

R.S. 33:1-12.13 and 12.20

Oct 4, 1967

LEGISLATIVE HISTORY OF R.S. 33:1-12.13 AND 12.20
(Intoxicating liquors-Renewal licenses-New licenses-Hotel operator license)

Original enactment was:

L. 1946 - Chapter 147 - S74

Introduced January 28 by Stanger.

Bill had statement (copy of original bill and
all other forms enclosed).

Amended in Senate.

Amended in Assembly.

Nullified by Supreme Court. *In re Kornbluh*, 134 N5L 529,
49 A2d 255

Current Law is:

L. 1947 - Chapter 94 - A199

Introduced March 3 by Mr. Brescher.

Bill had statement (copy of original bill and
all other forms enclosed).

Amended by Senate Committee

No hearings or reports were located.

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SENATE, No. 74

(Revised Statutes, Title 33, chap. 1.)

STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1946

By Mr. STANGER

. Referred to Committee on Alcoholic Beverage Control

AN ACT concerning alcoholic beverages; limiting the number of licenses to sell alcoholic beverages at retail, and supplementing chapter one, Title 33. of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. For the purposes of this act any license for a new license term, which
2 is issued to replace a license which expired on the last day of the license term
3 which immediately preceded the commencement of said new license term or
4 which is issued to replace a license which will expire on the last day of the
5 license term which immediately precedes the commencement of said new
6 license term, shall be deemed to be a renewal of the expired or expiring
7 license; *provided*, that said license is of the same class and type as the ex-
8 pired or expiring license, covers the same licensed premises, is issued to
9 the holder of the expired or expiring license and is issued pursuant to an
10 application therefor which shall have been filed with the proper issuing au-
11 thority prior to the commencement of said new license term or not later than
12 thirty days after the commencement thereof. Licenses issued otherwise than
13 as above herein provided shall be deemed to be new licenses.

1 2. Except as otherwise provided in this act, no new plenary retail con-
2 sumption or seasonal retail consumption license shall be issued in a municipi-

3 pality unless and until the combined total number of such licenses existing
4 in the municipality is fewer than one for each one thousand of its popula-
5 tion as shown by the last then preceding Federal census; and no new plenary
6 retail distribution license shall be issued in a municipality unless and until the
7 number of such licenses existing in the municipality is fewer than one for
8 each three thousand of its population as shown by the last then preceding
9 Federal census.

1 3. Nothing in this act shall prevent the issuance and existence of one
2 plenary or seasonal retail consumption license and one plenary retail distri-
3 bution license in a municipality whose population as shown by the last then
4 preceding Federal census is less than one thousand.

1 4. Nothing in this act shall prevent the renewal of licenses existing on
2 the effective date of this act, or the transfer of such licenses or the renewal
3 of licenses so transferred.

1 5. Nothing in this act shall prevent the issuance in a municipality of a
2 seasonal retail consumption license to a person who held such a license in the
3 municipality for the same premises, and for the same seasonal period, dur-
4 ing the then next preceding summer or winter season, nor shall anything in
5 this act prevent the transfer of such a license so issued.

1 6. Nothing in this act shall prevent the issuance of a new license, appli-
2 cation for which was duly and properly filed on or before April first, one
3 thousand nine hundred and forty-six.

1 7. Nothing in this act shall be deemed to prevent the issuance of a new
2 license to a person who files application therefor within sixty days following
3 the expiration of the license renewal period if the State commissioner shall
4 determine in writing that the applicant's failure to apply for a renewal of
5 his license was due to circumstances beyond his control.

1 8. Nothing in this act shall prevent the issuance, in a municipality, of
2 a new license to a person who, having held a license of the same class in
3 the municipality, surrendered his license or permitted it to expire because of
4 his induction into or service in the armed forces of the United States; *pro-*

5 *vided, however, that such ex-licensee shall have filed the application for a*
6 *new license within one year from the completion of his active service in said*
7 *armed forces.*

1 9. Nothing in this act shall prevent the issuance of seasonal retail con-
2 sumption licenses, in a municipality, in excess of the number of licenses per-
3 mitted in section two if the State commissioner shall determine that the
4 municipality is in a resort area; *provided, however, that in no event shall*
5 *the combined total number of plenary and seasonal retail consumption li-*
6 *censes exceed one to each one thousand of the municipality's peak seasonal*
7 *population as such population shall be determined by the commissioner from*
8 *the best available estimate thereof.*

1 10. Nothing in this act shall prevent the issuance, in a municipality, of
2 a new license to a person who operates a hotel containing fifty (50) sleeping
3 rooms or who may hereafter construct and establish a new hotel containing
4 at least fifty (50) sleeping rooms.

1 11. This act is in addition to and not in exclusion of municipal regula-
2 tions, limiting the number of licenses to sell alcoholic beverages at retail,
3 duly adopted pursuant to the authority granted by section 33:1-40 of the Re-
4 vised Statutes.

1 12. This act shall take effect immediately.

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3 pality unless and until the combined total number of such licenses existing
4 in the municipality is fewer than one for each one thousand of its popula-
5 tion as shown by the last then preceding Federal census; and no new plenary
6 retail distribution license shall be issued in a municipality unless and until the
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8 each three thousand of its population as shown by the last then preceding
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3 bution license in a municipality whose population as shown by the last then
4 preceding Federal census is less than one thousand.

1 4. Nothing in this act shall prevent the renewal of licenses existing on
2 the effective date of this act, or the transfer of such licenses or the renewal
3 of licenses so transferred.

1 5. Nothing in this act shall prevent the issuance in a municipality of a
2 seasonal retail consumption license to a person who held such a license in the
3 municipality for the same premises, and for the same seasonal period, dur-
4 ing the then next preceding summer or winter season, nor shall anything in
5 this act prevent the transfer of such a license so issued.

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2 a new license to a person who, having held a license of the same class in
3 the municipality, surrendered his license or permitted it to expire because of
4 his induction into or service in the armed forces of the United States; *pro-*

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6 *new license within one year from the completion of his active service in said*
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2 tions, limiting the number of licenses to sell alcoholic beverages at retail,
3 duly adopted pursuant to the authority granted by section 33:1-40 of the Re-
4 vised Statutes.

1 10. This act shall take effect immediately.

STATEMENT

In 1933 the Legislature stated: "It shall be the duty of the commissioner to supervise the manufacture, distribution and sale of alcoholic beverages in such a manner as to promote temperance and eliminate the racketeer and bootlegger." (R. S. 33:1-3.)

Experience has demonstrated that there are issued and outstanding in New Jersey far more licenses to sell alcoholic beverages at retail than are necessary to meet public convenience. The existence of an overabundance of retail liquor licenses, as distinguished from other retail establishments, results in dangerous cutthroat competition—violations of law, State and local regulations. These violations, in part the result of economic pressures developed by competition between licensees for survival, promote intemperance, aggravate the problem of the local authorities, and develop opposition to the whole licensing system.

Municipal officials are aware of this problem. In many municipalities ordinances have been adopted limiting the number of licenses that may be issued and outstanding at the same time. In many other municipalities, however, there is no limitation. The problem is not susceptible of solution unless the limitation is State-wide. Competition in one municipality may, and frequently does, seriously jeopardize the welfare of citizens and licensees in adjoining municipalities.

As of June 30, 1945, the following licenses were outstanding:

Plenary retail consumption.....	9,063
Plenary retail distribution.....	1,609
Seasonal retail consumption.....	39

According to the 1940 Federal census, the State's population was 4,160,165. It is now somewhat higher. Of the total 1940 population, approximately 35 per cent was under twenty-one years of age. Thus, the number of residents to whom alcoholic beverages may legally be sold is reduced to approximately 2,700,000. Of these, a substantial number are "drys." Including the latter, however, in our considerations we have one retail consumption license for each 297 adult persons. This ratio is, of course, on a State-wide basis and does not indicate the ratio in particular municipalities. Some of our municipalities issue no licenses while in other municipalities there are fewer retail licenses than 1 for each 1,000 persons. But in many of our municipalities there are many more licenses than 1 to each 500 residents, including men, women and children.

One thousand six hundred and nine plenary retail distribution licenses (retail consumption licensees are also permitted to sell by the package for off-premises consumption) means 1 for each 1,680 adult persons, according to the 1940 census.

There is a regrettable trend in some instances to increase the number of licenses issued:

Plenary retail consumption licenses issued

1943	1944	1945
8,860	8,963 (103+)	?

Plenary retail distribution licenses issued

1943	1944	1945
1,500	1,579 (79+)	?

While the State Department has taken the position that the primary purpose of the Alcoholic Beverage Law, State and local regulations is control, not revenue, it is to be noted that most municipalities are presently imposing fees well below the maximum permitted by State law.

The act is neither harsh nor drastic. It does not prevent renewals and transfers of outstanding licenses; does not prevent issuance of new licenses to those whose applications for licenses have been filed and are pending; protects ex-licensees who have given up their licenses to enter the armed forces; and permits issuance of a new license to an individual whose failure to apply for a renewal within the statutory period is determined in writing by the State Commissioner to have been due to circumstances beyond the licensee's control.

Licenses already issued and outstanding may be renewed and transferred even though the municipality's licenses are greater in number than the quota figures set forth in the act.

The act will not abrogate or prohibit municipal limitation ordinances. Although the act is applicable to all municipalities, a municipality enacted limitation, which is more restrictive than is the act, will control.

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SENATE, No. 74

(Revised Statutes, Title 33, chap. 1.)

STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1946

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13 as above herein provided shall be deemed to be new licenses.

1 2. Except as otherwise provided in this act, no new plenary retail con-
2 sumption or seasonal retail consumption license shall be issued in a munici-

3 pality unless and until the combined total number of such licenses existing
4 in the municipality is fewer than one for each one thousand of its popula-
5 tion as shown by the last then preceding Federal census; and no new plenary
6 retail distribution license shall be issued in a municipality unless and until the
7 number of such licenses existing in the municipality is fewer than one for
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1 3. Nothing in this act shall prevent the issuance and existence of one
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3 bution license in a municipality whose population as shown by the last then
4 preceding Federal census is less than one thousand.

1 4. Nothing in this act shall prevent the renewal of licenses existing on
2 the effective date of this act, or the transfer of such licenses or the renewal
3 of licenses so transferred.

1 5. Nothing in this act shall prevent the issuance in a municipality of a
2 seasonal retail consumption license to a person who held such a license in the
3 municipality for the same premises, and for the same seasonal period, dur-
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5 this act prevent the transfer of such a license so issued.

1 6. Nothing in this act shall prevent the issuance of a new license, appli-
2 cation for which was duly and properly filed on or before April first, one
3 thousand nine hundred and forty-six.

1 7. Nothing in this act shall be deemed to prevent the issuance of a new
2 license to a person who files application therefor within sixty days following
3 the expiration of the license renewal period if the State commissioner shall
4 determine in writing that the applicant's failure to apply for a renewal of
5 his license was due to circumstances beyond his control.

1 8. Nothing in this act shall prevent the issuance, in a municipality, of
2 a new license to a person who, having held a license of the same class in
3 the municipality, surrendered his license or permitted it to expire because of
4 his induction into or service in the armed forces of the United States; *pro-*

5 *vided, however,* that such ex-licensee shall have filed the application for a
6 new license within one year from the completion of his active service in said
7 armed forces.

1 9. This act is in addition to and not in exclusion of municipal regula-
2 tions, limiting the number of licenses to sell alcoholic beverages at retail,
3 duly adopted pursuant to the authority granted by section 33:1-40 of the Re-
4 vised Statutes.

1 10. This act shall take effect immediately.

[OFFICIAL COPY REPRINT]
ASSEMBLY AMENDMENT TO
SENATE, No. 74

STATE OF NEW JERSEY

ADOPTED APRIL 11, 1946

On page 3, paragraph 10, line 2, strike out the words "may hereafter construct and establish a new hotel containing at least fifty sleeping rooms" and insert in lieu thereof "operates a hotel containing at least fifty sleeping rooms or who may hereafter construct and establish a new hotel containing at least fifty sleeping rooms."

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 74

(Revised Statutes, Title 33, chap. 1.)

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5 his license was due to circumstances beyond his control.

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3 the municipality, surrendered his license or permitted it to expire because of
4 his induction into or service in the armed forces of the United States; *pro-*

5 *vided, however,* that such ex-licensee shall have filed the application for a
6 new license within one year from the completion of his active service in said
7 armed forces.

1 9. Nothing in this act shall prevent the issuance of seasonal retail con-
2 sumption licenses, in a municipality, in excess of the number of licenses per-
3 mitted in section two if the State commissioner shall determine that the
4 municipality is in a resort area; *provided, however,* that in no event shall
5 the combined total number of plenary and seasonal retail consumption li-
6 censes exceed one to each one thousand of the municipality's peak seasonal
7 population as such population shall be determined by the commissioner from
8 the best available estimate thereof.

1 10. Nothing in this act shall prevent the issuance, in a municipality, of
2 a new license to a person who may hereafter construct and establish a new
3 hotel containing at least fifty sleeping rooms.

1 11. This act is in addition to and not in exclusion of municipal regula-
2 tions, limiting the number of licenses to sell alcoholic beverages at retail,
3 duly adopted pursuant to the authority granted by section 33:1-40 of the Re-
4 vised Statutes.

1 12. This act shall take effect immediately.

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 199

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 10, 1947

By Mr. BRESCHER

Referred to Committee on Alcoholic Beverage Control

AN ACT concerning alcoholic beverages; limiting the number of licenses to sell alcoholic beverages at retail, and supplementing chapter one, Title 33, of the Revised Statutes.

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5 license term which immediately precedes the commencement of said new
6 license term, shall be deemed to be a renewal of the expired or expiring
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8 expired or expiring license, covers the same licensed premises, is issued to
9 the holder of the expired or expiring license and is issued pursuant to an
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11 ority prior to the commencement of said new license term or not later than
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2 sumption or seasonal retail consumption license shall be issued in a munici-
3 pality unless and until the combined total number of such licenses existing

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5 tion as shown by the last then preceding Federal census; and no new plenary
6 retail distribution license shall be issued in a municipality unless and until
7 the number of such licenses existing in the municipality is fewer than one
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7 armed forces.

1 8. Nothing in this act shall prevent the issuance, in a municipality, of a
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3 or who may hereafter construct and establish a new hotel containing at
4 least fifty sleeping rooms.

1 9. This act is in addition to and not in exclusion of municipal regula-
2 tions, limiting the number of licenses to sell alcoholic beverages at retail,
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1 10. This act shall take effect May fifteenth, one thousand nine hundred
2 and forty-seven.

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3 or who may hereafter construct and establish a new hotel containing at
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1 10. This act shall take effect immediately.

STATEMENT

This bill is the same as was Senate Bill No. 74, as introduced January 28, 1946, except that it omits former section 6 which resulted in great confusion and the eventual nullification by the Supreme Court of the 1946 State Limitation Law (P. L. 1946, c. 147); and except, further, that it adds the provision in favor of hotels (section 8) which was added by amendment to Senate Bill No. 74 (1946).

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6 license term, shall be deemed to be a renewal of the expired or expiring
7 license; *provided*, that said license is of the same class and type as the
8 expired or expiring license, covers the same licensed premises, is issued to
9 the holder of the expired or expiring license and is issued pursuant to an
10 application therefor which shall have been filed with the proper issuing auth-
11 ority prior to the commencement of said new license term or not later than
2 thirty days after the commencement thereof. Licenses issued otherwise than
3 as above herein provided shall be deemed to be new licenses.

1 2. Except as otherwise provided in this act, no new plenary retail con-
2 sumption or seasonal retail consumption license shall be issued in a munici-
3 pality unless and until the combined total number of such licenses existing

4 in the municipality is fewer than one for each one thousand of its popula-
5 tion as shown by the last then preceding Federal census; and no new plenary
6 retail distribution license shall be issued in a municipality unless and until
7 the number of such licenses existing in the municipality is fewer than one
8 for each three thousand of its population as shown by the last then preced-
9 ing Federal census.

1 3. Nothing in this act shall prevent the issuance and existence of one
2 plenary or seasonal retail consumption license and one plenary retail dis-
3 tribution license in a municipality whose population as shown by the last then
4 preceding Federal census is less than one thousand.

1 4. Nothing in this act shall prevent the renewal of licenses existing on
2 the effective date of this act, or the transfer of such licenses or the renewal
3 of licenses so transferred.

1 5. Nothing in this act shall prevent the issuance in a municipality of a
2 seasonal retail consumption license to a person who held such a license in the
3 municipality for the same premises, and for the same seasonal period, during
4 the then next preceding summer or winter season, nor shall anything in this
5 act prevent the transfer of such a license so issued.

1 6. Nothing in this act shall be deemed to prevent the issuance of a new
2 license to a person who files application therefor within sixty days following
3 the expiration of the license renewal period if the State commissioner shall
4 determine in writing that the applicant's failure to apply for a renewal of
5 his license was due to circumstances beyond his control.

1 7. Nothing in this act shall prevent the issuance, in a municipality, of a
2 new license to a person who, having held a license of the same class in the
3 municipality, surrendered his license or permitted it to expire because of
4 his induction into or service in the armed forces of the United States; *pro-*
5 *vided, however,* that such ex-licensee shall have filed the application for a
6 new license within one year from the completion of his active service in said
7 armed forces.

1 8. Nothing in this act shall prevent the issuance, in a municipality, of a
2 new license to a person who operates a hotel containing fifty sleeping rooms
3 or who may hereafter construct and establish a new hotel containing at
4 least fifty sleeping rooms.

1 9. This act is in addition to and not in exclusion of municipal regula-
2 tions, limiting the number of licenses to sell alcoholic beverages at retail,
3 duly adopted pursuant to the authority granted by section 33:1-40 of the Re-
4 vised Statutes.

1 10. This act shall take effect immediately.

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SENATE COMMITTEE AMENDMENT TO

ASSEMBLY, No. 199

STATE OF NEW JERSEY

ADOPTED MARCH 31, 1947

On page 3, paragraph 10, line 1, strike out the word "immediately" and insert in lieu thereof "May fifteenth, one thousand nine hundred and forty-seven."