
40 in original packages at retail to consumers in six salesrooms apart
41 from the winery premises for consumption on or off the premises,
42 and for sampling purposes for consumption on the premises, at a fee
43 of \$250 for each salesroom. For the purposes of this subsection,
44 "sampling" means the selling at a nominal charge or the gratuitous
45 offering of an open container not exceeding one and one-half
46 ounces of any wine.

47 For the purposes of this subsection, with respect to farm winery
48 licenses, "manufacture" means the vinification, aging, storage,

1 blending, clarification, stabilization and bottling of wine or juice
2 from New Jersey fruit to the extent required by this subsection.

3 Plenary distillery license. 3a. The holder of this license shall be
4 entitled, subject to rules and regulations, to manufacture any
5 distilled alcoholic beverages and rectify, blend, treat and mix, and
6 to sell and distribute his products to wholesalers and retailers
7 licensed in accordance with this chapter, and to sell and distribute
8 without this State to any persons pursuant to the laws of the places
9 of such sale and distribution, and to maintain a warehouse. The fee
10 for this license shall be \$12,500.

11 Limited distillery license. 3b. The holder of this license shall be
12 entitled, subject to rules and regulations, to manufacture and bottle
13 any alcoholic beverages distilled from fruit juices and rectify,
14 blend, treat, mix, compound with wine and add necessary
15 sweetening and flavor to make cordial or liqueur, and to sell and
16 distribute to wholesalers and retailers licensed in accordance with
17 this chapter, and to sell and distribute without this State to any
18 persons pursuant to the laws of the places of such sale and
19 distribution and to warehouse these products. The fee for this
20 license shall be \$3,750.

21 Supplementary limited distillery license. 3c. The holder of this
22 license shall be entitled, subject to rules and regulations, to bottle
23 and rebottle, in a quantity to be expressed in said license, dependent
24 upon the following fees, alcoholic beverages distilled from fruit
25 juices by such holder pursuant to a prior plenary or limited distillery
26 license, and to sell and distribute his products to wholesalers and
27 retailers licensed in accordance with this chapter, and to sell and
28 distribute without this State to any persons pursuant to the laws of
29 the places of such sale and distribution, and to maintain a
30 warehouse. The fee for this license shall be graduated as follows:
31 to so bottle and rebottle not more than 5,000 wine gallons per
32 annum, \$313; to so bottle and rebottle not more than 10,000 wine
33 gallons per annum, \$625; to so bottle and rebottle without limit as
34 to amount, \$1,250.

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

44 Bonded warehouse bottling license. 5. The holder of this license
45 shall be entitled, subject to rules and regulations, to bottle alcoholic
46 beverages in bond on behalf of all persons authorized by federal and
47 State law and regulations to withdraw alcoholic beverages from
48 bond. The fee for this license shall be \$625. This license shall be

1 issued only to persons holding permits to operate Internal Revenue
2 bonded warehouses pursuant to the laws of the United States.

3 The provisions of section 21 of P.L.2003, c.117 amendatory of
4 this section shall apply to licenses issued or transferred on or after
5 July 1, 2003, and to license renewals commencing on or after July
6 1, 2003.

7 (cf: P.L.2007, c.329, s.1)

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9 2. This act shall take effect immediately.

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STATEMENT

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14 This bill facilitates the creation of New Jersey wineries by
15 allowing small growers to share manufacturing responsibilities and
16 costs. Under current law, a farm winery is only eligible for a
17 license if all aspects of the manufacturing process occur at the same
18 location where grapes are grown. Wine manufacturing processes
19 are: vinification, aging, storage, blending, clarification, stabilization
20 and bottling.

21 This bill creates a new type of winery license, the cooperative
22 farm winery license. This license makes those who are growing
23 grapes on at least three acres eligible to enter into a cooperative
24 agreement with at least one other individual or entity also involved
25 in the growing and cultivating of grapes on at least three acres.
26 Documentation of the cooperative agreement must be kept on file
27 with the Director of the Division of Alcoholic Beverage Control,
28 and individuals or entities are only eligible to enter into one
29 cooperative agreement. The cooperative is not required to conduct
30 all manufacturing processes in one place and may share the costs
31 and responsibilities of manufacturing.

32 This bill would require farm winery cooperatives to use grapes
33 and fruits grown in New Jersey, at least to the extent required for
34 labeling as "New Jersey Wine" under the applicable federal laws
35 and regulations. In addition, the new cooperative farm winery
36 license would entitle the cooperative to establish a total of six
37 salesrooms; current law entitles each farm winery to establish six
38 salesrooms.

39 The fee for this license shall be graduated as follows: to
40 manufacture between 30,000 and 50,000 gallons per year, \$550; to
41 manufacture between 2,500 and 30,000 gallons per year, \$375; to
42 manufacture between 1,000 and 2,500 gallons per year, \$200; to
43 manufacture less than 1,000 gallons per year, \$100. The fees
44 established for cooperative farm winery licenses are higher than the
45 current farm winery license fees.