

54:43-1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:43-1; 4:10-76 to 4:10-78

(Wine Promotion Council--  
create--eliminate  
preferential tax treatment)

LAWS OF: 1985

CHAPTER: 233

Bill No: A3024

Sponsor(s): Zimmer and others

Date Introduced: December 17, 1984

Committee: Assembly: Commerce and Industry

Senate: -----

Amended during passage: Yes Substituted for S3082 (not attached since identical to A3024). Amendments during passage denoted by asterisk.

Date of Passage: Assembly: June 20, 1985

Senate: June 24, 1985

Date of Approval: July 11, 1985

Following statements are attached if available:

Sponsor statement: Yes Attached: Assembly amendments, adopted 4-15-85, 5-6-85 and 6-17-85 (with statements)

Committee statement: Assembly Yes

Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

(OVER)

For newspaper articles, see "NJ-Wine and winemaking-1983--" in New Jersey Reference Department.

7-11-85

[FIFTH OFFICIAL COPY REPRINT]

## ASSEMBLY, No. 3024

## STATE OF NEW JERSEY

INTRODUCED DECEMBER 17, 1984

By Assemblymen ZIMMER, HAINES, WEIDEL, FOY, HENDRICKSON, MARKERT, ROD, LITTELL, HAYTAIAN, KLINE, Asssemblywoman COOPER and Assemblyman FRELINGHUYSEN

AN ACT concerning the tax on wine, amending R. S. 54:43-1 and supplementing chapter 10 of Title 4 of the Revised Statutes.

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

1 1. R. S. 54:43-1 is amended to read as follows:

2 54:43-1. Tax rates. There are hereby levied and imposed upon  
3 any sale of alcoholic beverages made within this State or upon any  
4 delivery of alcoholic beverages made within or into this State the  
5 following excise taxes:

6 a. Beer—\$0.03 $\frac{1}{3}$  a gallon or fraction thereof.

7 b. Liquors—at the rate of \$2.80 a gallon.

8 c. (Deleted by amendment, *P. L. 1972, c. 53*).

9 d. (Deleted by amendment, *P. L. 1972, c. 53*).

10 e. Wines, vermouth and sparkling wines—at the rate of \$0.30 a  
11 gallon **[; except that wine manufactured by holders of a farm winery**  
12 **license, or wine manufactured from grapes or fruit grown in this**  
13 **State by holders of a plenary winery license issued pursuant to the**  
14 **provisions of R. S. 33:1-10 shall be taxed at a rate of \$.10 a gallon]**.

1 2. (New section) a. There is established in the **\*\*** **[“New Jersey**  
2 **Farm Products Publicity Fund,”** created pursuant to section 1 of  
3 **P. L. 1939, c. 136 (C. 4:10-16),]** **\*\*** **Department of Agriculture** **\*\***  
4 the “New Jersey Wine Promotion Account,” hereafter referred to  
5 as the “account.” All monies received in this account shall be ex-  
6 pended by the **\*[State Board]** **\* Secretary** of Agriculture for re-

**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 printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly committee amendments adopted February 25, 1985.**

**\*\*—Assembly amendments adopted March 7, 1985.**

**\*\*\*—Assembly amendments adopted April 15, 1985.**

**\*\*\*\*—Assembly amendments adopted May 6, 1985.**

**\*\*\*\*\*—Assembly amendments adopted June 17, 1985.**

7 search and development concerning the \***[vinicultural]**\* \*\*\***[\*vini-**  
 8 **fication\*]**\*\*\* \*\*\**viticultural*\*\*\* and wine making process in the  
 9 State and for the promotion of New Jersey wine, consistent with  
 10 the recommendations of the New Jersey Wine \***[Promotion]**\* \**Ind-*  
 11 *ustry Advisory*\* Council created pursuant to section 3 of this  
 11A \*\*\*\*\*1985\*\*\*\*\* amendatory and supplementary act.

12 b. The account shall be credited \*\***[\*semiannually\*]**\*\* \*\**an-*  
 13 *nually, in an appropriation by law*\*\* with \***[\$0.20]**\* \**an amount*  
 14 *equal to* \*\*\***[two-thirds of the amount\*]**\*\*\* of the tax levied \**and*  
 15 *collected*\* pursuant to R. S. 54:43-1]\*\*\*\*\* \*\**\$0.20 per gallon*\*\*\*\*\*  
 16 on all \*\*\*\*\**taxable sales of*\*\*\*\*\* wines, vermouth and sparkling  
 16A wines sold by \*\*\*\*\***[New Jersey wineries]**\*\*\*\*\* \*\*\*\*\**plenary*  
 16B *winery and farm winery licensees*\*\*\*\*\* licensed pursuant to R. S.  
 16C 33:1-10.

17 c. The account shall also be credited with any monies made  
 18 available to it from \*\*\*\*\***[any]**\*\*\*\*\* \*\*\*\*\**the General Fund or any*  
 19 *non-State*\*\*\*\*\* public or private source.

20 \*\*\*\*\**d. The secretary shall include with the annual budget re-*  
 21 *quest for the department a request for funds sufficient to carry out*  
 22 *the purposes and intent of this* \*\*\*\*\*1985\*\*\*\*\* amendatory and  
 23 *supplementary act.*\*\*\*\*\*

1 3. (New section) a. There is established \**in the Department of*  
 2 *Agriculture*\* the New Jersey Wine \***[Promotion]**\* \**Industry*  
 2A *Advisory*\* Council, comprising eight members, three of whom shall  
 3 be the Secretary of Agriculture, the Commissioner of the Depart-  
 4 ment of Commerce and Economic Development and the Dean of  
 5 Cook College at Rutgers University, or their designees, who shall  
 6 serve ex officio and as nonvoting members, and five members of  
 7 the general public to be appointed by the State Board of Agri-  
 8 culture, two of whom shall be holders of a plenary winery license,  
 9 two of whom shall be holders of a farm winery license and one of  
 10 whom shall be a \***[viniculturalist]**\* \**viticulturalist*\*. To the maxi-  
 11 mum extent practicable and feasible, the members appointed from  
 12 the general public shall be chosen so as to collectively provide wide  
 13 geographical representation. The members appointed from the  
 14 general public shall serve for terms of three years and may be  
 15 reappointed and may serve until a successor has been appointed.  
 16 \**Of the public members first appointed, two shall be appointed for*  
 17 *terms of three years, two shall be appointed for terms of two*  
 18 *years, and one shall be appointed for a term of one year. A vacancy*  
 19 *in the membership occurring other than by expiration of a term*  
 20 *shall be filled in the same manner as the original appointment, but*  
 21 *for the unexpired term only.*\* The members shall serve without

22 compensation\*, *but the council may, within the limits of funds*  
 23 *appropriated or otherwise made available to it, reimburse members*  
 24 *for actual expenses necessarily incurred in the discharge of their*  
 25 *official duties\*.*

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

31 c. It shall be the duty of the council to assess the conditions of  
 32 the wine industry of the State and to advise the *\*[State Board of*  
 33 *Agriculture]\* \*\*\*\*\*[\*secretary\*]\*\*\*\*\* \*\*\*\*\*Secretary of Agri-*  
 34 *culture\*\*\*\*\** on expenditures from the New Jersey Wine Promotion  
 35 Account for research, development, and promotion of the New  
 36 Jersey wine industry. The council shall also review the wine  
 37 certification made by the Director of the Division of Taxation  
 37A pursuant to section 4 of this *\*\*\*\*\*1985\*\*\*\*\** amendatory and  
 37B supplementary act.

38 d. The council is entitled to call to its assistance and avail itself  
 39 of the services of such employees of any State, county or municipal  
 40 department, board, bureau, commission, or agency as it may re-  
 41 quire and as may be available to it for these purposes.

1 4. (New section) The Director of the Division of Taxation shall  
 2 *\*\*\*[\*semiannually\* deposit \*[\$0.20]\* \*an amount equal to two-*  
 3 *thirds of the amount\* of the tax, levied pursuant to R. S. 54:43-1,*  
 4 *on all wines, vermouth and sparkling wines sold by New Jersey*  
 5 *wineries licensed pursuant to R. S. 33:1-10 in the New Jersey Wine*  
 6 *Promotion Account created pursuant to section 2 of P. L. ....,*  
 7 *c. .... (C. ....) (now pending before the Legislature as*  
 8 *Assembly Bill No. 3024 of 1984) and shall]\*\*\* certify \*\*\*\*\*by*  
 9 *March 1, 1986 and by March 1 annually thereafter\*\*\*\*\** to the  
 10 New Jersey Wine *\*[Promotion]\* \*Industry Advisory\* Council*  
 11 *the number of \*\*\*\*\*taxable\*\*\*\*\* gallons of wine sold by \*\*\*\*\*[New*  
 12 *Jersey wineries for each period]\*\*\*\*\* \*\*\*\*\*plenary winery and*  
 13 *farm winery licensees during the preceding taxable year\*\*\*\*\*.*

1 5. This act shall take effect immediately *\*\*\*\*\*and shall apply to*  
 2 *taxable sales of wines made on and after the first day of the second*  
 3 *bimonthly taxable period following enactment\*\*\*\*\*.*

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3 wines, vermouth and sparkling wines sold by New Jersey wineries  
4 licensed pursuant to R. S. 33:1-10 in the New Jersey Wine Promo-  
5 tion Account created pursuant to section 2 of P. L. . . . , c. . . .  
6 (C. . . . .) (now pending before the Legislature as Assembly  
7 Bill No. 3024 of 1984) and shall certify to the New Jersey Wine  
8 Promotion Council the number of gallons of wine sold by New  
9 Jersey wineries for each tax period.

1 5. This act shall take effect immediately.

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#### STATEMENT

Under current law, wine manufactured from State-grown fruit by certain licensees is taxed at a rate of \$0.10 per gallon, rather than at the \$0.30 per gallon rate levied on all other wines. In a recent United States Supreme Court decision, *Bacchus Imports, LTD v. Dias* 52 U. S. L. W. 4979 (U. S. June 29, 1984), the court struck down similar preferential tax policy as violative of the commerce clause of the United States Constitution.

This bill eliminates that preferential treatment of New Jersey wines in accordance with the court's decision, but in so doing, dedicates the additional \$0.20 per gallon that will be collected to the New Jersey Wine Promotion Account created by the bill for the express purpose of developing and promoting New Jersey wines.

The bill also creates a New Jersey Wine Promotion Council to recommend how the funds in the account should be expended and to access the condition of the wine industry in the State.

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ASSEMBLY COMMERCE AND INDUSTRY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3024**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 25, 1985

Under current law, wine manufactured from New Jersey-grown fruit by holders of farm winery or plenary winery licenses is taxed at a rate of \$0.10 per gallon, rather than at the \$0.30 per gallon rate levied on all other wines. This bill increases the tax rate on New Jersey wines to the same rate as other wine, \$0.30 per gallon, and dedicates the additional tax revenues to a New Jersey Wine Promotion Account created by the bill. The funds in the account are to be spent by the Secretary of Agriculture to assist the State's wine industry through research, development and promotion. The bill also establishes a New Jersey Wine Industry Advisory Council to assess industry conditions and to advise the board on expenditures from the account.

The present lower tax rate on wine manufactured from fruit grown in New Jersey dates from the enactment of P. L. 1981, c. 280. In a recent United States Supreme Court decision, *Bacchus Imports, LTD v. Dias*, 52 U. S. L. W. 4979 (U. S. June 29, 1984), the court struck down a similar preferential tax policy as violative of the commerce clause of the United States Constitution. This bill eliminates that preferential treatment of New Jersey wines in accordance with the court's decision.

The Assembly Commerce and Industry Committee amendments are technical in nature.

Assembly Amendments  
Proposed by Assemblyman Zimmer

to

ADOPTED  
JUN 17 1985

Assembly Bill No. 3024 (4OCR)

Amend:

Sponsored by Assemblyman Zimmer

Page	Sec.	Line	
2	2	11	After "this" insert "1985"
2	2	16	After "all" insert "taxable sales of"
2	2	16-16A	Omit "New Jersey"
<del>2</del>	<del>2</del>	<del>16A</del>	<del>Omit "wineries" insert "plenary winery and</del>
2	2	22	farm winery licensees"
3	3	33	Omit "secretary" insert "Secretary of Agriculture" <i>after insert</i>
3	3	37	After "this" insert "1985"
3	4	8	After "certify" insert "by March 1, 1986 and by March 1 annually thereafter"
3	4	10	After "number of" insert "taxable"
3	4	10-X	Omit "New Jersey wineries for each"
<del>3</del>	<del>4</del>	<del>11</del>	<del>Omit "tax period" insert "plenary winery and farm winery licensees during the preceding taxable year"</del>
3	5	1	After "immediately" insert "and shall apply to taxable sales of wines made on and after the first day of the second bimonthly taxable period following enactment"

STATEMENT

These amendments correct certain technical deficiencies to clarify that the tax on wine will be levied on "taxable sales" of wine, to more precisely identify the taxpayers as plenary winery and farm winery licensees and to specify when the tax is due.



ADOPTED

to

MAY 6 1985

Assembly Bill No. 3024 3rd OCR

Sponsored by Assemblyman Zimmer

Amend:

Page	Sec.	Line	
2	2	14-15	After "equal to" omit the balance of line 14, on line 15 omit "pursuant to R.S. 54:43-1" and insert "\$0.20 per gallon"
2	2	18	Omit "any" insert "the General Fund or any non-State"
2	2	After 18	<p>Insert new subsection "d." as follows:</p> <p>"d. The secretary shall include with the annual budget request for the department a request for funds sufficient to carry out the purposes and intent of this <sup>amendatory and supplementary</sup> act."</p>

STATEMENT

This amendment would change the funding formula for the New Jersey Wine Promotion Account created in Assembly Bill No. 3024 from two-thirds of the tax levied on all wines, vermouth and sparkling wines, sold by New Jersey Wineries pursuant to R.S. 54:43-1 to an amount equal to \$0.20 on each gallon sold by New Jersey Wineries. The change in formula will not affect the amount of monies allocated to the fund.

The amendment also clarifies the sources of other monies from which the account may be credited.

ASSEMBLY Amendments  
Proposed by Assemblyman Zimmer  
to

ADOPTED

APR 15 1985

Assembly Bill No. 3024 2nd OCR

Sponsored by Assemblyman Zimmer

Amend:

Page	Sec.	Line
2	2	7-8
3	4	2-9

Omit "vinification" insert "viticultural"  
 Omit lines 2 through 6 entirely and on line 7  
 omit "Bill No. 3024 of 1984) and shall"

Statement

This amendment corrects certain technical deficiencies in Assembly Bill No. 3024 2nd OCR. Specifically, since the bill requires that the funds to be deposited in the New Jersey Wine Promotion Account be appropriated by law it is inappropriate for the Director of the Division of Taxation to be directed to deposit those funds. Further, the term "vinification" refers to the wine making process, which would be redundant. Rather, the term should be "viticultural", which concerns the culture of grapes.

BILLS SIGNED

PAGE TWO

JULY 12, 1985

A-3024, sponsored by Assemblyman Richard Zimmer, R-Hunterdon, which eliminates a preferential tax treatment given to New Jersey grown wines and establishes a New Jersey Wine Promotion Account to promote wines manufactured in New Jersey.

The elimination of the tax preference was necessitated by a United States Supreme Court ruling which held that such preferential treatment violated the commerce clause of the Constitution.

The Wine Promotion Account created by this legislation is to be funded through annual appropriations equal to a 20 cent per gallon tax on all taxable sales of wines, vermouth and sparkling wines sold by State wineries. It is estimated the amount will be about \$40,000.

A-2125, sponsored by Assemblyman Thomas Foy, D-Burlington, which permits autobus operators to buy and sell equipment and to generally conduct their financial affairs without obtaining prior approval of the Board of Public Utilities or the Department of Transportation.

A-78, sponsored by Assemblywoman Mildred Garvin, D-Essex, to provide that members of the United States military and their dependents who are living in New Jersey and attending public colleges or universities be required to pay the resident tuition fees rather than non-resident tuition fees.

A-3514, sponsored by Assemblyman John Watson, D-Mercer, to appropriate \$100,000 to the Martin Luther King, Jr., Commemorative Commission to cover administrative and operating expenses.

S-3162, sponsored by Senator Carmen Orechio, D-Essex, to appropriate \$500,000 to the Waterloo Foundation for the Arts.

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