

CHAPTER 153

AN ACT concerning the taxation of certain apple ciders under the alcoholic beverage tax law, amending R.S.54:41-2 and R.S.54:43-1.

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

1. R.S.54:41-2 is amended to read as follows:

Definitions.

54:41-2. As used in this subtitle:

"Alcoholic beverages" means liquors, beer, wines and sparkling wine, as defined in this section.

"Beer" means beer, lager beer, ale, stout, porter, and all similar fermented malt beverages having an alcoholic content of one-half of one per centum (1/2 of 1%) or more by volume.

"Bonded warehouse" means the warehouse of any licensed manufacturer or licensed wholesaler or licensed warehouseman for which the licensee has given special security to obtain certain privileges given by this subtitle.

"Bureau" means the Beverage Tax Bureau of the Division of Taxation in the State Department of the Treasury.

"Cider" means a beverage made from the alcoholic fermentation of the juice of apples, including but not limited to flavored, sparkling or carbonated cider.

"Commissioner," "State Tax Commissioner" or "Director" means the Director of the Division of Taxation in the State Department of the Treasury.

"Container" means the receptacle immediately surrounding the alcoholic beverage and not the carton, box, case, sack, bag or other covering in which such containers may be packed, placed, or transported.

"Department," "State Tax Department," or "Beverage Tax Bureau" means the Division of Taxation in the State Department of the Treasury.

"Licensed manufacturer" means any person holding a valid and unrevoked brewery, winery, distillery, or rectifier's license issued pursuant to the provisions of any relevant law of this State.

"Licensed transporter" means any person holding a valid and unrevoked license or permit to transport alcoholic beverages pursuant to the provisions of any relevant law of this State.

"Licensee" means the holder of any valid and unrevoked license or special permit issued pursuant to any relevant law of this State, pertaining to alcoholic beverages.

"Liquors" means all distilled or rectified spirits, alcohol, brandy, whisky, rum, gin and all similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing, such as liqueurs, cordials, and similar compounds, having an alcoholic content of one-half of one per centum (1/2 of 1%) or more by volume.

"Manufacturer" means any person holding a valid and unrevoked brewery, winery, distillery, supplemental limited distillery, or rectifier and blender's license, issued pursuant to the provisions of any relevant law of this State.

"Person" means a natural person, an association, a partnership or a corporation.

"Plenary retail transit licensee" means any person holding a valid and unrevoked plenary retail transit license issued pursuant to any relevant law of this State, authorizing the sale of alcoholic beverages for consumption only, on railroad trains, airplanes, and boats, while in transit in this State.

"Return" means the return of alcoholic beverages by a customer to the source from which such beverages were obtained, upon the cancellation of a sale, and shall include: (a) actual receipt of the beverages on the licensed premises of the source or in a licensed public warehouse for the account of the source; or (b) the sending of the beverages by the customer to another person upon instructions of the source; but shall not include any other disposition, such as samples, breakage, shortage, merchandising credits, or beverages dumped on the premises of the customer, except where such dumping is done under the supervision of the director or his representative.

"Sale" means and includes, in addition to its ordinary meaning, any exchange, gift, loss, theft, or other disposition. In every case where alcoholic beverages are exchanged, given, lost, stolen or otherwise disposed of, they shall be deemed to have been sold, unless, in case of loss by fire, proof is furnished to the satisfaction of the commissioner, that the alcoholic beverages have been

so destroyed that they could not have been put to any use.

"Sparkling wine" means champagne and other effervescent wine charged with carbon dioxide, whether artificially or as the result of secondary fermentation of the wine within the container.

"State licensee" means any person holding a valid and unrevoked license or special permit, issued by the Director of the Division of Alcoholic Beverage Control, and who has posted a bond with the director to secure the payment of the alcoholic beverage taxes.

"Taxpayer" means a person chargeable with the payment of a tax pursuant to the provisions of this subtitle.

"Transportation licensee" means any person holding a valid and unrevoked license or special permit to transport alcoholic beverages pursuant to the provisions of any relevant law of this State.

"Treasurer" means the Treasurer of the State of New Jersey.

"Vermouth" means any compound made by the mixture of extracts from macerated aromatic flavoring materials with wines and manufactured in such manner that the product possesses the taste, aroma, and characteristics generally attributed to vermouth.

"Warehouse receipt" means a certificate or receipt given upon the storage of alcoholic beverages in a United States custom or United States internal revenue warehouse under federal bond.

"Warehouse receipts licensee" means any person holding a valid and unrevoked warehouse receipts license issued pursuant to any relevant law of this State.

"Wines" means all wines whether known as "dry wines," "sweet wines," "still wines," or "fortified wines" and any artificial or imitation wine or compound sold as wine, and any fruit juice containing one-half of one per centum (1/2 of 1%) or more of alcohol by volume, and any other beverage containing alcohol produced by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar, which beverage contains one-half of one per centum (1/2 of 1%) or more of alcohol by volume, but shall not mean or include vermouth, or cider containing less than three and two-tenths per centum (3 2/10 %) of alcohol by volume.

2. R.S.54:43-1 is amended to read as follows:

Tax rates.

54:43-1. Tax rates. There are hereby levied and imposed upon any sale of alcoholic beverages made within this State or upon any delivery of alcoholic beverages made within or into this State the following excise taxes:

a. Beer--From July 1, 1990 through June 30, 1992, at the rate of \$0.10 a gallon or fraction thereof and on or after July 1, 1992, at the rate of \$0.12 a gallon or fraction thereof.

b. Liquors--From July 1, 1990 through June 30, 1992, at the rate of \$4.20 a gallon and on or after July 1, 1992, at the rate of \$4.40 a gallon.

c. (Deleted by amendment, P.L.1972, c.53.)

d. (Deleted by amendment, P.L.1972, c.53.)

e. Wines, vermouth and sparkling wines--From July 1, 1990 through June 30, 1992, at the rate of \$0.50 a gallon and on or after July 1, 1992, at the rate of \$0.70 a gallon; provided however, that cider containing at least three and two-tenths per centum (3 2/10 %) of alcohol by volume but not more than 7 per centum (7%) of alcohol by volume shall be taxed at the rate of \$0.12 a gallon.

3. This act shall take effect immediately but remain inoperative until the first day of the fourth month following enactment.

Approved July 1, 1997.