

SENATE, No. 2413

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

Co-Sponsored by:

Senators Oroho, Corrado and Holzapfel

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 introduced.



(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 cidery and meadery license, and craft distillery license issued
11 pursuant to R.S.33:1-10.

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

19 "State of emergency" means the state of emergency declared by
20 the Governor pursuant to Executive Order No. 103 of 2020 in
21 response 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 containers or in other closed and sealed containers for
28 consumption off the licensed premises during a state of emergency;
29 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 containers or in other closed and
33 sealed containers for consumption off the licensed premises during a
34 state of emergency.

35 b. Distilled alcoholic beverages sold or delivered in closed and
36 sealed containers pursuant to this section may be mixed or blended
37 with other alcoholic or nonalcoholic beverages.

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

45

46 3. a. Notwithstanding the provisions of R.S.33:1-10 or any other
47 law to the contrary, the holder of a craft manufacturer license shall
48 be entitled to deliver, by common carrier or otherwise, the licensee's

1 products to the residence of a consumer within this State who is 21
2 years of age or older in original containers for personal consumption
3 and not for resale during a state of emergency.

4 b. Nothing in this section shall be construed to limit or otherwise
5 affect sales or delivery privileges otherwise established by statute,
6 rule, or regulation for any license issued pursuant to R.S.33:1-10.

7
8 4. a. The privileges established pursuant to sections 2 and 3 of
9 this act shall remain in effect until the: (1) date of expiration,
10 termination, or rescission of any executive or administrative orders
11 issued by the Governor or Commissioner of Health establishing
12 coronavirus-related occupancy or customer seating restrictions
13 applicable to licensed premises; or (2) the first day of the seventh
14 month following the date on which the Governor declares that the
15 state of emergency has ended, whichever date occurs later.

16 b. Notwithstanding any provision of the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director
18 may adopt rules, issue special rulings, or establish guidelines
19 regarding the sale or delivery of alcoholic beverages authorized
20 pursuant to this act.

21
22 5. a. As used in this section, "exemption period" means the
23 period of time during the state of emergency as defined by this act
24 and any extension thereof.

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

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

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

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46 6. This act shall take effect immediately and shall expire on: (a)
47 the date of expiration, termination, or rescission of any and all
48 executive or administrative orders issued by the Governor or
49 Commissioner of Health establishing coronavirus-related occupancy

1 or customer seating restrictions applicable to licensed premises; or
2 (b) the first day of the seventh month following the date on which the
3 Governor declares that the state of emergency has ended, whichever
4 date occurs later.

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STATEMENT

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8 This bill allows for the sale and delivery of alcoholic beverages
9 by the holders of certain retail consumption licenses and
10 concessionaire permits during the state of emergency declared by the
11 Governor pursuant to Executive Order No. 103 of 2020 in response
12 to the COVID-19 pandemic. In addition, the bill allows certain
13 alcoholic beverage manufacturers to deliver, by common carrier or
14 otherwise, their products to the residences of consumers in original
15 containers or any closed and sealed container during the state of
16 emergency.

17 Under the bill, the holder of plenary retail consumption licenses,
18 hotel or motel licenses, seasonal retail consumption licenses, or
19 concessionaire permits, generally issued to bars and restaurants,
20 would be permitted to sell and deliver alcoholic beverages in original
21 containers or any closed and sealed container for consumption off the
22 licensed premises during the state of emergency. In addition, the
23 holder of a limited brewery license, plenary winery license, farm
24 winery license, out-of-State winery license, cidery and meadery
25 license, or craft distillery license would be permitted to deliver the
26 licensee's products in original containers for consumption off the
27 licensed premises during the state of emergency.

28 The bill also temporarily allows the holder of retail consumption
29 license or concessionaire permit to sell cocktails for off-premises
30 consumption. Specifically, distilled alcoholic beverages sold by the
31 holder of a retail consumption license or concessionaire permit in a
32 closed and sealed container may be mixed or blended with other
33 alcoholic or nonalcoholic beverages. The bill requires distilled
34 alcoholic beverages, whether or not mixed with other beverages, to
35 be delivered or sold in closed and sealed containers that hold not
36 more than 16 fluid ounces. Any other alcoholic beverage may be
37 sold or delivered in containers of any size. The closed and sealed
38 containers are to be affixed with a tamper evident seal.

39 Finally, the bill exempts from the alcoholic beverage tax, alcohol
40 used by a distillery in the sale, delivery, and production of hand
41 sanitizer during a state of emergency and allows refunds for those
42 distilleries that have paid the tax on alcohol used by the distillery in
43 the production of hand sanitizer during the state of emergency.

44 This temporary enactment has an effective date that expires six
45 months following the date: (1) on which the state of emergency has
46 ended; or (2) on which the coronavirus-related occupancy or
47 customer seating restrictions no longer apply to these licensed
48 premises, whichever date occurs later.