

33:1-11, 33:1-11.6

LEGISLATIVE HISTORY CHECKLIST

(Alcoholic beverage distributors--allow sale of chilled beer in kegs, barrels, etc.)

NJSA 33:1-11, 33:1-11.6

LAWS 1982

CHAPTER 166

Bill No. S1208

Sponsor(s) Bornheimer

Date Introduced March 29, 1982

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Law, Public Safety and Defense

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Aug. 5, 1982

Senate June 14, 1982

Date of approval Nov. 1, 1982

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

Proposed rules, mentioned in statements:  
13 N.J.R. 604 (b), proposed as NJAC 13:2-23.17.

6/22/81

AUG 1983

Vertical stamp or handwritten notes on the right side of the page.

166 11-1-82  
11-1-82

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1208

STATE OF NEW JERSEY

INTRODUCED MARCH 29, 1982

By Senator BORNHEIMER

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the sale of chilled malt alcoholic beverages  
\***[and]**\* \*,\* amending R. S. 33:1-11 *\*and supplementing Title  
33 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. 33:1-11 is amended to read as follows:

2 33:1-11. Class B licenses shall be subdivided and classified as  
3 follows:

4 Plenary wholesale license. 1. The holder of this license shall be  
5 entitled, subject to rules and regulations, to sell and distribute  
6 alcoholic beverages to retailers and wholesalers licensed in accord-  
7 ance with this chapter, and to sell and distribute without this  
8 State to any persons pursuant to the laws of the places of such sale  
9 and distribution, and to maintain a warehouse and salesroom; pro-  
10 vided, however, that the delivery of such alcoholic beverages by the  
11 holder of this license to retailers licensed under this Title shall be  
12 from inventory in a warehouse located in New Jersey which is  
13 operated under a plenary wholesale license. The fee for this license  
14 shall be \$7,000.00.

15 Limited wholesale license. 2a. The holder of this license shall be  
16 entitled, subject to rules and regulations, to sell and distribute  
17 brewed malt alcoholic beverages and naturally fermented wines to  
18 retailers and wholesalers licensed in accordance with this chapter,  
19 and to sell and distribute without this State to any persons pur-  
20 suant to the laws of the places of such sale and distribution, and to

**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 amendments adopted June 7, 1982.

\*\*—Assembly committee amendment adopted June 23, 1982.

21 maintain a warehouse and salesroom. The fee for this license shall  
22 be \$1,500.00.

23 Wine wholesale license. 2b. The holder of this license shall be  
24 entitled, subject to rules and regulations, to sell and distribute any  
25 naturally fermented, treated, blended, fortified and sparkling  
26 wines, to retailers and wholesalers, licensed in accordance with this  
27 chapter, and to sell and distribute without this State to any persons  
28 pursuant to the laws of the places of such sale and distribution, and  
29 to maintain a warehouse and salesroom; provided, however, that  
30 the delivery of such wines by the holder of this license to retailers  
31 licensed under this Title shall be from inventory in a warehouse  
32 located in New Jersey which is operated under a wine wholesale  
33 license. The fee for this license shall be \$3,000.00.

34 State beverage distributor's license. 2c. The holder of this license  
35 shall be entitled, subject to rules and regulations, to sell and  
36 distribute unchilled, brewed, malt alcoholic beverages in original  
37 containers only, in quantities of not less than 144 fluid ounces *and*  
38 *chilled draught malt alcoholic beverages in kegs, barrels or other*  
39 *similar containers of at least one fluid gallon in capacity*, to retailers  
40 licensed in accordance with this chapter, and to sell and distribute  
41 without this State to any person pursuant to the laws of the places  
42 of such sale and distribution, and to maintain a warehouse and  
43 salesroom. The holder of this license may sell unchilled, brewed,  
44 malt alcoholic beverages in original containers only, in quantities  
45 of not less than 144 fluid ounces *and chilled draught malt alcoholic*  
46 *beverages in kegs, barrels or other similar containers of at least*  
47 *7.75 fluid gallons in capacity*, at retail; provided, however, that such  
48 sales shall be made only for consumption off the licensed premises.  
49 This license shall not be issued to any person holding a plenary or  
50 limited brewery license, nor shall it be issued to any person directly  
51 or indirectly interested in any brewery within or without this State.  
52 This license shall not be issued for premises in or upon which any  
53 retail business, except the sale of malt alcoholic beverages and non-  
54 alcoholic beverages, is carried on. The fee for this license shall  
55 be \$825.

1 \*2. (New section) No State beverage distributor's license, as  
2 defined in subsection 2c. of R. S. 33:1-11, shall be renewed if it has  
3 not been actively used in connection with the operation of a licensed  
4 premises within a period of 2 years prior to the commencement  
5 date of the license period for which the renewal application is filed  
6 unless the director, for good cause and after a hearing, authorizes  
7 a further application for renewal\*\*; provided, however that, if the  
8 licensee has been deprived of the use of the licensed premises as

9 a result of eminent domain, fire or other casualty, and establishes  
10 by affidavit filed with the director that he is making a good faith  
11 effort to resume active use of the license in connection with the  
12 operation of a licensed premises then the period of two years pro-  
13 vided for in this section shall be automatically extended for an  
14 additional two years\*\*. Commencing on the effective date of this act,  
15 no additional State beverage distributor's licenses shall be issued  
16 to exceed the number in existence on the date this act takes effect.\*

1 \***[2.]**\* \*3.\* This act shall take effect immediately.

---

SENATE, No. 1208

STATE OF NEW JERSEY

INTRODUCED MARCH 29, 1982

By Senator BORNHEIMER

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the sale of chilled malt alcoholic beverages and amending R. S. 33:1-11.

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

1 1. R. S. 33:1-11 is amended to read as follows:

2 33:1-11. Class B licenses shall be subdivided and classified as  
3 follows:

4 Plenary wholesale license. 1. The holder of this license shall be  
5 entitled, subject to rules and regulations, to sell and distribute  
6 alcoholic beverages to retailers and wholesalers licensed in accord-  
7 ance with this chapter, and to sell and distribute without this  
8 State to any persons pursuant to the laws of the places of such sale  
9 and distribution, and to maintain a warehouse and salesroom; pro-  
10 vided, however, that the delivery of such alcoholic beverages by the  
11 holder of this license to retailers licensed under this Title shall be  
12 from inventory in a warehouse located in New Jersey which is  
13 operated under a plenary wholesale license. The fee for this license  
14 shall be \$7,000.00.

15 Limited wholesale license. 2a. The holder of this license shall be  
16 entitled, subject to rules and regulations, to sell and distribute  
17 brewed malt alcoholic beverages and naturally fermented wines to  
18 retailers and wholesalers licensed in accordance with this chapter,  
19 and to sell and distribute without this State to any persons pur-  
20 suant to the laws of the places of such sale and distribution, and to  
21 maintain a warehouse and salesroom. The fee for this license shall  
22 be \$1,500.00.

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

23 Wine wholesale license. 2b. The holder of this license shall be  
 24 entitled, subject to rules and regulations, to sell and distribute any  
 25 naturally fermented, treated, blended, fortified and sparkling  
 26 wines, to retailers and wholesalers, licensed in accordance with this  
 27 chapter, and to sell and distribute without this State to any persons  
 28 pursuant to the laws of the places of such sale and distribution, and  
 29 to maintain a warehouse and salesroom; provided, however, that  
 30 the delivery of such wines by the holder of this license to retailers  
 31 licensed under this Title shall be from inventory in a warehouse  
 32 located in New Jersey which is operated under a wine wholesale  
 33 license. The fee for this license shall be \$3,000.00.

34 State beverage distributor's license. 2c. The holder of this license  
 35 shall be entitled, subject to rules and regulations, to sell and  
 36 distribute unchilled, brewed, malt alcoholic beverages in original  
 37 containers only, in quantities of not less than 144 fluid ounces *and*  
 38 *chilled draught malt alcoholic beverages in kegs, barrels or other*  
 39 *similar containers of at least one fluid gallon in capacity*, to retailers  
 40 licensed in accordance with this chapter, and to sell and distribute  
 41 without this State to any person pursuant to the laws of the places  
 42 of such sale and distribution, and to maintain a warehouse and  
 43 salesroom. The holder of this license may sell unchilled, brewed,  
 44 malt alcoholic beverages in original containers only, in quantities  
 45 of not less than 144 fluid ounces *and chilled draught malt alcoholic*  
 46 *beverages in kegs, barrels or other similar containers of at least*  
 47 *7.75 fluid gallons in capacity*, at retail; provided, however, that such  
 48 sales shall be made only for consumption off the licensed premises.  
 49 This license shall not be issued to any person holding a plenary or  
 50 limited brewery license, nor shall it be issued to any person directly  
 51 or indirectly interested in any brewery within or without this State.  
 52 This license shall not be issued for premises in or upon which any  
 53 retail business, except the sale of malt alcoholic beverages and non-  
 54 alcoholic beverages, is carried on. The fee for this license shall  
 55 be \$825.

1 2. This act shall take effect immediately.

---

#### STATEMENT

The purpose of this bill is to authorize State beverage distrib-  
 utors to sell chilled draught alcoholic beverages in kegs, barrels and  
 similar containers. A pending Alcoholic Beverage Control rule  
 would expressly prohibit this current practice.

Under a literal reading of the present statutory law, the sale of  
 chilled draught alcoholic beverages by State beverage distributors  
 is not permitted. However, because draught beer is unpasteurized,

S1208 (1982)

unlike packaged beer, it is necessary to store the beverage at low temperatures. Consequently, this product has traditionally been sold chilled by the distributors. Although contrary to statutory law, this practice has been recognized by Alcoholic Beverage Control rule in its exclusion of distributors from N. J. A. C. 13:2-23.17. The pending ABC action would conform the present rule to the statute, thus eliminating the sale of chilled alcoholic beverages by the distributors and causing unnecessary hardship on State beverage distributor licensees. This bill would negate the effect of this rule change.

---

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND  
DEFENSE COMMITTEE

STATEMENT TO

**SENATE, No. 1208**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 28, 1982

The purpose of this bill is to permit State beverage distributors to sell chilled draught malt alcoholic beverages (beer) in kegs, barrels, and similar containers.

The sale of unchilled beer by State beverage distributors is permitted. However, draught beer is not pasteurized and must therefore be refrigerated to prevent spoilage. As a result, under a literal reading of the law, draught beer may not be properly sold by distributors. Nevertheless, for many years draught beer had been sold chilled by the distributors, and the Division of Alcoholic Beverage Control recognized the practice in its rules. Last year, the A.B.C. proposed to change its rules to conform to the statute. In deference to the Legislature, it did not adopt the rule pending legislative direction.

Specifically, this bill permits holders of a State beverage distributor's license to sell chilled beer in kegs, barrels, or similar containers of at least one fluid gallon in capacity to licensed retailers at wholesale, and to sell chilled beer in kegs, barrels, or similar containers of at least 7.75 fluid gallons in capacity ( $\frac{1}{4}$  keg) to consumers at retail. In addition, it provides for retiring of a license which has not been actively used for the two years preceding the renewal application. The bill also cuts off the number of additional licenses at the number in existence as of the effective date of the act.



SENATE LAW, PUBLIC SAFETY AND DEFENSE  
COMMITTEE

STATEMENT TO

SENATE, No. 1208

STATE OF NEW JERSEY

DATED: MAY 10, 1982

The purpose of this bill is to permit State beverage distributors to sell *chilled* draught malt alcoholic beverages (beer) in kegs, barrels, and similar containers.

According to a literal reading of the law, the sale of chilled beer by State beverage distributors is not permitted. Draught beer is not pasteurized, however, and must be refrigerated to prevent spoilage. As a result, for many years, draught beer has been sold chilled by the distributors, and the Division of Alcoholic Beverage Control recognized the practice in its rules. This bill would conform the statute to current practice.

The bill permits holders of a State beverage distributor's license to sell chilled beer in kegs, barrels, or similar containers of at least one fluid gallon in capacity to licensed retailers at wholesale, and to sell chilled beer in kegs, barrels, or similar containers of at least 7.75 fluid gallons in capacity ( $\frac{1}{4}$  keg) to consumers at retail.