

SENATE, No. 1454

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Senator HAINES

1 AN ACT concerning certain deadlines for public questions on alcoholic
2 beverage sales and amending R.S.33:1-44 through 47.1.

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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.33:1-44 is amended to read as follows:

8 33:1-44. Whenever a petition, signed by at least fifteen per centum
9 (15%) of the qualified electors of any municipality as evidenced by the
10 total number of votes cast for members of the General Assembly, at
11 the then next preceding general election held for the election of all of
12 the members of the General Assembly, in such municipality, shall be
13 presented to the governing board or body thereof, requesting a
14 referendum on the question hereinafter stated, such governing board
15 or body shall adopt forthwith a resolution directing the clerk of the
16 county in which such municipality is situated to print, pursuant to Title
17 19, Elections, hereinafter referred to as the "general election law,"
18 upon the official ballot to be used in such municipality at the next
19 ensuing general election a question to read: "Shall the retail sale of
20 alcoholic beverages other than brewed malt alcoholic beverages and
21 naturally fermented wine, for consumption on the licensed premises by
22 the glass or other open receptacle pursuant to chapter one of the Title
23 Intoxicating Liquors of the Revised Statutes (s. 33:1-1 et seq.), be
24 permitted in this municipality?" Thereupon the clerk or secretary of
25 said governing board or body shall forthwith deliver to the county
26 clerk a certified copy of such resolution. If the copy shall be delivered
27 to the county clerk not less than [thirty] 60 days before such general
28 election, he shall cause such question to be printed in an appropriate
29 place on the ballot to be used in such municipality at the next ensuing
30 general election pursuant to the general election law and thereupon all
31 proceedings with respect to the referendum on such question shall be
32 subject to and governed by the general election law as in other cases
33 of the submission of public questions to the electorate.

34 If a majority of the legal voters voting upon the question shall vote

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 "Yes," the clerk of the governing board or body of such municipality
2 shall forthwith in writing notify the commissioner and municipal board,
3 if any, having authority to issue such licenses, of the action taken by
4 the legal voters of such municipality and the retail sales as aforesaid of
5 such alcoholic beverages and the issuing of licenses pursuant to this
6 chapter shall be permitted in such municipality.

7 If a majority of the legal voters voting upon the question shall vote
8 "No," then the clerk of the governing board or body of the
9 municipality shall forthwith in writing notify the commissioner and
10 municipal board, if any, having authority to issue such licenses, of the
11 action taken by the legal voters of the municipality, and after thirty
12 days have elapsed after the date of such vote the retail sale of alcoholic
13 beverages, other than brewed malt alcoholic beverages and naturally
14 fermented wines, for consumption on the licensed premises by the
15 glass or other open receptacle (such retail sale being sometimes
16 hereinafter called "prohibited sale"), shall be unlawful in such
17 municipality and constitute a violation of this chapter, and it shall
18 forthwith upon such vote be unlawful for the other issuing authority
19 of the municipality, having authority to issue licenses, to issue any
20 license in respect to such municipality which shall permit such
21 prohibited sale, and all licenses theretofore issued in respect to such
22 municipality which shall have licensed such prohibited sale shall, to the
23 extent that they permitted such prohibited sale, become void and
24 inoperative thirty days after the date of such vote.

25 Whenever a referendum shall have been had in any municipality
26 pursuant to this section, no further referendum on the same question
27 shall be held therein prior to the general election to be held in such
28 municipality in the fifth year thereafter and so long as such referendum
29 remains effective, all ordinances, resolutions or regulations
30 inconsistent with the result of such referendum shall have no effect
31 within such municipality.

32 (cf: P.L.1949, c.296, s.1)

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34 2. R.S.33:1-45 is amended to read as follows:

35 33:1-45. Whenever a petition signed by at least fifteen per centum
36 (15%) of the qualified electors of any municipality as evidenced by the
37 total number of votes cast for members of the General Assembly, at
38 the then next preceding general election held for the election of all of
39 the members of the General Assembly, in such municipality, shall be
40 presented to the governing board or body thereof, requesting a
41 referendum on the question hereinafter stated, such governing board
42 or body shall adopt forthwith a resolution directing the clerk of the
43 county in which such municipality is situated to print, pursuant to Title
44 19, Elections, hereinafter referred to as the "general election law,"
45 upon the official ballot to be used in such municipality at the next
46 ensuing general election a question to read: "Shall the retail sale of all

1 kinds of alcoholic beverages, for consumption on the licensed premises
2 by the glass or other open receptacle pursuant to chapter one of the
3 Title Intoxicating Liquors of the Revised Statutes (s.33:1-1 et seq.),
4 be permitted in this municipality?" Thereupon the clerk or secretary
5 of such governing board or body shall forthwith deliver to such county
6 clerk a certified copy of the resolution. If the copy shall be delivered
7 to the county clerk not less than [thirty] 60 days before such general
8 election, he shall cause such question to be printed in an appropriate
9 place on the ballot to be used in such municipality at the next ensuing
10 general election pursuant to the general election law and thereupon all
11 proceedings with respect to the referendum on such question shall be
12 subject to and governed by the general election law as in other cases
13 of the submission of public questions to the electorate.

14 If a majority of the legal voters voting upon the question shall vote
15 "Yes," the clerk of the governing board or body of such municipality
16 shall forthwith in writing notify the commissioner and municipal board,
17 if any, having authority to issue such licenses, of the action taken by
18 the legal voters of such municipality and the retail sales as aforesaid of
19 such alcoholic beverages and the issuing of licenses pursuant to this
20 chapter shall be permitted in such municipality.

21 If a majority of the legal voters voting upon the question shall vote
22 "No," then the clerk of the governing board or body of such
23 municipality shall forthwith in writing notify the commissioner and
24 municipal board, if any, having authority to issue such licenses, of the
25 action taken by the legal voters of the municipality, and after thirty
26 days have elapsed after the date of such vote, the retail sale of all
27 kinds of alcoholic beverages for consumption on the licensed premises
28 by the glass or other open receptacle (such retail sale being sometimes
29 hereinafter called "prohibited sale"), shall be unlawful in such
30 municipality and constitute a violation of this chapter, and it shall
31 forthwith upon such vote be unlawful for the other issuing authority
32 of such municipality having authority to issue licenses to issue any
33 license in respect to such municipality which shall permit such
34 prohibited sale and all licenses theretofore issued in respect to such
35 municipality which shall have licensed such prohibited sale shall, to the
36 extent that they permitted such prohibited sale, become void and
37 inoperative thirty days after the date of such vote.

38 Whenever a referendum shall have been had in any municipality
39 pursuant to this section, no further referendum on the same question
40 shall be held therein prior to the general election to be held in such
41 municipality in the fifth year thereafter and so long as such
42 referendum remains effective, all ordinances, resolutions or regulations
43 inconsistent with the result of such referendum shall have no effect
44 within such municipality.

45 (cf: P.L.1949, c.296, s.2)

1 3. R.S.33:1-46 is amended to read as follows:

2 33:1-46. Whenever a petition, signed by at least fifteen per centum
3 (15%) of the qualified electors of any municipality as evidenced by the
4 total number of votes cast for members of the General Assembly, at
5 the then next preceding general election held for the election of all of
6 the members of the General Assembly, in such municipality, shall be
7 presented to the governing board or body thereof, requesting a
8 referendum on the question hereinafter stated, such governing board
9 or body shall adopt forthwith a resolution directing the clerk of the
10 county in which such municipality is situated to print, pursuant to Title
11 19, Elections, hereinafter referred to as the "general election law,"
12 upon the official ballot to be used in such municipality at the next
13 ensuing general election, a question to read: "Shall the sale of all
14 alcoholic beverages at retail, except for consumption on railroad
15 trains, airplanes and boats, and the issuance of any retail licenses,
16 except as aforesaid, pursuant to chapter one of the Title Intoxicating
17 Liquors of the Revised Statutes (s.33:1-1 et seq.), be permitted in this
18 municipality?" Thereupon the clerk or secretary of the governing
19 board or body of such municipality shall forthwith deliver to such
20 county clerk a certified copy of such resolution. If the copy shall be
21 delivered to the county clerk not less than [thirty] 60 days before such
22 general election, he shall cause such question to be printed in an
23 appropriate place on the ballot to be used in such municipality at the
24 next ensuing general election, pursuant to the general election law and
25 thereupon all proceedings with respect to the referendum on such
26 question shall be subject to and governed by the general election law
27 as in other cases of the submission of public questions to the
28 electorate.

29 If a majority of the legal voters voting upon the question shall vote
30 "Yes," the clerk of the governing board or body of such municipality
31 shall forthwith in writing notify the commissioner and municipal board,
32 if any, having authority to issue such licenses, of the action taken by
33 the legal voters of such municipality and retail sales of alcoholic
34 beverages and the issuing of retail licenses pursuant to this chapter
35 shall be permitted in such municipality.

36 If a majority of the legal voters voting upon the question shall vote
37 "No," then the clerk of the governing board or body of such
38 municipality shall forthwith in writing notify the commissioner and
39 municipal board, if any, having authority to issue such licenses, of the
40 action taken by the legal voters of such municipality and thereupon it
41 shall be unlawful for the other issuing authority of such municipality,
42 having authority to issue plenary retail consumption, plenary retail
43 distribution and limited retail consumption licenses, to issue any such
44 licenses in respect to such municipality, and all such licenses
45 theretofore issued in respect to such municipality shall become void
46 and inoperative thirty days after the date of such vote, and thereupon

1 the municipal board of such municipality shall be dissolved, and the
2 offices of its members shall terminate and all its activities hereunder
3 shall cease; but if in a later referendum held pursuant to this chapter
4 a majority of the legal voters voting upon the same question last
5 above stated shall vote "Yes," a municipal board for such
6 municipality may forthwith be appointed in the same manner and with
7 the same effect as when this chapter first became effective. Whenever
8 any such license shall become void and inoperative by virtue of such
9 referendum there shall be returned to the licensee the prorated license
10 fee for the unexpired term.

11 Whenever a referendum shall have been had in any municipality
12 pursuant to this section, no further referendum on the same question
13 shall be held therein prior to the general election to be held in such
14 municipality in the fifth year thereafter and so long as such referendum
15 remains effective, all ordinances, resolutions or regulations
16 inconsistent with the result of such referendum shall have no effect
17 within such municipality.

18 (cf: P.L.1949, c.296, s.3)

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20 4. R.S.33:1-47 is amended to read as follows:

21 33:1-47. Whenever a petition, signed by at least fifteen per centum
22 (15%) of the qualified electors of any municipality as evidenced by the
23 total number of votes cast for members of the General Assembly, at
24 the then next preceding general election held for the election of all of
25 the members of the General Assembly, in such municipality, shall be
26 presented to the governing board or body thereof, requesting a
27 referendum on the question hereinafter stated, such governing board
28 or body shall adopt forthwith a resolution directing the clerk of the
29 county in which such municipality is situated to print, pursuant to Title
30 19, Elections, hereinafter referred to as the "general election law,"
31 upon the official ballot to be used in such municipality at the next
32 ensuing general election, a question to read: "Shall the sale of
33 alcoholic beverages be permitted on Sundays in this municipality?"
34 Thereupon the clerk or secretary of the governing board or body of
35 such municipality shall forthwith deliver to such county clerk a
36 certified copy of such resolution. If such copy shall be delivered to the
37 county clerk not less than [thirty] 60 days before such general
38 election, he shall cause such question to be printed in an appropriate
39 place on the ballot to be used in such municipality at the next ensuing
40 general election, pursuant to the general election law and thereupon all
41 proceedings with respect to the referendum on such question shall be
42 subject to and governed by the general election law as in other cases
43 of the submission of public questions to the electorate.

44 If a majority of the legal voters voting upon the question shall vote
45 "Yes," the clerk of the governing board or body of such municipality
46 shall forthwith in writing notify the commissioner and municipal board,

1 if any, having authority to issue such licenses, of the action taken by
2 the legal voters of such municipality and the sale of alcoholic
3 beverages on Sundays pursuant to the provisions of this chapter shall
4 be permitted in such municipality.

5 If a majority of the legal voters voting upon the question shall vote
6 "No," then the clerk of the governing board or body of such
7 municipality shall forthwith in writing notify the commissioner and
8 municipal board, if any, as the case may be, having authority to issue
9 such licenses of the action taken by the legal voters of such
10 municipality, and thereupon it shall be unlawful for any person to sell
11 alcoholic beverages in such municipality on Sundays and such sale
12 shall constitute a violation of this chapter.

13 Whenever a referendum shall have been had in any municipality
14 pursuant to this section, no further referendum on the same question
15 shall be held therein prior to the general election to be held in such
16 municipality in the fifth year thereafter and so long as such
17 referendum remains effective, all ordinances, resolutions or regulations
18 inconsistent with the result of such referendum shall have no effect
19 within such municipality.

20 (cf: P.L.1949, c.296, s.4)

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22 5. R.S.33:1-47.1 is amended to read as follows:

23 33:1-47.1. Whenever a petition, signed by at least fifteen per
24 centum (15%) of the qualified electors of any municipality as
25 evidenced by the total number of votes cast at the then next preceding
26 general election, held for the election of all of the members of the
27 General Assembly in such municipality, shall be presented to the
28 governing board or body thereof, requesting a referendum on any
29 proposed questions as to whether the hours between which the sale of
30 alcoholic beverages at retail may be made in such municipality on
31 week days, Sundays, either or both, shall be fixed as provided in such
32 petition, which questions shall be specifically and separately set forth
33 in the petition, such governing board or body shall adopt forthwith a
34 resolution directing the clerk of the county in which such municipality
35 is situated to print such question or questions stated in the petition
36 pursuant to Title 19, Elections, hereinafter referred to as the "general
37 election law," upon the official ballot to be used in such municipality
38 at the next ensuing general election. Thereupon the clerk or secretary
39 of such governing board or body shall forthwith deliver to such county
40 clerk a certified copy of such resolution. If such copy shall be
41 delivered to such county clerk not less than [thirty] ~~60~~ days before
42 such general election, he shall cause such question or questions to be
43 printed in an appropriate place on the ballot to be used in such
44 municipality at the next ensuing general election, pursuant to the
45 general election law, and shall cause to be printed on the ballot
46 immediately below the printed question or questions the following:

1 "Explanatory Statement--A "Yes' is a vote to permit sales only
2 within the hours set forth in the question or questions printed above.
3 A "No' vote is a vote against changing the hours during which sales of
4 alcoholic beverages are now permitted in this municipality," and
5 thereupon all proceedings with respect to the referendum on such
6 question or questions shall be subject to and governed by the general
7 election law as in other cases of the submission of public questions to
8 the electorate.

9 If a majority of the legal voters shall vote affirmatively on the
10 question of whether the hours of sale shall be fixed in the manner set
11 forth in such question or questions, the clerk of the governing board
12 or body of such municipality shall forthwith in writing notify the
13 commissioner and municipal board, if any, of the action taken by the
14 legal voters of such municipality and thereafter the retail sale of
15 alcoholic beverages may be made only within the hours fixed by such
16 referendum. Such sale at any other time within such municipality shall
17 be unlawful and constitute a violation of this chapter.

18 If a majority of legal voters voting upon such question or questions
19 shall vote in the negative on the question of whether the hours of sale
20 shall be fixed in the manner set forth in such question or questions, the
21 clerk of the governing board or body of such municipality shall
22 forthwith in writing notify the commissioner and municipal board, if
23 any, of the action taken by the legal voters of such municipality and
24 thereafter the hours between which the sale of alcoholic beverages at
25 retail may be made may be regulated as theretofore in such
26 municipality.

27 No petition under this section shall be received by the governing
28 board or body while any other petition covering the same subject
29 matter which has theretofore been presented hereunder has not been
30 voted upon.

31 Whenever a referendum shall have been had in any municipality
32 pursuant to this section, no further referendum on the same question
33 shall be held therein prior to the general election to be held in such
34 municipality in the fifth year thereafter and so long as such referendum
35 remains effective, all ordinances, resolutions or regulations
36 inconsistent with the result of such referendum shall have no effect
37 within such municipality.

38 (cf: P.L.1949, c.296, s.5)

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40 6. This act shall take effect immediately.

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STATEMENT

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45 Under current law, the deadline by which a governing body of a
46 municipality can request that the county clerk print on the ballot of the

1 next ensuing general election a public question regarding liquor sales
2 in that municipality is 30 days prior to the day of the election. The
3 request occurs whenever a petition signed by a certain number of
4 voters in the municipality is presented to the governing body of that
5 municipality.

6 The purpose of this bill is to change the deadline for the request to
7 print the public question from 30 days to 60 days prior to the next
8 general election.

9 This change in the law is necessary because the deadline by which
10 the county clerk is supposed to have the general election ballot ready
11 for the printer is the 43rd day prior to the day of the election--which
12 is 13 days after the current deadline for the county clerk to request
13 that such a public question be placed on the ballot.

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18 Changes from 30 days to 60 days before general election deadline for
19 placing on election ballot public questions regarding alcoholic
20 beverage sales.