

# ASSEMBLY, No. 3966

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 1, 2020

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman SERENA DIMASO**

**District 13 (Monmouth)**

**Co-Sponsored by:**

**Assemblywoman Murphy, Assemblyman Webber, Assemblywoman Vainieri Huttle, Assemblymen Rooney and Space**

**SYNOPSIS**

Allows certain alcoholic beverage manufacturers and retail consumption licensees to sell and deliver products during declared state of emergency; exempts alcohol used by distillery in production of hand sanitizer from alcoholic beverage tax.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/4/2020)**

1 AN ACT concerning the delivery and sale of alcoholic beverages  
2 during a state of emergency.

3

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

6

7 1. As used in this act:

8 “Craft manufacturer license” means a plenary winery license,  
9 farm winery license, out-of-State winery license, limited brewery  
10 license, restricted brewery license, cidery and meadery license, and  
11 craft distillery license issued pursuant to R.S.33:1-10.

12 “Retail consumption license or permit” means a plenary retail  
13 consumption license issued pursuant to R.S.33:1-12 or any other  
14 license or permit issued pursuant to Title 33 of the Revised Statutes  
15 that authorizes the sale of all alcoholic beverages for consumption  
16 on the licensed premises.

17 “State of emergency” means the state of emergency declared by  
18 the Governor pursuant to Executive Order No. 103 of 2020 in  
19 response to the COVID-19 pandemic.

20

21 2. a. Notwithstanding the provisions of R.S.33:1-12 or any  
22 other law to the contrary, the holder of a retail consumption license  
23 or permit shall be entitled to:

24 (1) sell any alcoholic beverages on the licensed premises in  
25 original packages or any closed or sealed container for consumption  
26 off the licensed premises during a state of emergency; and

27 (2) deliver, by common carrier or otherwise, any alcoholic  
28 beverages to the residence of a consumer within this State who is 21  
29 years of age or older in original packages or any closed or sealed  
30 container of any size for consumption off the licensed premises  
31 during a state of emergency.

32 b. A closed or sealed container used to sell or deliver distilled  
33 alcoholic beverages pursuant to this section shall have a capacity of  
34 16 fluid ounces or less. Distilled alcoholic beverages sold or  
35 delivered in a closed or sealed container may be mixed or blended  
36 with other alcoholic or nonalcoholic beverages. Any other  
37 alcoholic beverage may be sold or delivered in a closed or sealed  
38 container of any size.

39

40 3. a. Notwithstanding the provisions of R.S.33:1-10 or any  
41 other law to the contrary, the holder of a craft manufacturer license  
42 shall be entitled to:

43 (1) sell the licensee’s products on the licensed premises in  
44 original packages or any closed or sealed container for consumption  
45 off the licensed premises during a state of emergency; and

46 (2) deliver, by common carrier or otherwise, the licensee’s  
47 products to the residence of a consumer within this State who is 21  
48 years of age or older in original packages or any closed or sealed

1 container for personal consumption and not for resale during a state  
2 of emergency.

3 b. A closed or sealed container used by a distillery to sell or  
4 deliver distilled alcoholic beverages pursuant to this section shall  
5 have a capacity of 16 fluid ounces or less. Distilled alcoholic  
6 beverages sold or delivered in a closed or sealed container may be  
7 mixed or blended with other alcoholic or nonalcoholic beverages.

8 Any other alcoholic beverage sold or delivered by a plenary  
9 winery license, farm winery license, out-of-State winery license,  
10 limited brewery license, restricted brewery license, cidery and  
11 meadery license may be sold or delivered in a closed or sealed  
12 container of any size.

13

14 4. a. The holder of a retail consumption license or permit or  
15 craft manufacturer license shall be entitled to sell or deliver, by  
16 common carrier or otherwise, alcoholic beverages pursuant to this  
17 act until the first day of the seventh month following the date on  
18 which the Governor declares that the state of emergency has ended.

19 b. The director may establish guidelines regarding the sale or  
20 delivery of alcoholic beverages during a declared state of  
21 emergency pursuant to this section.

22

23 5. a. As used in this section, "exemption period" means the  
24 period of time during the state of emergency as defined by this act  
25 and any extension thereof.

26 b. The tax imposed pursuant to the "Alcoholic Beverage Tax  
27 Law," R.S. 54:41-1 et seq. shall not apply to the sale or delivery of  
28 alcohol used by a distillery in the production of hand sanitizer for  
29 the duration of the exemption period.

30 c. A distillery shall be entitled to a refund for the alcoholic  
31 beverage tax paid on alcohol used by the distillery in the production  
32 of hand sanitizer during the exemption period. The application for  
33 a refund shall be submitted to the Division of Taxation in the  
34 Department of the Treasury, in a form and manner as prescribed by  
35 the Director of the Division of Taxation.

36 d. Notwithstanding any provision of the "Administrative  
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
38 contrary, the Director of the Division of Taxation in the Department  
39 of the Treasury is authorized to adopt immediately upon filing with  
40 the Office of Administrative Law rules and regulations necessary to  
41 implement this section, which rules and regulations shall be  
42 effective for a period not to exceed 360 days following the date of  
43 filing and may thereafter be amended, adopted, or readopted by the  
44 director in accordance with the requirements of P.L.1968, c.410  
45 (C.52:14B-1 et seq.).

46

47 6. This act shall take effect immediately and shall expire on the  
48 first day of the seventh month following the date on which the

1 Governor declares that the state of emergency has ended; except  
2 that section 6 of this act shall be retroactive to March 9, 2020 and  
3 expire on the date on which the Governor declares the state of  
4 emergency has ended.

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STATEMENT

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9 This bill allows for the sale and delivery of alcoholic beverages  
10 by the holders of certain consumption retail licenses and permits  
11 and craft manufacturer licenses during the state of emergency  
12 declared by the Governor pursuant to Executive Order No. 103 of  
13 2020 in response to the COVID-19 pandemic.

14 The bill allows the holder of certain retail consumption licenses  
15 or permits, generally issued to bars and restaurant, to sell and  
16 deliver alcoholic beverages in original containers or any closed or  
17 sealed container for consumption off the licensed premises during  
18 the state of emergency. In addition, the holder of a limited brewery  
19 license, restricted brewery license, plenary winery license, farm  
20 winery license, out-of-State winery license, cidery and meadery  
21 license, or craft distillery license would be permitted to sell and  
22 deliver the licensee's products in original packages or any closed or  
23 sealed container for consumption off the licensed premises during  
24 the state of emergency.

25 Under the bill, distilled alcoholic beverages sold by the holder of  
26 a retail consumption license or permit or a craft distillery license in  
27 a closed or sealed container may be mixed or blended with other  
28 alcoholic or nonalcoholic beverages. The bill requires distilled  
29 alcoholic beverages to be delivered or sold in closed or sealed  
30 containers that hold 16 fluid ounces or less. Any other alcoholic  
31 beverage may be sold or delivered in containers of any size.

32 A license or permit holder would be permitted to deliver  
33 alcoholic beverages for six months following the date on which the  
34 state of emergency has ended.

35 Finally, the bill exempts from the alcoholic beverage tax, alcohol  
36 used by a distillery in the sale, delivery, and production of hand  
37 sanitizer and allows refunds for those distilleries that have paid the  
38 tax on alcohol used by the distillery in the production of hand  
39 sanitizer during the exemption period.

40 Under current law, licensees with plenary retail privileges, such  
41 as liquor stores, are permitted to sell and deliver alcoholic  
42 beverages in original containers for off premises consumption. This  
43 bill allows retail consumption license and permit holders and craft  
44 alcoholic beverage manufacturers to sell and deliver alcoholic  
45 beverages during a declared state of emergency.