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

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

1. As used in this act:
   “Craft manufacturer license” means a plenary winery license, farm winery license, out-of-State winery license, limited brewery license, restricted brewery license, cidery and meadery license, and craft distillery license issued pursuant to R.S.33:1-10.
   “Retail consumption license or permit” means a plenary retail consumption license issued pursuant to R.S.33:1-12 or any other license or permit issued pursuant to Title 33 of the Revised Statutes that authorizes the sale of all alcoholic beverages for consumption on the licensed premises.
   “State of emergency” means the state of emergency declared by the Governor pursuant to Executive Order No. 103 of 2020 in response to the COVID-19 pandemic.

2. a. Notwithstanding the provisions of R.S.33:1-12 or any other law to the contrary, the holder of a retail consumption license or permit shall be entitled to:
   (1) sell any alcoholic beverages on the licensed premises in original packages or any closed or sealed container for consumption off the licensed premises during a state of emergency; and
   (2) deliver, by common carrier or otherwise, any alcoholic beverages to the residence of a consumer within this State who is 21 years of age or older in original packages or any closed or sealed container of any size for consumption off the licensed premises during a state of emergency.
   b. A closed or sealed container used to sell or deliver distilled alcoholic beverages pursuant to this section shall have a capacity of 16 fluid ounces or less. Distilled alcoholic beverages sold or delivered in a closed or sealed container may be mixed or blended with other alcoholic or nonalcoholic beverages. Any other alcoholic beverage may be sold or delivered in a closed or sealed container of any size.

3. a. Notwithstanding the provisions of R.S.33:1-10 or any other law to the contrary, the holder of a craft manufacturer license shall be entitled to:
   (1) sell the licensee’s products on the licensed premises in original packages or any closed or sealed container for consumption off the licensed premises during a state of emergency; and
   (2) deliver, by common carrier or otherwise, the licensee’s products to the residence of a consumer within this State who is 21 years of age or older in original packages or any closed or sealed container of any size.
container for personal consumption and not for resale during a state of emergency.

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

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

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

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

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

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

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

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

6. This act shall take effect immediately and shall expire on the first day of the seventh month following the date on which the
Governor declares that the state of emergency has ended; except that section 6 of this act shall be retroactive to March 9, 2020 and expire on the date on which the Governor declares the state of emergency has ended.

STATEMENT

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

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

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

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

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

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