

33:1-2

LEGISLATIVE HISTORY CHECKLIST

NJSA: 33:1-2

(Alcoholic Beverages-purchase by wholesaler-require permission of brand owner)

LAWS OF: 1984

CHAPTER: 233

Bill No: S517

Sponsor(s): Lesniak and Hurley

Date Introduced: Pre-Filed

Committee: Assembly: Law, Public Safety And Defense

Senate: Law, Public Safety And Defense

Amended during passage: Yes

Substituted for A335 (not attached since identical to S517.) Amendments during passage denoted by asterisks.

Date of Passage: Assembly: October 18, 1984

Senate: June 28, 1984

Date of Approval: December 28, 1984

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

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SENATE, No. 517

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senators LESNIAK and HURLEY

AN ACT concerning the importation of alcoholic beverages and amending R. S. 33:1-2.

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

1 1. R. S. 33:1-2 is amended to read as follows:

2 33:1-2. *a.* It shall be unlawful to manufacture, sell, possess with
3 intent to sell, transport, warehouse, rectify, blend, treat, fortify,
4 mix, process, bottle or distribute alcoholic beverages in this State,
5 except pursuant to and within the terms of a license, or as other-
6 wise expressly authorized, under this chapter; but any drink ac-
7 tually intended for immediate personal consumption may be mixed
8 by any person; and alcoholic beverages intended in good faith to
9 be used solely for personal consumption may be transported in
10 any vehicle from a point within this State to the extent of, not ex-
11 ceeding **[1/2 barrel, or 2]** ***1/2** *barrel or* two * [barrels, or 10]**
12 *cases containing not in excess of [24 quarts] *[120 liters]* *24*
13 *quarts** in all, of beer, ale or porter, and **[5 gallons]** **[120 liters]**
14 ***[*5*]** *five** gallons** of wine and **[12 quarts]** **[120 liters]**
15 **12 quarts** of other alcoholic beverages within any consecutive
16 period of 24 hours, and, by the owner thereof, in a vehicle other
17 than that of the holder of a transportation license, from a point
18 outside this State to the extent of, not exceeding 1/4 barrel or one
19 case containing not in excess of 12 **[quarts]** **[liters]* *quarts**
20 in all, of beer, ale or porter, and **[one gallon]** **[3.5 liters]* *one*
21 *gallon** of wine and two **[quarts]** **[liters]* *quarts** of other
21A alcoholic beverages within any consecutive period of 24 hours;

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:

*—Senate committee amendments adopted June 25, 1984.

**—Assembly committee amendments adopted September 20, 1984.

21B provided, however, that except pursuant to and within the terms
 22 of a license or permit issued by the director, no person shall trans-
 23 port into this State or receive from without this State into this
 24 State, alcoholic beverages where the ***["said"]*** alcoholic beverages
 25 are transported or received from a state which prohibits the trans-
 26 portation into that state of alcoholic beverages purchased or other-
 27 wise obtained in the State of New Jersey. If any person or per-
 28 sons desire to transport alcoholic beverages intended only for per-
 29 sonal consumption in quantities in excess of those above-mentioned,
 30 an application may be made to the **["commissioner"]** *director* who
 31 may, upon being satisfied of the good faith of the applicant, and
 32 upon payment of a fee of \$5.00 issue a special permit limited by
 33 such conditions as the **["commissioner"]** *director* may impose, au-
 34 thorizing ***["such"]*** *the* transportation of alcoholic beverages in
 34A quantities in excess of those above-mentioned.

35 ***["b. A holder of a Class B plenary wholesale license under R. S.**
 36 *33:1-11 shall not order, purchase, acquire, receive, sell or deliver*
 37 *any brand of alcoholic beverage unless he is authorized to sell that*
 38 *brand by the brand owner or the owner's authorized agent. A holder*
 39 *shall file with the division, not later than January 15 of each cal-*
 40 *endar year, a list of each brand owner for whom and each brand*
 41 *for which that holder is authorized to sell within this State. As*
 42 *used in this subsection the term "brand owner" means the distiller,*
 43 *vintner, brewer, producer, bottler or owner of the commodity at the*
 44 *time it becomes a marketable product.]**

45 **b. A holder of a Class B license under R. S. 33:1-11 shall not*
 46 *sell or deliver for sale in New Jersey any brand of alcoholic bever-*
 47 *age ****["unless he is authorized to sell that brand by the brand owner***
 48 *or the registered supplier of the brand in New Jersey, except that*
 49 *the holder of a Class B State Beverage Distributor's license may*
 50 *sell or deliver for sale in New Jersey any brand of malt alcoholic*
 51 *beverage acquired or purchased from the brand owner or an au-*
 52 *thorized Class B New Jersey wholesale licensee.]** **for resale*
 53 *in this State unless the alcoholic beverage is acquired from the*
 54 *brand owner, or his authorized agent, or a wholesale licensee desig-*
 55 *nated as the registered distributor by the brand owner, or his au-*
 56 *thorized agent.***

57 *c. No licensee shall **knowingly** sell, offer for sale, deliver,*
 58 *receive or purchase, ****["at wholesale, or retail"]**** **for resale in*
 59 *this State** , any alcoholic beverage, including private label brands*
 60 *owned by a retailer and exclusive brands owned by a manufacturer*
 61 *or wholesaler and offered for sale or sold by such manufacturer*
 62 *or wholesaler exclusively to one New Jersey retailer ** or affiliated*

63 retailer**, unless the brand owner or his authorized agent files
 64 with the Director of the Division of Alcoholic Beverage Control
 65 ****[for each calendar year]**** a brand registration schedule con-
 66 taining ****[the correct brand name, the name of the owner of the**
 67 **brand and the names of all New Jersey Class B wholesale licensees**
 68 **who are authorized to sell the brand within this State together with**
 69 **such further information as the director may require. In the event**
 70 **that the brand owner or his authorized agent does not file a brand**
 71 **registration schedule, then the director may, in his discretion, ap-**
 72 **prove the filing of a brand registration schedule for such brand**
 73 **by any Class B wholesale licensee provided that such wholesale**
 74 **licensee shall sell the brand to all retail licensees in a nondiscrimina-**
 75 **tory manner.]**** ****such information as the director shall by rule**
 76 **or regulation require.****

77 d. Each person who files a brand registration schedule**, and
 78 amendments thereto** shall pay ****[an annual registration]**** ****a**
 79 **filing**** fee to cover the reasonable costs incurred by the director
 80 in connection with the ****[registration]**** ****filing****, but not in
 81 excess of ****[ten dollars (\$10)]**** ****\$10.00**** per ****[brand. How-**
 82 **ever, persons filing a brand registration schedule for private label**
 83 **brands owned by a retailer and exclusive brands owned by a manu-**
 84 **facturer or wholesaler and offered for sale or sold by such manu-**
 85 **facturer or wholesaler exclusively to one New Jersey retailer shall**
 86 **not be required to pay any additional fee for annual registrations**
 87 **subsequent to the first year, unless information required in the**
 88 **registration is different from the previous year]**** ****filing****. Any
 89 registration may be suspended or revoked in the same manner as
 90 an alcoholic beverage license for any violation of ****[this section]****
 91 ****Title 33 of the Revised Statutes and the rules and regulations**
 92 **promulgated thereto****.

93 e. Nothing contained in this section shall be deemed to limit or
 94 modify the prohibition against discrimination in the sale of any
 95 nationally advertised brand of alcoholic beverages to ****[previ-**
 96 **ously]**** ****currently**** authorized wholesalers as set forth in P. L.
 97 1966, c. 59 (C. 33:1-93.6 et seq.) ****nor shall this section be deemed**
 98 **to require the sale to anyone other than authorized retailers of**
 99 **private label brands which are owned by a retailer or exclusive**
 100 **brands which are owned by a manufacturer or wholesaler and**
 101 **offered for sale or sold by the manufacturer or wholesaler exclu-**
 102 **sively to one retailer, or affiliated retailer, in this State****.

1 2. This act shall take effect on the 30th day after enactment.

23 from without this State into this State, alcoholic beverages where
 24 the said alcoholic beverages are transported or received from a
 25 state which prohibits the transportation into that state of alcoholic
 26 beverages purchased or otherwise obtained in the State of New
 27 Jersey. If any person or persons desire to transport alcoholic
 28 beverages intended only for personal consumption in quantities in
 29 excess of those above-mentioned, an application may be made to the
 30 **[commissioner]** *director* who may, upon being satisfied of the good
 31 faith of the applicant, and upon payment of a fee of \$5.00 issue a
 32 special permit limited by such conditions as the **[commissioner]**
 33 *director* may impose, authorizing such transportation of alcoholic
 34 beverages in quantities in excess of those above-mentioned.

35 *b. A holder of a Class B plenary wholesale license under R. S.*
 36 *33:1-11 shall not order, purchase, acquire, receive, sell or deliver*
 37 *any brand of alcoholic beverage unless he is authorized to sell that*
 38 *brand by the brand owner or the owner's authorized agent. A holder*
 39 *shall file with the division, not later than January 15 of each cal-*
 40 *endar year, a list of each brand owner for whom and each brand*
 41 *for which that holder is authorized to sell within this State. As*
 42 *used in this subsection the term "brand owner" means the distiller,*
 43 *vintner, brewer, producer, bottler or owner of the commodity at the*
 44 *time it becomes a marketable product.*

1 2. This act shall take effect on the 30th day after enactment.

STATEMENT

This bill would prohibit a New Jersey plenary wholesale licensee from purchasing or selling a brand of alcoholic beverage unless the licensee is authorized by the brand owner to act as a wholesaler of the brand in the State of New Jersey. The bill also increases the capacity measurements in R. S. 33:1-2 and converts the increases to a metric standard.

If this bill is enacted, the Division of Alcoholic Beverage Control will gain complete control over alcoholic beverages from the time of their importation into the State until they are sold at retail. This bill will insure that the product meets all standards necessary for the complete protection of the consumer.

Wholesalers are now able to purchase brands of alcoholic beverages without authorization from the brand owner. Because there is no connection between the brand owner and the unauthorized wholesaler, the Division of Alcoholic Beverage Control exercises little control over the unauthorized wholesaler to insure compliance

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with proper health standards, to avoid deceiving the consumer and to maintain proper quality control.

This bill would insure the orderly distribution of alcoholic beverages in New Jersey and would be of additional help in the assessment, collection and auditing of taxes imposed by New Jersey on alcoholic beverages and collected at the wholesale level.

Similar statutes and regulations have been enacted and adopted in 18 states.

ASSEMBLY LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

SENATE, No. 517

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with Assembly committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 20, 1984

As amended by the Assembly Law, Public Safety and Defense Committee, Senate Bill No. 517 amends R. S. 33:1-2 to generally prohibit Class B wholesalers from selling a product unless the product is acquired from the brand owner, the brand owner's authorized agent or a wholesale licensee in this State who has been designated as a registered distributor by a brand owner.

The bill requires that a violation of the brand registration provisions of law would require a showing that the violator knowingly offered the unregistered product for sale. A single registration is required and, thereafter, only amendments to that registration will be required if changes to the original registration need to be made. A filing fee of not more than \$10.00 is to be paid for the filing of a registration or the filing of amendments to that registration.

The bill provides that any registration can be suspended or revoked in the same manner as an alcoholic beverage license for a violation of Title 33 of the Revised Statutes. Wholesalers who are currently authorized to distribute alcoholic beverages by the brand owner would continue to be protected against discrimination as set forth in P. L. 1966, c. 59 (C. 33:1-93.6 et seq.). The bill states that its provisions are not intended to require that the owner of a private label brand make that brand available to anyone who wishes to buy it.

The committee amended this bill to make it identical to Assembly Bill No. 335 Aca.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

SENATE, No. 517

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 25, 1984

As amended by the Senate Law, Public Safety and Defense Committee, Senate Bill No. 517 would prohibit a New Jersey plenary wholesale licensee from purchasing or selling a brand of alcoholic beverage unless the licensee is authorized by the brand owner to act as a wholesaler of the brand in the State of New Jersey.

Amendments adopted by the committee would prohibit a holder of a Class B license under R. S. 33:1-11 from selling or delivering any brand of alcoholic beverage unless authorized to sell that brand by the brand owner or the registered supplier. A holder of a Class B State Beverage Distributor's License, however, would be permitted to sell or deliver any brand of malt alcoholic beverage acquired or purchased from the brand owner or an authorized Class B New Jersey wholesale licensee.

As amended, the bill would require a brand owner or his authorized agent to file with the Director of the Division of Alcoholic Beverage Control for each calendar year a brand registration schedule containing the correct brand name, the owner of the brand, and the names of all New Jersey Class B wholesale licensees who are authorized to sell the brand in this State. If a brand owner or his authorized agent did not file a brand registration schedule, the Director would have the discretion to approve the filing of a schedule for the brand by any Class B wholesale licensee, provided that the licensee sells the brand to all retail licensees in a nondiscriminatory manner.

The amendments further provide that an annual brand registration fee of not more than \$10.00 per brand shall be paid by each person who file a brand registration schedule, the director would have the discretion schedule for private label brands owned by a manufacturer or wholesaler and sold only to one New Jersey retailer would not be required to pay an annual fee for subsequent registrations, unless new information is required of them by the director.

The amendments provide that any registration can be suspended or revoked in the same manner as an alcoholic beverage license for a

violation. Wholesalers who have been previously authorized to distribute alcoholic beverages by the brand owner would continue to be protected against discrimination as set forth in P. L. 1966, c. 59 (C. 33:1-93.6 et seq.).

Prior to being amended, the bill increased the capacity measurements in R. S. 33:1-2 and converted the increases to a metric standard. The committee amended the bill to remove these changes in existing law.
