

# ASSEMBLY, No. 3063

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 24, 2010

**Sponsored by:**

**Assemblywoman CELESTE M. RILEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman MATTHEW W. MILAM**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblyman NELSON T. ALBANO**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Camden)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**SYNOPSIS**

Establishes farm brewery and winery-brewery beverage license and permits farm wineries to produce hard cider.

**CURRENT VERSION OF TEXT**

As introduced.



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

A3063 RILEY, MILAM

2

1 AN ACT concerning certain alcoholic beverage manufacturing  
2 licenses and amending R.S.33:1-10.

3

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

6

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  
15 the places of such sale and distribution, and to maintain a  
16 warehouse. The fee for this license shall be \$10,625.

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

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

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

14 Farm brewery license. 1d. The holder of this license shall be  
15 entitled, subject to rules and regulations, to brew any malt alcoholic  
16 beverages in a quantity to be expressed in the license not in excess of  
17 2,000 barrels of 31 fluid gallons per year and to maintain a warehouse  
18 and to sell products to consumers for consumption off the licensed  
19 premises and to offer samples for sampling purposes only. The license  
20 shall be issued only when the brewery at which such malt alcoholic  
21 beverages are brewed is located and constructed upon a tract of land  
22 exclusively under the control of the licensee, provided the licensee is  
23 actively engaged in farming on or adjacent to the brewery premises  
24 and is growing and cultivating hops or another product which is used  
25 in the production of the malt alcoholic beverages. The fee for this  
26 license shall be graduated as follows: to manufacture between 1,200  
27 and 2,000 barrels per year, \$300; to manufacture between 100 and  
28 1,199 barrels per year, \$200; to manufacture fewer than 100 barrels per  
29 year, \$100. For purposes of this subsection, "sampling" means the  
30 selling at a nominal charge or the gratuitous offering of an open  
31 container not exceeding one and one-half ounces of a malt alcoholic  
32 beverage. No individual or entity shall hold more than one farm  
33 brewery license.

34 Plenary winery license. 2a. Provided that the holder is engaged  
35 in growing and cultivating grapes or fruit used in the production of  
36 wine on at least three acres on, or adjacent to, the winery premises,  
37 the holder of this license shall be entitled, subject to rules and  
38 regulations, to produce any fermented wines, and to blend, fortify  
39 and treat wines, and to sell and distribute his products to  
40 wholesalers and retailers licensed in accordance with this chapter  
41 and to churches for religious purposes, and to sell and distribute  
42 without this State to any persons pursuant to the laws of the places  
43 of such sale and distribution, and to maintain a warehouse, and to  
44 sell his products at retail to consumers on the licensed premises of  
45 the winery for consumption on or off the premises and to offer  
46 samples for sampling purposes only. The fee for this license shall  
47 be \$938. The holder of this license shall also have the right to sell  
48 such wine at retail in original packages in six salesrooms apart from

1 the winery premises for consumption on or off the premises and for  
2 sampling purposes for consumption on the premises, at a fee of  
3 \$250 for each salesroom. Additionally, subject to rules and  
4 regulations, one salesroom per county may be jointly controlled and  
5 operated by at least two plenary or farm winery licensees for the  
6 sale of the products of any plenary or farm winery licensee for  
7 consumption on or off the premises and for consumption on the  
8 licensed premises for sampling purposes at an additional fee of  
9 \$625 per county salesroom. For the purposes of this subsection,  
10 "sampling" means the selling at a nominal charge or the gratuitous  
11 offering of an open container not exceeding one and one-half  
12 ounces of any wine.

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

16 Any holder of a plenary winery license who sold wine which was  
17 produced, bottled, and labelled by that holder in a place other than  
18 its licensed New Jersey premises between July 1, 1992 and June 30,  
19 1993, may continue to sell that wine provided no more than 25,000  
20 cases, each case consisting of 12 750 milliliter bottles or the  
21 equivalent, are sold in any single license year. This privilege shall  
22 terminate upon, and not survive, any transfer of the license to  
23 another person or entity subsequent to the effective date of this  
24 1993 amendatory act or any transfer of stock of the licensed  
25 corporation other than to children, grandchildren, parents, spouses  
26 or siblings of the existing stockholders.

27 Farm winery license. 2b. The holder of this license shall be  
28 entitled, subject to rules and regulations, to manufacture any  
29 fermented wines ~~and~~, fruit juices, and fermented ciders with an  
30 alcohol content which exceeds regulated levels, in a quantity to be  
31 expressed in said license, dependent upon the following fees and  
32 not in excess of 50,000 gallons per year and to sell and distribute  
33 his products to wholesalers and retailers licensed in accordance  
34 with this chapter and to churches for religious purposes and to sell  
35 and distribute without this State to any persons pursuant to the laws  
36 of the places of such sale and distribution, and to maintain a  
37 warehouse and to sell at retail to consumers for consumption on or  
38 off the licensed premises and to offer samples for sampling  
39 purposes only. The license shall be issued only when the winery at  
40 which such fermented wines ~~and~~, fruit juices, and fermented  
41 ciders are manufactured is located and constructed upon a tract of  
42 land exclusively under the control of the licensee, provided that the  
43 licensee is actively engaged in growing and cultivating an area of  
44 not less than three acres on or adjacent to the winery premises and  
45 on which are growing grape vines or fruit to be processed into wine  
46 ~~or~~, fruit juice, or fermented cider; and provided, further, that for  
47 the first five years of the operation of the winery such fermented  
48 wines ~~and~~, fruit juices, and fermented ciders shall be

1 manufactured from at least 51% grapes or fruit grown in the State  
2 and that thereafter **[they]** the wine, fruit juice, and fermented cider  
3 shall be manufactured from grapes or fruit grown in this State at  
4 least to the extent required for labeling as "New Jersey Wine" under  
5 the applicable federal laws and regulations. The containers of all  
6 wine sold to consumers by such licensee shall have affixed a label  
7 stating such information as shall be required by the rules and  
8 regulations of the Director of the Division of Alcoholic Beverage  
9 Control. The fee for this license shall be graduated as follows: to so  
10 manufacture between 30,000 and 50,000 gallons per annum, \$375;  
11 to so manufacture between 2,500 and 30,000 gallons per annum,  
12 \$250; to so manufacture between 1,000 and 2,500 gallons per  
13 annum, \$125; to so manufacture less than 1,000 gallons per annum,  
14 \$63. No farm winery license shall be held by the holder of a  
15 plenary winery license or be situated on a premises licensed as a  
16 plenary winery.

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

31 Unless otherwise indicated, for the purposes of this subsection,  
32 with respect to farm winery licenses, "manufacture" means the  
33 vinification, aging, storage, blending, clarification, stabilization and  
34 bottling of wine **[or]** juice, or fermented cider from New Jersey  
35 fruit to the extent required by this subsection.

36 Wine blending license. 2c. The holder of this license shall be  
37 entitled, subject to rules and regulations, to blend, treat, mix, and  
38 bottle fermented wines and fruit juices with non-alcoholic  
39 beverages, and to sell and distribute his products to wholesalers and  
40 retailers licensed in accordance with this chapter, and to sell and  
41 distribute without this State to any persons pursuant to the laws of  
42 the places of such sale and distribution, and to maintain a  
43 warehouse. The fee for this license shall be \$625.

44 Instructional winemaking facility license. 2d. The holder of this  
45 license shall be entitled, subject to rules and regulations, to instruct  
46 persons in and provide them with the opportunity to participate  
47 directly in the process of winemaking and to directly assist such  
48 persons in the process of winemaking while in the process of

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

26 Winery-brewery sublicense. 2e. The holder of a plenary winery  
27 license or a farm winery license, provided that the licensee is  
28 engaged in farming on or adjacent to the winery premises and is  
29 growing and cultivating hops or another product used in the  
30 production of malt alcoholic beverages, shall be entitled, subject to  
31 rules and regulations, to brew any malt alcoholic beverages in a  
32 quantity expressed in the license not in excess of 3,000 barrels of 31  
33 fluid gallons capacity per year. The fee for this sublicense shall be  
34 \$750. The holder of this sublicense shall be entitled to maintain a  
35 warehouse and to sell his products at retail to consumers for  
36 consumption off the licensed premises and to offer samples for  
37 sampling purposes only. For purposes of this subsection,  
38 "sampling" means the selling at a nominal charge or the gratuitous  
39 offering of an open container not exceeding one and one-half  
40 ounces of any malt alcoholic beverage. No individual or entity  
41 shall hold more than one winery-brewery sublicense.

42 Plenary distillery license. 3a. The holder of this license shall be  
43 entitled, subject to rules and regulations, to manufacture any  
44 distilled alcoholic beverages and rectify, blend, treat and mix, and  
45 to sell and distribute his products to wholesalers and retailers  
46 licensed in accordance with this chapter, and to sell and distribute  
47 without this State to any persons pursuant to the laws of the places

1 of such sale and distribution, and to maintain a warehouse. The fee  
2 for this license shall be \$12,500.

3 Limited distillery license. 3b. The holder of this license shall be  
4 entitled, subject to rules and regulations, to manufacture and bottle  
5 any alcoholic beverages distilled from fruit juices and rectify,  
6 blend, treat, mix, compound with wine and add necessary  
7 sweetening and flavor to make cordial or liqueur, and to sell and  
8 distribute to wholesalers and retailers licensed in accordance with  
9 this chapter, and to sell and distribute without this State to any  
10 persons pursuant to the laws of the places of such sale and  
11 distribution and to warehouse these products. The fee for this  
12 license shall be \$3,750.

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

27 Rectifier and blender license. 4. The holder of this license shall  
28 be entitled, subject to rules and regulations, to rectify, blend, treat  
29 and mix distilled alcoholic beverages, and to fortify, blend, and  
30 treat fermented alcoholic beverages, and prepare mixtures of  
31 alcoholic beverages, and to sell and distribute his products to  
32 wholesalers and retailers licensed in accordance with this chapter,  
33 and to sell and distribute without this State to any persons pursuant  
34 to the laws of the places of such sale and distribution, and to  
35 maintain a warehouse. The fee for this license shall be \$7,500.

36 Bonded warehouse bottling license. 5. The holder of this license  
37 shall be entitled, subject to rules and regulations, to bottle alcoholic  
38 beverages in bond on behalf of all persons authorized by federal and  
39 State law and regulations to withdraw alcoholic beverages from  
40 bond. The fee for this license shall be \$625. This license shall be  
41 issued only to persons holding permits to operate Internal Revenue  
42 bonded warehouses pursuant to the laws of the United States.

43 The provisions of section 21 of P.L.2003, c.117 amendatory of  
44 this section shall apply to licenses issued or transferred on or after  
45 July 1, 2003, and to license renewals commencing on or after July  
46 1, 2003.

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

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

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STATEMENT

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7       This bill amends R.S.33:1-10 to: (1) establish a winery-brewery  
8 sublicense that would permit wineries to produce malt alcoholic  
9 beverages for retail sale to consumers for consumption off the  
10 licensed premises; (2) authorize farm wineries to produce fermented  
11 alcoholic cider, commonly called “hard cider”; and (3) establish a  
12 farm brewery license that would permit farm breweries to produce  
13 malt alcoholic beverages for retail sale to consumers for  
14 consumption off the licensed premises.

15       A farm brewery would operate in much the same manner as a  
16 farm winery, using locally grown farm products in brewing malt  
17 beverages which would be sold at the farm. A licensee would be  
18 required to be actively engaged in farming on or adjacent to the  
19 brewery site and to be actively cultivating hops or other products  
20 used in the production of the malt alcoholic beverages.

21       A farm brewery licensee would be permitted to brew up to 2,000  
22 barrels of malt alcoholic beverages a year for retail sale for  
23 consumption off the premises and to offer samples. A graduated  
24 license based on volume would range in cost from \$100 to \$300 a  
25 year. A single individual or entity would be permitted to hold only  
26 one farm brewery license.

27       The winery-brewery sublicense established by the bill would be  
28 available to plenary and farm winery licensees, provided they are  
29 actively engaged in farming on or adjacent to the winery premises  
30 and are growing and cultivating hops or another product used in the  
31 production of the malt alcoholic beverages.

32       Under the provisions of the bill, the holder of a winery-brewery  
33 sublicense would be permitted to brew up to 3,000 barrels of malt  
34 beverages a year and to sell this product at retail for off premises  
35 consumption and to offer samples. The bill does not authorize a  
36 licensee to sell any malt alcoholic beverages to wholesalers and  
37 retailers. The annual fee for this sublicense would be \$750.

38       A winery-brewery licensee would be permitted to hold only one  
39 such sublicense under the bill.