

[First Reprint]

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)

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District 13 (Monmouth)

Co-Sponsored by:

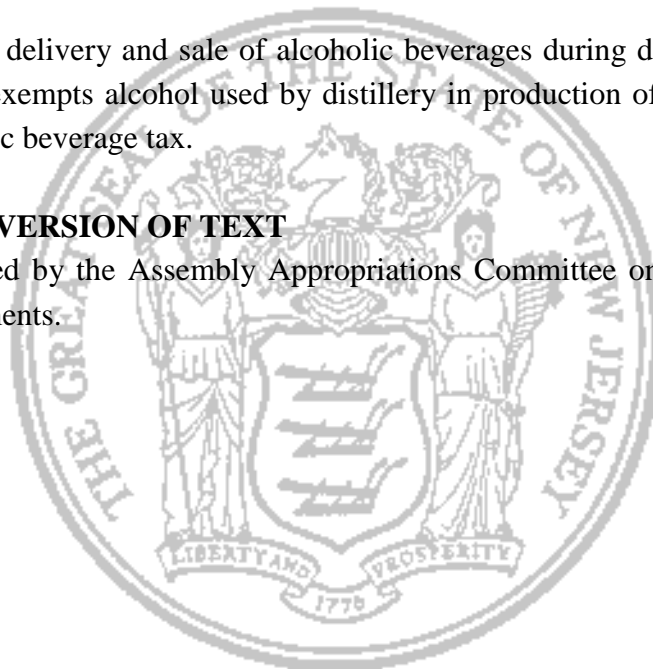
Assemblywoman Murphy, Assemblyman Webber, Assemblywoman Vainieri Huttel, Assemblymen Rooney, Space, Thomson, DePhillips, Wirths, Scharfenberger, Johnson, Assemblywoman Jimenez, Assemblymen McGuckin and Giblin

SYNOPSIS

Concerns delivery and sale of alcoholic beverages during declared state of emergency; exempts alcohol used by distillery in production of hand sanitizer from alcoholic beverage tax.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 4, 2020, with amendments.



(Sponsorship Updated As Of: 5/11/2020)

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, farm
9 winery license, out-of-State winery license, limited brewery license,
10 ¹restricted brewery license,¹ cidery and meadery license, and craft
11 distillery license issued pursuant to R.S.33:1-10.

12 “Retail consumption license or permit” means a plenary retail
13 consumption license ¹, plenary retail consumption license used in
14 connection with a hotel or motel, or seasonal retail consumption
15 license¹ issued pursuant to R.S.33:1-12 or ¹any other license or ¹a
16 concessionaire¹ permit issued pursuant to Title 33 of the Revised
17 Statutes that authorizes the sale of all alcoholic beverages for
18 consumption on the licensed premises.

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

22

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

26 (1) sell any alcoholic beverages on the licensed premises in
27 original ¹packages containers¹ or ¹any in other¹ closed ¹or
28 and¹ sealed ¹container containers¹ for consumption off the licensed
29 premises during a state of emergency; and

30 (2) deliver, by common carrier or otherwise, any alcoholic
31 beverages to the residence of a consumer within this State who is 21
32 years of age or older in original ¹packages containers¹ or ¹any in
33 other¹ closed ¹or and¹ sealed ¹container of any size containers¹
34 for consumption off the licensed premises during a state of emergency.

35 b. ¹A closed or sealed container used to sell or deliver
36 Distilled alcoholic beverages sold or delivered in closed and sealed
37 containers pursuant to this section may be mixed or blended with other
38 alcoholic or nonalcoholic beverages.

39 c. Any container in which alcoholic beverages are sold or
40 delivered pursuant to this section shall be affixed with a tamper
41 evident seal and may be of any size, except that containers, other than
42 original containers, in which any¹ distilled alcoholic beverages¹ are
43 sold or delivered¹ pursuant to this section ¹, whether or not mixed or
44 blended with other beverages,¹ shall have a ¹maximum¹ capacity of 16

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted May 4, 2020.

1 fluid ounces ¹or less. Distilled alcoholic beverages sold or delivered
2 in a closed or sealed container may be mixed or blended with other
3 alcoholic or nonalcoholic beverages. Any other alcoholic beverage
4 may be sold or delivered in a closed or sealed container of any size¹.
5

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

9 (1) sell the licensee's products on the licensed premises in original
10 packages or any closed or sealed container for consumption off the
11 licensed premises during a state of emergency; and

12 (2)¹ deliver, by common carrier or otherwise, the licensee's
13 products to the residence of a consumer within this State who is 21
14 years of age or older in original ¹packages or any closed or sealed
15 container¹ containers¹ for personal consumption and not for resale
16 during a state of emergency.

17 b. ¹A closed or sealed container used by a distillery to sell or
18 deliver distilled alcoholic beverages pursuant to this section shall have
19 a capacity of 16 fluid ounces or less. Distilled alcoholic beverages
20 sold or delivered in a closed or sealed container may be mixed or
21 blended with other alcoholic or nonalcoholic beverages.

22 Any other alcoholic beverage sold or delivered by a plenary winery
23 license, farm winery license, out-of-State winery license, limited
24 brewery license, restricted brewery license, cidery and meadery license
25 may be sold or delivered in a closed or sealed container of any size.¹
26 Nothing in this section shall be construed to limit or otherwise affect
27 sales or delivery privileges otherwise established by statute, rule, or
28 regulation for any license issued pursuant to R.S.33:1-10.¹
29

30 4. a. The ¹holder of a retail consumption license or permit or
31 craft manufacturer license shall be entitled to sell or deliver, by
32 common carrier or otherwise, alcoholic beverages¹ privileges
33 established¹ pursuant to ¹sections 2 and 3 of¹ this act ¹shall remain in
34 effect¹ until the ¹: (1) date of expiration, termination, or rescission of
35 any executive or administrative orders issued by the Governor or
36 Commissioner of Health establishing coronavirus-related occupancy or
37 customer seating restrictions applicable to licensed premises; or (2)
38 the¹ first day of the seventh month following the date on which the
39 Governor declares that the state of emergency has ended ¹, whichever
40 date occurs later¹.

41 b. ¹The¹ Notwithstanding any provision of the "Administrative
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the¹ director
43 may ¹adopt rules, issue special rulings, or¹ establish guidelines
44 regarding the sale or delivery of alcoholic beverages ¹during a
45 declared state of emergency pursuant to this section¹ authorized
46 pursuant to this act¹.

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

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

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

14 d. Notwithstanding any provision of the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
16 contrary, the Director of the Division of Taxation in the Department
17 of the Treasury is authorized to adopt immediately upon filing with
18 the Office of Administrative Law rules and regulations necessary to
19 implement this section, which rules and regulations shall be
20 effective for a period not to exceed 360 days following the date of
21 filing and may thereafter be amended, adopted, or readopted by the
22 director in accordance with the requirements of P.L.1968, c.410
23 (C.52:14B-1 et seq.).
24

25 6. This act shall take effect immediately and shall expire on ¹: (a)
26 the date of expiration, termination, or rescission of any and all
27 executive or administrative orders issued by the Governor or
28 Commissioner of Health establishing coronavirus-related occupancy or
29 customer seating restrictions applicable to licensed premises; or (b)¹
30 the first day of the seventh month following the date on which the
31 Governor declares that the state of emergency has ended ¹, whichever
32 date occurs later **】**; except that section 6 of this act shall be retroactive
33 to March 9, 2020 and expire on the date on which the Governor
34 declares the state of emergency has ended**】**¹.