

33:1-10

LEGISLATIVE HISTORY CHECKLIST

NJSA: 33:1-10

(Winery--plenary
brewery)

LAWS OF: 1989

CHAPTER: 209

Bill No: S205

Sponsor(s): Zimmer & Dumont

Date Introduced: Pre-filed

Committee: Assembly: Law, Public Safety & Corrections

Senate: Natural Resources & Agriculture

Amended during passage: Yes Senate committe substitute (1R)
enacted.

Date of Passage: Assembly: December 11, 1989

Senate: June 22, 1989

Date of Approval: December 29, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

[FIRST REPRINT]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No.205 and No.297

STATE OF NEW JERSEY

ADOPTED JUNE 19, 1989

Sponsored by Senators ZIMMER and DUMONT

1 AN ACT concerning winery licenses and amending various parts
of the statutory law.

3

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

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

7 33:1-10. Plenary brewery license. 1a. The holder of this
license shall be entitled, subject to rules and regulations, to brew
9 any malt alcoholic beverages and to sell and distribute his
products to wholesalers and retailers licensed in accordance with
11 this chapter, and to sell and distribute without this State to any
persons pursuant to the laws of the places of such sale and
13 distribution, and to maintain a warehouse. The fee for this
license shall be \$8,500.00.

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

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:
1 Senate floor amendments adopted June 19, 1989.

1 Plenary winery license. 2a. [The] Provided that the holder is
2 engaged in growing and cultivating grapes or fruit used in the
3 production of wine on at least three acres on, or adjacent to, the
4 winery premises, the holder of this license shall be entitled,
5 subject to rules and regulations, to [manufacture] produce any
6 fermented wines, and to blend, fortify and treat wines, and to sell
7 and distribute his products to wholesalers and retailers licensed in
8 accordance with this chapter and to churches for religious
9 purposes, and to sell and distribute without this State to any
10 persons pursuant to the laws of the places of such sale and
11 distribution, and to maintain a warehouse, and to sell his products
12 at retail to consumers on the licensed premises of the winery for
13 consumption on or off the premises and to offer samples for
14 sampling purposes only. The fee for this license shall be \$750.00.
15 [Upon payment of an additional fee of \$200.00 for each but not in
16 excess of two premises, in addition to the licensed premises of
17 the winery, the] The holder of this license shall also have the
18 right to sell such wine at retail in original packages in two
19 salesrooms apart from the winery premises for consumption [on
20 or] off the premises [as is manufactured, blended, fortified or
21 treated by the licensee on his licensed premises and sold as the
22 licensee's products under the label or labels of the licensee or in
23 lieu of such additional fee of \$200.00 but upon payment of an
24 additional fee of \$600.00 the holder of this license shall have the
25 right to sell wines and other alcoholic beverages at retail on the
26 licensed premises; provided, however, that such sales shall be
27 made only for consumption off the licensed premises; and
28 provided further, that such wines and other alcoholic beverages
29 shall be manufactured or blended, fortified, distilled or treated
30 by the licensee on his licensed premises or by the licensee's
31 subsidiary corporation and sold only under the label or labels of
32 the licensee. The combined total number of plenary winery
33 licensees having retail privileges shall not exceed one per each
34 million of population in the State as shown by the last preceding
35 federal census. In the granting of such plenary winery licenses,
36 the Director of the Division of Alcoholic Beverage Control may,
37 in the exercise of his discretion and pursuant to such rules and
38 regulations as he may adopt, give prior consideration to
39 applicants engaged in growing and cultivating grapes upon land

1 owned by the applicant, having an area not less than three acres.
The containers of all wine sold at retail by such licensee shall
3 have attached thereto a label setting forth such information as
shall be required by the rules and regulations of the Director of
5 the Division of Alcoholic Beverage Control] and for sampling
purposes for consumption on the premises, at a fee of \$200.00 for
7 each salesroom. Additionally, subject to rules and regulations,
one salesroom per county may be jointly controlled and operated
9 by at least five plenary or farm winery licensees for the sale of
the products produced under the licenses of such licensees for
11 consumption off the premises and for consumption on the licensed
premises for sampling purposes only, at an additional fee of
13 \$500.00 per county salesroom. Any plenary licensee who has
heretofore utilized a privilege to sell his products for
15 consumption on the premises at a salesroom other than the
licensed premises of the winery may retain that privilege at the
17 existing location. For the purposes of this subsection, "sampling"
means the selling at a nominal charge or the gratuitous offering
19 of an open container not exceeding one and one-half ounces of
any wine.

21 Farm winery license. 2b. The holder of this license shall be
entitled, subject to rules and regulations, to manufacture any
23 fermented wines and fruit juices in a quantity to be expressed in
said license, dependent upon the following fees and not in excess
25 of 50,000 gallons per year and to sell and distribute his products
to wholesalers and retailers licensed in accordance with this
27 chapter and to churches for religious purposes and to sell and
distribute without this State to any persons pursuant to the laws
29 of the places of such sale and distribution, and to maintain a
warehouse and to sell at retail to consumers[; provided, however,
31 that such sale to consumers shall be made only] for consumption
on or off the licensed premises [and then] and to offer samples
33 for sampling purposes only. The license shall be issued only when
the winery at which such fermented wines and fruit juices are
35 manufactured is located and constructed upon a tract of land
[owned] exclusively [by the holder of such farm winery license]
37 under the control of the licensee, [which said tract of land shall
have] provided that the licensee is actively engaged in growing
39 and cultivating an area of not less than three acres [and have

1 growing and under cultivation upon said land at least 1,200] on or
2 adjacent to the winery premises and on which are growing grape
3 vines or fruit to be processed into wine or fruit juice; and
4 provided, further, that for the first five years of the operation of
5 the winery such fermented wines and fruit juices shall be
6 manufactured from at least 51% grapes or fruit grown in the
7 State and that thereafter they shall be manufactured [only] from
8 grapes or fruit grown in this State at least to the extent required
9 for labeling as "New Jersey Wine" under the applicable federal
10 laws and regulations. The containers of all wine sold to
11 consumers by such licensee shall have [attached thereto] affixed
12 a label stating [the percentage of New Jersey grown grapes or
13 fruit used to produce the wine and setting forth] such information
14 as shall be required by the rules and regulations of the Director
15 of the Division of Alcoholic Beverage Control. The fee for this
16 license shall be graduated as follows: to so manufacture between
17 [2,500] 30,000 and 50,000 gallons per annum, \$300.00; to so
18 manufacture between 2,500 and 30,000 gallons per annum,
19 \$200.00; to so manufacture between 1,000 and 2,500 gallons per
20 annum, \$100.00; to so manufacture less than 1,000 gallons per
21 annum, \$50.00. No farm winery license shall be held by the
22 holder of a plenary winery license or be situated on a premises
23 licensed as a plenary winery.

24 The holder of this license [has] shall also have the right to sell
25 [fermented wines and fruit juices manufactured on the licensed
26 premises] his products in original packages at retail to consumers
27 in two salesrooms apart from the winery premises for
28 consumption off the premises [at one location other than the
29 licensed premises for an additional fee of \$100.00], and for
30 sampling purposes for consumption on the premises, at a fee of
31 \$200.00 for each salesroom. Additionally, subject to rules and
32 regulations, one salesroom per county may be jointly controlled
33 and operated by at least five plenary or farm winery licensees for
34 the sale of the products produced under the licenses of such
35 licensees for consumption off the premises and for consumption
36 on the licensed premises for sampling purposes only, at an
37 additional fee of \$500.00 per county salesroom. For the purposes
38 of this subsection, "sampling" means the selling at a nominal
39 charge or the gratuitous offering of an open container not

1 exceeding one and one-half ounces of any wine.

2 [The license granted hereunder shall authorize, subject to such
3 rules and regulations as may be deemed necessary or appropriate
4 by the Director of the Division of Alcoholic Beverage Control,
5 the offering and tasting on the licensed premises of free samples
6 of wine, to visitors and prospective retail customers.]

7 Unless otherwise indicated, for the purposes of this subsection,
8 with respect to farm winery licenses, "manufacture" means the
9 vinification, aging, storage, blending, clarification, stabilization
10 and bottling of wine or juice from [100%] New Jersey [grown]
11 fruit to the extent required by this subsection.

12 Wine blending license. 2c. The holder of this license shall be
13 entitled, subject to rules and regulations, to blend, treat, mix,
14 and bottle fermented wines and fruit juices with non-alcoholic
15 beverages, and to sell and distribute his products to wholesalers
16 and retailers licensed in accordance with this chapter, and to sell
17 and distribute without this State to any persons pursuant to the
18 laws of the places of such sale and distribution, and to maintain a
19 warehouse. The fee for this license shall be \$500.00.

20 Plenary distillery license. 3a. The holder of this license shall
21 be entitled, subject to rules and regulations, to manufacture any
22 distilled alcoholic beverages and rectify, blend, treat and mix,
23 and to sell and distribute his products to wholesalers and retailers
24 licensed in accordance with this chapter, and to sell and
25 distribute without this State to any persons pursuant to the laws
26 of the places of such sale and distribution, and to maintain a
27 warehouse. The fee for this license shall be \$10,000.00.

28 Limited distillery license. 3b. The holder of this license shall
29 be entitled, subject to rules and regulations, to manufacture and
30 bottle any alcoholic beverages distilled from fruit juices and
31 rectify, blend, treat, mix, compound with wine and add necessary
32 sweetening and flavor to make cordial or liqueur, and to sell and
33 distribute to wholesalers and retailers licensed in accordance
34 with this chapter, and to sell and distribute without this State to
35 any persons pursuant to the laws of the places of such sale and
36 distribution and to warehouse these products. The fee for this
37 license shall be \$3,000.00.

38 Supplementary limited distillery license. 3c. The holder of
39 this license shall be entitled, subject to rules and regulations, to

1 bottle and rebottle, in a quantity to be expressed in said license,
dependent upon the following fees, alcoholic beverages distilled
3 from fruit juices by such holder pursuant to a prior plenary or
limited distillery license, and to sell and distribute his products to
5 wholesalers and retailers licensed in accordance with this
chapter, and to sell and distribute without this State to any
7 persons pursuant to the laws of the places of such sale and
distribution, and to maintain a warehouse. The fee for this
9 license shall be graduated as follows: to so bottle and rebottle not
more than 5,000 wine gallons per annum, \$250.00; to so bottle and
11 rebottle not more than 10,000 wine gallons per annum, \$500.00;
to so bottle and rebottle without limit as to amount, \$1,000.00.

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

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

31 (cf: P.L.1985, c.131, s.1)

2. Section 1 of P.L.1982, c.176 (C.33:1-28.1) is amended to
33 read as follows:

1. Any person, other than a person licensed under the
35 provisions of [chapter 1 of] Title 33 of the Revised Statutes,
purchasing wine in person on the licensed premises from a
37 licensee holding a plenary winery license with retail privileges or
a licensee holding a farm winery license or ordering wine by mail
39 or telephone may authorize shipment of the wine by a parcel

1 delivery service, approved for the purpose by the director, to any
point within the State, provided an invoice or similar document is
3 attached to each package stating the licensee's and purchaser's
name[,] and address, [destination,] and the quantity and type of
5 wine [being shipped and place of purchase], and provided that a
copy of the original invoice shall be available for inspection by
7 [authorized agents of the New Jersey Division of Alcoholic
Beverage Control for a period of three years at the office of the
9 licensee] persons authorized to enforce the alcoholic beverage
control laws of this State for a period of one year at licensed
11 premises of the winery.

Wine which is ordered by mail or telephone may be shipped by
13 parcel delivery service only if the licensee has a signed
authorization by the person placing the order to ship wine upon
15 his order by mail or telephone. The wine shall be shipped as a
restricted delivery and may be delivered only to the residence of
17 the person who placed the order.

(cf: P.L.1982, c.176, s.1)

19 3. Section 3 of P.L.1982, c.176 (C.33:1-28.3) is amended to
read as follows:

21 3. Before wine can be shipped by a parcel delivery service
from a licensee holding a plenary winery license with retail
23 privileges or a licensee holding a farm winery license in
accordance with the provisions of this act, the licensee shall [file
25 an application therefor with] apply to the director for a permit
therefor and pay an annual fee to the director of \$150.00 [to him]
27 if a plenary winery licensee or \$50.00 if a farm winery licensee.

(cf: P.L.1982, c.176, s.3)

29 4. Section 2 of P.L.1985, c.233 (C.4:10-76) is amended to read
as follows:

31 2. a. There is established in the Department of Agriculture
the "New Jersey Wine Promotion Account," hereinafter referred
33 to as the "account." All monies received in this account shall be
expended by the Secretary of Agriculture for research and
35 development concerning the viticultural and wine-making
processes in the State and for the promotion of New Jersey wine,
37 consistent with the recommendations of the New Jersey Wine
Industry Advisory Council created pursuant to section 3 of this
39 1985 amendatory and supplementary act.

1 b. The account shall be credited annually, in an appropriation
by law, with an amount equal to \$0.20 per gallon on all [taxable]
3 sales of wines, vermouth and sparkling wines sold by plenary
winery and farm winery licensees licensed pursuant to
5 R.S.33:1-10.

 c. The account shall also be credited with any monies made
7 available to it from the General Fund or any non-State public or
private source.

9 d. The secretary shall include with the annual budget request
for the department a request for funds sufficient to carry out the
11 purposes and intent of this 1985 amendatory and supplementary
act.

13 (cf: P.L.1985, c.233, s.2)

 5. Section 3 of P.L.1985, c.233 (C.4:10-77) is amended to read
15 as follows:

3. a. There is established in the Department of Agriculture
17 the New Jersey Wine Industry Advisory Council, comprising eight
members, three of whom shall be the Secretary of Agriculture,
19 the Commissioner of the Department of Commerce, Energy and
Economic Development and the Dean of Cook College at Rutgers
21 University, or their designees, who shall serve ex officio and as
nonvoting members, and five members of the general public to be
23 appointed by the State Board of Agriculture, two of whom shall
be holders of a plenary winery license, two of whom shall be
25 holders of a farm winery license and one of whom shall be a
viticulturist. To the maximum extent practicable and feasible,
27 the members appointed from the general public shall be chosen so
as to collectively provide wide geographical representation. The
29 members appointed from the general public shall serve for terms
of three years and may be reappointed and may serve until a
31 successor has been appointed. Of the public members first
appointed, two shall be appointed for terms of three years, two
33 shall be appointed for terms of two years, and one shall be
appointed for a term of one year. A vacancy in the membership
35 occurring other than by expiration of a term shall be filled in the
same manner as the original appointment, but for the unexpired
37 term only. The members shall serve without compensation, but
the council may, within the limits of funds appropriated or
39 otherwise made available to it, reimburse members for actual

1 expenses necessarily incurred in the discharge of their official
duties.

3 b. The council shall organize as soon as its membership has
been appointed and shall select a chairman and vice-chairman
5 from among its members and may select a secretary, who need
not be a member of the council. The council shall meet twice
7 annually, and at such other times as may be necessary.

c. It shall be the duty of the council to assess the condition of
9 the wine industry of the State and to advise the Secretary of
Agriculture on expenditures from the New Jersey Wine Promotion
11 Account for research, development, and promotion of the New
Jersey wine industry. The council shall also review the wine
13 certification made by the Director of the Division of Taxation
pursuant to section 4 of this 1985 amendatory and supplementary
15 act.

d. The council is entitled to call to its assistance and avail
17 itself of the services of such employees of any State, county or
municipal department, board, bureau, commission, or agency as it
19 may require and as may be available to it for these purposes.

e. The council shall promulgate rules and regulations subject
21 to the approval of the State Board of Agriculture to effectuate
the purposes of P.L.1985, c.233 (C.4:10-76 et al.). The council
23 may employ, prescribe the duties, and fix and pay the
compensation of such persons it may deem necessary to carry out
25 the duties of the council within the limits of available
appropriations and subject to the approval of the State Board of
27 Agriculture.

(cf: P.L.1985, c.233, s.3)

29 ¹[6. Section 5 of P.L.1985, c.233 is amended to read as follows:

5. This act shall take effect immediately and shall apply to
31 [taxable] sales of wines made on or after the first day of the
second bimonthly taxable period following enactment.

33 (cf: P.L.1985, c.233, s.5)]¹

¹[7.] 6.¹ Section ¹[1] 4¹ of this act shall take effect on the first
35 day of ¹[July after] the calendar year next following¹ enactment
and the remainder shall take effect ¹[on the 90th day after
37 enactment] immediately¹.

1

AGRICULTURE
Alcoholic Beverages

3

Amends statutes regulating wineries.

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SENATE, No. 205

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator ZIMMER

1 **AN ACT** concerning farm winery licenses and amending R.S.
33:1-10, P.L. 1982, c. 176 and P.L. 1985, c. 233.

3

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

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

7 33:1-10. Plenary brewery license. 1a. The holder of this
license shall be entitled, subject to rules and regulations, to
9 brew any malt alcoholic beverages and to sell and distribute his
products to wholesalers and retailers licensed in accordance
11 with this chapter, and to sell and distribute without this State to
any persons pursuant to the laws of the places of such sale and
13 distribution, and to maintain a warehouse. The fee for this
license shall be \$8,500.00.

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

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 Plenary winery license, 2a. The holder of this license shall be
2 entitled, subject to rules and regulations, to manufacture any
3 fermented wines, and to blend, fortify and treat wines, and to
4 sell and distribute his products to wholesalers and retailers
5 licensed in accordance with this chapter and to churches for
6 religious purposes, and to sell and distribute without this State
7 to any persons pursuant to the laws of the places of such sale
8 and distribution, and to maintain a warehouse. The fee for this
9 license shall be \$750.00. Upon payment of an additional fee of
10 \$200.00 for each but not in excess of two premises, in addition
11 to the licensed premises of the winery, the holder of this license
12 shall have the right to sell such wine at retail for consumption
13 on or off the premises as is manufactured, blended, fortified or
14 treated by the licensee on his licensed premises and sold as the
15 licensee's products under the label or labels of the licensee or in
16 lieu of such additional fee of \$200.00 but upon payment of an
17 additional fee of \$600.00 the holder of this license shall have the
18 right to sell wines and other alcoholic beverages at retail on the
19 licensed premises; provided, however, that such sales shall be
20 made only for consumption off the licensed premises; and
21 provided further, that such wines and other alcoholic beverages
22 shall be manufactured or blended, fortified, distilled or treated
23 by the licensee on his licensed premises or by the licensee's
24 subsidiary corporation and sold only under the label or labels of
25 the licensee. The combined total number of plenary winery
26 licensees having retail privileges shall not exceed one per each
27 million of population in the State as shown by the last preceding
28 federal census. In the granting of such plenary winery licenses,
29 the Director of the Division of Alcoholic Beverage Control may,
30 in the exercise of his discretion and pursuant to such rules and
31 regulations as he may adopt, give prior consideration to
32 applicants engaged in growing and cultivating grapes upon land
33 owned by the applicant, having an area not less than three
34 acres. The containers of all wine sold at retail by such licensee
35 shall have attached thereto a label setting forth such
36 information as shall be required by the rules and regulations of
37 the Director of the Division of Alcoholic Beverage Control.

1 Farm winery license. 2b. The holder of this license shall be
entitled, subject to rules and regulations, to manufacture any
3 fermented wines and fruit juices in a quantity to be expressed in
said license, dependent upon the following a fees and not in
5 excess of 50,000 gallons per year and to sell and distribute his
products to wholesalers and retailers licensed in accordance
7 with this chapter and to sell and distribute without this State to
any persons pursuant to the laws of the places of such sale and
9 distribution, and to maintain a warehouse and to sell at retail to
consumers[; provided, however, that such sale to consumers shall
11 be made only] for consumption on or off the licensed premises
[and then] but only a when the winery at which such fermented
13 wines and fruit juices are manufactured is located and
constructed upon a tract of land owned exclusively by the holder
15 of such farm winery license, which said tract of land shall have
an area of not less than three acres and have growing and under
17 cultivation upon said land at least 1,200 grape vines; and
provided, further, that for the first five years of the operation
19 of the winery such fermented wines and fruit juices shall he
manufactured from at least 51% grapes or fruit grown in the
21 State and that thereafter they shall be manufactured only from
grapes or fruit grown in this State. The containers of all wines
23 sold to consumers by such licensee shall have attached thereto a
label stating the percentage of New Jersey grown grapes or fruit
25 used to produce the wine and setting forth such information as
shall be required by the rules and regulations of the Director of
27 the Division of Alcoholic Beverage Control. The fee for this
license shall be graduated as follows: to so manufacture
29 between [2,500] 30,000 and 50,000 gallons per annum, [\$200.00]
\$300.00; to so manufacture between 2,500 and 30,000 gallons per
31 annum, \$200.00; to so manufacture between 1,000 and 2,500
gallons per annum, \$100.00; to so manufacture less than 1,000
33 gallons per annum, \$50.00.

The holder of this license has the right to sell fermented
35 wines and fruit juices manufactured on the licensed premises at
retail for consumption off the premises at [one location] two
37 locations other than the licensed premises for an additional fee
of \$100.00. These two locations may be jointly owned and

1 operated by several farm winery license holders who have also
2 paid the additional fee and the fermented wines and fruit juices
3 of these license holders may be sold there. The holder of this
4 license may also sell fermented wines and fruit juices at retail
5 without an additional fee at such events as State fairs, farm
6 markets, or country fairs operated on a nonprofit basis, provided
7 that an authorized representative of the farm winery is present
8 at all times during which the wines and juices are available for
9 sale.

10 The license granted hereunder shall authorize, subject to such
11 rules and regulations as may be deemed necessary or appropriate
12 by the Director of the Division of Alcoholic Beverage Control,
13 the offering and tasting on the licensed premises of [free]
14 samples of wine without charge or at a nominal cost, to visitors
15 and prospective retail customers. The license shall also
16 authorize the offering and tasting of samples without charge or
17 at a nominal cost on any premises operated by the holder of a
18 retail consumption or retail distribution license, provided that
19 the tasting is conducted by an authorized representative of the
20 farm winery who shall be present at all times during the tasting.

21 Unless otherwise indicated, for the purposes of this
22 subsection, with respect to farm winery licenses, "manufacture"
23 means the vinification, aging, storage, blending, clarification,
24 stabilization and bottling of wine or grown fruit.

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

33 Limited distillery license. 3b. The holder of this license shall
34 be entitled, subject to rules and regulations, to manufacture and
35 bottle any alcoholic beverages distilled from fruit juices and
36 rectify, blend, treat, mix, compound with wine and add

1 necessary sweetening and flavor to make cordial or liqueur, and
to sell and distribute to wholesalers and retailers licensed in
3 accordance with this chapter, and to sell and distribute without
this State to any persons pursuant to the laws of the places of
5 such sale and distribution and to warehouse these products. The
fee for this license shall be \$3,000.00.

7 Supplementary limited distillery license. 3c. The holder of
this license shall be entitled, subject to rules and regulations, to
9 bottle and rebottle, in a quantity to be expressed in said license,
dependent upon the following fees, alcoholic beverages distilled
11 from fruit juices by such holder pursuant to a prior plenary or
limited distillery license, and to sell and distribute his products
13 to wholesalers and retailers licensed in accordance with this
chapter, and to sell and distribute without this State to any
15 persons pursuant to the laws of the places of such sale and
distribution, and to maintain a warehouse. The fee for this
17 license shall be graduated as follows: to so bottle and rebottle
not more than 5,000 wine gallons per annum, \$250.00; to so
19 bottle and rebottle not more than 10,000 wine gallons-per
annum, \$500.00; to so bottle and rebottle without limit as to
21 amount, \$1,000.00,

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

Bonded warehouse bottling license. 5. The holder of this
33 license shall be entitled, subject to rules and regulations, to
bottle alcoholic beverages in bond on behalf of all persons
35 authorized by federal and State law and regulations to withdraw
alcoholic beverages from bond. The fee for this license shall be
37 \$500.00. This license shall be issued only to persons holding
permits to operate Internal Revenue bonded warehouses
39 pursuant to the laws of the United States.

1 2. Section 1 of P. L. 1982, c. 176 (C. 33:1-28.1 is amended to
read as follows:

3 1. Any person, other than a person licensed under the
provisions of [chapter 1 of] Title 33 of the Revised Statutes,
5 purchasing wine in person on the licensed premises from a
licensee holding plenary winery license with retail privileges or
7 a licensee holding a farm winery license or ordering wine by
mail or telephone may authorize shipment of the wine by a
9 parcel delivery service, approved for that purpose by the
director, to any point within the State, provided an invoice is
11 attached to each package stating, the purchaser's name,
address, destination, quantity of wine being shipped and place of
13 purchase, and provided that a copy of the original invoice shall
be available for inspection by authorized agents of the New
15 Jersey Division of Alcoholic Beverage Control for a period of
three years at the office of the licensee.

17 Wine which is ordered by mail or telephone may be shipped by
parcel delivery service only if the licensee has a signed
19 authorization by the person placing the order to ship wine upon
his order by mail or telephone. The wine shall be shipped as a
21 restricted delivery and may be delivered only to the person who
placed the order.

23 3. Section 3 of P. L. 1982, c. 176 (C. 33:1-28.3) is amended to
read as follows:

25 3. Before wine can be shipped by a parcel delivery service
from a license, holding a plenary winery license with retail
27 privileges or a licensee holding a farm winery license in
accordance with the provisions of this act, the licensee shall file
29 an application therefor with the director and pay an annual fee
to the director of \$150.00 [to him.] if a plenary winery licensee
31 and \$50.00 if a farm winery licensee.

33 4. Section 2 of P. L. 1985, c. 233 (C. 4:10-76) is amended to
read as follows:

35 2. a. There is established in the Department of Agriculture
the "New Jersey Wine Promotion Account," hereafter referred
to as the "account." All moneys received in this account shall
37 be expended by the Secretary of Agriculture for research and
development concerning the viticultural and wine making
39 process in the in State and for the promotion of New Jersey

1 wine, consistent with the recommendations of the New Jersey
Wine Industry Advisory Council created pursuant to section 3 of
3 this 1985 amendatory and supplementary act.

b. The account shall be credited annually, in an appropriation
5 by law with an amount equal to \$0.20 per gallon on all [taxable]
sales of wines, vermouth and sparkling wines sold by plenary
7 winery and farm winery licensees licensed pursuant to R.S.
33:1-10.

9 c. The account shall also be credited with any moneys made
available to it from the General Fund or any non-State public or
11 private source.

d. The secretary shall include with the annual budget request
13 for the department a request for funds sufficient to carry out
the purposes and intent of this 1985 amendatory and
15 supplementary act.

5. Section 5 of P.L. 1985, c. 233 is amended to read as
17 follows:

5. This act shall take effect immediately and shall apply to
19 [taxable] sales of wines made on and after the first day of the
second bimonthly taxable period following enactment.

21 6. This act shall take effect on the 90th day after enactment.

23

STATEMENT

25

This bill makes several amendments to the laws concerning
27 farm winery licenses in Title 33 of the Revised Statutes. The
bill would permit a farm winery licensee to sell fermented wines
29 and fruit juices for consumption on the licensed premises.
Currently, only sales for off premise consumption are
31 permitted. The farm winery license fee would be further
prorated so that a license fee of \$300.00 would be paid for
33 production of 30,000 to 50,000 gallons a year and a fee of
\$200.00 for production of 2,500 to 30,000 a year.

35 Farm winery licensees would specifically be permitted to
jointly own and operate a maximum of two retail outlets where
37 their fermented wines and fruit juices may be sold to the public
for consumption off the licensed premises. Under current law, a
39 farm winery may sell its product at only one location other than
the licensed premises.

1 The bill would also permit a farm winery licensee to sell his
products at State fairs, farm markets and country fairs and to
3 conduct wine tastings at any location in the State operated by
the holder of a retail consumption or retail distribution license.
5 Under current law, wine tastings are permitted only on the
licensed premises of the farm winery.

7 Fermented wines produced by a farm winery licensee would be
permitted to be shipped by parcel delivery service to a person
9 anywhere in the State pursuant to an order by mail or
telephone. Under current law, shipment of wine is permitted
11 only when the person purchases the wine in person at the
licensed premises. The fee for a permit to ship wine by parcel
13 delivery service is lowered to \$50.00 for farm wineries from the
current \$150.00.

15 This bill also amends two sections of P.L. 1985, c. 233, the
law which created the New Jersey Wine Promotion Account.

17

19

AGRICULTURE
Alcoholic Beverages

21

Amends statutes regulating farm wineries.

SENATE, No. 297

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator DUMONT

1 AN ACT concerning winery licenses and amending R.S. 33:1-10.

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

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

6 33:1-10. Plenary brewery license. 1a. The holder of this
7 license shall be entitled, subject to rules and regulations, to
8 brew any malt alcoholic beverages and to sell and distribute his
9 products to wholesalers and retailers licensed in accordance
10 with this chapter, and to sell and distribute without this State to
11 any persons pursuant to the laws of the places of such sale and
12 distribution, and to maintain a warehouse. The fee for this
13 license shall be \$8,500.00.

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

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 Plenary winery license. 2a. [The] Provided that the holder is
2 engaged in growing and cultivating grapes or fruit used in the
3 production of wine on at least three acres on, or adjacent to the
4 winery premises, the holder of this license shall be entitled,
5 subject to rules and regulations, to [manufacture] produce any
6 fermented wines, and to blend, fortify and treat wines, and to
7 sell and distribute his products to wholesalers and retailers
8 licensed in accordance with this chapter and to churches for
9 religious purposes, and to sell and distribute without this State
10 to any persons pursuant to the laws of the places of such sale
11 and distribution, and to maintain a warehouse, and to sell his
12 products at retail to consumers on the licensed premises of the
13 winery for consumption on or off the premises and to offer
14 samples for sampling purposes only. The fee for this license
15 shall be \$750.00. [Upon payment of an additional fee of \$200.00
16 for each but not in excess of two premises, in addition to the
17 licensed premises of the winery, the] The holder of this license
18 shall also have the right to sell such wine at retail in original
19 packages in a salesroom apart from the winery premises for
20 consumption [on or] off the premises [as is manufactured,
21 blended, fortified or treated by the licensee on his licensed
22 premises and sold as the licensee's products under the label or
23 labels of the license or in lieu of such additional fee of \$200.00
24 but upon payment of an additional fee of \$600.00 the holder of
25 this license shall have the right to sell wines and other alcoholic
26 beverages at retail in the licensed premises; provided, however,
27 that such sales shall be made only for consumption off the
28 licensed premises; and provided further, that such wines and
29 other alcoholic beverages shall be manufactured or blended,
30 fortified, distilled or treated by the licensee on his licensed
31 premises or by the licensee's subsidiary corporation and sold
32 only under the label or labels of the licensee. The combined
33 total number of plenary winery licensees having retail privileges
34 shall not exceed one per each million of population in the State
35 as shown by the last preceding federal census. In the granting of
36 such plenary winery licenses, the Director of the Division of
37 Alcoholic Beverage Control may, in the exercise of his
discretion and pursuant to such rules and regulations as he may

1 adopt, give prior consideration to applicants engaged in
growing and cultivating grapes upon land owned by the
3 applicant, having an area not less than than three acres. The
containers of all wine sold at retail by such licensee shall have
5 attached thereto a label setting forth such information as shall
be required by the rules and regulations of the Director of
7 Alcoholic Beverage Control] and for sampling purposes for
consumption on the premises at a fee of \$200.00 for each
9 salesroom. The additional salesroom may be jointly controlled
and operated by more than one plenary or farm winery licensee,
11 provided that each licensee shall pay the applicable fee. Any
plenary licensee who has heretofore utilized a privilege to sell
13 his products for consumption on the premises at a salesroom
other than the licensed premises of the winery may retain that
15 privilege and the privilege may be transferred to another
location.

17 Farm winery license 2b. The holder of this license shall be
entitled, subject to rules and regulations, to manufacture any
19 fermented wines and fruit juices in a quantity to be expressed in
said license, dependent upon the following fees and not in excess
21 of 50,000 gallons per year and to sell and distribute his products
to wholesalers and retailers licensed in accordance with this
23 chapter and to churches for religious purposes and to sell and
distribute without this State to any persons pursuant to the laws
25 of the places of such sale and distribution, and to maintain a
warehouse and to sell at retail to consumers[; provided,
27 however, that such sale to consumers shall be made only] for
consumption on or off the licensed premises [and then] and to
29 offer samples for sampling purposes only. This license shall be
issued only when the winery at which such fermented wines and
31 fruit juices are manufactured is located and constructed upon a
tract of land [owned] exclusively [by the holder of such farm
33 winery license] under the control of the licensee, which said
tract of land shall have an area of not less than three acres [and
35 have] on which are growing and under cultivation [upon said land
at least 1,200] grape vines or fruit to be processed into wine or
37 fruit juice; [and] provided[, further,] that for the first five years
of the operation of the winery such fermented wines and fruit

1 juices shall be manufactured from at least 51% grapes or fruit
2 grown in the State and that thereafter they shall be
3 manufactured only from grapes or fruit grown in this State. The
4 containers of all wine sold to consumers by such licensee shall
5 have attached thereto a label stating the percentage of New
6 Jersey grown grapes or fruit used to produce the wine and
7 setting forth such information as shall be required by the rules
8 and regulations of the Director of the Division of Alcoholic
9 Beverage Control. The fee for this license shall be graduated as
10 follows: to so manufacture between [2,500] 30,000 and 50,000
11 gallons per annum, [~~\$200.00~~] \$300.00; to so manufacture
12 between 2,500 and 30,000 gallons per annum, \$200.00; to so
13 manufacture between 1,000 and 2,500 gallons per annum,
14 \$100.00; to so manufacture less than 1,000 gallons per annum,
15 \$50.00.

16 The holder of this license [~~has~~] shall have the right to sell
17 fermented wines and fruit juices manufactured on the licensed
18 premises at retail in original packages only and for consumption
19 off the premises [at one location other than the licensed
20 premises], and for consumption on the premises for sampling
21 purposes only, in additional salesrooms for [an additional a fee
22 of \$100.00 for each salesroom. Such additional salesrooms may
23 be jointly controlled and operated by more than one plenary or
24 farm winery licensee, provided that each licensee shall pay the
25 applicable fee.

26 [The license granted hereunder shall authorize, subject to such
27 rules and regulations as may be deemed necessary or appropriate
28 by the Director of the Division of Alcoholic Beverage Control,
29 the offering and tasting on the licensed premises of free samples
30 of wine, to visitors and prospective retail customers.]

31 Unless otherwise indicated, for the purposes of this
32 subsection, with respect to farm winery licenses, "manufacture"
33 means the vinification, aging, storage, blending, clarification,
34 stabilization and bottling of wine or juice from 100% New
35 Jersey grown fruit.

36 Wine blending license. 2c. The holder of this license shall be
37 entitled, subject to rules and regulations, to blend, treat, mix,
38 and bottle fermented wines and fruit juices with non-alcoholic
39 beverages, and to sell and distribute his products to wholesalers
40 and retailers licensed in accordance with this chapter, and to

1 sell and distribute without this State to any persons pursuant to
2 the laws of the places of such sale and distribution, and to
3 maintain a warehouse. The fee for this license shall be \$500.00.

4 Plenary distillery license 3a. The holder of this license shall
5 be entitled, subject to rules and regulations, to manufacture any
6 distilled alcoholic beverages and rectify, blend, treat and mix,
7 and to sell and distribute his products to wholesalers and
8 retailers licensed in accordance with this chapter, and to sell
9 and distribute without this State to any persons pursuant to the
10 laws of the places of such sale and distribution, and to maintain
11 a warehouse. The fee for this license shall be \$10,000.00.

12 Limited distillery license 3b. The holder of this license shall
13 be entitled, subject to rules and regulations, to manufacture and
14 bottle any alcoholic beverages distilled from fruit juices and
15 rectify, blend, treat, mix, compound with wine and add
16 necessary sweetening and flavor to make cordial or liqueur, and
17 to sell and distribute to wholesalers and retailers licensed in
18 accordance with this chapter, and to sell and distribute without
19 this State to any persons pursuant to the laws of the places of
20 such sale and distribution and to warehouse these products. The
21 fee for this license shall be \$3,000.00.

22 Supplementary limited distillery license 3c. The holder of this
23 license shall be entitled, subject to rules and regulations, to
24 bottle and rebottle, in a quantity to be expressed in said license,
25 dependent upon the following fees, alcoholic beverages distilled
26 from fruit juices by such holder pursuant to a prior plenary or
27 limited distillery license, and to sell and distribute his products
28 to wholesalers and retailers licensed in accordance with this
29 chapter, and to sell and distribute without this State to any
30 persons pursuant to the laws of the places of such sale and
31 distribution, and to maintain a warehouse. The fee for this
32 license shall be graduated as follows: to so bottle and rebottle
33 not more than 5,000 wine gallons per annum, \$250.00; to so
34 bottle and rebottle not more than 10,000 wine gallons per
35 annum, \$500.00; to so bottle and rebottle without limit as to
amount, \$1,000.00.

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

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

19 2. This act shall take effect immediately.

21

STATEMENT

23

This bill is intended to enhance the growth and development
 25 of the wine industry in the State. The bill attempts to
 accomplish this purpose by:

27 (1) Removing the current limit of two sales premises that a
 plenary winery licensee may have in addition to the licensed
 29 premises of the winery itself;

(2) Eliminating the current limit of one plenary license per
 31 one million of the State's population;

(3) Allowing any additional salesrooms of plenary licensees to
 33 be jointly controlled and operated by more than one plenary or
 farm licensee;

35 (4) Removing the requirement that to qualify for a farm
 winery license one needs to have at least 1,200 grape vines
 37 under cultivation and clarifying the statute in order to allow a
 person to qualify for a license if he cultivates fruit other than
 39 grapes to be processed into wine or fruit juice;

- 1 (5) Allowing a person who rents, rather than owns, a winery to
obtain a farm winery license;
- 3 (6) Modifying the graduated fee structure for farm winery
licenses based on gallons of wine manufactured; and
- 5 (7) Establishing a new category of license, the wine blending
license, which would allow its holders to blend, treat, mix and
7 bottle fermented wines and fruit juices with non-alcoholic
beverages and sell and distribute such product for a fee of
9 \$500.00.

11

AGRICULTURE

13

Alcoholic Beverages

- 15 Amends statute regulating plenary winery licenses and farm
winery licenses.

ASSEMBLY LAW, PUBLIC SAFETY, AND
CORRECTIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, Nos. 205 and 297

STATE OF NEW JERSEY

DATED: OCTOBER 5, 1989

The Assembly Law, Public Safety and Corrections Committee favorably reports the Senate Committee Substitute for Senate Bill Nos. 205 and 297 (1R).

The substitute amends current law regarding the wine industry in this State. It would enhance the growth and development of this industry by:

(1) Removing the current limit of two sales premises that a plenary winery licensee may have in addition to the licensed premises of the winery itself;

(2) Eliminating the current limit of one plenary license per one million of the State's population;

(3) Allowing one salesroom per county to be jointly controlled and operated by at least five plenary or farm winery licensees;

(4) Removing the requirement that to qualify for a farm winery license one needs to have at least 1,200 grape vines under cultivation, and clarifying the statute in order to allow a person to qualify for a license if he cultivates fruit other than grapes to be processed into wine or fruit juice;

(5) Allowing a person who rents, rather than owns, a winery to obtain a farm winery license;

(6) Modifying the graduated fee structure for farm winery licenses based on gallons of wine manufactured; and

(7) Establishing a new category of license, the wine blending license, which would allow its holders to blend, treat, mix and bottle fermented wines and fruit juices with non-alcoholic beverages and sell and distribute such products for a fee of \$500.

The substitute would permit fermented wines produced by a farm winery licensee to be shipped by parcel delivery service to a person anywhere in the State pursuant to an order by mail or telephone. Under current law, shipment of wine is permitted only when the person purchases the wine in person at the licensed premises. The fee for a permit to ship wine by parcel delivery service is lowered to \$50 for farm wineries from the current \$150.

The substitute also amends two sections of P.L.1985, c.233, the law that created the New Jersey Wine Promotion Account, with respect to the basis of the tax on the sale of wines.

Finally, the substitute directs the New Jersey Wine Industry Advisory Council to promulgate regulations and permits the council to hire staff within the limits of available appropriations.

SENATE NATURAL RESOURCES AND
AGRICULTURE COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 205 and 297

STATE OF NEW JERSEY

DATED: MAY 4, 1989

The Senate Natural Resources and Agriculture Committee favorably reports a Senate Committee Substitute for Senate Bill Nos. 205 and 297.

The committee substitute amends current law regarding the wine industry in the State. The committee substitute accomplishes this by:

(1) Removing the current limit of two sales premises that a plenary winery licensee may have in addition to the licensed premises of the winery itself;

(2) Eliminating the current limit of one plenary license per one million of the State's population;

(3) Allowing one salesroom per county to be jointly controlled and operated by at least five plenary or farm winery licensees;

(4) Removing the requirement that to qualify for a farm winery license one needs to have at least 1,200 grape vines under cultivation, and clarifying the statute in order to allow a person to qualify for a license if he cultivates fruit other than grapes to be processed into wine or fruit juice;

(5) Allowing a person who rents, rather than owns, a winery to obtain a farm winery license;

(6) Modifying the graduated fee structure for farm winery licenses based on gallons of wine manufactured; and

(7) Establishing a new category of license, the wine blending license, which would allow its holders to blend, treat, mix and bottle fermented wines and fruit juices with non-alcoholic beverages and sell and distribute such products for a fee of \$500.

The provisions of the committee substitute permit fermented wines produced by a farm winery licensee to be shipped by parcel delivery service to a person anywhere in the State pursuant to an order by mail or telephone. Under current law, shipment of wine is permitted only when the person purchases the wine in person at the licensed premises. The fee for a permit to ship wine by parcel delivery service is lowered to \$50 for farm wineries from the current \$150.

The committee substitute also amends two sections of P.L.1985, c.233, the law that created the New Jersey Wine Promotion Account, with respect to the basis of the tax on the sale of wines.

Finally, the committee substitute directs the New Jersey Wine Industry Advisory Council to promulgate regulations and permits the council to hire staff within the limits of available appropriations.