

SENATE, No. 817

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 22, 1996

By Senator EWING

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

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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.33:1-10 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.

32 Restricted Brewery License. 1c. 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 such license not in excess of

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

Matter underlined thus is new matter.

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

27 Small brewery license. 1d. The holder of this license shall be
28 entitled, subject to rules and regulations, to brew any malt alcoholic
29 beverages in a quantity to be expressed in the license not in excess of
30 50,000 barrels of 31 fluid gallons capacity per year and to sell and
31 distribute this product to wholesalers and retailers licensed in
32 accordance with this chapter, and to sell and distribute without this
33 State to any person pursuant to the laws of the places of such sale and
34 distribution, and to maintain a warehouse. The fee for this license
35 shall be \$1,000, which fee shall entitle the holder to brew not more
36 than 50,000 barrels of 31 fluid gallons per annum. In accordance with
37 the provisions of this section, a small brewery licensee also may hold
38 a restricted brewery license.

39 Plenary winery license. 2a. Provided that the holder is engaged in
40 growing and cultivating grapes or fruit used in the production of wine
41 on at least three acres on, or adjacent to, the winery premises, the
42 holder of this license shall be entitled, subject to rules and regulations,
43 to produce any fermented wines, and to blend, fortify and treat wines,
44 and to sell and distribute his products to wholesalers and retailers
45 licensed in accordance with this chapter and to churches for religious
46 purposes, and to sell and distribute without this State to any persons

1 pursuant to the laws of the places of such sale and distribution, and to
2 maintain a warehouse, and to sell his products at retail to consumers
3 on the licensed premises of the winery for consumption on or off the
4 premises and to offer samples for sampling purposes only. The fee for
5 this license shall be \$750.00. The holder of this license shall also have
6 the right to sell such wine at retail in original packages in five
7 salesrooms apart from the winery premises for consumption on or off
8 the premises and for sampling purposes for consumption on the
9 premises, at a fee of \$200.00 for each salesroom. Additionally, subject
10 to rules and regulations, one salesroom per county may be jointly
11 controlled and operated by at least two plenary or farm winery
12 licensees for the sale of the products of any plenary or farm winery
13 licensee for consumption on or off the premises and for consumption
14 on the licensed premises for sampling purposes, at an additional fee of
15 \$500.00 per county salesroom. For the purposes of this subsection,
16 "sampling" means the selling at a nominal charge or the gratuitous
17 offering of an open container not exceeding one and one-half ounces
18 of any wine.

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

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

33 Farm winery license. 2b. The holder of this license shall be
34 entitled, subject to rules and regulations, to manufacture any
35 fermented wines and fruit juices in a quantity to be expressed in said
36 license, dependent upon the following fees and not in excess of 50,000
37 gallons per year and to sell and distribute his products to wholesalers
38 and retailers licensed in accordance with this chapter and to churches
39 for religious purposes and to sell and distribute without this State to
40 any persons pursuant to the laws of the places of such sale and
41 distribution, and to maintain a warehouse and to sell at retail to
42 consumers for consumption on or off the licensed premises and to
43 offer samples for sampling purposes only. The license shall be issued
44 only when the winery at which such fermented wines and fruit juices
45 are manufactured is located and constructed upon a tract of land
46 exclusively under the control of the licensee, provided that the licensee

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

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

34 Unless otherwise indicated, for the purposes of this subsection, with
35 respect to farm winery licenses, "manufacture" means the vinification,
36 aging, storage, blending, clarification, stabilization and bottling of
37 wine or juice from New Jersey fruit to the extent required by this
38 subsection.

39 Wine blending license. 2c. The holder of this license shall be
40 entitled, subject to rules and regulations, to blend, treat, mix, and
41 bottle fermented wines and fruit juices with non-alcoholic beverages,
42 and to sell and distribute his products to wholesalers and retailers
43 licensed in accordance with this chapter, and to sell and distribute
44 without this State to any persons pursuant to the laws of the places of
45 such sale and distribution, and to maintain a warehouse. The fee for
46 this license shall be \$500.00.

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

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

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

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

40 Bonded warehouse bottling license. 5. The holder of this license
41 shall be entitled, subject to rules and regulations, to bottle alcoholic
42 beverages in bond on behalf of all persons authorized by federal and
43 State law and regulations to withdraw alcoholic beverages from bond.
44 The fee for this license shall be \$500.00. This license shall be issued
45 only to persons holding permits to operate Internal Revenue bonded

1 warehouses pursuant to the laws of the United States.
2 (cf: P.L.1993, c.372, s.1)

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

5 33:1-43. a. It shall be unlawful for any owner, part owner,
6 stockholder or officer or director of any corporation, or any other
7 person whatsoever interested in any way whatsoever in any brewery,
8 winery, distillery or rectifying and blending plant, or any wholesaler of
9 alcoholic beverages, to conduct, own either in whole or in part, or be
10 directly or indirectly interested in the retailing of any alcoholic
11 beverages in New Jersey except as provided in this chapter, and such
12 interest shall include any payments or delivery of money or property
13 by way of loan or otherwise accompanied by an agreement to sell the
14 product of said brewery, winery, distillery, rectifying and blending
15 plant or wholesaler.

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

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

29 c. Nothing in this section shall prohibit:

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

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

41 (3) Any owner, part owner, stockholder or officer or director of
42 any corporation, or any other person or corporation interested in any
43 way whatsoever in the retailing of alcoholic beverages, under a retail
44 consumption license or State issued permit, in conjunction with and as
45 a part of the operations of a hotel or motel from conducting, owning,
46 either in whole or in part, or being a shareholder, officer or director of

1 a corporation or association, directly or indirectly interested in any
2 brewery, winery, distillery, rectifying and blending plant, or
3 wholesaling or importing interest of any kind whatsoever; [or]

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

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

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

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

30 (cf: P.L.1993, c.216, s.3)

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32 3. This act shall take effect immediately.

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STATEMENT

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37 P.L.1993, c.372 established the restricted brewery license under
38 New Jersey law, thereby making possible the establishment of
39 brewpubs which both brew and dispense beer for consumption on the
40 premises. This bill would expand the amount of beer that could be
41 brewed by such a licensee from a maximum of 3,000 to 8,000 barrels
42 a year. The bill would further permit a licensee to sell its beer to
43 wholesalers and retailers both within and outside of the State.

44 P.L.1993, c.372 permits the issuance of a restricted brewery license
45 only to a licensee who also holds a retail plenary consumption license
46 for a premises where food is served. Retail licensees were limited to

1 a maximum of two restricted brewery licenses. This bill would increase
2 the maximum permissible number of restricted brewery licenses a
3 plenary retail consumption licensee may hold to eight.

4 The bill also creates a new type of brewery license, designated a
5 "small brewery license." The holder of this license would be able to
6 brew an amount of malt alcoholic beverages not in excess of 50,000
7 barrels a year for sale to wholesalers and retailers in and outside of
8 the State. The annual fee for this license would be \$1,000 a year.

9 The bill also exempts small brewery licensees from the provisions
10 of R.S.33:1-43, which generally prohibits an alcoholic beverage
11 manufacturer or wholesaler from having an interest in a retail licensee.

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16 Expands production limits, scope of operations for brewpubs.