

[First Reprint]
ASSEMBLY, No. 2151

STATE OF NEW JERSEY

INTRODUCED JUNE 17, 1996

By Assemblymen LeFEVRE and GUSCIORA

1 AN ACT concerning brewery licenses and amending R.S.33:1-10
2 ¹R.S.33:1-17.1¹ and ¹[R.S.33:1-43] R.S.33:1-26¹.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. R.S.33:1-10 is amended to read as follows:
8 33:1-10. Class A licenses shall be subdivided and classified as
9 follows:

10 Plenary brewery license. 1a. The holder of this license shall be
11 entitled, subject to rules and regulations, to brew any malt alcoholic
12 beverages and to sell and distribute his products to wholesalers and
13 retailers licensed in accordance with this chapter, and to sell and
14 distribute without this State to any persons pursuant to the laws of the
15 places of such sale and distribution, and to maintain a warehouse. The
16 fee for this license shall be \$8,500.00.

17 Limited brewery license. 1b. The holder of this license shall be
18 entitled, subject to rules and regulations, to brew any malt alcoholic
19 beverages in a quantity to be expressed in said license, dependent upon
20 the following fees and not in excess of 300,000 barrels of 31 fluid
21 gallons capacity per year and to sell and distribute his products to
22 wholesalers and retailers licensed in accordance with this chapter, and
23 to sell and distribute without this State to any persons pursuant to the
24 laws of the places of such sale and distribution, and to maintain a
25 warehouse. The fee for this license shall be graduated as follows: to so
26 brew not more than 50,000 barrels of 31 fluid gallons capacity per
27 annum, \$1,000.00; to so brew not more than 100,000 barrels of 31
28 fluid gallons capacity per annum, \$2,000.00; to so brew not more than
29 200,000 barrels of 31 fluid gallons capacity per annum, \$4,000.00; to
30 so brew not more than 300,000 barrels of 31 fluid gallons capacity per
31 annum, \$6,000.00.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted December 11, 1997.

1 Restricted Brewery License. 1c. The holder of this license shall be
2 entitled, subject to rules and regulations, to brew any malt alcoholic
3 beverages in a quantity to be expressed in such license not in excess of
4 [3,000] ¹[8,000] 6,000¹ barrels of 31 fluid gallons capacity per year,
5 to sell and distribute this product to wholesalers ¹[and retailers]¹
6 licensed in accordance with this chapter, and to sell and distribute
7 without this State to any person pursuant to the laws of the places of
8 such sale and distribution. Notwithstanding the provisions of
9 R.S.33:1-26, the director shall issue a restricted brewery license only
10 to a person or an entity which has identical ownership to an entity
11 which holds a plenary retail consumption license issued pursuant to
12 R.S.33:1-12, provided that such plenary retail consumption license is
13 operated in conjunction with a restaurant regularly and principally
14 used for the purpose of providing meals to its customers and having
15 adequate kitchen and dining room facilities, and that the licensed
16 restaurant premises is immediately adjoining the premises licensed as
17 a restricted brewery. [The holder of this license shall only be entitled
18 to sell or deliver the product to that restaurant premises.] ¹The holder
19 of this license shall be entitled to sell or deliver the product to that
20 restaurant premises.¹ The fee for this license shall be \$1,000, which fee
21 shall entitle the holder to brew up to 1,000 barrels of 31 fluid gallons
22 per annum. The licensee also shall pay an additional \$500 for every
23 additional 1,000 barrels of 31 fluid gallons produced. No more than
24 [two] ¹[eight] four¹ restricted brewery licenses shall be issued to a
25 person or entity which holds an interest in a plenary retail consumption
26 license. If the governing body of the municipality in which the
27 licensed premises will be located should file a written objection, the
28 director shall hold a hearing and may issue the license only if the
29 director finds that the issuance of the license will not be contrary to
30 the public interest. All fees related to the issuance of both licenses
31 shall be paid in accordance with statutory law.

32 ¹[Small brewery license. 1d. The holder of this license shall be
33 entitled, subject to rules and regulations, to brew any malt alcoholic
34 beverages in a quantity to be expressed in the license not in excess of
35 50,000 barrels of 31 fluid gallons capacity per year and to sell and
36 distribute this product to wholesalers and retailers licensed in
37 accordance with this chapter, and to sell and distribute without this
38 State to any person pursuant to the laws of the places of such sale and
39 distribution, and to maintain a warehouse. The fee for this license
40 shall be \$1,000, which fee shall entitle the holder to brew not more
41 than 50,000 barrels of 31 fluid gallons per annum. In accordance with
42 the provisions of this section, a small brewery licensee also may hold
43 a restricted brewery license.]¹

44 Plenary winery license. 2a. Provided that the holder is engaged in
45 growing and cultivating grapes or fruit used in the production of wine
46 on at least three acres on, or adjacent to, the winery premises, the

1 holder of this license shall be entitled, subject to rules and regulations,
2 to produce any fermented wines, and to blend, fortify and treat wines,
3 and to sell and distribute his products to wholesalers and retailers
4 licensed in accordance with this chapter and to churches for religious
5 purposes, and to sell and distribute without this State to any persons
6 pursuant to the laws of the places of such sale and distribution, and to
7 maintain a warehouse, and to sell his products at retail to consumers
8 on the licensed premises of the winery for consumption on or off the
9 premises and to offer samples for sampling purposes only. The fee for
10 this license shall be \$750.00. The holder of this license shall also have
11 the right to sell such wine at retail in original packages in five
12 salesrooms apart from the winery premises for consumption on or off
13 the premises and for sampling purposes for consumption on the
14 premises, at a fee of \$200.00 for each salesroom. Additionally, subject
15 to rules and regulations, one salesroom per county may be jointly
16 controlled and operated by at least two plenary or farm winery
17 licensees for the sale of the products of any plenary or farm winery
18 licensee for consumption on or off the premises and for consumption
19 on the licensed premises for sampling purposes, at an additional fee of
20 \$500.00 per county salesroom. For the purposes of this subsection,
21 "sampling" means the selling at a nominal charge or the gratuitous
22 offering of an open container not exceeding one and one-half ounces
23 of any wine.

24 For the purposes of this subsection, "product" means any wine that
25 is produced, blended, fortified, or treated by the licensee on its
26 licensed premises situated in the State of New Jersey.

27 Any holder of a plenary winery license who sold wine which was
28 produced, bottled, and labelled by that holder in a place other than its
29 licensed New Jersey premises between July 1, 1992 and June 30, 1993,
30 may continue to sell that wine provided no more than 25,000 cases,
31 each case consisting of 12 750 milliliter bottles or the equivalent, are
32 sold in any single license year. This privilege shall terminate upon, and
33 not survive, any transfer of the license to another person or entity
34 subsequent to the effective date of this 1993 amendatory act or any
35 transfer of stock of the licensed corporation other than to children,
36 grandchildren, parents, spouses or siblings of the existing
37 stockholders.

38 Farm winery license. 2b. The holder of this license shall be
39 entitled, subject to rules and regulations, to manufacture any
40 fermented wines and fruit juices in a quantity to be expressed in said
41 license, dependent upon the following fees and not in excess of 50,000
42 gallons per year and to sell and distribute his products to wholesalers
43 and retailers licensed in accordance with this chapter and to churches
44 for religious purposes and to sell and distribute without this State to
45 any persons pursuant to the laws of the places of such sale and
46 distribution, and to maintain a warehouse and to sell at retail to

1 consumers for consumption on or off the licensed premises and to
2 offer samples for sampling purposes only. The license shall be issued
3 only when the winery at which such fermented wines and fruit juices
4 are manufactured is located and constructed upon a tract of land
5 exclusively under the control of the licensee, provided that the licensee
6 is actively engaged in growing and cultivating an area of not less than
7 three acres on or adjacent to the winery premises and on which are
8 growing grape vines or fruit to be processed into wine or fruit juice;
9 and provided, further, that for the first five years of the operation of
10 the winery such fermented wines and fruit juices shall be manufactured
11 from at least 51% grapes or fruit grown in the State and that thereafter
12 they shall be manufactured from grapes or fruit grown in this State at
13 least to the extent required for labeling as "New Jersey Wine" under
14 the applicable federal laws and regulations. The containers of all wine
15 sold to consumers by such licensee shall have affixed a label stating
16 such information as shall be required by the rules and regulations of
17 the Director of the Division of Alcoholic Beverage Control. The fee
18 for this license shall be graduated as follows: to so manufacture
19 between 30,000 and 50,000 gallons per annum, \$300.00; to so
20 manufacture between 2,500 and 30,000 gallons per annum, \$200.00;
21 to so manufacture between 1,000 and 2,500 gallons per annum,
22 \$100.00; to so manufacture less than 1,000 gallons per annum, \$50.00.
23 No farm winery license shall be held by the holder of a plenary winery
24 license or be situated on a premises licensed as a plenary winery.

25 The holder of this license shall also have the right to sell his
26 products in original packages at retail to consumers in five salesrooms
27 apart from the winery premises for consumption on or off the
28 premises, and for sampling purposes for consumption on the premises,
29 at a fee of \$200.00 for each salesroom. Additionally, subject to rules
30 and regulations, one salesroom per county may be jointly controlled
31 and operated by at least two plenary or farm winery licensees for the
32 sale of the products of any plenary or farm winery licensee for
33 consumption on or off the premises and for consumption on the
34 licensed premises for sampling purposes, at an additional fee of
35 \$500.00 per county salesroom. For the purposes of this subsection,
36 "sampling" means the selling at a nominal charge or the gratuitous
37 offering of an open container not exceeding one and one-half ounces
38 of any wine.

39 Unless otherwise indicated, for the purposes of this subsection, with
40 respect to farm winery licenses, "manufacture" means the vinification,
41 aging, storage, blending, clarification, stabilization and bottling of
42 wine or juice from New Jersey fruit to the extent required by this
43 subsection.

44 Wine blending license. 2c. The holder of this license shall be
45 entitled, subject to rules and regulations, to blend, treat, mix, and
46 bottle fermented wines and fruit juices with non-alcoholic beverages,

1 and to sell and distribute his products to wholesalers and retailers
2 licensed in accordance with this chapter, and to sell and distribute
3 without this State to any persons pursuant to the laws of the places of
4 such sale and distribution, and to maintain a warehouse. The fee for
5 this license shall be \$500.00.

6 Plenary distillery license. 3a. The holder of this license shall be
7 entitled, subject to rules and regulations, to manufacture any distilled
8 alcoholic beverages and rectify, blend, treat and mix, and to sell and
9 distribute his products to wholesalers and retailers licensed in
10 accordance with this chapter, and to sell and distribute without this
11 State to any persons pursuant to the laws of the places of such sale
12 and distribution, and to maintain a warehouse. The fee for this license
13 shall be \$10,000.00.

14 Limited distillery license. 3b. The holder of this license shall be
15 entitled, subject to rules and regulations, to manufacture and bottle
16 any alcoholic beverages distilled from fruit juices and rectify, blend,
17 treat, mix, compound with wine and add necessary sweetening and
18 flavor to make cordial or liqueur, and to sell and distribute to
19 wholesalers and retailers licensed in accordance with this chapter, and
20 to sell and distribute without this State to any persons pursuant to the
21 laws of the places of such sale and distribution and to warehouse these
22 products. The fee for this license shall be \$3,000.00.

23 Supplementary limited distillery license. 3c. The holder of this
24 license shall be entitled, subject to rules and regulations, to bottle and
25 rebottle, in a quantity to be expressed in said license, dependent upon
26 the following fees, alcoholic beverages distilled from fruit juices by
27 such holder pursuant to a prior plenary or limited distillery license, and
28 to sell and distribute his products to wholesalers and retailers licensed
29 in accordance with this chapter, and to sell and distribute without this
30 State to any persons pursuant to the laws of the places of such sale
31 and distribution, and to maintain a warehouse. The fee for this license
32 shall be graduated as follows: to so bottle and rebottle not more than
33 5,000 wine gallons per annum, \$250.00; to so bottle and rebottle not
34 more than 10,000 wine gallons per annum, \$500.00; to so bottle and
35 rebottle without limit as to amount, \$1,000.00.

36 Rectifier and blender license. 4. The holder of this license shall be
37 entitled, subject to rules and regulations, to rectify, blend, treat and
38 mix distilled alcoholic beverages, and to fortify, blend, and treat
39 fermented alcoholic beverages, and prepare mixtures of alcoholic
40 beverages, and to sell and distribute his products to wholesalers and
41 retailers licensed in accordance with this chapter, and to sell and
42 distribute without this State to any persons pursuant to the laws of the
43 places of such sale and distribution, and to maintain a warehouse. The
44 fee for this license shall be \$6,000.00.

45 Bonded warehouse bottling license. 5. The holder of this license
46 shall be entitled, subject to rules and regulations, to bottle alcoholic

1 beverages in bond on behalf of all persons authorized by federal and
2 State law and regulations to withdraw alcoholic beverages from bond.
3 The fee for this license shall be \$500.00. This license shall be issued
4 only to persons holding permits to operate Internal Revenue bonded
5 warehouses pursuant to the laws of the United States.

6 (cf: P.L.1993, c.372, s.1)

7

8 ¹[2. R.S.33:1-43 is amended to read as follows:

9 33:1-43. a. It shall be unlawful for any owner, part owner,
10 stockholder or officer or director of any corporation, or any other
11 person whatsoever interested in any way whatsoever in any brewery,
12 winery, distillery or rectifying and blending plant, or any wholesaler of
13 alcoholic beverages, to conduct, own either in whole or in part, or be
14 directly or indirectly interested in the retailing of any alcoholic
15 beverages in New Jersey except as provided in this chapter, and such
16 interest shall include any payments or delivery of money or property
17 by way of loan or otherwise accompanied by an agreement to sell the
18 product of said brewery, winery, distillery, rectifying and blending
19 plant or wholesaler.

20 b. It shall be unlawful for any owner, part owner, stockholder or
21 officer or director of any corporation, or any other person whatsoever,
22 interested in any way whatsoever in the retailing of alcoholic
23 beverages to conduct, own either whole or in part, or to be a
24 shareholder, officer or director of a corporation or association, directly
25 or indirectly, interested in any brewery, winery, distillery, rectifying
26 and blending plant, or wholesaling or importing interest of any kind
27 whatsoever.

28 No interest in the retailing of alcoholic beverages shall be deemed
29 to exist by reason of the ownership, delivery or loan of interior signs
30 designed for and exclusively used for advertising the product of or
31 product offered for sale by such brewery, winery, distillery or
32 rectifying and blending plant or wholesaler.

33 c. Nothing in this section shall prohibit:

34 (1) The exercise of limited retail privileges by Class A or Class B
35 licensees conferred pursuant to R.S.33:1-10, R.S.33:1-11, by rule or
36 regulation or by special permit issued by the director;

37 (2) Any owner, part owner, stockholder, officer or director of any
38 corporation, or any other person whatsoever interested in any way
39 whatsoever in any brewery, winery, distillery, rectifying and blending
40 plant or any wholesaler of alcoholic beverages, from conducting,
41 owning, either in whole or in part, or being directly or indirectly
42 interested in the retailing of any alcoholic beverages, under any retail
43 consumption license or State issued permit, in conjunction with and as
44 a part of the operations of a hotel or motel;

45 (3) Any owner, part owner, stockholder or officer or director of
46 any corporation, or any other person or corporation interested in any

1 way whatsoever in the retailing of alcoholic beverages, under a retail
2 consumption license or State issued permit, in conjunction with and as
3 a part of the operations of a hotel or motel from conducting, owning,
4 either in whole or in part, or being a shareholder, officer or director of
5 a corporation or association, directly or indirectly interested in any
6 brewery, winery, distillery, rectifying and blending plant, or
7 wholesaling or importing interest of any kind whatsoever; [or]

8 (4) The exercise of a restricted brewery license privilege by an
9 immediately adjoining restaurant having a plenary retail consumption
10 license issued under R.S.33:1-12[.]; or

11 (5) The exercise of a small brewery license privilege in conjunction
12 with the exercise of a restricted brewery license.

13 No more than 20% of the total gross annual revenues of a hotel or
14 motel described in paragraphs (2) and (3) shall be derived from the
15 sale of alcoholic beverages by the hotel or motel. A retail licensee
16 described in paragraphs (2) and (3) shall not purchase or sell any
17 alcoholic beverage product produced or sold by the brewery, winery,
18 distillery, rectifying and blending plant, wholesaler or importer that has
19 any interest in the retail license of the hotel or motel, unless the total
20 of all such products is 5% or less of the total volume of alcoholic
21 beverage products purchased and sold annually by the hotel or motel
22 holding the retail license. The retail licensee shall, within 30 days
23 following the effective date of this act, file with the Division of
24 Alcoholic Beverage Control a list of all alcoholic beverage products
25 which shall not be purchased or sold by the hotel or motel except to
26 the extent permitted herein. Thereafter, the retail licensee shall file a
27 new or amended list with the division within 30 days of any changed
28 circumstances which affect the information on the list. This list shall
29 be made available to the public upon request.

30 For purposes of this subsection "hotel" or "motel" means an
31 establishment containing at least 100 guest room accommodations
32 where the relationship between the occupants thereof and the owner
33 or operator of the establishment is that of innkeeper and guest.

34 (cf: P.L.1993, c.216, s.3)]¹

35

36 ¹2. R.S.33:1-26 is amended to read as follows:

37 33:1-26. All licenses shall be for a term of one year from July 1 in
38 each year. The respective fees for any such license shall be prorated
39 according to the effective date of the license and based on the
40 respective annual fee as in this chapter provided. Where the license
41 fee deposited with the application exceeds the prorated fee, a refund
42 of the excess shall be made to the licensee. Licenses are not
43 transferable except as hereinafter provided. A separate license is
44 required for each specific place of business and the operation and
45 effect of every license is confined to the licensed premises. [No]
46 Except as provided in R.S.33:1-10, no retail license of any class shall

1 be issued to any holder of a manufacturer's or wholesaler's license, and
2 no manufacturer's or wholesaler's license shall be issued to the holder
3 of a retail license of any class. Any person who shall exercise or
4 attempt to exercise, or hold himself out as authorized to exercise, the
5 rights and privileges of a licensee except the licensee and then only
6 with respect to the licensed premises, shall be guilty of a misdemeanor.

7 In case of death, bankruptcy, receivership or incompetency of the
8 licensee, or if for any other reason whatsoever the operation of the
9 business covered by the license shall devolve by operation of law upon
10 a person other than the licensee, the director or the issuing authority
11 may, in his or its discretion, extend the license for a limited time, not
12 exceeding its term, to the executor, administrator, trustee, receiver or
13 other person upon whom the same has devolved by operation of law
14 as aforesaid. Under no circumstances, however, shall a license, or
15 rights thereunder, be deemed property, subject to inheritance, sale,
16 pledge, lien, levy, attachment, execution, seizure for debts, or any
17 other transfer or disposition whatsoever, except for payment of taxes,
18 fees, interest and penalties imposed by any State tax law for which a
19 lien may attach pursuant to R.S.54:49-1 or pursuant to the State Tax
20 Uniform Procedure Law, R.S.54:48-1 et seq., or any similar State lien
21 of tax, except to the extent expressly provided by this chapter.

22 On application made therefor setting forth the same matters and
23 things with reference to the premises to which a transfer of license is
24 sought as are required to be set forth in connection with an original
25 application for license, as to the premises, and after publication of
26 notice of intention to apply for transfer, in the same manner as is
27 required in case of an application for license as to the premises, the
28 director or other issuing authority may transfer, upon payment of a fee
29 of 10% of the annual license fee for the license sought to be
30 transferred, any license issued by him or it respectively to a different
31 place of business than that specified therein, by endorsing permission
32 upon the license.

33 On application made therefor setting forth the same matters and
34 things with reference to the person to whom a transfer of license is
35 sought as are required to be set forth in connection with an original
36 application for license, which application for transfer shall be signed
37 and sworn to by the person to whom the transfer of license is sought
38 and shall bear the consent in writing of the licensee to the transfer, and
39 after publication of notice of intention by the person to whom the
40 transfer of license is sought, to apply for transfer in the same manner
41 as is required in the case of an original application for license, the
42 director or other issuing authority, as the case may be, may transfer
43 any license issued by him or it respectively to the applicant for transfer
44 by endorsing the license. The application and the applicant shall
45 comply with all requirements of this chapter pertaining to an original
46 application for license and shall be accompanied, in lieu of the license

1 fee required on the original application, by a fee of 10% of the annual
2 license fee for the license sought to be transferred, which 10% shall be
3 retained by the director or other issuing authority, as the case may be,
4 whether the transfer be granted or not, and accounted for as other
5 license fees.

6 If the other issuing authority shall refuse to grant a transfer the
7 applicant shall be notified forthwith of the refusal by a notice served
8 personally upon the applicant, or sent to him by registered mail
9 addressed to him at the address stated in the application, and the
10 applicant may, within 30 days after the date of service or mailing of
11 the notice, appeal to the director from the action of the issuing
12 authority. If the other issuing authority shall grant a transfer, any
13 taxpayer or other aggrieved person opposing the grant of the transfer
14 may, within 30 days after the grant of the transfer, appeal to the
15 director from the action of the issuing authority.

16 No person who would fail to qualify as a licensee under this chapter
17 shall be knowingly employed by or connected in any business capacity
18 whatsoever with a licensee. A person failing to qualify as to age or by
19 reason of conviction of a crime involving moral turpitude may, with
20 the approval of the director, and subject to rules and regulations, be
21 employed by any licensee, but the employee if disqualified by age shall
22 not, in any manner whatsoever serve, sell or solicit the sale or
23 participate in the manufacture, rectification, blending, treating,
24 fortification, mixing, processing or bottling of any alcoholic beverage;
25 and further provided, that no permit shall be necessary for the
26 employment in a bona fide hotel or restaurant of any person failing to
27 qualify as to age so long as the person shall not in any manner
28 whatsoever serve, sell or solicit the sale of any alcoholic beverage, or
29 participate in the mixing, processing or preparation thereof.

30 Any request for relief under this section shall be accompanied by a
31 nonreturnable filing fee of \$100.00 payable to the director.¹

32 (cf: P.L.1993, c.232, s.1)

33

34 ¹3. R.S.33:1-17.1 is amended to read as follows:

35 33:1-17.1 a. An alcoholic beverage retail license or license that
36 confers the right to sell alcoholic beverages to consumers shall not be
37 issued, renewed or transferred unless the licensee, if subject to review
38 in the prior calendar year pursuant to section 3 of P.L.1995, c.161
39 (C.54:50-28), or prospective licensee, if subject to review pursuant to
40 section 3 of P.L.1995, c.161 (C.54:50-28), shall have been issued an
41 alcoholic beverage retail licensee clearance certificate for the review
42 period pursuant to section 3 of P.L.1995, c.161 (C.54:50-28).

43 b. A Restricted Brewery License issued pursuant to R.S.33:1-10
44 shall not be issued, renewed or transferred unless the licensee shall
45 have been issued a tax clearance certificate pursuant to R.S.54:50-15.¹

46 (cf: P.L.1995, c.161, s.2)

1 ¹[3.] 4.¹ This act shall take effect immediately.

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6 Expands production limits, scope of operations for brewpubs.