

33:1-10

LEGISLATIVE HISTORY CHECKLIST
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(Brewery pubs--operation)

NJSA: 33:1-10

LAWS OF: 1993 **CHAPTER:** 216

BILL NO: A2354

SPONSOR(S) Kavanaugh and Penn

DATE INTRODUCED: March 1, 1993

COMMITTEE: **ASSEMBLY:** Judiciary

SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage
Third reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** June 21, 1993

SENATE: June 28, 1993

DATE OF APPROVAL: July 30, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FISCAL NOTE: ~~No~~ YES

VETO MESSAGE: No

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FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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[THIRD REPRINT]
ASSEMBLY, No. 2354

STATE OF NEW JERSEY

INTRODUCED MARCH 1, 1993

By Assemblymen KAVANAUGH and PENN

1 AN ACT concerning the operation of brewery pubs, amending
2 R.S.33:1-10 ²R.S.33:1-12, R.S.33:1-43² and P.L.1989, c.51, and
3 supplementing Title 54 of the Revised Statutes.

4

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

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

8 33:1-10. Plenary brewery license. 1a. The holder of this
9 license shall be entitled, subject to rules and regulations, to brew
10 any malt alcoholic beverages and to sell and distribute his
11 products to wholesalers and retailers licensed in accordance with
12 this chapter, and to sell and distribute without this State to any
13 persons pursuant to the laws of the places of such sale and
14 distribution, and to maintain a warehouse. The fee for this
15 license shall be \$8,500.00.

16 Limited brewery license. 1b. The holder of this license shall
17 be entitled, subject to rules and regulations, to brew any malt
18 alcoholic beverages in a quantity to be expressed in said license,
19 dependent upon the following fees and not in excess of 300,000
20 barrels of 31 fluid gallons capacity per year and to sell and
21 distribute this product to wholesalers and retailers licensed in
22 accordance with this chapter, and to sell and distribute without
23 this State to any persons pursuant to the laws of the places of
24 such sale and distribution, and to maintain a warehouse. The fee
25 for this license shall be graduated as follows: to so brew not more
26 than 50,000 barrels of 31 fluid gallons capacity per annum,
27 \$1,000.00; to so brew not more than 100,000 barrels of 31 fluid
28 gallons capacity per annum, \$2,000.00; to so brew not more than
29 200,000 barrels of 31 fluid gallons capacity per annum, \$4,000.00;
30 to so brew not more than 300,000 barrels of 31 fluid gallons
31 capacity per annum, \$6,000.00.

32 ³Limited brewery pub license. 1c. The holder of this license
33 shall be entitled, subject to rules and regulations, to brew any
34 malt alcoholic beverages in a quantity to be expressed in such
35 license not in excess of ¹[7,500] 3,000¹ barrels of 31 fluid gallons
36 capacity per year. The licensee also shall be entitled to sell the
37 product at retail ¹for consumption on or off the licensed
38 premises¹ to consumers on the licensed premises of the brewery
39 ¹[for consumption on or off the premises and to offer samples for
40 sampling purposes only]¹; provided that the brewery shall be

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.

Matter enclosed in superscript numerals has been adopted as follows:

Assembly Bill Committee amendments adopted May 10, 1993.

Assembly floor amendments adopted June 10, 1993.

Assembly floor amendments adopted June 17, 1993.

1 operated in conjunction with a restaurant regularly and
2 principally used for the purpose of providing meals to its
3 customers and having adequate kitchen and dining room
4 facilities. The licensee shall not sell any malt alcoholic beverage
5 which was not brewed on the premises¹. The fee for this license
6 shall be ¹[\$500.00]\$1000.00¹. The licensee also shall pay an
7 additional \$500 for every 1000 barrels of 31 fluid gallons
8 produced. ¹No more than two limited brewery licenses shall be
9 issued per licensee. If the governing body of the municipality in
10 which the licensed premises will be located should file a written
11 objection, the Director shall hold a hearing and may only issue
12 the license if the Director finds that the issuance of the license
13 will not be contrary to the public interest.¹

14 Restricted Brewery License. 1c. The holder of this license
15 shall be entitled, subject to rules and regulations, to brew any
16 malt alcoholic beverages in a quantity to be expressed in such
17 license not in excess of 3,000 barrels of 31 fluid gallons capacity
18 per year. Notwithstanding the provisions of R.S.33:1-26, the
19 director shall issue a restricted brewery license only to a person
20 or an entity which has identical ownership to an entity which
21 holds a plenary retail consumption license issued pursuant to
22 R.S.33:1-12, provided that such plenary retail consumption
23 license is operated in conjunction with a restaurant regularly and
24 principally used for the purpose of providing meals to its
25 customers and having adequate kitchen and dining room facilities,
26 and that the licensed restaurant premises is immediately
27 adjoining the premises licensed as a restricted brewery. The
28 holder of this license shall only be entitled to sell or deliver the
29 product to that restaurant premises. The fee for this license
30 shall be \$1,000, which fee shall entitle the holder to brew up to
31 1,000 barrels of 31 fluid gallons per annum. The licensee also
32 shall pay an additional \$500 for every additional 1,000 barrels of
33 31 fluid gallons produced. No more than two restricted brewery
34 licenses shall be issued to a person or entity which holds an
35 interest in a plenary retail consumption license. If the governing
36 body of the municipality in which the licensed premises will be
37 located should file a written objection, the director shall hold a
38 hearing and may issue the license only if the director finds that
39 the issuance of the license will not be contrary to the public
40 interest. All fees related to the issuance of both licenses shall be
41 paid in accordance with statutory law.³

42 Plenary winery license. 2a. Provided that the holder is
43 engaged in growing and cultivating grapes or fruit used in the
44 production of wine on at least three acres on, or adjacent to, the
45 winery premises, the holder of this license shall be entitled,
46 subject to rules and regulations, to produce any fermented wines,
47 and to blend, fortify and treat wines, and to sell and distribute his
48 products to wholesalers and retailers licensed in accordance with
49 this chapter and to churches for religious purposes, and to sell
50 and distribute without this State to any persons pursuant to the
51 laws of the places of such sale and distribution, and to maintain a
52 warehouse, and to sell his products at retail to consumers on the
53 licensed premises of the winery for consumption on or off the
54 premises and to offer samples for sampling purposes only. The fee

1 for this license shall be \$750.00. The holder of this license shall
2 also have the right to sell such wine at retail in original packages
3 in two salesrooms apart from the winery premises for
4 consumption off the premises and for sampling purposes for
5 consumption on the premises, at a fee of \$200.00 for each
6 salesroom. Additionally, subject to rules and regulations, one
7 salesroom per county may be jointly controlled and operated by
8 at least five plenary or farm winery licensees for the sale of the
9 products produced under the licenses of such licensees for
10 consumption off the premises and for consumption on the licensed
11 premises for sampling purposes only, at an additional fee of
12 \$500.00 per county salesroom. Any plenary licensee who has
13 heretofore utilized a privilege to sell his products for
14 consumption on the premises at a salesroom other than the
15 licensed premises of the winery may retain that privilege at the
16 existing location. For the purposes of this subsection, "sampling"
17 means the selling at a nominal charge or the gratuitous offering
18 of an open container not exceeding one and one-half ounces of
19 any wine.

20 Farm winery license. 2b. The holder of this license shall be
21 entitled, subject to rules and regulations, to manufacture any
22 fermented wines and fruit juices in a quantity to be expressed in
23 said license, dependent upon the following fees and not in excess
24 of 50,000 gallons per year and to sell and distribute his products
25 to wholesalers and retailers licensed in accordance with this
26 chapter and to churches for religious purposes and to sell and
27 distribute without this State to any persons pursuant to the laws
28 of the places of such sale and distribution, and to maintain a
29 warehouse and to sell at retail to consumers for consumption on
30 or off the licensed premises and to offer samples for sampling
31 purposes only. The license shall be issued only when the winery
32 at which such fermented wines and fruit juices are manufactured
33 is located and constructed upon a tract of land exclusively under
34 the control of the licensee, provided that the licensee is actively
35 engaged in growing and cultivating an area of not less than three
36 acres on or adjacent to the winery premises and on which are
37 growing grape vines or fruit to be processed into wine or fruit
38 juice; and provided, further, that for the first five years of the
39 operation of the winery such fermented wines and fruit juices
40 shall be manufactured from at least 51% grapes or fruit grown in
41 the State and that thereafter they shall be manufactured from
42 grapes or fruit grown in this State at least to the extent required
43 for labeling as "New Jersey Wine" under the applicable federal
44 laws and regulations. The containers of all wine sold to
45 consumers by such licensee shall have affixed a label stating such
46 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
49 manufacture between 30,000 and 50,000 gallons per annum,
50 \$300.00; to so manufacture between 2,500 and 30,000 gallons per
51 annum, \$200.00; to so manufacture between 1,000 and 2,500
52 gallons per annum, \$100.00; to so manufacture less than 1,000
53 gallons per annum, \$50.00. No farm winery license shall be held
54 by the holder of a plenary winery license or be situated on a

1 premises licensed as a plenary winery.

2 The holder of this license shall also have the right to sell his
3 products in original packages at retail to consumers in two
4 salesrooms apart from the winery premises for consumption off
5 the premises, and for sampling purposes for consumption on the
6 premises, at a fee of \$200.00 for each salesroom. Additionally,
7 subject to rules and regulations, one salesroom per county may be
8 jointly controlled and operated by at least five plenary or farm
9 winery licensees for the sale of the products produced under the
10 licenses of such licensees for consumption off the premises and
11 for consumption on the licensed premises for sampling purposes
12 only, at an additional fee of \$500.00 per county salesroom. For
13 the purposes of this subsection, "sampling" means the selling at a
14 nominal charge or the gratuitous offering of an open container
15 not exceeding one and one-half ounces of any wine.

16 Unless otherwise indicated, for the purposes of this subsection,
17 with respect to farm winery licenses, "manufacture" means the
18 vinification, aging, storage, blending, clarification, stabilization
19 and bottling of wine or juice from New Jersey fruit to the extent
20 required by this subsection.

21 Wine blending license. 2c. The holder of this license shall be
22 entitled, subject to rules and regulations, to blend, treat, mix,
23 and bottle fermented wines and fruit juices with non-alcoholic
24 beverages, and to sell and distribute his products to wholesalers
25 and retailers licensed in accordance with this chapter, and to sell
26 and distribute without this State to any persons pursuant to the
27 laws of the places of such sale and distribution, and to maintain a
28 warehouse. The fee for this license shall be \$500.00.

29 Plenary distillery license. 3a. The holder of this license shall
30 be entitled, subject to rules and regulations, to manufacture any
31 distilled alcoholic beverages and rectify, blend, treat and mix,
32 and to sell and distribute his products to wholesalers and retailers
33 licensed in accordance with this chapter, and to sell and
34 distribute without this State to any persons pursuant to the laws
35 of the places of such sale and distribution, and to maintain a
36 warehouse. The fee for this license shall be \$10,000.00.

37 Limited distillery license. 3b. The holder of this license shall
38 be entitled, subject to rules and regulations, to manufacture and
39 bottle any alcoholic beverages distilled from fruit juices and
40 rectify, blend, treat, mix, compound with wine and add necessary
41 sweetening and flavor to make cordial or liqueur, and to sell and
42 distribute to wholesalers and retailers licensed in accordance
43 with this chapter, and to sell and distribute without this State to
44 any persons pursuant to the laws of the places of such sale and
45 distribution and to warehouse these products. The fee for this
46 license shall be \$3,000.00.

47 Supplementary limited distillery license. 3c. The holder of
48 this license shall be entitled, subject to rules and regulations, to
49 bottle and rebottle, in a quantity to be expressed in said license,
50 dependent upon the following fees, alcoholic beverages distilled
51 from fruit juices by such holder pursuant to a prior plenary or
52 limited distillery license, and to sell and distribute his products to
53 wholesalers and retailers licensed in accordance with this
54 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 maintain a warehouse. The fee for this
3 license shall be graduated as follows: to so bottle and rebottle not
4 more than 5,000 wine gallons per annum, \$250.00; to so bottle and
5 rebottle not more than 10,000 wine gallons per annum, \$500.00;
6 to so bottle and rebottle without limit as to amount, \$1,000.00.

7 Rectifier and blender license. 4. The holder of this license
8 shall be entitled, subject to rules and regulations, to rectify,
9 blend, treat and mix distilled alcoholic beverages, and to fortify,
10 blend, and treat fermented alcoholic beverages, and prepare
11 mixtures of alcoholic beverages, and to sell and distribute his
12 products to wholesalers and retailers licensed in accordance with
13 this chapter, and to sell and distribute without this State to any
14 persons pursuant to the laws of the places of such sale and
15 distribution, and to maintain a warehouse. The fee for this
16 license shall be \$6,000.00.

17 Bonded warehouse bottling license. 5. The holder of this
18 license shall be entitled, subject to rules and regulations, to
19 bottle alcoholic beverages in bond on behalf of all persons
20 authorized by federal and State law and regulations to withdraw
21 alcoholic beverages from bond. The fee for this license shall be
22 \$500.00. This license shall be issued only to persons holding
23 permits to operate Internal Revenue bonded warehouses pursuant
24 to the laws of the United States.

25 (cf: P.L.1989, c.209, s.1)

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

27 33:1-12. Class C licenses

28 Class C licenses shall be subdivided and classified as follows:

29 Plenary retail consumption license. 1. The holder of this license
30 shall be entitled, subject to rules and regulations, to sell any
31 alcoholic beverages for consumption on the licensed premises by
32 the glass or other open receptacle, and also to sell any alcoholic
33 beverages in original containers for consumption off the licensed
34 premises; but this license shall not be issued to permit the sale of
35 alcoholic beverages in or upon any premises in which a grocery,
36 delicatessen, drug store or other mercantile business is carried
37 on, except as hereinafter provided. Subject to such rules and
38 regulations established from time to time by the director, the
39 holder of this license shall be permitted to sell alcoholic
40 beverages in or upon the premises in which any of the following is
41 carried on: the keeping of a hotel or restaurant including the sale
42 of mercantile items incidental thereto as an accommodation to
43 patrons; the sale of distillers' and vintners' packaged holiday
44 merchandise prepacked as a unit with suitable glassware as gift
45 items to be sold only as a unit; the sale of novelty wearing
46 apparel identified with the name of the establishment licensed
47 under the provisions of this section; the sale of cigars, cigarettes,
48 packaged crackers, chips, nuts and similar snacks and ice at retail
49 as an accommodation to patrons, or the retail sale of
50 nonalcoholic beverages as accessory beverages to alcoholic
51 beverages; or, in commercial bowling establishments, the retail
52 sale or rental of bowling accessories and the retail sale from
53 vending machines of candy, ice cream and nonalcoholic
54 beverages. The fee for this license shall be fixed by the

1 governing board or body of the municipality in which the licensed
2 premises are situated, by ordinance, at not less than \$200.00 and
3 not more than \$2,000.00. No ordinance shall be enacted which
4 shall raise or lower the fee to be charged for this license by more
5 than 20% from that charged in the preceding license year or
6 \$500.00, whichever is the lesser. The governing board or body of
7 each municipality may, by ordinance, enact that no plenary retail
8 consumption license shall be granted within its respective
9 municipality.

10 The holder of this license shall be permitted to obtain a
11 ³[limited] restricted³ brewery ³[pub]³ license issued pursuant to
12 subsection 1c. of R.S.33:1-10 and to operate a ³restricted³
13 brewery ³[pub on the] immediately adjoining the³ licensed
14 premises in accordance with the restrictions set forth in that
15 section. All fees related to the issuance of both licenses shall be
16 paid in accordance with statutory law.

17 Seasonal retail consumption license. 2. The holder of this
18 license shall be entitled, subject to rules and regulations, to sell
19 any alcoholic beverages for consumption on the licensed premises
20 by the glass or other open receptacle, and also to sell any
21 alcoholic beverages in original containers for consumption off the
22 licensed premises, during the summer session from May 1 until
23 November 14, inclusive, or during the winter season from
24 November 15 until April 30, inclusive; but this license shall not be
25 issued to permit the sale of alcoholic beverages in or upon any
26 premises in which a grocery, delicatessen, drug store or other
27 mercantile business is carried on, except as hereinafter provided.
28 Subject to such rules and regulations established from time to
29 time by the director, the holder of this license shall be permitted
30 to sell alcoholic beverages in or upon the premises in which any
31 of the following is carried on: the keeping of a hotel or
32 restaurant including the sale of mercantile items incidental
33 thereto as an accommodation to patrons; the sale of distillers'
34 and vintners' packaged holiday merchandise prepacked as a unit
35 with suitable glassware as gift items to be sold only as a unit; the
36 sale of novelty wearing apparel identified with the name of the
37 establishment licensed under the provisions of this section; the
38 sale of cigars, cigarettes, packaged crackers, chips, nuts and
39 similar snacks and ice at retail as an accommodation to patrons;
40 or the retail sale of nonalcoholic beverages as accessory
41 beverages to alcoholic beverages. The fee for this license shall
42 be fixed by the governing board or body of the municipality in
43 which the licensed premises are situated, by ordinance, at 75% of
44 the fee fixed by said board or body for plenary retail consumption
45 licenses. The governing board or body of each municipality may,
46 by ordinance, enact that no seasonal retail consumption license
47 shall be granted within its respective municipality.

48 Plenary retail distribution license. 3. a. The holder of this
49 license shall be entitled, subject to rules and regulations, to sell
50 any alcoholic beverages for consumption off the licensed
51 premises, but only in original containers. The governing board or
52 body of each municipality may, by ordinance, enact that this
53 license shall not be issued to permit the sale of alcoholic
54 beverages in or upon any premises in which any other mercantile

1 business is carried on, except that any such ordinance, heretofore
2 or hereafter adopted, shall not prohibit the retail sale of
3 distillers' and vintners' packaged holiday merchandise prepacked
4 as a unit with suitable glassware as gift items to be sold only as a
5 unit; the sale of novelty wearing apparel identified with the name
6 of the establishment licensed under the provisions of this act;
7 cigars, cigarettes, packaged crackers, chips, nuts and similar
8 snacks, ice, and nonalcoholic beverages as accessory beverages to
9 alcoholic beverages. The fee for this license shall be fixed by the
10 governing board or body of the municipality in which the licensed
11 premises are situated, by ordinance, at not less than \$100.00 and
12 not more than \$2,000.00. No ordinance shall be enacted which
13 shall raise or lower the fee to be charged for this license by more
14 than 20% from that charged in the preceding license year or
15 \$500.00, whichever is the lesser. The governing board or body of
16 each municipality may, by ordinance, enact that no plenary retail
17 distribution license shall be granted within its respective
18 municipality.

19 Limited retail distribution license. 3. b. The holder of this
20 license shall be entitled, subject to rules and regulations, to sell
21 any unchilled, brewed, malt alcoholic beverages in quantities of
22 not less than 72 fluid ounces for consumption off the licensed
23 premises, but only in original containers; provided, however, that
24 this license shall be issued only for premises operated and
25 conducted by the licensee as a bona fide grocery store, meat
26 market, meat and grocery store, delicatessen, or other type of
27 bona fide food store at which groceries or other foodstuffs are
28 sold at retail; and provided further that this license shall not be
29 issued except for premises at which the sale of groceries or other
30 foodstuffs is the primary and principal business and at which the
31 sale of alcoholic beverages is merely incidental and subordinate
32 thereto. The fee for this license shall be fixed by the governing
33 body or board of the municipality in which the licensed premises
34 are situated, by ordinance, at not less than \$25.00 and not more
35 than \$50.00. The governing board or body of each municipality
36 may, by ordinance, enact that no limited retail distribution
37 license shall be granted within its respective municipality.

38 Plenary retail transit license. 4. The holder of this license shall
39 be entitled, subject to rules and regulations, to sell any alcoholic
40 beverages, for consumption only, on railroad trains, airplanes,
41 limousines and boats, while in transit. The fee for this license for
42 use by a railroad or air transport company shall be \$300.00, for
43 use by the owners of limousines shall be \$25.00 per vehicle, and
44 for use on a boat shall be \$50.00 on a boat 65 feet or less in
45 length, \$100.00 on a boat more than 65 feet in length but not
46 more than 110 feet in length, and \$300.00 on a boat more than
47 110 feet in length; such boat lengths shall be determined in the
48 manner prescribed by the Bureau of Customs of the United States
49 Government or any federal agency successor thereto for boat
50 measurement in connection with issuance of marine documents. A
51 license issued under this provision to a railroad or air transport
52 company shall cover all railroad cars and planes operated by any
53 such company within the State of New Jersey. A license for a
54 boat or limousine issued under this provision shall apply only to

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

10 Club license. 5. The holder of this license shall be entitled,
11 subject to rules and regulations, to sell any alcoholic beverages
12 but only for immediate consumption on the licensed premises and
13 only to bona fide club members and their guests. The fee for this
14 license shall be fixed by the governing board or body of the
15 municipality in which the licensed premises are situated, by
16 ordinance, at not less than \$50.00 and not more than \$150.00.
17 The governing board or body of each municipality may, by
18 ordinance, enact that no club licenses shall be granted within its
19 respective municipality. Club licenses may be issued only to such
20 corporations, associations and organizations as are operated for
21 benevolent, charitable, fraternal, social, religious, recreational,
22 athletic, or similar purposes, and not for private gain, and which
23 comply with all conditions which may be imposed by the
24 Commissioner of Alcoholic Beverage Control by rules and
25 regulations.²

26 (cf: P.L.1985, c.157, s.2)

27 ²3. R.S.33:1-43 is amended to read:

28 33:1-43. a. It shall be unlawful for any owner, part owner,
29 stockholder or officer or director of any corporation, or any other
30 person whatsoever interested in any way whatsoever in any
31 brewery, winery, distillery or rectifying and blending plant, or
32 any wholesaler of alcoholic beverages, to conduct, own either in
33 whole or in part, or be directly or indirectly interested in the
34 retailing of any alcoholic beverages in New Jersey except as
35 provided in this chapter, and such interest shall include any
36 payments or delivery of money or property by way of loan or
37 otherwise accompanied by an agreement to sell the product of
38 said brewery, winery, distillery, rectifying and blending plant or
39 wholesaler.

40 b. It shall be unlawful for any owner, part owner, stockholder
41 or officer or director of any corporation, or any other person
42 whatsoever, interested in any way whatsoever in the retailing of
43 alcoholic beverages to conduct, own either whole or in part, or to
44 be a shareholder, officer or director of a corporation or
45 association, directly or indirectly, interested in any brewery,
46 winery, distillery, rectifying and blending plant, or wholesaling or
47 importing interest of any kind whatsoever.

48 No interest in the retailing of alcoholic beverages shall be
49 deemed to exist by reason of the ownership, delivery or loan of
50 interior signs designed for and exclusively used for advertising
51 the product of or product offered for sale by such brewery,
52 winery, distillery or rectifying and blending plant or wholesaler.

53 c. Nothing in this section shall prohibit:

54 (1) The exercise of limited retail privileges by Class A or Class

1 B licenses conferred pursuant to R.S.33:1-10, R.S.33:1-11, by
2 rule or regulation or by special permit issued by the director;

3 (2) Any owner, part owner, stockholder, officer or director of
4 any corporation, or any other person whatsoever interested in any
5 way whatsoever in any brewery, winery, distillery, rectifying and
6 blending plant or any wholesaler of alcoholic beverages, from
7 conducting, owning, either in whole or in part, or being directly
8 or indirectly interested in the retailing of any alcoholic
9 beverages, under any retail consumption license or State issued
10 permit, in conjunction with and as a part of the operations of a
11 hotel or motel; [or]

12 (3) Any owner, part owner, stockholder or officer or director
13 of any corporation, or any other person or corporation interested
14 in any way whatsoever in the retailing of alcoholic beverages,
15 under a retail consumption license or State issued permit, in
16 conjunction with and as a part of the operations of a hotel or
17 motel from conducting, owning, either in whole or in part, or
18 being a shareholder, officer or director of a corporation or
19 association, directly or indirectly interested in any brewery,
20 winery, distillery, rectifying and blending plant, or wholesaling or
21 importing interest of any kind whatsoever; or

22 (4) The exercise of ³[limited manufacturing privileges by a
23 Class C licensee authorized to operate a limited brewery pub
24 pursuant to] a restricted brewery license privilege by an
25 immediately adjoining restaurant having a plenary retail
26 consumption license issued under³ R.S.33:1-12.

27 No more than 20% of the total gross annual revenues of a hotel
28 or motel described in paragraphs (2) and (3) shall be derived from
29 the sale of alcoholic beverages by the hotel or motel. A retail
30 licensee described in paragraphs (2) and (3) shall not purchase or
31 sell any alcoholic beverage product produced or sold by the
32 brewery, winery, distillery, rectifying and blending plant,
33 wholesaler or importer that has any interest in the retail license
34 of the hotel or motel, unless the total of all such products is 5%
35 or less of the total volume of alcoholic beverage products
36 purchased and sold annually by the hotel or motel holding the
37 retail license. The retail licensee shall, within 30 days following
38 the effective date of this act, file with the Division of Alcoholic
39 Beverage Control a list of all alcoholic beverage products which
40 shall not be purchased or sold by the hotel or motel except to the
41 extent permitted herein. Thereafter, the retail licensee shall file
42 a new or amended list with the division within 30 days of any
43 changed circumstances which affect the information on the list.
44 This list shall be made available to the public upon request.

45 For purposes of this subsection "hotel" or "motel" means an
46 establishment containing at least 100 guest room
47 accommodations where the relationship between the occupants
48 thereof and the owner or operator of the establishment is that of
49 innkeeper and guest.²

50 (cf: P.L.1987, c.433, s.1)

51 ²[2.] ^{4,2} Section 7 of P.L.1989, c.51 (C.26:2BB-7) is amended
52 to read as follows:

53 7. a. There is created an Alliance to Prevent Alcoholism and
54 Drug Abuse, hereinafter referred to as the "Alliance," in the

1 Governor's Council on Alcoholism and Drug Abuse. The purpose
2 of the Alliance is to create a network comprised of all the
3 communities in New Jersey which is dedicated to a
4 comprehensive and coordinated effort against alcoholism and
5 drug abuse. The Alliance shall be a mechanism both for
6 implementing policies to reduce alcoholism and drug abuse at the
7 municipal level, and for providing funds, including moneys from
8 mandatory penalties on drug offenders, to member communities
9 to support appropriate county and municipal-based alcohol and
10 drug abuse education and public awareness activities.

11 b. The Governor's Council on Alcoholism and Drug Abuse shall
12 adopt rules and regulations for participation in, and the operation
13 of, the Alliance and for the awarding of grants to municipalities
14 and counties from funds appropriated for such purposes pursuant
15 to P.L.1989, c.51 (C.26:2BB-1 et al.), section 3[3] 5³ of P.L. ,
16 c. (C.) (now pending before the Legislature as this bill) and
17 funds derived from the "Drug Enforcement and Demand
18 Reduction Fund" established pursuant to N.J.S.2C:35-15, for the
19 purpose of developing:

20 (1) Organized and coordinated efforts involving schools, law
21 enforcement, business groups and other community organizations
22 for the purpose of reducing alcoholism and drug abuse;

23 (2) In cooperation with local school districts, comprehensive
24 and effective alcoholism and drug abuse education programs in
25 grades kindergarten through 12;

26 (3) In cooperation with local school districts, procedures for
27 the intervention, treatment and discipline of students abusing
28 alcohol or drugs;

29 (4) Comprehensive alcoholism and drug abuse education,
30 support and outreach efforts for parents in the community; and

31 (5) Comprehensive alcoholism and drug abuse community
32 awareness programs.

33 c. Funds disbursed under this section shall not supplant local
34 funds that would have otherwise been made available for
35 alcoholism and drug abuse initiatives. Communities shall provide
36 matching funds when and to the extent required by the
37 regulations adopted pursuant to this section.

38 d. The county agency or individual designated by the governing
39 body of each county pursuant to subsection a. of section 4 of
40 P.L.1983, c.531 (C.26:2B-33), is authorized to receive from the
41 Governor's Council on Alcoholism and Drug Abuse moneys made
42 available pursuant to this section. The designated county agency
43 or individual shall establish a separate fund for the receipt and
44 disbursement of these moneys.

45 (cf: P.L.1989, c.51, s.7)

46 ²[3.] ^{5.2} (New section) Any amounts collected pursuant to the
47 "Alcoholic beverage tax law," R.S.54:41-1 et seq., from a
48 ³restricted³ brewery ³[pub licensed] license issued³ pursuant to
49 subsection 1c. of R.S.33:1-10 shall be credited to the Governor's
50 Council on Alcoholism and Drug Abuse to be allocated exclusively
51 to the Alliance to Prevent Alcoholism and Drug Abuse for the
52 purpose of awarding grants to municipalities and counties as
53 provided in subsection b. of section 7 of P.L.1989, c.51
54 (C.26:2BB-7).

1 ²[4.] 6.² This act shall take effect immediately.

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Authorizes operation of brew pubs; dedicates alcoholic beverage
tax proceeds to prevention of alcohol and drug abuse.

1 of, the Alliance and for the awarding of grants to municipalities
 2 and counties from funds appropriated for such purposes pursuant
 3 to P.L.1989, c.51 (C.26:2BB-1 et al.), section 3 of P.L. , c.
 4 (C.) (now pending before the Legislature as this bill) and
 5 funds derived from the "Drug Enforcement and Demand
 6 Reduction Fund" established pursuant to N.J.S.2C:35-15, for the
 7 purpose of developing:

8 (1) Organized and coordinated efforts involving schools, law
 9 enforcement, business groups and other community organizations
 10 for the purpose of reducing alcoholism and drug abuse;

11 (2) In cooperation with local school districts, comprehensive
 12 and effective alcoholism and drug abuse education programs in
 13 grades kindergarten through 12;

14 (3) In cooperation with local school districts, procedures for
 15 the intervention, treatment and discipline of students abusing
 16 alcohol or drugs;

17 (4) Comprehensive alcoholism and drug abuse education,
 18 support and outreach efforts for parents in the community; and

19 (5) Comprehensive alcoholism and drug abuse community
 20 awareness programs.

21 c. Funds disbursed under this section shall not supplant local
 22 funds that would have otherwise been made available for
 23 alcoholism and drug abuse initiatives. Communities shall provide
 24 matching funds when and to the extent required by the
 25 regulations adopted pursuant to this section.

26 d. The county agency or individual designated by the governing
 27 body of each county pursuant to subsection a. of section 4 of
 28 P.L.1983, c.531 (C.26:2B-33), is authorized to receive from the
 29 Governor's Council on Alcoholism and Drug Abuse moneys made
 30 available pursuant to this section. The designated county agency
 31 or individual shall establish a separate fund for the receipt and
 32 disbursement of these moneys.

33 (cf: P.L.1989, c.51, s.7)

34 3. (New section) Any amounts collected pursuant to the
 35 "Alcoholic beverage tax law," R.S.54:41-1 et seq., from a
 36 brewery pub licensed pursuant to subsection 1c. of R.S.33:1-10
 37 shall be credited to the Governor's Council on Alcoholism and
 38 Drug Abuse to be allocated exclusively to the Alliance to Prevent
 39 Alcoholism and Drug Abuse for the purpose of awarding grants to
 40 municipalities and counties as provided in subsection b. of section
 41 7 of P.L.1989, c.51 (C.26:2BB-7).

42 4. This act shall take effect immediately.

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 44
 45 *SPONSORS* STATEMENT

46
 47 The purpose of this bill is to authorize the operation of brewery
 48 pubs where malt alcoholic beverages may be produced and sold
 49 for consumption on and off the licensed premises.

50 The bill creates a limited brewery pub license which entitles
 51 the licensee to manufacture up 7,500 barrels of 31 fluid gallons
 52 capacity annually of malt alcoholic beverages. The licensee may
 53 sell the product at retail to consumers on the licensed premises
 54 of the brewery for consumption on or off the premises and to

1 offer samples for sampling purposes only.

2 The fee for the operation of a brewery pub would be \$500 per
3 year. The licensee also would pay an additional fee of \$500 for
4 every 1,000 barrels of 31 fluid gallons capacity produced.

5 Under the provisions of the bill, taxes levied on a brewery
6 pub's products pursuant to the "Alcoholic beverage tax law,"
7 R.S.54:41-1 et seq., would be forwarded to the Governor's
8 Council on Alcoholism and Drug Abuse to be allocated exclusively
9 to the Alliance to Prevent Alcoholism and Drug Abuse for the
10 purpose of providing grants to municipalities and counties. The
11 purpose of the alliance is to create a network comprised of all
12 the communities in New Jersey which is dedicated to a
13 comprehensive and coordinated effort against alcoholism and
14 drug abuse.

15 The operation of a brewery pub would not conflict with the
16 "tied house" prohibition in R.S.33:1-43 which prohibits any person
17 with an interest in any brewery from conducting or being directly
18 or indirectly interested in the retailing of any alcoholic
19 beverages. That section already contains an exception for any
20 limited retail privileges granted to a Class A licensee in
21 R.S.33:1-10, which would include brewery pubs under the
22 provisions of this bill.

23 Brewery or "brew" pubs have enjoyed increasing popularity in
24 the last 10 years. Between 1986 and 1992 the number of brewery
25 pubs in the United States grew from 15 to 140, with
26 establishments in Florida, Colorado, California, Massachusetts,
27 Pennsylvania and other states. Many of the pubs offer novelties
28 such as seasonal or commemorative brews and entrees that are
29 compatible with malt beverages.

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34 Authorizes operation of brew pubs; dedicates alcoholic beverage
35 tax proceeds to prevention of alcohol and drug abuse.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2354

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 10, 1993

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 2354.

The bill creates a limited brewery pub license by amending R.S.33:1-10. Under the original provisions of the bill a limited brewery pub licensee would be entitled to manufacture up 7,500 barrels of 31 fluid gallons capacity annually of malt alcoholic beverages. The licensee would also be allowed to sell the product at retail to consumers on the licensed premises of the brewery for consumption on or off the premises and to offer samples for sampling purposes only. The fee for the operation of a brewery pub would be \$500 per year. The licensee also would pay an additional fee of \$500 for every 1,000 barrels of 31 fluid gallons capacity produced.

The committee amended the bill to limit the number of barrels from 7,500 to 3,000 annually. The committee amendments would also eliminate the language about sampling and would include new language providing that the brewery must be operated in conjunction with a restaurant. The licensee shall not sell any malt alcoholic beverage which was not brewed on the premises. In addition, the committee amended the bill to increase the fee for the limited brewery pub license from \$500 to \$1,000. The amendments would also limit the number of licenses issued to two per licensee.

Additionally, the committee amendments would require the Director to hold a hearing if the governing body of the municipality in which the licensed premises would be located files a written objection. The Director would only then issue the license if the issuance of the license would not be contrary to the public interest.

Under the provisions of the bill, taxes levied on a brewery pub's products pursuant to the "Alcoholic beverage tax law," R.S.54:41-1 et seq., would be forwarded to the Governor's Council on Alcoholism and Drug Abuse to be allocated exclusively to the Alliance to Prevent Alcoholism and Drug Abuse for the purpose of providing grants to municipalities and counties. The purpose of the alliance is to create a network comprised of all the communities in New Jersey which is dedicated to a comprehensive and coordinated effort against alcoholism and drug abuse.

The operation of a brewery pub would not conflict with the "tied house" prohibition in R.S.33:1-43 which prohibits any person with an interest in any brewery from conducting or being directly or indirectly interested in the retailing of any alcoholic beverages. That section already contains an exception for any limited retail privileges granted to a Class A licensee in R.S.33:1-10, which would include brewery pubs under the provisions of this bill.

LEGISLATIVE FISCAL ESTIMATE TO

[SECOND REPRINT]

ASSEMBLY, No. 2354

STATE OF NEW JERSEY

DATED: July 7, 1993

Assembly Bill No. 2354 (2R) of 1992 authorizes the operation of brewery pubs where malt alcoholic beverages may be produced and sold for consumption on and off the licensed premises. Only the holder of a plenary retail consumption license (Class C) would be permitted to obtain a limited brewery pub license if the licensee meets the requirements set forth in R.S.33:1-10.

The bill creates a limited brewery pub license which entitles the licensee to manufacture annually up to 7,500 barrels of 31 fluid gallons capacity of malt alcoholic beverages. The licensee may also sell the product at retail on the licensed premises of the brewery for consumption on or off the premises. The license fee for the operation of a brewery pub would be \$1,000 per year. The licensee also would pay an additional fee of \$500 for every 1,000 barrels produced. The license could not be issued by the Director of the Division of Alcoholic Beverage Control (DABC) in the Department of Law and Public Safety without the approval of the governing body of the municipality in which the licensed premises would be located.

Under the provisions of the bill, taxes levied on a brewery pub's products pursuant to the "Alcoholic beverage tax law," R.S.54:41-1 et seq., would be forwarded to the Governor's Council on Alcoholism and Drug Abuse to be allocated exclusively to the Alliance to Prevent Alcoholism and Drug Abuse for the purpose of providing grants to municipalities and counties. The purpose of the alliance is to create a statewide community network which is dedicated to a comprehensive and coordinated effort against alcoholism and drug abuse.

There is no information that would indicate the number of brew pubs which might be established under this bill or their annual production. However, according to a spokesperson for the Association of Brewers' Institute of Brewing Studies, 42 states have legalized the operation of brewery pubs, approximately 205 brewery pubs are operating in these states, and the average amount brewed annually at these establishments is 950 barrels. If New Jersey's experience parallels the national averages, enactment of this bill might result in the establishment of five brewery pubs, each producing an average of 950 barrels annually.

Based on these assumptions, the Office of Legislative Services (OLS) estimates that following the bill's enactment the DABC would annually collect \$7,375 in licensing fees and the Division of Taxation in the Department of Treasury would annually collect \$17,670 in alcoholic beverage taxes. Pursuant to section 14 of P.L.1992, c.188 (C.33:1-4.1), the \$7,375 in licensing fees would be deposited into a dedicated fund for operational costs of the DABC and the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police in the Department of Law and Public Safety. The \$17,670 in alcoholic beverage taxes would be forwarded to the Governor's Council on Alcoholism and Drug Abuse.

OLS estimates that the annual \$7,375 increase in licensing fees would be sufficient to offset the additional administrative costs of implementing this bill.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.