

ASSEMBLY, No. 1710

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Establishes special license to serve alcoholic beverages in qualifying redevelopment areas.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



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1 AN ACT concerning alcoholic beverage licenses and supplementing
2 Title 33 of the Revised Statutes.

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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. a. As used in this act:

8 "Eligible municipality" means a municipality which, in
9 accordance with the provisions of P.L.1992, c.79 (C.40A:12A-1 et
10 seq.), adopts and implements a redevelopment plan that is expected
11 to increase the value of taxable property in the redevelopment area
12 by at least 40% over the value of that property for the previous tax
13 year, and is expected to generate, directly or indirectly, more than
14 \$500,000 of private investment.

15 "Redevelopment area" means an area determined to be in need of
16 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
17 (C.40A:12A-5 and 40A:12A-6). A redevelopment area may include
18 lands, buildings, or improvements which of themselves are not
19 detrimental to the public health, safety or welfare, but the inclusion
20 of which is found necessary, with or without change in their
21 condition, for the effective redevelopment of the area of which they
22 are a part.

23 b. The Director of the Division of Alcoholic Beverage Control,
24 upon approval of the eligible municipality by ordinance, may issue
25 a special license to an individual corporation or other type of legal
26 entity operating a premises where alcoholic beverages are intended
27 to be served that is located in the municipality's redevelopment
28 area. The license shall authorize the sale of alcoholic beverages for
29 immediate consumption on the operator's premises. The director
30 may not issue more than two such licenses for any redevelopment
31 area.

32 c. No person who would fail to qualify as a licensee under Title
33 33 of the Revised Statutes shall be permitted to hold an interest in a
34 special license under the provisions of this section.

35 d. Licenses issued under this section shall be subject to all the
36 provisions of Title 33 of the Revised Statutes, rules and regulations
37 promulgated by the director, and municipal ordinances.

38 e. No license issued pursuant to this section shall be transferred
39 to any premises other than a premises located within the same
40 redevelopment area.

41 f. Application for the initial issuance and renewal of each
42 license shall be made to the director on an annual basis. The fee for
43 the initial issuance of the license shall be two and one half times the
44 average sale price for the three most recent sales during the
45 preceding five years of plenary retail consumption licenses in the
46 eligible municipality where the license is being issued. If less than
47 three plenary retail consumption licenses have been sold in the
48 eligible municipality within the previous five years, the eligible

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1 municipality shall obtain an appraisal, at the applicant's expense, to
2 determine the appropriate fee for the license. The appraisal process
3 shall include an examination of previous transactions in the
4 municipality and shall reflect what a willing buyer, under no
5 pressure to buy, would pay a willing seller, under no pressure to
6 sell, for a plenary retail consumption license in that eligible
7 municipality. One half of the amount of the application fee for the
8 initial issuance of the license shall be paid upon the issuance of the
9 license and the other half of that amount shall be paid one year
10 later. The director shall establish an annual fee for the license
11 which shall not exceed the fee which may be imposed by a
12 municipality for a plenary retail consumption license pursuant to
13 R.S.33:1-12.

14 g. The fee for the initial issuance of the license shall be
15 distributed in the following manner:

16 (1) Twenty-five percent shall be paid to the eligible
17 municipality wherein the redevelopment area is located;

18 (2) Twenty-five percent shall be paid to the director; and

19 (3) Fifty percent shall be divided equally among and paid to the
20 plenary retail consumption licensees in the eligible municipality.

21 h. If the individual corporation or entity holding the license
22 determines to sell a license issued pursuant to this section, the
23 license shall be sold for the sum paid pursuant to paragraph (3) of
24 subsection g. of this section.

25 i. The director shall not issue a special concessionaire permit
26 for any location or premises which is eligible to obtain a license to
27 serve alcoholic beverages under the provisions of this act.

28 j. Pursuant to the "Administrative Procedure Act," P.L.1968,
29 c.410 (C.52:14B-1 et seq.), the director shall adopt rules and
30 regulations to effectuate the purposes of this act.

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32 2. Notwithstanding the provisions of R.S.33:1-47 or any other
33 provision of law to the contrary, an eligible municipality shall have
34 the authority to enact an ordinance that sets forth the hours of the
35 day or days of the week during which the holder of a plenary retail
36 consumption license or special license issued pursuant to this act,
37 may serve alcoholic beverages. This ordinance shall supersede any
38 other municipal ordinance to the contrary that affects the hours of
39 the day or days of the week during which alcoholic beverages may
40 be sold in the eligible municipality wherein the redevelopment area
41 is located; except that those hours of the day or days of the week
42 shall comply with and conform to existing State law or regulation.

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44 3. This act shall take effect on the first day of the seventh
45 month following enactment.

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STATEMENT

This bill establishes a procedure for the Director of the Division of Alcoholic Beverages (ABC) to issue a special license to sell alcoholic beverages to a corporation or other entity operating a premises in a redevelopment area.

Under the provisions of the bill, the director is authorized, with the approval of the municipality, to issue a special license to a corporation or other entity operating an establishment located within a redevelopment area. To qualify for this special license, the municipality must adopt and implement a redevelopment plan which is expected to increase the value of the taxable property in the redevelopment area by at least 40% over the value of that property for the previous tax year, and is expected to generate, directly or indirectly, more than \$500,000 of private investment.

The fee for the initial issuance of the license is to be two and one-half times the average sale price of a license in recent years. This fee is to be distributed among the municipality (25%), the State (25%), and the other licensees in the municipality (50%).

The bill specifies that these special licenses may not be transferred to a premises located outside the redevelopment area for which they were issued.

The bill also specifies that no more than two of these special licenses may be issued in any redevelopment area.

Finally, the bill stipulates that an eligible municipality, as defined by the bill, has the authority to enact an ordinance that establishes the hours of operation for any licensed premises situated in a redevelopment area. This ordinance is to supersede any other municipal ordinance that limits the hours of the day or days of the week during which alcohol may be served in that municipality. However, the ordinance must conform with, and is not to supersede, existing State law.

Under current law, a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of these restrictions, there is a shortage of these licenses in some municipalities, especially those that have undertaken extensive redevelopment efforts.

This bill is modeled after P.L.2007, c.351 (C.33:1-24.1 et seq.), which provided for special licenses to serve alcoholic beverages in established smart growth areas.