Sponsored by:
Senator JEFF VAN DREW
District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS
Allows consumption of food on craft distillery premises.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning craft distilleries and amending R.S.33:1-10.

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

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

33:1-10. Class A licenses shall be subdivided and classified as follows:

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

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

- to so brew not more than 50,000 barrels of 31 liquid gallons capacity per annum, $1,250;
- to so brew not more than 100,000 barrels of 31 fluid gallons capacity per annum, $2,500;
- to so brew not more than 200,000 barrels of 31 fluid gallons capacity per annum, $5,000;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
to so brew not more than 300,000 barrels of 31 fluid gallons capacity per annum, $7,500.

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

Restricted brewery license. 1c. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages in a quantity to be expressed in such license not in excess of 10,000 barrels of 31 gallons capacity per year. Notwithstanding the provisions of R.S.33:1-26, the director shall issue a restricted brewery license only to a person or an entity which has identical ownership to an entity which holds a plenary retail consumption license issued pursuant to R.S.33:1-12, provided that such plenary retail consumption license is operated in conjunction with a restaurant regularly and principally used for the purpose of providing meals to its customers and having adequate kitchen and dining room facilities, and that the licensed restaurant premises is immediately adjoining the premises licensed under this subsection. The holder of this license shall be entitled to sell or deliver the product to that restaurant premises. The holder of this license also shall be entitled to sell and distribute the product to wholesalers licensed in accordance with this chapter. The fee for this license shall be $1,250, which fee shall entitle the holder to brew up to 1,000 barrels of 31 liquid gallons per annum. The licensee also shall pay an additional $250 for every additional 1,000 barrels of 31 fluid gallons produced. The fee shall be paid at the time of application for the license, and additional payments based on barrels produced shall be paid within 60 days following the expiration of the license term upon certification by the licensee of the actual gallons brewed during the license term. No more than 10 restricted brewery licenses shall be issued to a person or entity which holds an interest in a plenary retail consumption license. If the governing body of the municipality in which the licensed premises will be located should file a written objection, the director shall hold a hearing and may issue the license only if the director finds that the issuance of the license will not be contrary to the public interest. All fees related to the issuance of both licenses shall be paid in accordance with statutory law. The provisions of this subsection shall not be construed to limit or restrict the rights and privileges granted by the plenary retail consumption license held by the holder of the restricted brewery license issued pursuant to this subsection.

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

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

Plenary winery license. 2a. Provided that the holder is engaged
in growing and cultivating grapes or fruit used in the production of
wine on at least three acres on, or adjacent to, the winery premises,
the holder of this license shall be entitled, subject to rules and
regulations, to produce any fermented wines, and to blend, fortify
and treat wines, and to sell and distribute his products to
wholesalers licensed in accordance with this chapter and to
churches for religious purposes, and to sell and distribute without
this State to any persons pursuant to the laws of the places of such
sale and distribution, and to maintain a warehouse, and to sell his
products at retail to consumers on the licensed premises of the
winery for consumption on or off the premises and to offer samples
for sampling purposes only. The fee for this license shall be $938.
A holder of this license who produces not more than 250,000
gallons per year shall also have the right to sell and distribute his
products to retailers licensed in accordance with this chapter, except
that the holder of this license shall not use a common carrier for
such distribution. The fee for this additional privilege shall be
graduated as follows: a licensee who manufactures more than
150,000 gallons, but not in excess of 250,000 gallons per annum,
$1,000; a licensee who manufactures more than 100,000 gallons,
but not in excess of 150,000 gallons per annum, $500; a
licensee who manufactures more than 50,000 gallons, but not in excess of
100,000 gallons per annum, $250; a licensee who manufactures
50,000 gallons or less per annum, $100. A holder of this license
who produces not more than 250,000 gallons per year shall have the
right to sell such wine at retail in original packages in 15
salesrooms apart from the winery premises for consumption on or
off the premises and for sampling purposes for consumption on the
premises, at a fee of $250 for each salesroom. Licensees shall not
jointly control and operate salesrooms. Additionally, the holder of
this license who produces not more than 250,000 gallons per year
may ship not more than 12 cases of wine per year, subject to
regulation, to any person within or without this State over 21 years
of age for personal consumption and not for resale. A case of wine
shall not exceed a maximum of nine liters. A copy of the original
invoice shall be available for inspection by persons authorized to
enforce the alcoholic beverage laws of this State for a minimum
period of three years at the licensed premises of the winery. For the
purposes of this subsection, "sampling" means the selling at a
nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

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

Farm winery license. 2b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any fermented wines and fruit juices in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 50,000 gallons per year and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and to sell at retail to consumers for consumption on or off the licensed premises and to offer samples for sampling purposes only. The license shall be issued only when the winery at which such fermented wines and fruit juices are manufactured is located and constructed upon a tract of land exclusively under the control of the licensee, provided that the licensee is actively engaged in growing and cultivating an area of not less than three acres on or adjacent to the winery premises and on which are growing grape vines or fruit to be processed into wine or fruit juice; and provided, further, that for the first five years of the operation of the winery such fermented wines and fruit juices shall be manufactured from at least 51% grapes or fruit grown in the State and that thereafter they shall be manufactured from grapes or fruit grown in this State at least to the extent required for labeling as "New Jersey Wine" under the applicable federal laws and regulations. The containers of all wine sold to consumers by such licensee shall have affixed a label stating such information as shall be required by the rules and regulations of the Director of the Division of Alcoholic Beverage Control. The fee for this license shall be graduated as follows: to so manufacture between 30,000 and 50,000 gallons per annum, $375; to so manufacture between 2,500 and 30,000 gallons per annum, $250; to so manufacture between 1,000 and 2,500 gallons per annum, $125; to so manufacture less than 1,000 gallons per annum, $63. No farm winery license shall be held by the holder of a plenary winery license or be situated on a premises licensed as a plenary winery.
The holder of this license shall also have the right to sell and
distribute his products to retailers licensed in accordance with this
chapter, except that the holder of this license shall not use a
common carrier for such distribution. The fee for this additional
privilege shall be $100. The holder of this license shall have the
right to sell his products in original packages at retail to consumers
in 15 salesrooms apart from the winery premises for consumption
on or off the premises, and for sampling purposes for consumption
on the premises, at a fee of $250 for each salesroom. Licensees
shall not jointly control and operate salesrooms. Additionally, the
holder of this license may ship not more than 12 cases of wine per
year, subject to regulation, to any person within or without this
State over 21 years of age for personal consumption and not for
resale. A case of wine shall not exceed a maximum of nine liters.
A copy of the original invoice shall be available for inspection by
persons authorized to enforce the alcoholic beverage laws of this
State for a minimum period of three years at the licensed premises
of the winery. For the purposes of this subsection, "sampling"
means the selling at a nominal charge or the gratuitous offering of
an open container not exceeding one and one-half ounces of any
wine.

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

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

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

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

Out-of-State winery license. 2e. Provided that the applicant does
not produce more than 250,000 gallons of wine per year, the holder
of a valid winery license issued in any other state may make
application to the director for this license. The holder of this
license shall have the right to sell and distribute his products to
wholesalers licensed in accordance with this chapter and to sell
such wine at retail in original packages in 16 salesrooms apart from
the winery premises for consumption on or off the premises at a fee
of $250 for each salesroom. Licensees shall not jointly control and
operate salesrooms. The annual fee for this license shall be $938.
A copy of a current license issued by another state shall accompany
the application. The holder of this license also shall have the right
to sell and distribute his products to retailers licensed in accordance
with this chapter, except that the holder of this license shall not use
a common carrier for such distribution. The fee for this additional
privilege shall be graduated as follows: a licensee who
manufactures more than 150,000 gallons, but not in excess of
250,000 gallons per annum, $1,000; a licensee who manufactures
more than 100,000 gallons, but not in excess of 150,000 gallons per
annum, $500; a licensee who manufactures more than 50,000
gallons, but not in excess of 100,000 gallons per annum, $250; a
licensee who manufactures 50,000 gallons or less per annum, $100.
Additionally, the holder of this license may ship not more than 12
cases of wine per year, subject to regulation, to any person within or
without this State over 21 years of age for personal consumption
and not for resale. A case of wine shall not exceed a maximum of
nine liters. A copy of the original invoice shall be available for
inspection by persons authorized to enforce the alcoholic beverage
laws of this State for a minimum period of three years at the licensed premises of the winery.

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

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

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

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

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

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

The holder of this license shall not sell food [or operate a restaurant] on the licensed premises. The holder of this license shall be entitled to allow the consumption of food by consumers on the licensed premises. A holder of this license who certifies that not less than 51% of the raw materials used in the production of distilled alcoholic beverages under this section are grown in this State or purchased from providers located in this State may, consistent with all applicable federal laws and regulations, label these distilled alcoholic beverages as "New Jersey Distilled." The fee for this license shall be $938.

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

Bonded warehouse bottling license. 5. The holder of this license shall be entitled, subject to rules and regulations, to bottle alcoholic beverages in bond on behalf of all persons authorized by federal and State law and regulations to withdraw alcoholic beverages from bond. The fee for this license shall be $625. This license shall be issued only to persons holding permits to operate Internal Revenue bonded warehouses pursuant to the laws of the United States.
The provisions of section 21 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

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

2. This act shall take effect immediately.

STATEMENT

This bill removes the prohibition against operating a restaurant on the licensed premises of a craft distillery and provides that the holder of a craft distillery license may allow the consumption of food by consumers on the licensed premises of the distillery.

Under current law, the holder of a craft distillery license is entitled to manufacture up to 20,000 gallons of distilled alcoholic beverages, to rectify, blend, treat and mix distilled alcoholic beverages to sell and distribute to wholesalers and retailers. These licensees are entitled to sell their product to consumers on the licensed premises of the distillery for consumption on the premises, but only in connection with a tour of the distillery. The licensee may sell a person up to five liters of their product for consumption off the premises. A licensee may also offer a person up to three samples per calendar day for sampling purposes only. The licensee is prohibited under current law from selling food and operating a restaurant on the licensed premises.

Under the bill, consumers would be allowed to consume food on the licensed premises of a craft distillery. The bill would allow patrons of craft distilleries to purchase food from a vendor not owned by the licensee, or from a restaurant or other type of food vendor off the licensed premises, to be consumed on the licensed premises of the distillery.