

ASSEMBLY, No. 2644

STATE OF NEW JERSEY

INTRODUCED JANUARY 9, 1997

By Assemblywoman MYERS, Assemblyman BUCCO,
Assemblywomen Bark and Crecco

1 AN ACT concerning winery licenses and amending R.S.33:1-10.

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

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6 1. R.S.33:1-10 is amended to read as follows:

7 33:1-10. Class A licenses shall be subdivided and classified as
8 follows:

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

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

31 Restricted Brewery License. 1c. The holder of this license shall be
32 entitled, subject to rules and regulations, to brew any malt alcoholic

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.

1 beverages in a quantity to be expressed in such license not in excess of
2 3,000 barrels of 31 fluid gallons capacity per year. Notwithstanding
3 the provisions of R.S.33:1-26, the director shall issue a restricted
4 brewery license only to a person or an entity which has identical
5 ownership to an entity which holds a plenary retail consumption
6 license issued pursuant to R.S.33:1-12, provided that such plenary
7 retail consumption license is operated in conjunction with a restaurant
8 regularly and principally used for the purpose of providing meals to its
9 customers and having adequate kitchen and dining room facilities, and
10 that the licensed restaurant premises is immediately adjoining the
11 premises licensed as a restricted brewery. The holder of this license
12 shall only be entitled to sell or deliver the product to that restaurant
13 premises. The fee for this license shall be \$1,000, which fee shall
14 entitle the holder to brew up to 1,000 barrels of 31 fluid gallons per
15 annum. The licensee also shall pay an additional \$500 for every
16 additional 1,000 barrels of 31 fluid gallons produced. No more than
17 two restricted brewery licenses shall be issued to a person or entity
18 which holds an interest in a plenary retail consumption license. If the
19 governing body of the municipality in which the licensed premises will
20 be located should file a written objection, the director shall hold a
21 hearing and may issue the license only if the director finds that the
22 issuance of the license will not be contrary to the public interest. All
23 fees related to the issuance of both licenses shall be paid in accordance
24 with statutory law.

25 Plenary winery license. 2a. Provided that the holder is engaged in
26 growing and cultivating grapes or fruit used in the production of wine
27 on at least three acres on, or adjacent to, the winery premises, the
28 holder of this license shall be entitled, subject to rules and regulations,
29 to produce any fermented wines, and to blend, fortify and treat wines,
30 and to sell and distribute his products to wholesalers and retailers
31 licensed in accordance with this chapter and to churches for religious
32 purposes, and to sell and distribute without this State to any persons
33 pursuant to the laws of the places of such sale and distribution, and to
34 maintain a warehouse, and to sell his products at retail to consumers
35 on the licensed premises of the winery for consumption on or off the
36 premises and to offer samples for sampling purposes only. The fee for
37 this license shall be \$750.00. The holder of this license shall also have
38 the right to sell such wine at retail in original packages in five
39 salesrooms apart from the winery premises for consumption on or off
40 the premises and for sampling purposes for consumption on the
41 premises, at a fee of \$200.00 for each salesroom. Additionally, subject
42 to rules and regulations, one salesroom per county may be jointly
43 controlled and operated by at least two plenary or farm winery
44 licensees for the sale of the products of any plenary or farm winery
45 licensee for consumption on or off the premises and for consumption
46 on the licensed premises for sampling purposes, at an additional fee of

1 \$500.00 per county salesroom. For the purposes of this subsection,
2 "sampling" means the selling at a nominal charge or the gratuitous
3 offering of an open container not exceeding one and one-half ounces
4 of any wine.

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

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

19 Farm winery license. 2b. The holder of this license shall be
20 entitled, subject to rules and regulations, to manufacture any
21 fermented wines [and] fruit juices and fermented cider with an
22 alcohol content which exceeds regulated levels, in a quantity to be
23 expressed in said license, dependent upon the following fees and not
24 in excess of 50,000 gallons per year and to sell and distribute his
25 products to wholesalers and retailers licensed in accordance with this
26 chapter and to churches for religious purposes and to sell and
27 distribute without this State to any persons pursuant to the laws of the
28 places of such sale and distribution, and to maintain a warehouse and
29 to sell at retail to consumers for consumption on or off the licensed
30 premises and to offer samples for sampling purposes only. The license
31 shall be issued only when the winery at which such fermented wines
32 [and] fruit juices and fermented cider are manufactured is located
33 and constructed upon a tract of land exclusively under the control of
34 the licensee, provided that the licensee is actively engaged in growing
35 and cultivating an area of not less than three acres on or adjacent to
36 the winery premises and on which are growing grape vines or fruit to
37 be processed into wine [or] fruit juice or cider; and provided,
38 further, that for the first five years of the operation of the winery such
39 fermented wines [and] fruit juice and cider shall be manufactured
40 from at least 51% grapes or fruit grown in the State and that thereafter
41 [they] the fermented wine and fruit juices shall be manufactured from
42 grapes or fruit grown in this State at least to the extent required for
43 labeling as "New Jersey Wine" under the applicable federal laws and
44 regulations. The containers of all wine sold to consumers by such
45 licensee shall have affixed a label stating such information as shall be
46 required by the rules and regulations of the Director of the Division of

1 Alcoholic Beverage Control. The fee for this license shall be graduated
2 as follows: to so manufacture between 30,000 and 50,000 gallons per
3 annum, \$300.00; to so manufacture between 2,500 and 30,000 gallons
4 per annum, \$200.00; to so manufacture between 1,000 and 2,500
5 gallons per annum, \$100.00; to so manufacture less than 1,000 gallons
6 per annum, \$50.00. No farm winery license shall be held by the holder
7 of a plenary winery license or be situated on a premises licensed as a
8 plenary winery.

9 The holder of this license shall also have the right to sell his
10 products in original packages at retail to consumers in five salesrooms
11 apart from the winery premises for consumption on or off the
12 premises, and for sampling purposes for consumption on the premises,
13 at a fee of \$200.00 for each salesroom. Additionally, subject to rules
14 and regulations, one salesroom per county may be jointly controlled
15 and operated by at least two plenary or farm winery licensees for the
16 sale of the products of any plenary or farm winery licensee for
17 consumption on or off the premises and for consumption on the
18 licensed premises for sampling purposes, at an additional fee of
19 \$500.00 per county salesroom. For the purposes of this subsection,
20 "sampling" means the selling at a nominal charge or the gratuitous
21 offering of an open container not exceeding one and one-half ounces
22 of any wine or cider.

23 Unless otherwise indicated, for the purposes of this subsection, with
24 respect to farm winery licenses, "manufacture" means the vinification,
25 aging, storage, blending, clarification, stabilization and bottling of
26 wine [or] juice or cider from New Jersey fruit to the extent required
27 by this subsection.

28 Wine blending license. 2c. The holder of this license shall be
29 entitled, subject to rules and regulations, to blend, treat, mix, and
30 bottle fermented wines and fruit juices with non-alcoholic beverages,
31 and to sell and distribute his products to wholesalers and retailers
32 licensed in accordance with this chapter, and to sell and distribute
33 without this State to any persons pursuant to the laws of the places of
34 such sale and distribution, and to maintain a warehouse. The fee for
35 this license shall be \$500.00.

36 Winery-brewery sublicense. 2d. The holder of a plenary winery
37 license or a farm winery license, provided that the licensee is engaged
38 in growing and cultivating barley and hops used in the production of
39 malt alcoholic beverages on at least three acres on or adjacent to the
40 winery premises, shall be entitled, subject to rules and regulations, to
41 brew any malt alcoholic beverages in a quantity expressed in the
42 license not in excess of 3,000 barrels of 31 fluid gallons capacity per
43 year. The fee for this sublicense shall be \$750. The holder of this
44 sublicense shall be entitled to sell and distribute malt alcoholic
45 beverages to wholesalers and retailers licensed in accordance with this
46 chapter, and to sell and distribute without this State to any person

1 pursuant to the laws of the places of such sale and distribution, and to
2 maintain a warehouse and to sell malt alcoholic beverages at retail to
3 consumers for consumption on or off the licensed premises and to
4 offer samples for sampling purposes only. The holder of this
5 sublicense shall also have the right to sell such malt alcoholic
6 beverages at retail in original packages in five salesrooms apart from
7 the winery premises for consumption on the premises, at a fee of \$200
8 for each salesroom. Additionally, a salesroom jointly controlled and
9 operated by at least two plenary or farm winery licensees, pursuant to
10 subsection 2b. of this section, may offer for sale the malt alcoholic
11 beverage products of the plenary or farm wineries for consumption on
12 or off the premises and for consumption on the licensed premises for
13 sampling purposes, at an additional fee of \$500 per county salesroom,
14 provided the wineries hold sublicenses under this subsection. For
15 purposes of this subsection, "sampling" means the selling at a nominal
16 charge or the gratuitous offering of an open container not exceeding
17 three ounces of any malt alcoholic beverage.

18 Plenary distillery license. 3a. The holder of this license shall be
19 entitled, subject to rules and regulations, to manufacture any distilled
20 alcoholic beverages and rectify, blend, treat and mix, and to sell and
21 distribute his products to wholesalers and retailers licensed in
22 accordance with this chapter, and to sell and distribute without this
23 State to any persons pursuant to the laws of the places of such sale
24 and distribution, and to maintain a warehouse. The fee for this license
25 shall be \$10,000.00.

26 Limited distillery license. 3b. The holder of this license shall be
27 entitled, subject to rules and regulations, to manufacture and bottle
28 any alcoholic beverages distilled from fruit juices and rectify, blend,
29 treat, mix, compound with wine and add necessary sweetening and
30 flavor to make cordial or liqueur, and to sell and distribute to
31 wholesalers and retailers licensed in accordance with this chapter, and
32 to sell and distribute without this State to any persons pursuant to the
33 laws of the places of such sale and distribution and to warehouse these
34 products. The fee for this license shall be \$3,000.00.

35 Supplementary limited distillery license. 3c. The holder of this
36 license shall be entitled, subject to rules and regulations, to bottle and
37 rebottle, in a quantity to be expressed in said license, dependent upon
38 the following fees, alcoholic beverages distilled from fruit juices by
39 such holder pursuant to a prior plenary or limited distillery license, and
40 to sell and distribute his products to wholesalers and retailers licensed
41 in accordance with this chapter, and to sell and distribute without this
42 State to any persons pursuant to the laws of the places of such sale
43 and distribution, and to maintain a warehouse. The fee for this license
44 shall be graduated as follows: to so bottle and rebottle not more than
45 5,000 wine gallons per annum, \$250.00; to so bottle and rebottle not
46 more than 10,000 wine gallons per annum, \$500.00; to so bottle and

1 rebottle without limit as to amount, \$1,000.00.

2 Rectifier and blender license. 4. The holder of this license shall be
3 entitled, subject to rules and regulations, to rectify, blend, treat and
4 mix distilled alcoholic beverages, and to fortify, blend, and treat
5 fermented alcoholic beverages, and prepare mixtures of alcoholic
6 beverages, and to sell and distribute his products to wholesalers and
7 retailers licensed in accordance with this chapter, and to sell and
8 distribute without this State to any persons pursuant to the laws of the
9 places of such sale and distribution, and to maintain a warehouse. The
10 fee for this license shall be \$6,000.00.

11 Bonded warehouse bottling license. 5. The holder of this license
12 shall be entitled, subject to rules and regulations, to bottle alcoholic
13 beverages in bond on behalf of all persons authorized by federal and
14 State law and regulations to withdraw alcoholic beverages from bond.
15 The fee for this license shall be \$500.00. This license shall be issued
16 only to persons holding permits to operate Internal Revenue bonded
17 warehouses pursuant to the laws of the United States.

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

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20 2. This act shall take effect on the first day of the fourth month
21 following enactment.

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STATEMENT

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26 This bill establishes a winery-brewery sublicense under Title 33, the
27 State alcoholic beverage code, that would permit wineries to also
28 produce and distribute beer. Its purpose is to increase the economic
29 viability of large and small vintners and to offer consumers who visit
30 their sales outlets a larger selection of beverages. New York,
31 California and other states presently permit the production and sale of
32 wine and beer by a single licensee.

33 The sublicense would be available to plenary and farm winery
34 licensees, provided they are engaged in the growing and cultivation of
35 barley and hops on at least three acres on or adjacent to the winery
36 premises. This requirement parallels the current requirement that
37 these wineries are engaged in growing grapes or other fruit used in
38 wine making on a tract of not less than three acres on or adjacent to
39 the winery premises.

40 The holder of a winery-brewery sublicense would be permitted to
41 brew up to 3,000 barrels of malt alcoholic beverages a year and to sell
42 and distribute these beverages both within and outside of the State.
43 A licensee also would be permitted to sell and provide samples of beer
44 as well as wine on its premises and at up to five salesrooms apart from
45 its premises. The annual fee for a sublicense would be \$750, with an
46 additional fee of \$200 required for each detached saleroom at which

1 beer was sold or sampled.

2 The bill also permits farm wineries to produce fermented alcoholic
3 cider, commonly known as "hard cider."

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8 Establishes winery-brewery beverage license and permits farm wineries
9 to produce hard cider.