

ASSEMBLY, No. 3580

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED SEPTEMBER 11, 2014

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District 21 (Morris, Somerset and Union)

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SYNOPSIS

Prohibits sale of powdered alcohol.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/8/2015)

1 AN ACT concerning powdered alcohol and amending Title 33 of the
2 Revised Statutes.

3

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

6

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

8 33:1-1. For the purpose of this chapter, the following words and
9 terms shall be deemed to have the meanings herein given to them:

10 a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral
11 spirits from whatever source or by whatever process produced.

12 b. "Alcoholic beverage." Any fluid or solid capable of being
13 converted into a fluid, suitable for human consumption, and having
14 an alcohol content of more than one-half of one per centum (1/2 of
15 1%) by volume, including alcohol, beer, lager beer, ale, porter,
16 naturally fermented wine, treated wine, blended wine, fortified
17 wine, sparkling wine, distilled liquors, blended distilled liquors and
18 any brewed, fermented or distilled liquors fit for use for beverage
19 purposes or any mixture of the same, and fruit juices.

20 c. "Building." A structure of which licensed premises are or
21 may be a part, including all rooms, cellars, outbuildings,
22 passageways, closets, vaults, yards, attics, and every part of the
23 structure of which the licensed premises are a part, and of any other
24 structure to which there is a common means of access, and any
25 other appurtenances.

26 d. "Commissioner." The Director of the Division of Alcoholic
27 Beverage Control.

28 e. "Container." Any glass, can, bottle, vessel or receptacle of
29 any material whatsoever used for holding alcoholic beverages,
30 which container is covered, corked or sealed in any manner
31 whatsoever.

32 f. "Eligible." The status of a person who is a citizen of the
33 United States, a resident of this State, of good moral character and
34 repute, and of legal age.

35 g. "Governing board or body." The board or body which
36 governs a municipality, including a board of aldermen in
37 municipalities so governed; but in every municipality having a
38 board of public works which exercises general licensing powers
39 such board shall be considered as the governing board or body.

40 h. "Importing." The act of bringing or causing to be brought
41 any alcoholic beverage into this State.

42 i. "Illicit beverage." Any alcoholic beverage manufactured,
43 distributed, bought, sold, bottled, rectified, blended, treated,
44 fortified, mixed, processed, warehoused, possessed or transported in
45 violation of this chapter, or on which any federal tax or tax imposed

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 by the laws of this State has not been paid; and any alcoholic
2 beverage possessed, kept, stored, owned or imported with intent to
3 manufacture, sell, distribute, bottle, rectify, blend, treat, fortify,
4 mix, process, warehouse or transport in violation of the provisions
5 of this chapter.
- 6 j. "Licensed building." Any building containing licensed
7 premises.
- 8 k. "Licensed premises." Any premises for which a license
9 under this chapter is in force and effect.
- 10 l. "Magistrate." The Superior Court or municipal court.
- 11 m. "Manufacturer." Any person who, directly or indirectly,
12 personally or through any agency whatsoever, engages in the
13 making or other processing whatsoever of alcoholic beverages.
- 14 n. "Municipality." Any city, town, township, village, or
15 borough, including a municipality governed by a board of
16 commissioners or improvement commission, but excluding a
17 county.
- 18 o. "Municipal board." The municipal board of alcoholic
19 beverage control as established by this chapter.
- 20 p. "Officer." Any sheriff, deputy sheriff, constable, police
21 officer, member of the Division of State Police, or any other person
22 having the power to execute a warrant for arrest, or any inspector or
23 investigator of the Division of Alcoholic Beverage Control.
- 24 q. "Original container." Any container in which an alcoholic
25 beverage has been delivered to a retail licensee.
- 26 r. "Person." Any natural person or association of natural
27 persons, association, trust company, partnership, corporation,
28 organization, or the manager, agent, servant, officer, or employee of
29 any of them.
- 30 s. "Premises." The physical place at which a licensee is or may
31 be licensed to conduct and carry on the manufacture, distribution or
32 sale of alcoholic beverages, but not including vehicular
33 transportation.
- 34 t. "Restaurant." An establishment regularly and principally
35 used for the purpose of providing meals to the public, having an
36 adequate kitchen and dining room equipped for the preparing,
37 cooking and serving of food for its customers and in which no other
38 business, except such as is incidental to such establishment, is
39 conducted.
- 40 u. "Retailer." Any person who sells alcoholic beverages to
41 consumers.
- 42 v. "Rules and regulations." The rules and regulations
43 established from time to time by the director.
- 44 w. "Sale." Every delivery of an alcoholic beverage otherwise
45 than by purely gratuitous title, including deliveries from without
46 this State and deliveries by any person without this State intended
47 for shipment by carrier or otherwise into this State and brought
48 within this State, or the solicitation or acceptance of an order for an

1 alcoholic beverage, and including exchange, barter, traffic in,
2 keeping and exposing for sale, serving with meals, delivering for
3 value, peddling, possessing with intent to sell, and the gratuitous
4 delivery or gift of any alcoholic beverage by any licensee.

5 x. "Unlawful alcoholic beverage activity." The manufacture,
6 sale, distribution, bottling, rectifying, blending, treating, fortifying,
7 mixing, processing, warehousing or transportation of any alcoholic
8 beverage in violation of this chapter, or the importing, owning,
9 possessing, keeping or storing in this State of alcoholic beverages
10 with intent to manufacture, sell, distribute, bottle, rectify, blend,
11 treat, fortify, mix, process, warehouse or transport alcoholic
12 beverages in violation of this chapter, or the owning, possessing,
13 keeping or storing in this State of any implement or paraphernalia
14 for the manufacture, sale, distribution, bottling, rectifying, blending,
15 treating, fortifying, mixing, processing, warehousing or
16 transportation of alcoholic beverages with intent to use the same in
17 the manufacture, sale, distribution, bottling, rectifying, blending,
18 treating, fortifying, mixing, processing, warehousing or
19 transportation of alcoholic beverages in violation of this chapter, or
20 to aid or abet another in the manufacture, sale, distribution, bottling,
21 rectifying, blending, treating, fortifying, mixing, processing,
22 warehousing or transportation of alcoholic beverages in violation of
23 this chapter, or the aiding or abetting of another in any of the
24 foregoing activities.

25 y. "Unlawful property." All illicit beverages and all
26 implements, vehicles, vessels, airplanes, and paraphernalia for the
27 manufacture, sale, distribution, bottling, rectifying, blending,
28 treating, fortifying, mixing, processing, warehousing or
29 transportation of illicit beverages used in the manufacture, sale,
30 distribution, bottling, rectifying, blending, treating, fortifying,
31 mixing, processing, warehousing or transportation of illicit
32 beverages or owned, possessed, kept or stored with intent to use the
33 same in the manufacture, sale, distribution, bottling, rectifying,
34 blending, treating, fortifying, mixing, processing, warehousing or
35 transportation of illicit beverages, whether such use be by the
36 person owning, possessing, keeping, or storing the same, or by
37 another with the consent of such person; and all alcoholic
38 beverages, fixtures and personal property located in or upon any
39 premises, building, yard or inclosure connected with a building, in
40 which an illicit beverage is found, possessed, stored or kept.

41 z. "Wholesaler." Any person who sells an alcoholic beverage
42 for the purpose of resale either to a licensed wholesaler or to a
43 licensed retailer, or both.

44 aa. "Limousine." A motor vehicle used in the business of
45 carrying passengers for hire to provide prearranged passenger
46 transportation at a premium fare on a dedicated, nonscheduled,
47 charter basis that is not conducted on a regular route, or is furnished
48 without fare as an accommodation for a patron in connection with

1 other business purposes, and with a seating capacity in no event of
2 more than 14 passengers, not including the driver, provided, that
3 such a motor vehicle shall not have a seating capacity in excess of
4 four passengers, not including the driver, beyond the maximum
5 passenger seating capacity of the vehicle, not including the driver,
6 at the time of manufacture. This shall not include taxicabs, hotel or
7 airport shuttles and buses, buses employed solely in transporting
8 school children or teachers to and from school, vehicles owned and
9 operated directly or indirectly by businesses engaged in the practice
10 of mortuary science when those vehicles are used exclusively for
11 providing transportation related to the provision of funeral services
12 or vehicles owned and operated without charge or remuneration by
13 a business entity for its own purposes.

14 bb. "Entertainment facility" is a privately-owned facility in
15 which athletic, commercial, cultural, or artistic events are featured.

16 cc. "Powdered alcohol." Any powder or crystalline substance
17 containing alcohol, as defined in subsection a. of this section,
18 produced for human consumption.

19 Any definition herein contained shall apply to the same word in
20 any form. Thus "sell" means to make a "sale" as above defined.

21 (cf: P.L.2001, c,416, s.1)

22

23 2. R.S.33:1-2 is amended to read as follows:

24 33:1-2. a. It shall be unlawful to manufacture, sell, possess with
25 intent to sell, transport, warehouse, rectify, blend, treat, fortify, mix,
26 process, bottle or distribute alcoholic beverages in this State, except
27 pursuant to and within the terms of a license, or as otherwise
28 expressly authorized, under this chapter; but any drink actually
29 intended for immediate personal use may be mixed by any person.
30 Except as hereinafter provided, a person may, without limitation,
31 purchase any amount of alcoholic beverages intended in good faith
32 to be used solely for personal use and may personally transport
33 those alcoholic beverages so purchased for personal use in any
34 vehicle from a point within this State. Alcoholic beverages
35 intended in good faith solely for personal use may be transported,
36 by the owner thereof, in a vehicle other than that of the holder of a
37 transportation license, from a point outside this State to the extent
38 of, not exceeding 1/4 barrel or one case containing not in excess of
39 12 quarts in all, of beer, ale or porter, and one gallon of wine and
40 two quarts of other alcoholic beverages within any consecutive
41 period of 24 hours; provided, however, that except pursuant to and
42 within the terms of a license or permit issued by the director, no
43 person shall transport into this State or receive from without this
44 State into this State, alcoholic beverages where the alcoholic
45 beverages are transported or received from a state which prohibits
46 the transportation into that state of alcoholic beverages purchased or
47 otherwise obtained in the State of New Jersey. If any person or
48 persons desire to transport alcoholic beverages intended only for

1 personal use in quantities in excess of those above-mentioned, an
2 application may be made to the director who may, upon being
3 satisfied of the good faith of the applicant, and upon payment of a
4 fee of \$25.00 issue a special permit limited by such conditions as
5 the director may impose, authorizing the transportation of alcoholic
6 beverages in quantities in excess of those above-mentioned.

7 b. A holder of a Class B license under R.S.33:1-11 shall not
8 sell or deliver for sale in New Jersey any brand of alcoholic
9 beverage for resale in this State unless the alcoholic beverage is
10 acquired from the brand owner, or his authorized agent, or a
11 wholesale licensee designated as the registered distributor by the
12 brand owner, or his authorized agent.

13 c. No licensee shall knowingly sell, offer for sale, deliver,
14 receive or purchase, for resale in this State, any alcoholic beverage,
15 including private label brands owned by a retailer and exclusive
16 brands owned by a manufacturer or wholesaler and offered for sale
17 or sold by such manufacturer or wholesaler exclusively to one New
18 Jersey retailer or affiliated retailer, unless the brand owner or his
19 authorized agent files with the Director of the Division of Alcoholic
20 Beverage Control a brand registration schedule containing such
21 information as the director shall by rule or regulation require. Each
22 brand registration schedule must be renewed annually by January 1
23 of each year.

24 d. Each person who files a brand registration schedule and
25 amendments thereto shall pay a filing fee of \$23 per filing for each
26 initial brand registration and annual renewal and \$10 for each
27 amendment. All wines shall be subject to the initial brand
28 registration and annual renewal filings and fees, except that
29 different vintages of the same wine shall not require separate brand
30 registrations or renewals. Any registration may be suspended or
31 revoked in the same manner as an alcoholic beverage license for
32 any violation of Title 33 of the Revised Statutes and the rules and
33 regulations promulgated thereto.

34 e. Nothing contained in this section shall be deemed to limit or
35 modify the prohibition against discrimination in the sale of any
36 nationally advertised brand of alcoholic beverages to currently
37 authorized wholesalers as set forth in P.L.1966, c.59 (C.33:1-93.6 et
38 seq.) nor shall this section be deemed to require the sale to anyone
39 other than authorized retailers of private label brands which are
40 owned by a retailer or exclusive brands which are owned by a
41 manufacturer or wholesaler and offered for sale or sold by the
42 manufacturer or wholesaler exclusively to one retailer or affiliated
43 retailer, in this State.

44 f. No person shall sell, offer for sale, or deliver, receive or
45 purchase for resale in this State, any product consisting of or
46 containing powdered alcohol.

47 (cf: P.L.1996, c.152, s.1)

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill prohibits the sale of powdered alcohol in the State.
7 Powdered alcohol is ethyl alcohol which is designed to be dissolved
8 in liquid to produce alcoholic beverages. Because of its
9 composition, powdered alcohol can easily be concealed,
10 transported, and brought into venues where alcoholic beverages
11 from other sources may not be permitted, or where there is a total
12 ban on alcoholic beverages. Additionally, the nature of powdered
13 alcohol allows for easy and dangerous misuse, such as inhaling the
14 product or adding it to another person's food or beverage without
15 that person's consent.

16 The bill provides that no person shall sell purchase for resale in
17 this State any product consisting of or containing powdered alcohol.
18 The bill defines "powdered alcohol" as a powder or crystalline
19 substance containing alcohol which is produced for human
20 consumption.