

ASSEMBLY, No. 1325

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman CELESTE M. RILEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Removes plenary retail distribution license limit for certain stores.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning certain alcoholic beverage licenses, amending
2 R.S.33:1-12, and supplementing Title 33 of the Revised Statutes.

3

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

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7 1. (New section) a. For the purposes of this act:

8 “Retail food store” means any retail establishment where
9 groceries and other foodstuffs are regularly and customarily sold in
10 a bona fide manner for off premises consumption.

11 “Groceries and other foodstuffs” means dairy products; meat and
12 delicatessen products; produce products; seafood products;
13 carbonated beverages; coffee and other beverages; snack foods;
14 candy products; baked products; paper products; household
15 cleaning items; health and beauty products; frozen foods; pet foods
16 and supplies; and any other edible product not previously listed.

17 b. The provisions of section 1 of P.L.1962, c.152 (C.33:1-
18 12.31) shall not apply to the acquisition of an additional plenary
19 retail distribution license or licenses or an interest therein when that
20 license is issued to a person:

21 (1) for use in connection with the operation of a retail food store
22 at which the retail sale of groceries and other food stuffs is the
23 primary and principal business and constitutes at least 65 percent of
24 the store’s total annual sales in dollars in the last full calendar year
25 preceding that person’s initial acquisition of the additional plenary
26 retail distribution license or licenses or 65 percent of the total
27 annual sales of the New Jersey food stores if the additional plenary
28 distribution license or licenses is for a newly constructed or
29 acquired store; or

30 (2) who certifies to the licensing authority that the additional
31 plenary retail distribution license or licenses is to be used in
32 connection with the operation of a premises at which the sale of
33 alcoholic beverages is the primary and principal business and will
34 constitute at least 90 percent of the store’s annual sales.

35 c. Upon application for renewal of a plenary retail distribution
36 license acquired pursuant to paragraph 1 of subsection b. of this
37 section, a licensee that has used the plenary retail distribution
38 license in connection with a retail food store for at least 18 months
39 prior to the renewal date shall furnish adequate proof to the
40 licensing authority that the combination of groceries or other food
41 stuffs and alcoholic beverages constitutes at least 65 percent of the
42 retail food store’s total annual sales in dollars in the last full
43 calendar year.

44 d. Upon application for renewal of a plenary retail distribution
45 license acquired pursuant to paragraph 2 of subsection b. of this

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 section, the licensee shall furnish adequate proof to the licensing
2 authority that the sale of alcoholic beverages constitutes at least 90
3 percent of the store's annual sales.

4 e. Immediately following the effective date of this act until the
5 first day of the 61st month following the effective date of this act, a
6 licensee who acquires an additional plenary retail distribution
7 license pursuant to this section shall be prohibited from acquiring or
8 owning all or part of an interest in more than five plenary retail
9 distribution licenses issued in this State, which number shall include
10 any plenary retail distribution license issued prior to the effective
11 date of this act.

12 f. On the first day of the 61st month following the effective
13 date of this act until the first day of the 121st month following the
14 effective date of this act, a licensee who acquires an additional
15 plenary retail distribution license pursuant to this section shall be
16 prohibited from acquiring or owning all or part of an interest in
17 more than seven plenary retail distribution licenses issued in this
18 State, which number shall include any plenary retail distribution
19 license issued prior to the effective date of this act.

20 g. On the first day of the 121st month following the effective
21 date of this act, a licensee who acquires an additional plenary retail
22 distribution license pursuant to this section shall be prohibited from
23 acquiring or owning all or part of an interest in more than 10
24 plenary retail distribution licenses issued in this State, which
25 number shall include any plenary retail distribution license issued
26 prior to the effective date of this act.

27 h. Nothing in this section shall be construed to authorize the
28 issuance of any new plenary retail distribution license in addition to
29 those currently permitted in a municipality pursuant to sections 2
30 and 3 of P.L.1947, c.94 (C.33:1-12.14 and 33:1-12.15).

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32 2. R.S.33:1-12 is amended to read as follows:

33 33:1-12. Plenary retail consumption license. 1. The holder of
34 this license shall be entitled, subject to rules and regulations, to sell
35 any alcoholic beverages for consumption on the licensed premises
36 by the glass or other open receptacle, and also to sell any alcoholic
37 beverages in original containers for consumption off the licensed
38 premises; but this license shall not be issued to permit the sale of
39 alcoholic beverages in or upon any premises in which a grocery,
40 delicatessen, drug store or other mercantile business is carried on,
41 except as hereinafter provided. The holder of this license shall be
42 permitted to conduct consumer wine, beer and spirits tasting events
43 and samplings for a fee or on a complimentary basis pursuant to
44 conditions established by rules and regulations of the Division of
45 Alcoholic Beverage Control, provided however, that the holder of
46 this license complies with the terms and conditions set forth in
47 section 3 of P.L.2009, c.216 (C.33:1-12d). Subject to such rules

1 and regulations established from time to time by the director, the
2 holder of this license shall be permitted to sell alcoholic beverages
3 in or upon the premises in which any of the following is carried on:
4 the keeping of a hotel or restaurant including the sale of mercantile
5 items incidental thereto as an accommodation to patrons; the sale, at
6 an entertainment facility as defined in R.S.33:1-1, having a seating
7 capacity for no less than 4,000 patrons, of mercantile items
8 traditionally associated with the type of event or program held at
9 the site; the sale of distillers', brewers' and vintners' packaged
10 merchandise prepacked as a unit with other suitable objects as gift
11 items to be sold only as a unit; the sale of novelty wearing apparel
12 identified with the name of the establishment licensed under the
13 provisions of this section; the sale of cigars, cigarettes, packaged
14 crackers, chips, nuts and similar snacks and ice at retail as an
15 accommodation to patrons, or the retail sale of nonalcoholic
16 beverages as accessory beverages to alcoholic beverages; or, in
17 commercial bowling establishments, the retail sale or rental of
18 bowling accessories and the retail sale from vending machines of
19 candy, ice cream and nonalcoholic beverages. The fee for this
20 license shall be fixed by the governing board or body of the
21 municipality in which the licensed premises are situated, by
22 ordinance, at not less than \$250 and not more than \$2,500. No
23 ordinance shall be enacted which shall raise or lower the fee to be
24 charged for this license by more than 20% from that charged in the
25 preceding license year or \$500.00, whichever is the lesser. The
26 governing board or body of each municipality may, by ordinance,
27 enact that no plenary retail consumption license shall be granted
28 within its respective municipality.

29 The holder of this license shall be permitted to obtain a restricted
30 brewery license issued pursuant to subsection 1c. of R.S.33:1-10
31 and to operate a restricted brewery immediately adjoining the
32 licensed premises in accordance with the restrictions set forth in
33 that subsection. All fees related to the issuance of both licenses
34 shall be paid in accordance with statutory law.

35 Seasonal retail consumption license. 2. The holder of this
36 license shall be entitled, subject to rules and regulations, to sell any
37 alcoholic beverages for consumption on the licensed premises by
38 the glass or other open receptacle, and also to sell any alcoholic
39 beverages in original containers for consumption off the licensed
40 premises, during the summer season from May 1 until November
41 14, inclusive, or during the winter season from November 15 until
42 April 30, inclusive; but this license shall not be issued to permit the
43 sale of alcoholic beverages in or upon any premises in which a
44 grocery, delicatessen, drug store or other mercantile business is
45 carried on, except as hereinafter provided. Subject to such rules
46 and regulations established from time to time by the director, the
47 holder of this license shall be permitted to sell alcoholic beverages

1 in or upon the premises in which any of the following is carried on:
2 the keeping of a hotel or restaurant including the sale of mercantile
3 items incidental thereto as an accommodation to patrons; the sale of
4 distillers', brewers' and vintners' packaged merchandise prepacked
5 as a unit with other suitable objects as gift items to be sold only as a
6 unit; the sale of novelty wearing apparel identified with the name of
7 the establishment licensed under the provisions of this section; the
8 sale of cigars, cigarettes, packaged crackers, chips, nuts and similar
9 snacks and ice at retail as an accommodation to patrons; or the retail
10 sale of nonalcoholic beverages as accessory beverages to alcoholic
11 beverages. The fee for this license shall be fixed by the governing
12 board or body of the municipality in which the licensed premises
13 are situated, by ordinance, at 75% of the fee fixed by said board or
14 body for plenary retail consumption licenses. The governing board
15 or body of each municipality may, by ordinance, enact that no
16 seasonal retail consumption license shall be granted within its
17 respective municipality.

18 Plenary retail distribution license. 3. a. The holder of this license
19 shall be entitled, subject to rules and regulations, to sell any
20 alcoholic beverages for consumption off the licensed premises, but
21 only in original containers; except that licensees shall be permitted
22 to conduct consumer wine, beer, and spirits tasting events and
23 samplings on a complimentary basis pursuant to conditions
24 established by rules and regulations of the Division of Alcoholic
25 Beverage Control, provided however, that the holder of this license
26 complies with the terms and conditions set forth in section 3 of
27 P.L.2009, c.216 (C.33:1-12d).

28 The governing board or body of each municipality may, by
29 ordinance, enact that this license shall not be issued to permit the
30 sale of alcoholic beverages in or upon any premises in which any
31 other mercantile business is carried on, except that any such
32 ordinance, heretofore or hereafter adopted, shall not prohibit the
33 retail sale of distillers', brewers' and vintners' packaged
34 merchandise prepacked as a unit with other suitable objects as gift
35 items to be sold only as a unit; the sale of novelty wearing apparel
36 identified with the name of the establishment licensed under the
37 provisions of this act; cigars, cigarettes, packaged crackers, chips,
38 nuts and similar snacks, ice, and nonalcoholic beverages as
39 accessory beverages to alcoholic beverages. The fee for this license
40 shall be fixed by the governing board or body of the municipality in
41 which the licensed premises are situated, by ordinance, at not less
42 than \$125 and not more than \$2,500. No ordinance shall be enacted
43 which shall raise or lower the fee to be charged for this license by
44 more than 20% from that charged in the preceding license year or
45 \$500.00, whichever is the lesser. The governing board or body of
46 each municipality may, by ordinance, enact that no plenary retail

1 distribution license shall be granted within its respective
2 municipality.

3 A license transfer fee shall be imposed on the initial transfer of
4 each plenary retail distribution license, which pursuant to section 1
5 of P.L. , c. (C.) (pending before the Legislature as this bill),
6 is transferred to a licensee holding two or more licenses. This
7 license transfer fee, which shall be equal to 10 percent of the price
8 paid for the plenary retail distribution license, shall be paid by the
9 acquiring licensee, at the time that the plenary retail distribution
10 license is transferred, to the municipality in which the licensed
11 premises is situated.

12 Limited retail distribution license. 3. b. The holder of this license
13 shall be entitled, subject to rules and regulations, to sell any
14 unchilled, brewed, malt alcoholic beverages in quantities of not less
15 than 72 fluid ounces for consumption off the licensed premises, but
16 only in original containers; provided, however, that this license
17 shall be issued only for premises operated and conducted by the
18 licensee as a bona fide grocery store, meat market, meat and
19 grocery store, delicatessen, or other type of bona fide food store at
20 which groceries or other foodstuffs are sold at retail; and provided
21 further that this license shall not be issued except for premises at
22 which the sale of groceries or other foodstuffs is the primary and
23 principal business and at which the sale of alcoholic beverages is
24 merely incidental and subordinate thereto. The fee for this license
25 shall be fixed by the governing body or board of the municipality in
26 which the licensed premises are situated, by ordinance, at not less
27 than \$31 and not more than \$63. The governing board or body of
28 each municipality may, by ordinance, enact that no limited retail
29 distribution license shall be granted within its respective
30 municipality.

31 Plenary retail transit license. 4. The holder of this license shall be
32 entitled, subject to rules and regulations, to sell any alcoholic
33 beverages, for consumption only, on railroad trains, airplanes,
34 limousines and boats, while in transit. The fee for this license for
35 use by a railroad or air transport company shall be \$375, for use by
36 the owners of limousines shall be \$31 per vehicle, and for use on a
37 boat shall be \$63 on a boat 65 feet or less in length, \$125 on a boat
38 more than 65 feet in length but not more than 110 feet in length,
39 and \$375 on a boat more than 110 feet in length; such boat lengths
40 shall be determined in the manner prescribed by the Bureau of
41 Customs of the United States Government or any federal agency
42 successor thereto for boat measurement in connection with issuance
43 of marine documents. A license issued under this provision to a
44 railroad or air transport company shall cover all railroad cars and
45 planes operated by any such company within the State of New
46 Jersey. A license for a boat or limousine issued under this
47 provision shall apply only to the particular boat or limousine for

1 which issued, and shall permit the purchase of alcoholic beverages
2 for sale or service in a boat or limousine to be made from any Class
3 A and B licensee or from any Class C licensee whose license
4 privilege permits the sale of alcoholic beverages in original
5 containers for off-premises consumption. An interest in a plenary
6 retail transit license issued in accordance with this section shall be
7 excluded in determining the maximum number of retail licenses
8 permitted under P.L.1962, c.152 (C.33:1-12.31 et seq.).

9 Club license. 5. The holder of this license shall be entitled,
10 subject to rules and regulations, to sell any alcoholic beverages but
11 only for immediate consumption on the licensed premises and only
12 to bona fide club members and their guests. The fee for this license
13 shall be fixed by the governing board or body of the municipality in
14 which the licensed premises are situated, by ordinance, at not less
15 than \$63 and not more than \$188. The governing board or body of
16 each municipality may, by ordinance, enact that no club licenses
17 shall be granted within its respective municipality. Club licenses
18 may be issued only to such corporations, associations and
19 organizations as are operated for benevolent, charitable, fraternal,
20 social, religious, recreational, athletic, or similar purposes, and not
21 for private gain, and which comply with all conditions which may
22 be imposed by the Director of the Division of Alcoholic Beverage
23 Control by rules and regulations.

24 The provisions of section 23 of P.L.2003, c.117 amendatory of
25 this section shall apply to licenses issued or transferred on or after
26 July 1, 2003, and to license renewals commencing on or after July
27 1, 2003.

28 (cf: P.L.2009, c.216, s.1)

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30 3. This act shall take effect immediately.

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STATEMENT

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35 Currently, the law prohibits any person or corporate entity from
36 holding more than two retail licenses to sell alcoholic beverages.
37 This bill increases the number of plenary retail distribution licenses
38 that a person may acquire when the license or licenses are used in
39 connection with the operation of a retail food store, or in connection
40 with the operation of a liquor store when the licensee certifies that
41 at least 90 percent of the store's annual sales are alcoholic
42 beverages.

43 While the bill increases the number of retail licenses that one
44 person may acquire, the total number of licenses held by one person
45 is still restricted and gradually increases over time. Immediately
46 following the effective date of the bill, a person may own or have
47 an interest in a maximum of five retail licenses, including any retail

A1325 GREENWALD, RILEY

1 license acquired prior to the bill's effective date. Five years
2 following the effective date of the bill, a person may hold no more
3 than a total of seven retail licenses. Finally, 10 years following the
4 bill's effective date, a person may hold no more than a total of 10
5 retail licenses.

6 Individuals who acquire more than two licenses under the
7 provisions of the bill are required to pay a license transfer fee on
8 each additional license that they acquire. The transfer fee is set at
9 10 percent of the amount the entity paid for the license and is
10 payable to the municipality in which the licensed premises is
11 situated.

12 It is important to note that this bill does not increase the number
13 of licenses that a municipality may issue.