ASSEMBLY, No. 3445

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Assemblyman RONALD S. DANCER
District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS
Allows certain breweries to operate off-premises retail salesrooms; permits breweries and wineries to operate joint salesrooms.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning alcoholic beverage licenses 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 be entitled to sell the brewery’s products in original packages or open containers at retail to consumers in 15 salesrooms apart from the brewery premises for consumption on or off the premises, at a fee of $250 for each salesroom. The holder of this license shall not jointly control and operate a salesroom with the holder of another limited brewery license, but shall be entitled to operate a salesroom on the same

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.
premises as a holder of a plenary retail winery license, farm winery
license, or out-of-State winery license.
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;
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. lc. 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 or open containers 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] The holder of this license shall not jointly control and operate [salesrooms] a salesroom with the holder of a winery license, but shall be entitled to operate a operate a salesroom on the same premises as a holder of a limited brewery license.

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. For the purposes of this subsection, "wine" shall include "hard cider" and "mead" as defined in this section.

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 percent 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 the licensee's products in original packages or open containers 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. The holder of this license shall not jointly control and operate a salesroom with the holder of a winery license, but shall be entitled to operate a salesroom on the same premises as a holder of a limited brewery license.

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.

For the purposes of this subsection, "wine" shall include "hard cider" and "mead" as defined in this section.

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.

For the purposes of this subsection, "wine" shall include "hard cider" and "mead" as defined in this section.

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 percent 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.

For the purposes of this subsection, "wine" shall include "hard cider" and "mead" as defined in this section.

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] the licensee’s
products to wholesalers licensed in accordance with this chapter and
to sell such wine at retail in original packages or open containers in
16 salesrooms apart from the winery premises for consumption on
or off the premises at a fee of $250 for each salesroom.
[Licensees] The holder of this license shall not jointly control and
operate [salesrooms] a salesroom with the holder of a winery
license, but shall be entitled to operate a salesroom on the same
premises as a holder of a limited brewery license.

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

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.
For the purposes of this subsection, "wine" shall include "hard cider" and "mead" as defined in this section.

Cidery and meadery license. 2f. The holder of this license shall be entitled, subject to rules and regulations, to manufacture hard cider and mead and to sell and distribute these 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 holder of this license shall be entitled to sell these products at retail to consumers on the licensed premises for consumption on or off the premises and to offer samples for sampling purposes only. The holder of this license shall be permitted to offer for sale or make the gratuitous offering of packaged crackers, chips, nuts, and similar snacks to consumers, but shall not operate a restaurant on the licensed premises. The fee for this license shall be $938.

The holder of this license shall be entitled to manufacture hard cider in a quantity not to exceed 50,000 barrels of 31 fluid gallons capacity per year. With respect to the sale and distribution of hard cider to a wholesaler, the licensee shall be subject to the same statutory and regulatory requirements as a brewer, and hard cider shall be considered a malt alcoholic beverage, for the purposes of the "Malt Alcoholic Beverage Practices Act," P.L.2005, c.243 (C.33:1-93.12 et seq.). The holder of this license shall not directly ship hard cider either within or without this State.

The holder of this license shall be entitled to manufacture not more than 250,000 gallons of mead per year. The holder of this license may ship not more than 12 cases of mead 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 mead 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. As used in this subsection:

"Hard cider" means a fermented alcoholic beverage derived primarily from apples, pears, apple juice concentrate and water, or pear juice concentrate and water, which may include spices, herbs, honey, or other flavoring, and which contains at least one half of one percent but less than eight and one half percent alcohol by volume.

"Mead" means an alcoholic beverage primarily made from honey, water, and yeast, and which may contain fruit, fruit juices, spices, or herbs added before or after fermentation has completed, except that the ratio of fermentable sugars from fruit or fruit juices shall not exceed 49 percent of the total fermentable sugars used to produce mead.
"Sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding four ounces of hard cider or mead produced on the licensed premises.

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 sampling 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. A holder of this license who certifies that not less than 51 percent 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.2017, c.80, s.1)

2. This act shall take effect immediately.

STATEMENT

This bill allows the holder of a limited brewery license to operate up to 15 salesrooms apart from the brewery premises. Under current law, only wineries that produce 250,000 gallons or less per year have this privilege.

Under the bill, limited breweries would be allowed to sell their products in original containers or open containers for consumption
on the salesroom premises. In addition, the bill allows wineries to sell their products in open containers on the salesroom premises. Under current law, wineries that operate salesrooms are permitted to offer one and one-half ounce samples and sell their products in original containers for on-premises consumption, but are prohibited from selling wine in open containers.

The bill also allows the holder of a limited brewery license and the holder of a winery license who produces 250,000 gallons or less to jointly operate a salesroom on the same premises. Current law prohibits wineries from jointly operating salesrooms with other licensees on the same premises. Under the bill, breweries would be prohibited from jointly operating salesrooms with other breweries; wineries would be prohibited from jointly operating salesrooms with other wineries.