

54:40A-4 and 54:40A-5

LEGISLATIVE HISTORY CHECKLIST

WASA 54:40A-4 and 54:40A-5 (Cigarettes--Manufacture--Distribution--Licensing)

LAWS OF 1979 CHAPTER 481

Bill No. S3008

Sponsor(s) Perskie

Date Introduced Jan. 11, 1979

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Law, Public Safety and Defense

Amended during passage Yes xx Amendments during passage denoted by asterisks

Date of Passage: Assembly Jan. 3, 1980

Senate May 7, 1979

Date of approval Feb. 28, 1980

Following statements are attached if available:

Sponsor statement	Yes	xx	Also attached: Senate amendments, adopted 4-26-79 & 5-3-79 (with statement)
Committee Statement: Assembly	Yes	xx	
Senate	Yes	xx	
Fiscal Note	Yes	no	
Veto message	Yes	xx	
Message on signing	Yes	no	
Following were printed:			
Reports	Yes	xx	
Hearings	Yes	xx	

Reports cited in sponsor and committee statements:

974.90 New Jersey. Commission of Investigation. C929 Summary: report and recommendations 1978 on the incursion by organized crime into certain legitimate businesses in Atlantic City, January 12, 1978. Trenton, 1978.

2/1/78

(over)

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974.90 New Jersey. Commission of Investigation.
C929 Report and recommendations: incursion
1977c by organized crime into certain legitimate
businesses in Atlantic City, December, 1977.
Trenton, 1977.

Hearings:

974.901 New Jersey. Commission of Investigation.
I83 Organized crime in Atlantic City.
(1977) (In: New Jersey. Commission of Investi-
gation. Annual report. 9th (1977),
pg. 74-277.
Includes partial transcripts of
hearings held before the Commission,
August, 1977.

[FOURTH OFFICIAL COPY REPRINT]

SENATE, No. 3008

STATE OF NEW JERSEY

INTRODUCED JANUARY 11, 1979

By Senator PERSKIE

Referred to Committee on Law, Public Safety and Defense

AN Act to amend "An act imposing a tax on the sale, possession for sale, use, consumption or storage for use of cigarettes within the State, providing for the licensing of manufacturers, manufacturers' representatives, distributors, dealers and consumers; providing for the control of the transportation of cigarettes in and through the State; establishing a tobacco industry advisory council; defining certain words for the purposes of the act; prescribing the methods of collecting the tax imposed; providing penalties for violations; and making certain violations misdemeanors," approved April 29, 1948 (P. L. 1948, c. 65), as said title was amended by P. L. 1968, c. 351 ***and making an appropriation***.

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

1 ********[1. Section 201 of P. L. 1948, c. 65 (C. 54:40A-3) is amended
2 to read as follows:

3 201. Licenses required.

4 a. After the effective date of this act, no person shall engage in,
5 or conduct the business of manufacturing, purchasing, selling, con-
6 signing or distributing cigarettes in this State, nor shall any
7 person acquire unstamped cigarettes for consumption, storage
8 or use in this State without having first obtained the appropriate
9 license for that purpose as prescribed by this act.

10 b. *The following ****distributors, wholesale dealers and retail*
10A *dealers operating more than five cigarette vending machines*****
10B *shall be licensed **and shall receive, if qualified, a license desig-*
10C *nated "special qualifying license" to be issued without payment*
10D *of a fee**:*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

11 (1) Individuals having any interest whatsoever in a proprietor-
12 ship or company.

13 (2) Partners of a partnership, regardless of percentage.

14 (3) Joint venturers in a joint venture.

15 (4) Officers, directors and all stockholders holding directly or
16 indirectly a beneficial interest in ****[any]**** ****more than 5%**** of
17 the outstanding shares of *****[private]***** corporations *******, other
17A than corporations engaged in manufacturing outside this State
17B which engage in no other activities described in paragraph a. of
17C this section*******.

18 ****[(5) Stockholders holding directly or indirectly a beneficial**
19 **interest in more than 5% of the outstanding shares of public**
20 **corporations.]****

21 ****[(6)]**** ***(5)*** Employees *****working primarily in New**
21A **Jersey and***** receiving in excess of ****[\$20,000.00]****
22 ****\$30,000.00**** per annum compensation, whether as salary,
23 commission, bonus or otherwise, and persons who, in the
24 judgment of the director, ***[are employed,]*** ***act*** in fact in a
25 supervisory capacity or have the power to make or substantially
26 effect discretionary business judgments of the applicant entity*******,
26A **with regard to cigarette vending*****.

27 ****[(7)]**** ***(6)*** Other persons who, in the judgment of the
28 director, have the ability to control the applicant entity through any
29 means including, but not limited to, ***contracts,*** loans, mortgages
30 or pledges of securities*******; provided, however, that nothing herein
31 contained shall be construed to require the licensure of any labor
32 union solely by reason of a collective bargaining agreement entered
33 into with an applicant entity, or the licensure of any lending insti-
34 tution solely by reason of a loan or other financial arrangement
35 **with the applicant entity***.]******

1 ******[2.]****** ******1.****** Section 202 of P. L. 1948, c. 65 (C.
2 54:40A-4) is amended to read as follows:

3 202. Issuance of license; fee.

4 a. All licenses shall be issued by the director, who shall make
5 rules and regulations respecting applications therefor and issuance
6 thereof.

6A ******b.** *The following individuals related to distributors, whole-*
6B *sale dealers, retail dealers operating more than five cigarette vend-*
6C *ing machines, and retail dealers who sell cigarettes at retail at more*
6D *than five premises shall submit with applications for a license*
6E *fingerprints, which shall be processed through the Federal Bureau*
6F *of Investigation and the New Jersey State Police, and such other*
6G *information as the Director may require:*

6H (1) Individuals having any interest whatsoever in a proprietor-
6I ship or company.

6J (2) Partners of a partnership, regardless of percentage.

6K (3) Joint venturers in a joint venture.

6L (4) Officers, directors, and all stockholders holding direct or in-
6M directly a beneficial interest in more than 5% of the outstanding
6N shares of a corporation.

6O (5) Employees receiving in excess of \$30,000.00 per annum com-
6P pensation whether as salary, commission, bonus or otherwise and
6Q persons who, in the judgment of the Director are employed in a
6R supervisory capacity or have the power to make or substantially
6S affect discretionary business judgments of the applicant entity with
6T regard to the cigarette business.

6U (6) Other persons who the director establishes have the ability
6V to control the applicant entity through any means including but not
6W limited to, contracts, loans, mortgages or pledges of securities
6X where such control is inimical to the policies of this act because such
6Y person is a career offender or a member of a career offender cartel
6Z as defined in section 2(e) hereof. Individuals licensed pursuant to
6AA the Casino Control Act shall only be required to produce evidence
6BB of said licensure in satisfaction of the foregoing.

6CC The provisions in this paragraph b. as to wholesale dealers, re-
6DD tail dealers operating more than five cigarette vending machines,
6EE and retail dealers who sell cigarettes at retail at more than five
6FF premises do not apply to retail grocery stores and supermarkets
6GG primarily engaged in the self-service sale of foods and household
6HH supplies for off-premises consumption or to restaurants, hotels
6II and motels operated by national corporations with such premises
6JJ in six or more states and primarily engaged in the sale of foods for
6KK retail consumption or in the rental of rooms for lodging.****

7 ****[b.]****c.**** The director [may refrain from the issu-
8 ance of] shall not issue any license under this act where he has
9 reasonable cause to believe that [the applicant] anyone required to
10 ****[be licensed]**** submit information**** under this act
11 has willfully withheld information requested of him for the purpose
12 of determining [the] ****[his]****the**** eligibility ****of
13 the applicant**** [of the applicant] to receive a license, or where
14 [he] the director has reasonable cause to believe that information
14A submitted in the application is false and misleading and is not made
14B in good faith.

15 ****[c. No license shall be issued if the director finds****, upon
15A the review and advice of the Attorney General,*** that any person

16 *required to be licensed under this act has, at the time of the filing*
 17 *of the application, been convicted of one or more of the following*
 18 *crimes or offenses pursuant to the following laws:*

19 *N. J. S. 2A:86-1 to N. J. S. 2A:86-3; N. J. S. 2A:89-1 to N. J. S.*
 20 *2A:89-5; N. J. S. 2A:90-1 to N. J. S. 2A:90-3; section 1 of P. L. 1962,*
 21 *c. 39 (C. 2A:90-4); N. J. S. 2A:91-1; N. J. S. 2A:91-3 to N. J. S.*
 22 *2A:91-8; N. J. S. 2A:93-1 and N. J. S. 2A:93-2; N. J. S. 2A:93-4;*
 23 *N. J. S. 2A:93-6 to N. J. S. 2A:93-8; N. J. S. 2A:93-10 to N. J. S.*
 24 *2A:93-14; N. J. S. 2A:94-1 to N. J. S. 2A:94-3; N. J. S. 2A:96-2 to*
 25 *N. J. S. 2A:96-4; section 1 of P. L. 1952 c. 121 (C. 2A:96-5); sec-*
 26 *tions 1 and 2 of P. L. 1953, c. 265 (C. 2A:96-6 and 2A:96-7); N. J. S.*
 27 *2A:97-1 and N. J. S. 2A:98-1, section 1 of P. L. 1961, c. 53*
 28 *(C. 2A:98-3); N. J. S. 2A:102-1 to N. J. S. 2A:102-12; N. J. S.*
 29 *2A:103-1 and N. J. S. 2A:103-2; N. J. S. 2A:104-1 to N. J. S.*
 30 *2A:104-12; section 1 of P. L. 1964, c. 265 (C. 2A:104-13); N. J. S.*
 31 *2A:105-1 to N. J. S. 2A:105-4; section 1 of P. L. 1968, c. 83*
 32 *(C. 2A:105-5); ***[N. J. S. 2A:108-1 to N. J. S. 2A:108-6; N. J. S.*
 33 *2A:108-8;]*** N. J. S. 2A:109-1 to N. J. S. 2A:109-10; N. J. S.*
 34 *2A:111-1 to N. J. S. 2A:111-15; N. J. S. 2A:111-18; N. J. S.*
 35 *2A:111-20 and N. J. S. 2A:111-21; section 1 of P. L. 1964, c. 179*
 36 *(C. 2A:111-21.1); N. J. S. 2A:111-22 to N. J. S. 2A:111-24; sec-*
 37 *tions 1 and 2 of P. L. 1952, c. 332 (C. 2A:111-25 and 2A:111-26);*
 38 *sections 1 to 3 of P. L. 1954, c. 58 (C. 2A:111-28 to 2A:111-30);*
 39 ****[section 1 of P. L. 1960, c. 62 (C. 2A:111-32);]*** sections 1 and*
 40 *2 of P. L. 1964, c. 294 (C. 2A:111-34 and 2A:111-35); sections 1 and*
 41 *2 of P. L. 1968, c. 253 (C. 2A:111-37 and 2A:111-38); section 1 of*
 42 *P. L. 1968, c. 260 (C. 2A:111-39); sections 2 to 7 of P. L. 1968, c. 300*
 43 *(C. 2A:111-41 to 2A:111-46); N. J. S. 2A:112-1 to N. J. S.*
 44 *2A:112-3; N. J. S. 2A:112-5 to N. J. S. 2A:112-8; N. J. S. 2A:113-1;*
 45 *N. J. S. 2A:113-5; N. J. S. 2A:113-6 and N. J. S. 2A:113-7; section*
 46 *3 of P. L. 1971, c. 446 (C. 2A:115-1.8); section 3 of P. L. 1971, c. 447*
 47 *(C. 2A:115-2.3); N. J. S. 2A:117-1 to N. J. S. 2A:117-3; N. J. S.*
 48 *2A:118-1 and N. J. S. 2A:118-2; N. J. S. 2A:119-1 to N. J. S.*
 49 *2A:119-5; sections 3 and 4 of P. L. 1965, c. 52 (C. 2A:119-5.3 and*
 50 *2A:119-5.4); section 1 of P. L. 1962, c. 201 (C. 2A:119-8.1); N. J. S.*
 51 *2A:119-9; N. J. S. 2A:121-1 to N. J. S. 2A:121-4; N. J. S. 2A:125-1;*
 52 *N. J. S. 2A:127-2 and N. J. S. 2A:127-3; N. J. S. 2A:131-1 to N. J. S.*
 53 *2A:131-4; N. J. S. 2A:133-2 to N. J. S. 2A:133-12; N. J. S.*
 54 *2A:135-1 to N. J. S. 2A:135-8; N. J. S. 2A:135-10 to N. J. S.*
 55 *2A:135-13; N. J. S. 2A:136-1; N. J. S. 2A:138-1 and N. J. S.*
 56 *2A:138-2; N. J. S. 2A:139-1 to N. J. S. 2A:139-4; N. J. S. 2A:141-1;*
 57 *sections 2 to 4 of P. L. 1977, c. 329 (C. 2A:142A-2 to 2A:142A-4);*

58 *N. J. S. 2A:143-1 and N. J. S. 2A:143-2; N. J. S. 2A:145-1; N. J. S.*
59 *2A:147-1 and N. J. S. 2A:147-2; N. J. S. 2A:149-1; N. J. S.*
60 *2A:150-1; N. J. S. 2A:151-2 to N. J. S. 2A:151-6; N. J. S. 2A:151-8*
61 *to N. J. S. 2A:151-10; N. J. S. 2A:151-11 to N. J. S. 2A:151-15;*
62 *N. J. S. 2A:151-19 and N. J. S. 2A:151-20; N. J. S. 2A:151-22;*
63 *N. J. S. 2A:151-24 to N. J. S. 2A:151-28; N. J. S. 2A:151-32 to*
64 *N. J. S. 2A:151-39; N. J. S. 2A:151-41; section 1 of P. L. 1969,*
65 *c. 157 (C. 2A:151-41.1); N. J. S. 2A:151-44; N. J. S. 2A:151-45;*
66 *N. J. S. 2A:151-48; N. J. S. 2A:151-50; N. J. S. 2A:151-55 and*
67 *N. J. S. 2A:151-56; section 42 of P. L. 1966, c. 60 (C. 2A:151-57.1);*
68 *N. J. S. 2A:151-58 to N. J. S. 2A:151-61; section 1 of P. L. 1952, c. 5*
69 *(C. 2A:151-62); N. J. S. 2A:170-18; section 1 of P. L. 1968, c. 256*
70 *(C. 2A:170-102); N. J. S. 2C:5-5; N. J. S. 2C:11-2 to N. J. S.*
71 *2C:11-4; N. J. S. 2C:12-1b; N. J. S. 2C:12-2 and N. J. S. 2C:12-3;*
72 *N. J. S. 2C:13-1 and N. J. S. 2C:13-2; N. J. S. 2C:13-5; N. J. S.*
73 *2C:14-2 and N. J. S. 2C:14-3; N. J. S. 2C:17-1 and N. J. S. 2C:17-2;*
74 *N. J. S. 2C:18-2; N. J. S. 2C:19-1; N. J. S. 2C:20-2 to N. J. S.*
75 *2C:20-10; N. J. S. 2C:21-1 to N. J. S. 2C:21-17; N. J. S. 2C:21-19;*
76 *N. J. S. 2C:24-4b; N. J. S. 2C:24-6; N. J. S. 2C:27-2 to N. J. S.*
77 *2C:27-8; N. J. S. 2C:28-1 to N. J. S. 2C:28-8; N. J. S. 2C:29-1 to*
78 *N. J. S. 2C:29-7; N. J. S. 2C:30-1 to N. J. S. 2C:30-3; N. J. S.*
79 *2C:34-1 to N. J. S. 2C:34-4; N. J. S. 2C:37-2 to N. J. S. 2C:37-4;*
80 *N. J. S. 2C:37-7; N. J. S. 2C:39-3 to N. J. S. 2C:39-5; N. J. S.*
81 *2C:39-9 to N. J. S. 2C:39-11; section 19 of P. L. 1970, c. 226*
82 *(C. 24:21-19) and paragraphs (1), (2) or (3) of subsection a. of*
83 *section 20 of P. L. 1970, c. 226 (C. 24:21-20a.) (1), (2), or (3);*
84 *section 21 of P. L. 1970, c. 226 (C. 24:21-21); section 22 of P. L. 1970,*
85 *c. 226 (C. 24:21-22); section 24 of P. L. 1970, c. 226 (C. 24:21-24);*
86 *section 26 of P. L. 1970, c. 226 (C. 24:21-26) and section 29 of*
87 *P. L. 1970, c. 226 (C. 24:21-29), or pursuant to the laws of another*
88 *state or of the United States of a crime or offense which if com-*
89 *mitted in this State, would be one of the foregoing crimes or*
90 *offenses.*

91 *Any person required to be licensed who has a charge pending*
92 *pursuant to any of the foregoing, shall disclose that fact to the*
93 *director. The director may then**[if requested, withhold action on*
94 *the application]** **issue a temporary license** until there has*
94A *been a disposition of the charge. ***The director shall have the*
94B *discretion to waive the prohibition against licensure herein pro-*
94C *vided upon the presentation by the applicant of proof that a period*
94D *of not less than 10 years has elapsed since the last conviction or*
94E *the expiration of any period of incarceration imposed with respect*
94F *thereto.***]*

94G ****d. The director shall not issue any license under this act
 94H where he has reasonable cause to believe that anyone required to be
 94I licensed or anyone required to submit information under this act,
 94J has been convicted of any offense in any jurisdiction which would
 94K be at the time of conviction a crime involving moral turpitude.

94L It is further provided that any applicant or person required to
 94M submit information who has a charge pending pursuant to any of
 94N the foregoing shall disclose that fact to the director. The director
 94O may then withhold action on new applications or, in the case of an
 94P application for the renewal of a license, issue a temporary license
 94Q until there has been a disposition of the charge. The director shall
 94R have the discretion to waive the prohibition against licensure herein
 94S provided upon the presentation of proof that of period of not less
 94T than 5 years has elapsed since the last conviction or the expira-
 94U tion of any period of incarceration imposed with respect
 94V thereto.****

95 ****[d.]**** ****e.**** The director shall not issue any license
 96 ****[to anyone who]**** ****where the applicant or anyone re-
 97 quired to submit information**** has been identified as a career
 98 offender or a member of a carrer offender cartel in such a manner
 99 as to create a reasonable belief that the association is of such a
 99A nature as to be inimical to the policies of this act or to the taxation,
 99B distribution, and sale of cigarettes within the State. **The director
 99C may request the Attorney General for advice respecting whether a
 99D person is a "career offender" within the meaning of this subsection,
 99E or is a "contumacious defiant" within the meaning of subsection
 100 (e) of this section.**

101 (1) As used in this subsection: "career offender" means any
 102 person whose behavior is pursued in an occupational manner or
 103 context for the purpose of economic gain, utilizing such methods as
 104 are deemed criminal violations of the public policy of this State;
 105 and (2) "career offender cartel" means any group of persons who
 106 operate together as career offenders.

107 ****[e.]**** ****f.**** The director shall not issue any license
 108 ****[to anyone who]**** ****where the applicant or anyone re-
 109 quired to submit information**** has been found to be contumaci-
 110 ously defiant before any legislative investigative body or other
 111 official investigative body of this State or of the United States
 112 when such body is engaged in the investigation of organized crime,
 112A official corruption or the cigarette industry itself.

113 ****[f.]**** ****g.**** Each such license shall lapse on March
 114 31 of the period for which it is issued, and each such license shall be

115 continued annually upon the conditions that the licensee shall have
 116 paid the required fee and complied with all the provisions of this
 117 act and the rules and regulations of the director made pursuant
 117A thereto.

118 ****[g.]**** ****h.**** For each license issued to a dis-
 118A tributor**[*], including all licenses for individuals required
 118B to be licensed by the provisions of section 201(b)(4) of
 118C P. L. 1948, c. 65 (C. 54:40A-3),** there shall be paid
 119 to the director a fee of \$350.00. If a distributor sells or in-
 120 tends to sell cigarettes at two or more places of business, whether
 121 established or temporary, a separate license shall be required for
 122 each place of business. Each license, or certificate, thereof, and such
 123 other evidence of license shall be exhibited in the place of business
 124 for which it is issued and in such manner as may be prescribed by
 125 the director. The director shall require each licensed distributor to
 126 file with him a bond in an amount not less than ****[\$1,000.00]****
 127 ****\$6,000.00**** to guarantee the proper performance of his
 128 duties and the discharge of his liabilities under this act. The bond
 129 shall be executed by such licensed distributor as principal, and by a
 130 corporation approved by the director and duly authorized to en-
 131 gage in business as a surety company in the State of New Jersey,
 132 as surety. The bond shall run concurrently with the distributor's
 132A license.

133 For each license issued to a manufacturer, and for each con-
 134 tinuance thereof, there shall be paid to the director a fee of \$10.00.

135 For each license issued to a manufacturer's representative, and
 136 for each continuance thereof, there shall be paid to the director a
 137 fee of \$5.00.

138 For each license issued to a wholesale dealer there shall be paid to
 139 the director a fee of \$250.00. If a wholesale dealer sells or intends
 140 to sell cigarettes at two or more places of business, whether estab-
 141 lished or temporary, a separate license shall be required for each
 142 place of business. Each license, or certificate thereof, and such other
 143 evidence of license shall be exhibited in the place of business for
 144 which it is issued and in such manner as may be prescribed by the
 145 director.

146 For each license issued to a retail dealer and for each continuance
 147 thereof, excepting a retail dealer operating *[a]* **[*not more
 147A than five*]** **a** cigarette vending *[machine]* **[*ma-
 147B chines*]** **machine**, there shall be paid to the director a fee of
 148 \$5.00. For each license issued to a retail dealer operating a
 149 vending machine for the sale of cigarettes and for each con-
 150 tinuance thereof, there shall be paid to the director a fee of \$5.00.

151 If a retail dealer sells or intends to sell cigarettes at two or more
152 places of business, whether established or temporary, or whether
153 in the same building or not, a separate license shall be required
154 for each place of business. Each vending machine for the sale
155 of cigarettes shall be separately licensed and be deemed a separate
156 place of business. Each license, or certificate thereof, and such
157 other evidence of license shall be exhibited in the place of business
158 for which it is issued and in such manner as may be prescribed
159 by the director.

160 Any person licensed only as a distributor or as a manufacturer
161 or as a manufacturer's representative or as a wholesaler dealer
162 or as a retail dealer shall not operate in any other capacity except
163 under that for which he is licensed herein, unless the appropriate
164 license or licenses therefor are first secured.

165 For each license issued to a consumer and for each continuance
166 thereof there shall be paid to the director a fee of \$1.00. Each
167 license, or certificate thereof, or such other evidence of license as
168 may be prescribed by the director, shall be so kept by the consumer
169 as to be readily available for inspection.

170 No license shall be issued to any person except upon the pay-
171 ment of the full fee therefor, any statute or exemption to the
172 contrary notwithstanding. No license shall be assignable or trans-
173 ferable, except as hereinafter provided, but in the case of death,
174 bankruptcy, receivership, or incompetency of the licensee, or if
175 for any other reason whatsoever the business of the licensee shall
176 devolve upon another by operation of law, the director may, in
177 his discretion, extend said license for a limited time to the executor,
178 administrator, trustee, receiver, or person upon whom the same
179 has devolved. A purchaser or assignee of a licensed wholesaler or
180 licensed distributor, or any other person upon whom the business
181 of a licensed wholesaler or licensed distributor shall devolve by
182 operation of law, shall upon application to the director, be entitled
183 to an assignment or transfer of the wholesale or distributor license
184 for the balance of the existing license period upon payment of a
185 transfer fee of \$5.00 and subject to his qualification to be a licensed
186 wholesaler or licensed distributor under the provisions of this act.
187 The license issued for each vending machine for the sale of ciga-
188 rettes may be transferred from machine to machine in the same
189 ownership. No refund of the license fee shall be paid to any person
190 upon the surrender or revocation of any license except a license fee
191 paid or collected in error. But, upon payment of \$1.00 fee, there
192 may be obtained (1) a duplicate license, or certificate thereof, in the
193 event the original is lost, destroyed or defaced, and (2) an amended

194 license, or certificate thereof, upon a change in the location of the
195 place of business of any distributor or dealer.

1 ****[3.]**** ****2.**** Section 203 of P. L. 1948, c. 65 (C.
2 54:40A-5) is amended to read as follows:

3 203. Revocation of license.

4 The director may, upon notice and after hearing, suspend or
5 revoke the license or all licenses issued to any person under this
6 act who violates any of the provisions of this act, *or who, after*
7 *being issued a license becomes disqualified for licensure pursuant*
8 *to this act* or of any rule or regulation of the director, made pur-
9 suant thereto or if the licensee has ceased to act in the capacity
10 for which the license was issued or for other good causes. No person
11 whose license has been suspended or revoked shall sell cigarettes
12 or permit cigarettes to be sold during the period of such suspension
13 or revocation on the premises occupied by him or upon other
14 premises controlled by him or others or in any other manner or
15 form whatever. Nor shall any disciplinary proceedings or action
16 be barred or abated by the expiration, transfer, surrender, con-
17 tinuance, renewal or extension of any license issued under the
18 provisions of this act.

1 ****[4.]**** ****3.**** *There is hereby appropriated to the*
2 *Division of Taxation for the fiscal year ending June 30, 1980 a sum*
3 *of ****[\$75,000.00]**** ****\$136,000.00**** for the administration*
4 *of this act.***

1 **[4.]** ****[5.**]**** ****4.**** This act shall take effect
2 immediately ***but shall be applicable only to licensing periods*
3 *commencing not less than 6 months thereafter**.*

4 The director may, upon notice and after hearing, suspend or
 5 revoke the license or all licenses issued to any person under this
 6 act who violates any of the provisions of this act, *or who, after*
 7 *being issued a license becomes disqualified for licensure pursuant*
 8 *to this act* or of any rule or regulation of the director, made pur-
 9 suant thereto or if the licensee has ceased to act in the capacity
 10 for which the license was issued or for other good causes. No person
 11 whose license has been suspended or revoked shall sell cigarettes
 12 or permit cigarettes to be sold during the period of such suspension
 13 or revocation on the premises occupied by him or upon other
 14 premises controlled by him or others or in any other manner or
 15 form whatever. Nor shall any disciplinary proceedings of action
 16 be barred or abated by the expiration, transfer, surrender, con-
 17 tinuance, renewal or extension of any license issued under the
 18 provisions of this act.

1 4. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to strengthen the requirements for licensure by the Division of Taxation for those involved in the cigarette industry. The bill's provisions are based on the recommendations contained in the report of the State Commission of Investigation on the incursion of organized crime into certain legitimate businesses in Atlantic City.

The bill would require that, in addition to the corporate entity seeking a cigarette license, any individual whether a partner, joint venturer, officer, director, stockholder or key employee having a substantial interest in that entity, also be required to be licensed. This is intended to impede organized crime from using various subterfuges to camouflage the actual ownership and control of legitimate business.

The bill would also set forth the following criteria which would disqualify an applicant from receiving a cigarette license: a conviction of any of the crimes enumerated in the bill (the offenses listed include those crimes which involve serious acts of violence; which are characteristic of organized crime activity; or which reflect on an individual's honesty and ability to operate a business in a legitimate manner); the identification as a career offender or an associate of a career offender cartel; and the refusal to cooperate with any legislative investigatory body when such body is engaged in the investigation of organized crime, official corruption or the cigarette industry itself.

S 3008 (1979)

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO

SENATE, No. 3008

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 17, 1979

This bill is intended to make more stringent the requirements for licensure of those involved in the cigarette industry. The Division of Taxation licenses that business. The provisions are based on recommendation from the report of the State Commission of Investigation on the incursion of organized crime into certain businesses in Atlantic City.

The bill, as amended by the Assembly Judiciary, Law, Public Safety and Defense Committee, would require, as a condition of licensure of the business, all individuals having a substantial interest in a cigarette business of a specified size to submit their fingerprints and to satisfy certain qualifications. This requirement would include stockholders with more than a 5% interest in the business and those earning over \$30,000.00 annually as salary or otherwise. Exempted from this requirement are self-service groceries and supermarkets, on the grounds that the requirement would be very burdensome to this industry which is not noted for organized crime incursion, and national hotel, motel and restaurant corporations operating in six or more states, on the grounds that the officers and directors of such corporations are generally too remote from cigarette sales and from New Jersey for such a requirement to be meaningful.

The criteria which would disqualify a person from being connected with a cigarette business include: conviction within the past 5 years of a crime involving moral turpitude; identification as a "career offender" or as a member of a career offender cartel; and contumacious defiance of official investigative bodies, investigating organized crimes, official corruption or the cigarette industry.

The bond requirement in the law is raised from \$1,000.00 to \$6,000.00 and the appropriation for the bill is raised from \$75,000.00 to \$136,000.00 to accord with inflation and the costs of the bill as amended.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO
SENATE, No. 3008

STATE OF NEW JERSEY

DATED: FEBRUARY 26, 1979

This bill is intended to make more stringent the requirements for licensure of those involved in the cigarette industry. The Division of Taxation licenses that business. The provisions are based on recommendation from the report of the State Commission of Investigation on the incursion of organized crime into certain businesses in Atlantic City.

The bill would amend the law by requiring all individuals having a substantial interest in a cigarette business to be licensed, as well as the corporate entities. This requirement would include stockholders with more than a 5% interest in the business and those earning over \$20,000.00 annually as salary or otherwise.

It also spells out in considerable detail criteria which would disqualify a person from obtaining a cigarette license. It enumerates a list of offenses, any past conviction of which would disqualify the individual. The offenses include violent crimes; those which are characteristic of organized crime, or which indicate dishonesty in the running of a business or identification as a "career offender" or as a member of a career offender cartel; contumacious defiance of official investigative bodies, investigating organized crimes, official corruption or the cigarette industry.

The committee received correspondence from the Tobacco Distributors Association of New Jersey recommending that the legislation be made applicable only to Atlantic City. They were of the view that Statewide application of the licensing requirements would be unfairly and unduly burdensome for others.

The committee amended the bill to further tighten up the provisions setting requirements for those who must be licensed by including those who (a) "act" in rather than are just employed in a supervisory position and (b) control the entity through contracts.

It is also amended the licensing provisions to remove any undue hardships on "mom and pop" operations i.e., small operations that were not intended to be so restricted by the bill.

SENATE AMENDMENTS TO
SENATE, No. 3008
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED APRIL 26, 1979

Amend page 1, title, line 11, after "351", insert "and making an appropriation".

Amend page 1, section 1, line 10, after "licensed", insert "and shall receive, if qualified, a license designated 'special qualifying license' to be issued without payment of a fee".

Amend page 1, section 1, line 16, after "in", delete "any", insert "more than 5%".

Amend page 2, section 1, lines 18-20, delete.

Amend page 2, section 1, line 21, delete "(6)" and insert "(5)".

Amend page 2, section 1, line 21, delete "\$20,000.00" and insert "\$30,000.00".

Amend page 2, section 1, line 27, delete "(7)", insert "(6)".

Amend page 4, section 2, lines 93-94, delete "if requested, withhold action on the application" and insert "issue a temporary license".

Amend page 4, section 2, line 100, after "State.", insert the following: "The director may request the Attorney General for advice respecting whether a person is a 'career offender' within the meaning of this subsection, or is a 'contumacious defiant' within the meaning of subsection (e) of this section."

Amend page 5, section 2, lines 118-118B, delete "*", including all licenses" on line 118, all of line 118A and "201(b)(4) of P. L. 1948, c. 65 (C. 54:40A-3),*" on line 118B.

Amend page 5, section 2, lines 147-147A, delete "*not more than five*", insert "a".

Amend page 5, section 2, line 147A, delete "*machines*", insert "machine".

Amend page 7, section 3, line 18, insert new section 4 as follows:

"4. There is hereby appropriated to the Division of Taxation for the fiscal year ending June 30, 1980 a sum of \$75,000 for the administration of this act."

Amend page 7, section 4, line 1, delete "4.", insert "5."

Amend page 7, section 4, line 1, After "immediately", insert "but shall be applicable only to licensing periods commencing not less than 6 months thereafter."

STATEMENT

These amendments have been suggested by the Division of Taxation, and are designed to simplify the administration of the bill.

SENATE AMENDMENTS TO
SENATE, No. 3008
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MAY 3, 1979

Amend page 1, section 1, line 10, after "following", insert "distributors, wholesale dealers and retail dealers operating more than five cigarette vending machines".

Amend page 2, section 1, line 17, delete "private"; after "corporations", insert ", other than corporations engaged in manufacturing outside this State which engage in no other activities described in paragraph a. of this section".

Amend page 2, section 1, line 21, after "Employees", insert "working primarily in New Jersey and".

Amend page 2, section 1, line 26, after "entity", insert ", with regard to cigarette vending".

Amend page 2, section 1, line 30, after "securities", add "; provided, however, that nothing herein contained shall be construed to require the licensure of any labor union solely by reason of a collective bargaining agreement entered into with an applicant entity, or the licensure of any lending institution solely by reason of a loan or other financial arrangement with the applicant entity".

Amend page 2, section 2, line 15, after "finds", insert ", upon the review and advice of the Attorney General,".

Amend page 3, section 2, lines 32-33, delete from "N. J. S. 2A:108-1", through and including "2A:108-8;".

Amend page 3, section 2, line 39, delete from "section", through ";".

Amend page 4, section 2, line 94A, after "charge.", insert "The director shall have the discretion to waive the prohibition against licensure herein provided upon the presentation by the applicant of proof that a period of not less than 10 years has elapsed since the last conviction or the expiration of any period of incarceration imposed with respect thereto.".

STATEMENT

These amendments clarify and narrow the licensing requirements of the bill, and delete certain nonessential offenses from the list of disqualifications.