

ASSEMBLY, No. 2994

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 24, 2010

Sponsored by:

Assemblyman JOHN DIMAIO

District 23 (Warren and Hunterdon)

Assemblywoman CELESTE M. RILEY

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Permits wineries to produce and sell certain distilled alcoholic beverages.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2010)

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1 AN ACT concerning alcoholic beverages and amending R.S.33:1-10.

2

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

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6 1. R.S.33:1-10 is amended to read as follows:

7 33:1-10. Class A licenses shall be subdivided and classified as
8 follows:

9 Plenary brewery license. 1a. The holder of this license shall be
10 entitled, subject to rules and regulations, to brew any malt alcoholic
11 beverages and to sell and distribute his products to wholesalers and
12 retailers licensed in accordance with this chapter, and to sell and
13 distribute without this State to any persons pursuant to the laws of
14 the places of such sale and distribution, and to maintain a
15 warehouse. The fee for this license shall be \$10,625.

16 Limited brewery license. 1b. The holder of this license shall be
17 entitled, subject to rules and regulations, to brew any malt alcoholic
18 beverages in a quantity to be expressed in said license, dependent
19 upon the following fees and not in excess of 300,000 barrels of 31
20 fluid gallons capacity per year and to sell and distribute this product
21 to wholesalers and retailers licensed in accordance with this
22 chapter, and to sell and distribute without this State to any persons
23 pursuant to the laws of the places of such sale and distribution, and
24 to maintain a warehouse. The fee for this license shall be graduated
25 as follows: to so brew not more than 50,000 barrels of 31 fluid
26 gallons capacity per annum, \$1,250; to so brew not more than
27 100,000 barrels of 31 fluid gallons capacity per annum, \$2,500; to
28 so brew not more than 200,000 barrels of 31 fluid gallons capacity
29 per annum, \$5,000; to so brew not more than 300,000 barrels of 31
30 fluid gallons capacity per annum, \$7,500.

31 Restricted brewery license. 1c. The holder of this license shall
32 be entitled, subject to rules and regulations, to brew any malt
33 alcoholic beverages in a quantity to be expressed in such license not
34 in excess of 3,000 barrels of 31 fluid gallons capacity per year.
35 Notwithstanding the provisions of R.S.33:1-26, the director shall
36 issue a restricted brewery license only to a person or an entity
37 which has identical ownership to an entity which holds a plenary
38 retail consumption license issued pursuant to R.S.33:1-12, provided
39 that such plenary retail consumption license is operated in
40 conjunction with a restaurant regularly and principally used for the
41 purpose of providing meals to its customers and having adequate
42 kitchen and dining room facilities, and that the licensed restaurant
43 premises is immediately adjoining the premises licensed as a
44 restricted brewery. The holder of this license shall only be entitled
45 to sell or deliver the product to that restaurant premises. The fee for

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 this license shall be \$1,250, which fee shall entitle the holder to
2 brew up to 1,000 barrels of 31 fluid gallons per annum. The
3 licensee also shall pay an additional \$625 for every additional 1,000
4 barrels of 31 fluid gallons produced. No more than two restricted
5 brewery licenses shall be issued to a person or entity which holds an
6 interest in a plenary retail consumption license. If the governing
7 body of the municipality in which the licensed premises will be
8 located should file a written objection, the director shall hold a
9 hearing and may issue the license only if the director finds that the
10 issuance of the license will not be contrary to the public interest.
11 All fees related to the issuance of both licenses shall be paid in
12 accordance with statutory law.

13 Plenary winery license. 2a. Provided that the holder is engaged
14 in growing and cultivating grapes or fruit used in the production of
15 wine on at least three acres on, or adjacent to, the winery premises,
16 the holder of this license shall be entitled, subject to rules and
17 regulations, to produce any fermented wines, and to blend, fortify
18 and treat wines, and to sell and distribute his products to
19 wholesalers and retailers licensed in accordance with this chapter
20 and to churches for religious purposes, and to sell and distribute
21 without this State to any persons pursuant to the laws of the places
22 of such sale and distribution, and to maintain a warehouse, and to
23 sell his products at retail to consumers on the licensed premises of
24 the winery for consumption on or off the premises and to offer
25 samples for sampling purposes only. The fee for this license shall
26 be \$938.

27 Provided that the holder is engaged in growing or cultivating
28 grapes or fruit on at least 18 acres on, or adjacent to, the winery
29 premises, the holder of this license shall be entitled, subject to rules
30 and regulations, to produce distilled alcoholic beverages made from
31 grapes or fruit, sell and distribute distilled alcoholic beverages
32 produced by the holder of the license to wholesalers licensed in
33 accordance with this chapter, sell and distribute distilled alcoholic
34 beverages produced by the holder of the license without this State
35 to any persons pursuant to the laws of the places of such sale and
36 distribution, maintain a warehouse, sell distilled alcoholic
37 beverages produced by the holder of the license at retail to
38 consumers on the licensed premises of the winery for consumption
39 off the premises, and offer samples for sampling purposes only.

40 The holder of this license shall also have the right to sell such
41 wine at retail in original packages in six salesrooms apart from the
42 winery premises for consumption on or off the premises and for
43 sampling purposes for consumption on the premises, at a fee of
44 \$250 for each salesroom. Additionally, subject to rules and
45 regulations, one salesroom per county may be jointly controlled and
46 operated by at least two plenary or farm winery licensees for the
47 sale of the products of any plenary or farm winery licensee for
48 consumption on or off the premises and for consumption on the

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1 licensed premises for sampling purposes at an additional fee of
2 \$625 per county salesroom. For the purposes of this subsection,
3 "sampling" means the selling at a nominal charge or the gratuitous
4 offering of an open container not exceeding one and one-half
5 ounces of any wine or one-half of an ounce of distilled alcoholic
6 beverage.

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

10 Any holder of a plenary winery license who sold wine which was
11 produced, bottled, and labelled by that holder in a place other than
12 its licensed New Jersey premises between July 1, 1992 and June 30,
13 1993, may continue to sell that wine provided no more than 25,000
14 cases, each case consisting of 12 750 milliliter bottles or the
15 equivalent, are sold in any single license year. This privilege shall
16 terminate upon, and not survive, any transfer of the license to
17 another person or entity subsequent to the effective date of this
18 1993 amendatory act or any transfer of stock of the licensed
19 corporation other than to children, grandchildren, parents, spouses
20 or siblings of the existing stockholders.

21 Farm winery license. 2b. The holder of this license shall be
22 entitled, subject to rules and regulations, to manufacture any
23 fermented wines and fruit juices in a quantity to be expressed in
24 said license, dependent upon the following fees and not in excess of
25 50,000 gallons per year and to sell and distribute his products to
26 wholesalers and retailers licensed in accordance with this chapter
27 and to churches for religious purposes and to sell and distribute
28 without this State to any persons pursuant to the laws of the places
29 of such sale and distribution, and to maintain a warehouse and to
30 sell at retail to consumers for consumption on or off the licensed
31 premises and to offer samples for sampling purposes only. The
32 license shall be issued only when the winery at which such
33 fermented wines and fruit juices are manufactured is located and
34 constructed upon a tract of land exclusively under the control of the
35 licensee, provided that the licensee is actively engaged in growing
36 and cultivating an area of not less than three acres on or adjacent to
37 the winery premises and on which are growing grape vines or fruit
38 to be processed into wine or fruit juice; and provided, further, that
39 for the first five years of the operation of the winery such fermented
40 wines and fruit juices shall be manufactured from at least 51%
41 grapes or fruit grown in the State and that thereafter they shall be
42 manufactured from grapes or fruit grown in this State at least to the
43 extent required for labeling as "New Jersey Wine" under the
44 applicable federal laws and regulations. The containers of all wine
45 sold to consumers by such licensee shall have affixed a label stating
46 such information as shall be required by the rules and regulations of
47 the Director of the Division of Alcoholic Beverage Control. The
48 fee for this license shall be graduated as follows: to so manufacture

1 between 30,000 and 50,000 gallons per annum, \$375; to so
2 manufacture between 2,500 and 30,000 gallons per annum, \$250; to
3 so manufacture between 1,000 and 2,500 gallons per annum, \$125;
4 to so manufacture less than 1,000 gallons per annum, \$63.

5 Provided that the holder is engaged in growing or cultivating
6 grapes or fruit on at least 18 acres on, or adjacent to, the winery
7 premises, the holder of this license shall be entitled, subject to rules
8 and regulations, to produce distilled alcoholic beverages made from
9 grapes or fruit, sell and distribute distilled alcoholic beverages
10 produced by the holder of the license to wholesalers licensed in
11 accordance with this chapter, sell and distribute distilled alcoholic
12 beverages produced by the holder of the license without this State
13 to any persons pursuant to the laws of the places of such sale and
14 distribution, maintain a warehouse, sell distilled alcoholic
15 beverages produced by the holder of the license at retail to
16 consumers on the licensed premises of the winery for consumption
17 off the premises, and offer samples for sampling purposes only.

18 No farm winery license shall be held by the holder of a plenary
19 winery license or be situated on a premises licensed as a plenary
20 winery.

21 The holder of this license shall also have the right to sell his
22 products in original packages at retail to consumers in six
23 salesrooms apart from the winery premises for consumption on or
24 off the premises, and for sampling purposes for consumption on the
25 premises, at a fee of \$250 for each salesroom. Additionally, subject
26 to rules and regulations, one salesroom per county may be jointly
27 controlled and operated by at least two plenary or farm winery
28 licensees for the sale of the products of any plenary or farm winery
29 licensee for consumption on or off the premises and for
30 consumption on the licensed premises for sampling purposes only,
31 at an additional fee of \$625 per county salesroom. For the purposes
32 of this subsection, "sampling" means the selling at a nominal charge
33 or the gratuitous offering of an open container not exceeding one
34 and one-half ounces of any wine or one-half of an ounce of distilled
35 alcoholic beverage.

36 Unless otherwise indicated, for the purposes of this subsection,
37 with respect to farm winery licenses, "manufacture" means the
38 vinification, aging, storage, blending, clarification, stabilization and
39 bottling of wine or juice from New Jersey fruit to the extent
40 required by this subsection. For the purposes of this subsection,
41 "product" means any wine that is produced, blended, fortified, or
42 treated by the licensee on its licensed premises situated in the State
43 of New Jersey.

44 Wine blending license. 2c. The holder of this license shall be
45 entitled, subject to rules and regulations, to blend, treat, mix, and
46 bottle fermented wines and fruit juices with non-alcoholic
47 beverages, and to sell and distribute his products to wholesalers and
48 retailers licensed in accordance with this chapter, and to sell and

1 distribute without this State to any persons pursuant to the laws of
2 the places of such sale and distribution, and to maintain a
3 warehouse. The fee for this license shall be \$625.

4 Instructional winemaking facility license. 2d. The holder of this
5 license shall be entitled, subject to rules and regulations, to instruct
6 persons in and provide them with the opportunity to participate
7 directly in the process of winemaking and to directly assist such
8 persons in the process of winemaking while in the process of
9 instruction on the premises of the facility. The holder of this
10 license also shall be entitled to manufacture wine on the premises
11 not in excess of an amount of 10% of the wine produced annually
12 on the premises of the facility, which shall be used only to replace
13 quantities lost or discarded during the winemaking process, to
14 maintain a warehouse, and to offer samples produced by persons
15 who have received instruction in winemaking on the premises by
16 the licensee for sampling purposes only on the licensed premises for
17 the purpose of promoting winemaking for personal or household use
18 or consumption. Wine produced on the premises of an instructional
19 winemaking facility shall be used, consumed or disposed of on the
20 facility's premises or distributed from the facility's premises to a
21 person who has participated directly in the process of winemaking
22 for the person's personal or household use or consumption. The
23 holder of this license may sell mercantile items traditionally
24 associated with winemaking and novelty wearing apparel identified
25 with the name of the establishment licensed under the provisions of
26 this section. The holder of this license may use the licensed
27 premises for an event or affair, including an event or affair at which
28 a plenary retail consumption licensee serves alcoholic beverages in
29 compliance with all applicable statutes and regulations promulgated
30 by the director. The fee for this license shall be \$1,000. For the
31 purposes of this subsection, "sampling" means the gratuitous
32 offering of an open container not exceeding one and one-half
33 ounces of any wine.

34 Plenary distillery license. 3a. The holder of this license shall be
35 entitled, subject to rules and regulations, to manufacture any
36 distilled alcoholic beverages and rectify, blend, treat and mix, and
37 to sell and distribute his products to wholesalers and retailers
38 licensed in accordance with this chapter, and to sell and distribute
39 without this State to any persons pursuant to the laws of the places
40 of such sale and distribution, and to maintain a warehouse. The fee
41 for this license shall be \$12,500.

42 Limited distillery license. 3b. The holder of this license shall be
43 entitled, subject to rules and regulations, to manufacture and bottle
44 any alcoholic beverages distilled from fruit juices and rectify,
45 blend, treat, mix, compound with wine and add necessary
46 sweetening and flavor to make cordial or liqueur, and to sell and
47 distribute to wholesalers and retailers licensed in accordance with
48 this chapter, and to sell and distribute without this State to any

1 persons pursuant to the laws of the places of such sale and
2 distribution and to warehouse these products. The fee for this
3 license shall be \$3,750.

4 Supplementary limited distillery license. 3c. The holder of this
5 license shall be entitled, subject to rules and regulations, to bottle
6 and rebottle, in a quantity to be expressed in said license, dependent
7 upon the following fees, alcoholic beverages distilled from fruit
8 juices by such holder pursuant to a prior plenary or limited distillery
9 license, and to sell and distribute his products to wholesalers and
10 retailers licensed in accordance with this chapter, and to sell and
11 distribute without this State to any persons pursuant to the laws of
12 the places of such sale and distribution, and to maintain a
13 warehouse. The fee for this license shall be graduated as follows:
14 to so bottle and rebottle not more than 5,000 wine gallons per
15 annum, \$313; to so bottle and rebottle not more than 10,000 wine
16 gallons per annum, \$625; to so bottle and rebottle without limit as
17 to amount, \$1,250.

18 Rectifier and blender license. 4. The holder of this license shall
19 be entitled, subject to rules and regulations, to rectify, blend, treat
20 and mix distilled alcoholic beverages, and to fortify, blend, and
21 treat fermented alcoholic beverages, and prepare mixtures of
22 alcoholic beverages, and to sell and distribute his products to
23 wholesalers and retailers licensed in accordance with this chapter,
24 and to sell and distribute without this State to any persons pursuant
25 to the laws of the places of such sale and distribution, and to
26 maintain a warehouse. The fee for this license shall be \$7,500.

27 Bonded warehouse bottling license. 5. The holder of this license
28 shall be entitled, subject to rules and regulations, to bottle alcoholic
29 beverages in bond on behalf of all persons authorized by federal and
30 State law and regulations to withdraw alcoholic beverages from
31 bond. The fee for this license shall be \$625. This license shall be
32 issued only to persons holding permits to operate Internal Revenue
33 bonded warehouses pursuant to the laws of the United States.

34 The provisions of section 21 of P.L.2003, c.117 amendatory of
35 this section shall apply to licenses issued or transferred on or after
36 July 1, 2003, and to license renewals commencing on or after July
37 1, 2003.

38 (cf: P.L.2007, c.329, s.1)

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40 2. This act shall take effect on the first day of the fourth month
41 following enactment.

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STATEMENT

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46 This bill permits holders of plenary and farm winery licenses
47 who are growing grapes or fruit on at least 18 acres on, or adjacent

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1 to, their winery to produce distilled alcoholic beverages from fruits
2 or grapes.

3 The holder of a plenary winery license may then sell the distilled
4 alcoholic beverage he produces to licensed wholesalers outside the
5 State subject, and consumers on the winery for consumption off the
6 premises.

7 The bill also authorizes wineries to offer samples of their
8 distilled alcoholic beverages of no more than one-half of an ounce.

9 Under current law, a winery may not produce or sell distilled
10 alcoholic beverages without first obtaining a separate license to do
11 so under R.S.33:1-10.