

P.L. 2009, CHAPTER 216, approved January 16, 2010

Senate Committee Substitute for

Senate, No. 2098

An Act concerning alcoholic beverage tastings and samplings, amending R.S.33:1-12, and supplementing Title 33 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

33:1-12. Class C licenses shall be subdivided and classified as follows:

Plenary retail consumption license. 1. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises; but this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business is carried on, except as hereinafter provided. The holder of this license shall be permitted to conduct consumer wine, beer and spirits [tastings and samplings] tasting events and samplings for a fee or on a complimentary basis pursuant to conditions established by rules and regulations of the Division of Alcoholic Beverage Control, provided however, that the holder of this license complies with the terms and conditions set forth in section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill). Subject to such rules and regulations established from time to time by the director, the holder of this license shall be permitted to sell alcoholic beverages in or upon the premises in which any of the following is carried on: the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons; the sale, at an entertainment facility as defined in R.S.33:1-1, having a seating capacity for no less than 4,000 patrons, of mercantile items traditionally associated with the type of event or program

held at the site; the sale of distillers', brewers' and vintners' packaged merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section; the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons, or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages; or, in commercial bowling establishments, the retail sale or rental of bowling accessories and the retail sale from vending machines of candy, ice cream and nonalcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than \$250 and not more than \$2,500. No ordinance shall be enacted which shall raise or lower the fee to be charged for this license by more than 20% from that charged in the preceding license year or \$500.00, whichever is the lesser. The governing board or body of each municipality may, by ordinance, enact that no plenary retail consumption license shall be granted within its respective municipality.

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

Seasonal retail consumption license. 2. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises, during the summer season from May 1 until November 14, inclusive, or during the winter season from November 15 until April 30, inclusive; but this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business is carried on, except as hereinafter provided. Subject to such rules and regulations established from time to time by the director, the holder of this license shall be permitted to sell alcoholic beverages in or upon the premises in which any of the following is carried on: the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons;

the sale of distillers', brewers' and vintners' packaged merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section; the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons; or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at 75% of the fee fixed by said board or body for plenary retail consumption licenses. The governing board or body of each municipality may, by ordinance, enact that no seasonal retail consumption license shall be granted within its respective municipality.

Plenary retail distribution license. 3. a. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption off the licensed premises, but only in original containers; except that licensees shall be permitted to conduct consumer wine [tastings and samplings] , beer, and spirits tasting events and samplings on a complimentary basis pursuant to conditions established by rules and regulations of the Division of Alcoholic Beverage Control, provided [,] however [:

(1) patrons are limited to four one-and-one-half ounce samples in any 24-hour period;

(2) samples are not offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic beverages or intoxicated person;

(3) samples are not offered when the sale of alcoholic beverages is otherwise prohibited; and

(4) tastings and samplings are confined to the licensed premises and all wine used in the tastings and samplings shall be owned by the licensee conducting these tastings and samplings.

Notwithstanding the imposition of any other penalty that may be lawfully imposed, a person who violates paragraphs (1) through (4) of this subsection shall be fined an amount to be established by the division] , that the holder

of this license complies with the terms and conditions set forth in section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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

Plenary retail transit license. 4. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages, for consumption only, on railroad trains, airplanes, limousines and boats, while in transit. The fee for this license for use by a railroad or air transport company shall be \$375, for use by the owners of limousines shall be \$31 per vehicle, and for use on a boat shall be \$63 on a boat 65 feet or less in length, \$125 on a boat more than 65 feet in length but not more than 110 feet in length, and \$375 on a boat more than 110 feet in length; such boat lengths shall be determined in the manner prescribed by the Bureau of Customs of the United States Government or any federal agency successor thereto for boat measurement in connection with issuance of marine documents. A license issued under this provision to a railroad or air transport company shall cover all railroad cars and planes operated by any such company within the State of New Jersey. A license for a boat or limousine issued under this provision shall apply only to the particular boat or limousine for which issued, and shall permit the purchase of alcoholic beverages for sale or service in a boat or limousine to be made from any Class A and B licensee or from any Class C licensee whose license privilege permits the sale of alcoholic beverages in original containers for off-premises consumption. An interest in a plenary retail transit license issued in accordance with this section shall be excluded in determining the maximum number of retail licenses permitted under P.L.1962, c.152 (C.33:1-12.31 et seq.).

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

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

(cf: P.L.2003, c.279, s.1)

2. (New section) As used in this act:

“Sample” means a small amount of an alcoholic beverage.

“Sampling” means a licensee or permittee offering a sample to a consumer for the purpose of inducing or promoting a sale.

“Tasting event” means a scheduled event hosted by a licensee or permittee, at which samples may be provided, that may be open to the general public or limited by invitation.

3. (New section) The following terms and conditions shall apply to consumer wine, beer, and spirits tasting events and samplings conducted by or on the premises of the holder of a plenary retail consumption license or plenary retail distribution license:

a. Samples shall not be offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic beverages or an intoxicated person;

b. Tasting events and samplings shall not be conducted when the sale of alcoholic beverages is otherwise prohibited;

c. Tasting events and samplings shall be confined to the licensed premises;

d. In any one calendar day, each consumer shall be limited to no more than four one-and-one-half ounce samples of wine, four three ounce samples of beer, or three one-half ounce samples of spirits;

e. Any supplier, manufacturer, importer, wholesaler, solicitor, or an authorized representative licensed or permitted by the division may participate in, assist with, and promote consumer wine, beer, and spirits

tasting events up to two times per month at the licensed premises, but samples shall not be served by any employee of a wholesaler. A solicitor employed by a supplier, manufacturer or importer who holds a wholesale license, or an authorized representative licensed or permitted by the division, may serve samples at a tasting event;

f. Wine, beer, and spirits used in tasting events and samplings shall be owned by the plenary retail consumption or plenary retail distribution licensee;

g. Tasting events may be advertised in any type of media, including, but not limited to, print, radio, television, Internet, and signs, and these advertisements may include the date, time, and location of the event, such as the name and address of the licensed premises and other information regarding the event; and

h. A supplier, manufacturer, importer, wholesaler, solicitor, or authorized representative licensed or permitted by the division may provide the licensee upon whose premises the tasting event will be held with permissible advertising and promotional materials for use at the event and permissible consumer novelties for distribution to the consumer attending the event.

Notwithstanding any other penalty that may be lawfully imposed, a person who violates subsections a. through h. of this section shall be fined an amount to be established by the director.

4. This act shall take effect on the first day of the fourth month after enactment.

Revises law concerning tastings and samplings conducted by certain alcoholic beverage licensees.