

P.L. 1997, CHAPTER 8, *approved January 24, 1997*
Assembly, No. 2212

1 **AN ACT** concerning privileges of certain plenary retail consumption
2 licenses and amending R.S.33:1-1 and R.S.33:1-12.

3

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

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

8 33:1-1. For the purpose of this chapter, the following words and
9 terms shall be deemed to have the meanings herein given to them:

10 a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral
11 spirits from whatever source or by whatever process produced.

12 b. "Alcoholic beverage." Any fluid or solid capable of being
13 converted into a fluid, suitable for human consumption, and having an
14 alcohol content of more than one-half of one per centum (1/2 of 1%)
15 by volume, including alcohol, beer, lager beer, ale, porter, naturally
16 fermented wine, treated wine, blended wine, fortified wine, sparkling
17 wine, distilled liquors, blended distilled liquors and any brewed,
18 fermented or distilled liquors fit for use for beverage purposes or any
19 mixture of the same, and fruit juices.

20 c. "Building." A structure of which licensed premises are or may
21 be a part, including all rooms, cellars, outbuildings, passageways,
22 closets, vaults, yards, attics, and every part of the structure of which
23 the licensed premises are a part, and of any other structure to which
24 there is a common means of access, and any other appurtenances.

25 d. "Commissioner." The Director of the Division of Alcoholic
26 Beverage Control.

27 e. "Container." Any glass, can, bottle, vessel or receptacle of any
28 material whatsoever used for holding alcoholic beverages, which
29 container is covered, corked or sealed in any manner whatsoever.

30 f. "Eligible." The status of a person who is a citizen of the United
31 States, a resident of this State, of good moral character and repute,
32 and of legal age.

33 g. "Governing board or body." The board or body which governs
34 a municipality, including a board of aldermen in municipalities so

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 governed; but in every municipality having a board of public works
2 which exercises general licensing powers such board shall be
3 considered as the governing board or body.

4 h. "Importing." The act of bringing or causing to be brought any
5 alcoholic beverage into this State.

6 i. "Illicit beverage." Any alcoholic beverage manufactured,
7 distributed, bought, sold, bottled, rectified, blended, treated, fortified,
8 mixed, processed, warehoused, possessed or transported in violation
9 of this chapter, or on which any federal tax or tax imposed by the laws
10 of this State has not been paid; and any alcoholic beverage possessed,
11 kept, stored, owned or imported with intent to manufacture, sell,
12 distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse
13 or transport in violation of the provisions of this chapter.

14 j. "Licensed building." Any building containing licensed premises.

15 k. "Licensed premises." Any premises for which a license under this
16 chapter is in force and effect.

17 l. "Magistrate." The Superior Court or municipal court.

18 m. "Manufacturer." Any person who, directly or indirectly,
19 personally or through any agency whatsoever, engages in the making
20 or other processing whatsoever of alcoholic beverages.

21 n. "Municipality." Any city, town, township, village, or borough,
22 including a municipality governed by a board of commissioners or
23 improvement commission, but excluding a county.

24 o. "Municipal board." The municipal board of alcoholic beverage
25 control as established by this chapter.

26 p. "Officer." Any sheriff, deputy sheriff, constable, police officer,
27 member of the Division of State Police, or any other person having the
28 power to execute a warrant for arrest, or any inspector or investigator
29 of the Division of Alcoholic Beverage Control.

30 q. "Original container." Any container in which an alcoholic
31 beverage has been delivered to a retail licensee.

32 r. "Person." Any natural person or association of natural persons,
33 association, trust company, partnership, corporation, organization, or
34 the manager, agent, servant, officer, or employee of any of them.

35 s. "Premises." The physical place at which a licensee is or may be
36 licensed to conduct and carry on the manufacture, distribution or sale
37 of alcoholic beverages, but not including vehicular transportation.

38 t. "Restaurant." An establishment regularly and principally used for
39 the purpose of providing meals to the public, having an adequate
40 kitchen and dining room equipped for the preparing, cooking and
41 serving of food for its customers and in which no other business,
42 except such as is incidental to such establishment, is conducted.

43 u. "Retailer." Any person who sells alcoholic beverages to
44 consumers.

45 v. "Rules and regulations." The rules and regulations established
46 from time to time by the director.

1 w. "Sale." Every delivery of an alcoholic beverage otherwise than
2 by purely gratuitous title, including deliveries from without this State
3 and deliveries by any person without this State intended for shipment
4 by carrier or otherwise into this State and brought within this State, or
5 the solicitation or acceptance of an order for an alcoholic beverage,
6 and including exchange, barter, traffic in, keeping and exposing for
7 sale, serving with meals, delivering for value, peddling, possessing
8 with intent to sell, and the gratuitous delivery or gift of any alcoholic
9 beverage by any licensee.

10 x. "Unlawful alcoholic beverage activity." The manufacture, sale,
11 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
12 processing, warehousing or transportation of any alcoholic beverage
13 in violation of this chapter, or the importing, owning, possessing,
14 keeping or storing in this State of alcoholic beverages with intent to
15 manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix,
16 process, warehouse or transport alcoholic beverages in violation of
17 this chapter, or the owning, possessing, keeping or storing in this State
18 of any implement or paraphernalia for the manufacture, sale,
19 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
20 processing, warehousing or transportation of alcoholic beverages with
21 intent to use the same in the manufacture, sale, distribution, bottling,
22 rectifying, blending, treating, fortifying, mixing, processing,
23 warehousing or transportation of alcoholic beverages in violation of
24 this chapter, or to aid or abet another in the manufacture, sale,
25 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
26 processing, warehousing or transportation of alcoholic beverages in
27 violation of this chapter, or the aiding or abetting of another in any of
28 the foregoing activities.

29 y. "Unlawful property." All illicit beverages and all implements,
30 vehicles, vessels, airplanes, and paraphernalia for the manufacture,
31 sale, distribution, bottling, rectifying, blending, treating, fortifying,
32 mixing, processing, warehousing or transportation of illicit beverages
33 used in the manufacture, sale, distribution, bottling, rectifying,
34 blending, treating, fortifying, mixing, processing, warehousing or
35 transportation of illicit beverages or owned, possessed, kept or stored
36 with intent to use the same in the manufacture, sale, distribution,
37 bottling, rectifying, blending, treating, fortifying, mixing, processing,
38 warehousing or transportation of illicit beverages, whether such use be
39 by the person owning, possessing, keeping, or storing the same, or by
40 another with the consent of such person; and all alcoholic beverages,
41 fixtures and personal property located in or upon any premises,
42 building, yard or inclosure connected with a building, in which an illicit
43 beverage is found, possessed, stored or kept.

44 z. "Wholesaler." Any person who sells an alcoholic beverage for
45 the purpose of resale either to a licensed wholesaler or to a licensed
46 retailer, or both.

1 aa. "Limousine." A vehicle with a carrying capacity of not more
2 than nine passengers, not including the driver, used in the business of
3 carrying passengers for hire which is hired by charter or for a
4 particular contract, or by the day or hour or other fixed period, or to
5 transport passengers to a specified place, or which charges a fare or
6 price agreed upon in advance between the operator and the passenger
7 or which is furnished as an accommodation for a patron in connection
8 with other business purposes. This shall not include taxicabs, hotel or
9 airport shuttles and buses, or buses employed solely in transporting
10 schoolchildren or teachers to and from school, or vehicles owned and
11 operated without charge or remuneration by a business entity for its
12 own purposes.

13 bb. "Entertainment facility" is a privately-owned facility in which
14 athletic, commercial, cultural, or artistic events are featured.

15 Any definition herein contained shall apply to the same word in any
16 form. Thus "sell" means to make a "sale" as above defined.

17 (cf: P.L.1991, c.91, s.342)

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19 2. R.S.33:1-12 is amended to read as follows:

20 33:1-12. Class C licenses shall be subdivided and classified as
21 follows:

22 Plenary retail consumption license. 1. The holder of this license
23 shall be entitled, subject to rules and regulations, to sell any alcoholic
24 beverages for consumption on the licensed premises by the glass or
25 other open receptacle, and also to sell any alcoholic beverages in
26 original containers for consumption off the licensed premises; but this
27 license shall not be issued to permit the sale of alcoholic beverages in
28 or upon any premises in which a grocery, delicatessen, drug store or
29 other mercantile business is carried on, except as hereinafter provided.
30 Subject to such rules and regulations established from time to time by
31 the director, the holder of this license shall be permitted to sell
32 alcoholic beverages in or upon the premises in which any of the
33 following is carried on: the keeping of a hotel or restaurant including
34 the sale of mercantile items incidental thereto as an accommodation to
35 patrons; the sale, at an entertainment facility as defined in R.S.33:1-1,
36 having a seating capacity for no less than 4,000 patrons, of mercantile
37 items traditionally associated with the type of event or program held
38 at the site; the sale of distillers', brewers' and vintners' packaged
39 holiday merchandise prepacked as a unit with other suitable objects as
40 gift items to be sold only as a unit; the sale of novelty wearing apparel
41 identified with the name of the establishment licensed under the
42 provisions of this section; the sale of cigars, cigarettes, packaged
43 crackers, chips, nuts and similar snacks and ice at retail as an
44 accommodation to patrons, or the retail sale of nonalcoholic beverages
45 as accessory beverages to alcoholic beverages; or, in commercial
46 bowling establishments, the retail sale or rental of bowling accessories

1 and the retail sale from vending machines of candy, ice cream and
2 nonalcoholic beverages. The fee for this license shall be fixed by the
3 governing board or body of the municipality in which the licensed
4 premises are situated, by ordinance, at not less than \$200.00 and not
5 more than \$2,000.00. No ordinance shall be enacted which shall raise
6 or lower the fee to be charged for this license by more than 20% from
7 that charged in the preceding license year or \$500.00, whichever is the
8 lesser. The governing board or body of each municipality may, by
9 ordinance, enact that no plenary retail consumption license shall be
10 granted within its respective municipality.

11 The holder of this license shall be permitted to obtain a restricted
12 brewery license issued pursuant to subsection 1c. of R.S.33:1-10 and
13 to operate a restricted brewery immediately adjoining the licensed
14 premises in accordance with the restrictions set forth in that
15 subsection. All fees related to the issuance of both licenses shall be
16 paid in accordance with statutory law.

17 Seasonal retail consumption license. 2. The holder of this license
18 shall be entitled, subject to rules and regulations, to sell any alcoholic
19 beverages for consumption on the licensed premises by the glass or
20 other open receptacle, and also to sell any alcoholic beverages in
21 original containers for consumption off the licensed premises, during
22 the summer session from May 1 until November 14, inclusive, or
23 during the winter season from November 15 until April 30, inclusive;
24 but this license shall not be issued to permit the sale of alcoholic
25 beverages in or upon any premises in which a grocery, delicatessen,
26 drug store or other mercantile business is carried on, except as
27 hereinafter provided. Subject to such rules and regulations established
28 from time to time by the director, the holder of this license shall be
29 permitted to sell alcoholic beverages in or upon the premises in which
30 any of the following is carried on: the keeping of a hotel or restaurant
31 including the sale of mercantile items incidental thereto as an
32 accommodation to patrons; the sale of distillers', brewers' and vintners'
33 packaged holiday merchandise prepacked as a unit with other suitable
34 objects as gift items to be sold only as a unit; the sale of novelty
35 wearing apparel identified with the name of the establishment licensed
36 under the provisions of this section; the sale of cigars, cigarettes,
37 packaged crackers, chips, nuts and similar snacks and ice at retail as
38 an accommodation to patrons; or the retail sale of nonalcoholic
39 beverages as accessory beverages to alcoholic beverages. The fee for
40 this license shall be fixed by the governing board or body of the
41 municipality in which the licensed premises are situated, by ordinance,
42 at 75% of the fee fixed by said board or body for plenary retail
43 consumption licenses. The governing board or body of each
44 municipality may, by ordinance, enact that no seasonal retail
45 consumption license shall be granted within its respective municipality.

46 Plenary retail distribution license. 3. a. The holder of this license

1 shall be entitled, subject to rules and regulations, to sell any alcoholic
2 beverages for consumption off the licensed premises, but only in
3 original containers. The governing board or body of each municipality
4 may, by ordinance, enact that this license shall not be issued to permit
5 the sale of alcoholic beverages in or upon any premises in which any
6 other mercantile business is carried on, except that any such ordinance,
7 heretofore or hereafter adopted, shall not prohibit the retail sale of
8 distillers', brewers' and vintners' packaged holiday merchandise
9 prepacked as a unit with other suitable objects as gift items to be sold
10 only as a unit; the sale of novelty wearing apparel identified with the
11 name of the establishment licensed under the provisions of this act;
12 cigars, cigarettes, packaged crackers, chips, nuts and similar snacks,
13 ice, and nonalcoholic beverages as accessory beverages to alcoholic
14 beverages. The fee for this license shall be fixed by the governing
15 board or body of the municipality in which the licensed premises are
16 situated, by ordinance, at not less than \$100.00 and not more than
17 \$2,000.00. No ordinance shall be enacted which shall raise or lower
18 the fee to be charged for this license by more than 20% from that
19 charged in the preceding license year or \$500.00, whichever is the
20 lesser. The governing board or body of each municipality may, by
21 ordinance, enact that no plenary retail distribution license shall be
22 granted within its respective municipality.

23 Limited retail distribution license. 3. b. The holder of this license
24 shall be entitled, subject to rules and regulations, to sell any unchilled,
25 brewed, malt alcoholic beverages in quantities of not less than 72 fluid
26 ounces for consumption off the licensed premises, but only in original
27 containers; provided, however, that this license shall be issued only for
28 premises operated and conducted by the licensee as a bona fide
29 grocery store, meat market, meat and grocery store, delicatessen, or
30 other type of bona fide food store at which groceries or other
31 foodstuffs are sold at retail; and provided further that this license shall
32 not be issued except for premises at which the sale of groceries or
33 other foodstuffs is the primary and principal business and at which the
34 sale of alcoholic beverages is merely incidental and subordinate
35 thereto. The fee for this license shall be fixed by the governing body
36 or board of the municipality in which the licensed premises are
37 situated, by ordinance, at not less than \$25.00 and not more than
38 \$50.00. The governing board or body of each municipality may, by
39 ordinance, enact that no limited retail distribution license shall be
40 granted within its respective municipality.

41 Plenary retail transit license. 4. The holder of this license shall be
42 entitled, subject to rules and regulations, to sell any alcoholic
43 beverages, for consumption only, on railroad trains, airplanes,
44 limousines and boats, while in transit. The fee for this license for use
45 by a railroad or air transport company shall be \$300.00, for use by the
46 owners of limousines shall be \$25.00 per vehicle, and for use on a boat

1 shall be \$50.00 on a boat 65 feet or less in length, \$100.00 on a boat
2 more than 65 feet in length but not more than 110 feet in length, and
3 \$300.00 on a boat more than 110 feet in length; such boat lengths shall
4 be determined in the manner prescribed by the Bureau of Customs of
5 the United States Government or any federal agency successor thereto
6 for boat measurement in connection with issuance of marine
7 documents. A license issued under this provision to a railroad or air
8 transport company shall cover all railroad cars and planes operated by
9 any such company within the State of New Jersey. A license for a
10 boat or limousine issued under this provision shall apply only to the
11 particular boat or limousine for which issued, and shall permit the
12 purchase of alcoholic beverages for sale or service in a boat or
13 limousine to be made from any Class A and B licensee or from any
14 Class C licensee whose license privilege permits the sale of alcoholic
15 beverages in original containers for off-premises consumption. An
16 interest in a plenary retail transit license issued in accordance with this
17 section shall be excluded in determining the maximum number of retail
18 licenses permitted under P.L.1962, c.152 (C.33:1-12.31 et seq.).

19 Club license. 5. The holder of this license shall be entitled, subject
20 to rules and regulations, to sell any alcoholic beverages but only for
21 immediate consumption on the licensed premises and only to bona fide
22 club members and their guests. The fee for this license shall be fixed
23 by the governing board or body of the municipality in which the
24 licensed premises are situated, by ordinance, at not less than \$50.00
25 and not more than \$150.00. The governing board or body of each
26 municipality may, by ordinance, enact that no club licenses shall be
27 granted within its respective municipality. Club licenses may be issued
28 only to such corporations, associations and organizations as are
29 operated for benevolent, charitable, fraternal, social, religious,
30 recreational, athletic, or similar purposes, and not for private gain, and
31 which comply with all conditions which may be imposed by the
32 Commissioner of Alcoholic Beverage Control by rules and regulations.
33 (cf: P.L.1993, c.216, s.2)

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35 3. This act shall take effect immediately.

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STATEMENT

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40 This bill is intended to allow the sale of certain mercantile items at
41 privately owned entertainment facilities that feature sports,
42 commercial, cultural, and artistic events and which provide at least
43 4,000 seats and hold plenary retail consumption licenses, such as
44 Skylands Park, Sussex County's minor league baseball stadium. The
45 bill would permit the sale on the licensed premises of publications,

1 clothing, souvenirs and sports equipment traditionally associated with
2 an event at the facility.

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7 Permits holders of plenary retail consumption licenses to sell certain
8 mercantile items at certain entertainment facilities.