

# SENATE, No. 2168

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## STATE OF NEW JERSEY 218th LEGISLATURE

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INTRODUCED MARCH 5, 2018

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**SYNOPSIS**

Allows municipality to issue permits to sell alcoholic beverages in residential redevelopment areas.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/14/2018)**

1 AN ACT concerning alcoholic beverage licenses and supplementing  
2 Title 33 of the Revised Statutes

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

6  
7 1. a. As used in this section,

8 “Eligible municipality” means a city of the second class located  
9 in a county of the first class in which a transit village is located and  
10 which has a population of greater than 40,000 but less than 49,000,  
11 according to the latest decennial census.

12 “Residential dwelling unit” means a house, townhouse,  
13 apartment, cooperative, or condominium for which a certificate of  
14 occupancy has been issued and which is occupied for dwelling  
15 purposes by one or more persons living independently of persons in  
16 similar dwelling units.

17 “Shopping mall” means an enclosed walkway or hall area under  
18 common ownership or control which is open to the public and  
19 connects with or provides access to separate retail establishments.

20 “Special permit” means a non-transferable permit issued  
21 pursuant to this section that allows the permit holder to sell any  
22 alcoholic beverages for consumption on the premises by the glass or  
23 other open receptacle.

24 “Transit village” means a community with a bus, train, light rail, or  
25 ferry station that has been designated by the New Jersey Department  
26 of Transportation as a transit village.

27 b. An eligible municipality in which the number of plenary retail  
28 consumption licenses has reached the population limitation established  
29 in section 2 of P.L.1947, c.94 (C.33:1-12.14) may issue one special  
30 permit for every 100 residential dwelling units constructed prior to or  
31 following the effective date of this act in accordance with a  
32 redevelopment plan adopted pursuant to P.L.1992, c.79 (C.40A:12A-1  
33 et seq.).

34 c. Prior to issuing a permit pursuant to this section, the  
35 municipal issuing authority shall file an application with the  
36 director. The application shall be made on forms furnished by the  
37 director and shall require the eligible municipality to demonstrate that  
38 a certificate of occupancy has been approved for the required number  
39 of residential dwelling units necessary to issue additional permits.

40 d. The issuing municipality shall establish an application process  
41 for the permit. The person to whom the permit is issued shall be  
42 randomly selected by the eligible municipality from a pool of qualified  
43 applicants. Permits shall be issued only for use at a premises located  
44 in a redevelopment area as described in the redevelopment plan.

45 The municipal issuing authority may prescribe qualifications for  
46 prospective applicants including, but not limited to, the requirement  
47 that the applicant offer alcoholic beverages for sale during certain  
48 hours as a condition of being awarded the permit.

1 e. A permit issued pursuant to this section shall not be  
2 transferred to another premises. A permit shall not be issued to a  
3 person or entity which holds an interest in:

- 4 (1) a plenary retail consumption license in this State; or  
5 (2) more than five licenses issued by out-of-State jurisdictions that  
6 allow the holder to sell alcoholic beverages for consumption on the  
7 licensed premises.

8 f. The permit shall be used in connection with the operation of  
9 a premises within six months of the date of issuance. The  
10 municipal issuing authority may acquire the permit for reissuance in  
11 accordance with subsection d. of this section if the permit is not  
12 actively used:

- 13 (1) within six months of the issuance date;  
14 (2) for more than six months due to the establishment's closure;  
15 (3) due to a suspension for more than six months or revocation for  
16 a violation of Title 2C of the New Jersey Statutes or Title 33 of the  
17 Revised Statutes; or  
18 (4) to offer alcoholic beverages for sale during the hours  
19 prescribed by the municipal issuing authority as a condition of  
20 awarding the permit.

21 g. The fee for the permit shall be \$25,000 for the first year of the  
22 permit's issuance and \$15,000 for each year thereafter.

23 h. For 15 years immediately following the initial issuance of  
24 the permit the fee shall be distributed in the following manner:

- 25 (1) Twenty percent shall be paid to the eligible municipality  
26 wherein the redevelopment plan is adopted; and  
27 (2) Eighty percent shall be divided equally among and paid to  
28 the active plenary retail consumption licensees in the eligible  
29 municipality or municipalities in which the premises will be  
30 located, excluding plenary consumption licensees located or  
31 affiliated with a shopping mall as defined in this bill.

32 i. On the first day of the 181st month following the initial  
33 issuance of the permit, the annual fee shall be paid to the eligible  
34 municipality wherein the redevelopment plan is adopted.

35 j. The holder of a permit who, following the effective date of  
36 this act, obtains an interest in a plenary retail consumption license  
37 within the eligible municipality shall not receive a fee pursuant to  
38 subsection h. of this section.

39 k. Except in the case of a revoked permit, the municipal issuing  
40 authority, for good cause and after a hearing, may authorize the  
41 person to whom the permit is issued to maintain the permit in an  
42 inactive status for more than six months upon demonstration that  
43 the person is making a good faith effort to use, or resume active use  
44 of, the permit.

45 l. Except as otherwise provided by this section, a permit shall  
46 be used in a manner consistent with a plenary retail consumption  
47 license issued pursuant to R.S.33:1-12 and shall be subject to any  
48 other fees and regulations promulgated by the director.

1 m. A permit shall not be issued pursuant to this section or used  
2 in connection with a premises connected to, located within, or under  
3 the control of a shopping mall.

4  
5 2. This act shall take effect on the first day of the third month  
6 following enactment, but the Director of the Division of Alcoholic  
7 Beverage Control may take any administrative action in advance of  
8 that date as may be necessary for the timely implementation of this  
9 act.

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12 STATEMENT

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14 This bill allows for the issuance of permits to sell alcoholic  
15 beverages within the redevelopment district of certain  
16 municipalities that have adopted a Smart Growth Redevelopment  
17 Plan for the purpose of attracting residential development to transit  
18 hubs within and surrounding redevelopment districts. Specifically,  
19 the bill applies to cities of the second class located in a county of  
20 the first class with a population of greater than 40,000 but less than  
21 49,000, according to the latest decennial census, which currently  
22 includes the municipality of Hackensack. Under the bill, a permit  
23 holder would be allowed to sell any alcoholic beverages for  
24 consumption on the premises by the glass or other open receptacle.

25 The bill allows a municipality to issue a special permit for every  
26 100 residential dwelling units constructed prior to or following the  
27 bill's effective date in accordance with a redevelopment plan. Prior to  
28 issuing a permit, the municipality is required to file an application  
29 with the Director of the Division of Alcoholic Beverage Control  
30 (ABC) demonstrating that a certificate of occupancy has been  
31 approved for the required number of residential dwellings necessary to  
32 issue additional licenses.

33 The bill requires the municipal issuing authority to randomly select  
34 the person to whom the permit is issued from a pool of qualified  
35 applicants. The municipal issuing authority may prescribe  
36 qualifications for prospective applicants, as a condition of being  
37 awarded the permit, including the requirement that applicants  
38 operate during certain hours. The bill prohibits transferring a permit  
39 to another premises or individual.

40 In addition, the bill allows a municipality to acquire and reissue a  
41 permit that goes unused or is otherwise revoked or suspended. Under  
42 the bill, a municipality may acquire a permit that is not actively used  
43 within six months of the date of issuance or for more than six months  
44 due to the establishment's closure. A municipality also may acquire a  
45 permit that is suspended or revoked for more than six months due to a  
46 violation of the criminal code or the alcoholic beverage licensing  
47 statutes. The bill also allows a municipality to acquire a permit if the  
48 permit holder fails to offer alcoholic beverages for sale during the

1 times prescribed by the municipality. Except in the case of a revoked  
2 permit, a municipality may authorize the permit holder to maintain  
3 the permit in an inactive status for more than six months upon  
4 demonstration that the permit holder is making a good faith effort to  
5 use, or resume active use of, the permit.

6 The annual fee for the permit is to be \$25,000 for the first year of  
7 the permit's issuance and \$15,000 for each year thereafter. For 15  
8 years immediately following the initial issuance of the permit, the fee  
9 is to be distributed to the eligible municipality (20%) and the other  
10 licensees in the municipality (80%) Following the initial 15 year  
11 period, the entire fee is to be distributed to the eligible municipality.

12 Under current law, a municipality may issue plenary retail  
13 consumption licenses until the combined total number in the  
14 municipality is fewer than one license for each 3,000 persons.  
15 Because of these restrictions, there is a shortage of licenses in some  
16 municipalities. This bill addresses this shortage by allowing an  
17 eligible municipality that has approved a redevelopment plan to  
18 issue permits to sell alcoholic beverages based on the number of  
19 newly constructed residential units.