33:1-12.49

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2006 **CHAPTER:** 17

NJSA: 33:1-12.49 (Provides for creation of special permits to serve alcoholic beverages in certain qualifying development projects)

BILL NO: S168 (Substituted for A2678)

SPONSOR(S) Lesniak and others

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: Economic Growth

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 16, 2006

SENATE: February 27, 2006

DATE OF APPROVAL: May 3, 2006

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (1st reprint enacted)

S168

SPONSOR'S STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes

SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 3-1-2006
3-15-2006

A2678

SPONSOR'S STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	No

RWH 2/21/08

§1 - C.33:1-12.49
§2 - Note to §1
§3 - Note to §§1,2

P.L. 2006, CHAPTER 17, ***approved May 3, 2006***
Senate, No. 168 ***(First Reprint)***

AN ACT concerning the issuance of special permits to serve alcoholic beverages and supplementing Title 33 of the Revised Statutes.

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

1. a. The Director of the Division of Alcoholic Beverage Control may issue one or more special permits to one or more individual corporations or other types of legal entities operating a restaurant on any premises located in a qualifying development project, as defined in subsection g. of this section.

b. Each permit may authorize the sale of alcoholic beverages on the operator's premises in accordance with an agreement, approved by the director, between the holder of a plenary retail consumption license pursuant to R.S.33:1-12 and the operator of those premises, which may provide for the terms and conditions of the management and operation of the premises and may establish legal liability and responsibility between the licensee and the operator for any violation of Title 33 of the Revised Statutes, provided that the licensee primarily shall be responsible for ensuring compliance with the terms and conditions of the permit and applicable statutes and regulations on the premises of the permit holders. In the case of a serious violation or a series of violations by an operator, the director also may impose penalties against the licensee [1]which would result in a substantial revocation or suspension of the license[1].

c. The permits and plenary retail consumption license under which the permits were issued shall be subject to all the provisions of Title 33 of the Revised Statutes, rules and regulations promulgated by the director and municipal ordinances. Any violation by an operator may result in the denial of the renewal of the operator's permit. Any series of violations by multiple operators within the qualifying development project may result in the denial of the issuance of future permits or the renewal of existing permits.

d. No person who would fail to qualify as a licensee under Title 33 of the Revised Statutes shall be permitted to operate a licensed premises holding a special permit under this act.

e. Application for each permit shall be made on an annual basis and the [1]administrative[1] fee for the permit shall be fixed by the

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 SEG committee amendments adopted January 30, 2006.

director. One-half of the [1]administrative[1] fee shall be allocated to the director and one-half [1]of the administrative fee[1] shall be allocated to the municipality in which the licensed premises is located. [1]In addition, the initial administrative fee for a permit shall be based upon the average sales price for plenary retail consumption licenses recently sold in the county where the permit is being issued, reduced by the fair market value of the limitation on transferability, as set forth in subsection f. of this section.[1]

f. No permit issued pursuant to this section shall be transferred to any premises other than a premises located within the same qualifying development project.

g. As used in this act, a "qualifying development project" means a real estate development project that:

(1) Is located in a municipality which lacks the anticipated number of plenary retail consumption licenses to be utilized within [1]**[**such**]** the real estate development[1] project, as determined by the Director of the Division of Alcoholic Beverage Control;

(2) Is expected to generate directly or indirectly at least $250 million of private investments and more than $7.5 million annually in new sales and use tax revenue or hotel and motel occupancy fee revenue;

(3) Consists of at least 200 contiguous acres of land approved as a single unitary development by the planning board or zoning board of adjustment of the municipality where the [1]real estate development[1] project is located;

(4) Is contiguous to a minimum 1,500 acres of land which, in the aggregate, have been either preserved by the operator of the [1]real estate[1] development project or sold or donated by the operator or adjacent landowners to the State for a public use purpose;

(5) Includes a ski area as defined in section 2 of P.L.1979, c.29 (C.5:13-2); and

(6) Holds, through any entity having an interest in all or a part of [1]**[**such**]** the real estate development[1] project, a plenary retail consumption license.

[1]2. The Director of the Division of Alcoholic Beverage Control shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purposes of this act.[1]

[1]**[**2.**]** 3.[1] This act shall take effect on the first day of the third month after enactment; provided however, the Director of the Division of Alcoholic Beverage Control, prior to the effective date, may take such anticipatory action as needed for the act's timely implementation.

Provides for creation of special permits to serve alcoholic beverages in certain qualifying development projects.

SENATE, No. 168

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:
Senator RAYMOND J. LESNIAK
District 20 (Union)
Senator JOSEPH M. KYRILLOS, JR.
District 13 (Middlesex and Monmouth)

SYNOPSIS

Provides for creation of special permits to serve alcoholic beverages in certain smart growth development projects.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

AN ACT concerning the issuance of special permits to serve alcoholic beverages and supplementing Title 33 of the Revised Statutes.

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

1. a. The Director of the Division of Alcoholic Beverage Control may issue one or more special permits to one or more individual corporations or other types of legal entities operating a restaurant on any premises located in a qualifying development project, as defined in subsection g. of this section.

b. Each permit may authorize the sale of alcoholic beverages on the operator's premises in accordance with an agreement, approved by the director, between the holder of a plenary retail consumption license pursuant to R.S.33:1-12 and the operator of those premises, which may provide for the terms and conditions of the management and operation of the premises and may establish legal liability and responsibility between the licensee and the operator for any violation of Title 33 of the Revised Statutes, provided that the licensee primarily shall be responsible for ensuring compliance with the terms and conditions of the permit and applicable statutes and regulations on the premises of the permit holders. In the case of a serious violation or a series of violations by an operator, the director also may impose penalties against the licensee.

c. The permits and plenary retail consumption license under which the permits were issued shall be subject to all the provisions of Title 33 of the Revised Statutes, rules and regulations promulgated by the director and municipal ordinances. Any violation by an operator may result in the denial of the renewal of the operator's permit. Any series of violations by multiple operators within the qualifying development project may result in the denial of the issuance of future permits or the renewal of existing permits.

d. No person who would fail to qualify as a licensee under Title 33 of the Revised Statutes shall be permitted to operate a licensed premises holding a special permit under this act.

e. Application for each permit shall be made on an annual basis and the fee for the permit shall be fixed by the director. One-half of the fee shall be allocated to the director and one-half shall be allocated to the municipality in which the licensed premises is located.

f. No permit issued pursuant to this section shall be transferred to any premises other than a premises located within the same qualifying development project.

g. As used in this act, a "qualifying development project" means a real estate development project that:

(1) Is located in a municipality which lacks the anticipated number of plenary retail consumption licenses to be utilized within

such project, as determined by the Director of the Division of Alcoholic Beverage Control;

(2) Is expected to generate directly or indirectly at least $250 million of private investments and more than $7.5 million annually in new sales and use tax revenue or hotel and motel occupancy fee revenue;

(3) Consists of at least 200 contiguous acres of land approved as a single unitary development by the planning board or zoning board of adjustment of the municipality where the project is located;

(4) Is contiguous to a minimum 1,500 acres of land which, in the aggregate, have been either preserved by the operator of the development project or sold or donated by the operator or adjacent landowners to the State for a public use purpose;

(5) Includes a ski area as defined in section 2 of P.L.1979, c.29 (C.5:13-2); and

(6) Holds, through any entity having an interest in all or a part of such project, a plenary retail consumption license.

2. This act shall take effect on the first day of the third month after enactment; provided however, the Director of the Division of Alcoholic Beverage Control, prior to the effective date, may take such anticipatory action as needed for the act's timely implementation.

STATEMENT

Under current law, a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of these restrictions, there is a shortage of these licenses in some municipalities. This bill establishes a procedure for a municipality to issue special permits to sell alcoholic beverages to corporations or other legal entities in a qualifying development project.

The bill defines a "qualifying development project" as a real estate development project that:

(1) is located in a municipality lacking a sufficient number of plenary retail consumption licenses as determined by the Director of the Division of Alcoholic Beverage Control (ABC);

(2) is expected to generate at least $250 million of private investments and $7.5 million in new sales and use tax revenue or hotel and motel occupancy fee revenue;

(3) consists of at least 200 contiguous acres of land approved as a single unitary development by the municipal planning board or zoning board of adjustment where the project is located;

(4) is contiguous to at least 1,500 acres of land which, in aggregate, have been preserved by the development's operator or

sold or donated to the State for public use by the development's operator or an adjacent landowner;

(5) includes a ski area; and

(6) holds a plenary retail consumption license through an entity with an interest in the project.

Special permits to sell alcoholic beverages would operate in accordance with agreements between the holder of the plenary retail consumption license and the operator of the premises located in the development project. The agreement would have to be approved by the Director of ABC. While the agreement may set forth terms and conditions of the premises' management and operation, including who assumes legal liability and responsibility for violations of alcoholic beverage law, the licensee would be primarily responsible for ensuring compliance with the agreement, as well as alcoholic beverages laws and regulations. The director is authorized by the bill to impose penalties on operators who commit serious violations or a series of violations. Renewal of a special permit may be denied an operator who violates a law or regulation. Renewals, as well as the granting of additional permits in the future, may be denied multiple operators within a development project who commit a series of violations.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 168

STATE OF NEW JERSEY

DATED: MARCH 13, 2006

The Assembly Appropriations Committee reports favorably Senate Bill No. 168 (1R).

Senate Bill No. 168 (1R) establishes a procedure for a municipality to issue special permits to sell alcoholic beverages. Under current law, a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of that restriction, there is a shortage of these licenses in some municipalities. This bill allows a municipality to issue special permits to corporations or other legal entities operating a restaurant in a qualifying development project.

The bill defines a "qualifying development project" as a real estate development project that:

(1) is located in a municipality lacking a sufficient number of plenary retail consumption licenses as determined by the Director of the Division of Alcoholic Beverage Control ("director");

(2) is expected to generate at least $250 million of private investments and $7.5 million in new sales and use tax revenue or hotel and motel occupancy fee revenue;

(3) consists of at least 200 contiguous acres of land approved as a single unitary development by the municipal planning board or zoning board of adjustment where the project is located;

(4) is contiguous to at least 1,500 acres of land which, in aggregate, have been preserved by the development's operator or sold or donated to the State for public use by the development's operator or an adjacent landowner;

(5) includes a ski area; and

(6) holds a plenary retail consumption license through an entity with an interest in the project.

Special permits to sell alcoholic beverages would operate in accordance with agreements between the holder of the plenary retail consumption license ("licensee") and the operator of the premises located in the qualifying development project. The agreement would have to be approved by the director. While the agreement may set forth terms and conditions of the premises' management and operation, including who assumes legal liability and responsibility for violations of alcoholic beverage law, the licensee would be primarily responsible for ensuring compliance with the agreement, as well as alcoholic beverages laws and regulations; in the case of a serious violation or series of violations the director may impose penalties against the licensee that would result in a substantial revocation or suspension of the license. The director is authorized by the bill to impose penalties on operators who commit serious violations or a series of violations. Renewal of a special permit may be denied an operator who violates a law or regulation. Renewals, as well as the granting of additional permits in the future, may be denied to operators within a development project who commit a series of violations.

As reported by the committee, this bill is identical to Assembly Bill No. 2678 as also reported by the committee.

FISCAL IMPACT:

The Director of the Division of Alcoholic Beverage Control is authorized to set an annual administrative fee for each permit, which will be divided between the director and the municipality in which the licensed premises is located. In addition, the bill requires the director to charge an initial administrative issuance fee which is to be based on the average sales price for a plenary retail consumption license sold in the county where the permit is being issued, reduced for the limitation on transferability.

It is anticipated that one or two permits would be issued, at an annual fee of $2,000 or $2,500 each, so that the State and relevant municipalities would each receive $2,500 annually, plus sharing the amount of any additional fee for an initial issuance.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 168

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 30, 2006

Under current law, a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of these restrictions, there is a shortage of these licenses in some municipalities. This bill establishes a procedure for a municipality to issue special permits to sell alcoholic beverages to corporations or other legal entities in a qualifying development project.

The bill, as amended, defines a "qualifying development project" as a real estate development project that:

(1) is located in a municipality lacking a sufficient number of plenary retail consumption licenses as determined by the Director of the Division of Alcoholic Beverage Control ("director");

(2) is expected to generate at least $250 million of private investments and $7.5 million in new sales and use tax revenue or hotel and motel occupancy fee revenue;

(3) consists of at least 200 contiguous acres of land approved as a single unitary development by the municipal planning board or zoning board of adjustment where the project is located;

(4) is contiguous to at least 1,500 acres of land which, in aggregate, have been preserved by the development's operator or sold or donated to the State for public use by the development's operator or an adjacent landowner;

(5) includes a ski area; and

(6) holds a plenary retail consumption license through an entity with an interest in the project.

Special permits to sell alcoholic beverages would operate in accordance with agreements between the holder of the plenary retail consumption license ("licensee") and the operator of the premises located in the qualifying development project. The agreement would have to be approved by the director. While the agreement may set forth terms and conditions of the premises' management and operation, including who assumes legal liability and responsibility for violations of alcoholic beverage law, the licensee would be primarily responsible for ensuring compliance with the agreement, as well as alcoholic beverages laws and regulations. The director is authorized by the bill to impose penalties on operators who commit serious violations or a series of violations. Renewal of a special permit may be denied an operator who violates a law or regulation. Renewals, as well as the granting of additional permits in the future, may be denied to operators within a development project who commit a series of violations.

The committee amended the bill to: 1) clarify that in the case of a serious violation or a series of violations by an operator, the director also may impose penalties against the licensee that would result in a substantial revocation or suspension of the license; 2) clarify that the application fee is an administrative fee, and that the initial administrative fee for any permit is to be based upon the average sales price for plenary retail consumption licenses recently sold in the county where the permit is being issued, reduced by the fair market value of the limitation on transferability, as set forth in subsection f. of section 1 of the bill; 3) make technical corrections in the definition of a qualifying development project for purposes of clarification and consistency; and 4) require the director, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to adopt rules and regulations necessary to effectuate the purposes of the bill.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

LEGISLATIVE FISCAL ESTIMATE

[Corrected Copy]
SENATE, No. 168
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: MARCH 1, 2006

SUMMARY

Synopsis:	Provides for creation of special permits to serve alcoholic beverages in certain qualifying development projects.
Type of Impact:	Minimal expenditure offset by fee.
Agencies Affected:	Department of Law and Public Safety, Division of Alcoholic Beverage Control

Office of Legislative Services Estimate

Fiscal Impact	FY 2007	FY 2008	FY 2009
State Cost		Minimal Expenditure	
Revenue			
State	$2,500	$2,500	$2,500
Local	$2,500	$2,500	$2,500

- Establishes a procedure for a municipality to issue special permits to sell alcoholic beverages to corporations or other legal entities in a qualifying development project.

- Authorizes the Director of the Division of Alcoholic Beverage Control to impose penalties on operators who commit serious violations or a series of violations.

- Special permits may be denied an operator who violates a law or regulation.

BILL DESCRIPTION

The Corrected Copy Senate Bill No. 168 of 2006 establishes a procedure for a municipality to issue special permits to sell alcoholic beverages to corporations or other legal entities in a qualifying development project.

Currently a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of this limitation, there is a shortage of these licenses in some municipalities.

Special permits to sell alcoholic beverages would operate in accordance with agreements between the holder of a plenary retail consumption license held by an entity having an interest in the project and the operator of the premises located in the development project. The agreement is to be approved by the Director of the Division of Alcoholic Beverage Control (ABC). While the agreement may set forth terms and conditions of the premise's management and operation, including who assumes legal liability and responsibility for violations of alcoholic beverage law, the licensee would be primarily responsible for ensuring compliance with the agreement, as well as the State's alcoholic beverage laws and regulations.

The director is authorized by the bill to impose penalties on operators who commit serious violations or a series of violations.

Renewal of a special permit may be denied to an operator who violates a law or regulation. Renewals, as well as the granting of additional permits in the future, may be denied to multiple operators within a development project who commit a series of violations.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Division of Alcoholic Beverage Control

On a similar bill, S2729 of 2005, the Division of Alcoholic Beverage Control within the Department of Law and Public Safety estimated that additional revenues would be approximately $4,000 or $5,000 per year. This estimate is based on the issuance of four to five permits at $2,000 each. Of this revenue, $1,000 would go to each the municipality and the State. The division's estimate will vary based on the number of permits issued as well as any change in the permit fee.

The division provided this estimate only under consideration that there will be only one or two projects that would meet the eligibility requirements designated as a qualifying development project.

Office of Management and Budget

The Office of Management and Budget agrees with the estimated additional revenues of $5,000 per year. The Office of Management and Budget notes that changes in permit fees and the number of permits issued will determine the amount of revenues.

OFFICE OF LEGISLATIVE SERVICES

OLS concurs with the Executive's estimate of this bill.

Section:	*Law and Public Safety*
Analyst:	*Kristin A. Brunner* Associate Fiscal Analyst
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 168

STATE OF NEW JERSEY
212th LEGISLATURE

DATED: MARCH 15, 2006

SUMMARY

Synopsis: Provides for creation of special permits to serve alcoholic beverages in certain qualifying development projects.

Type of Impact: Minimal expenditure offset by a one time issuance fee and an annual renewal fee.

Agencies Affected: Department of Law and Public Safety, Division of Alcoholic Beverage Control

Office of Legislative Services Estimate

Fiscal Impact	FY 2007	FY 2008	FY 2009
State Cost	Minimal Expenditure		
Revenue			
State	$2,500 Plus Undetermined Initial Issuance Fee	$2,500	$2,500
Local	$2,500 Plus Undetermined Initial Issuance Fee	$2,500	$2,500

- The Office of Legislative Services concurs with the Executive's unofficial estimate of the annual renewal administration fee of this bill. Additionally, the bill requires that Alcoholic Beverage Control (ABC) charge an initial administrative issuance fee which is to be based on the average sales price of a plenary retail consumption license in the area, and then discounted for non-transferability. This estimated revenue is undetermined as it is based on the market value and location of the license to be issued.

- Establishes a procedure for a municipality to issue special permits authorizing corporations or other legal entities to sell alcoholic beverages in a qualifying development project.

- Requires that both the initial issuance fee and the annual administrative fees set forth by the Director of the Division of Alcoholic Beverage Control (ABC) be split between ABC and the municipality where the licensed premises is located.

- Authorizes the director to impose penalties on operators who commit serious violations or a series of violations which could result in a revocation or suspension of the license.

Office of Legislative Services
State House Annex
P.O. Box 068
Trenton, New Jersey 08625

Legislative Budget and Finance Office
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BILL DESCRIPTION

Senate Bill No. 168 (1R) of 2006 establishes a procedure for a municipality to issue special permits authorizing corporations or other legal entities to sell alcoholic beverages in a qualifying real estate development project.

Currently a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of this limitation, there is a shortage of these licenses in some municipalities.

Special permits to sell alcoholic beverages would operate in accordance with agreements between the holder of a plenary retail consumption license held by an entity having an interest in the project and the operator of the premises located in the real estate development project. The agreement is to be approved by the Director of the Division of Alcoholic Beverage Control (ABC). Permits may not be transferred to any premises other than a premises located in the same qualifying development project.

The director is authorized to set an annual administrative renewal fee that will be divided between ABC and the municipality where the licensed premises will be located. Additionally, the bill requires ABC to charge an initial administrative issuance fee which is to be based on the average sales price for a plenary retail consumption license sold in the county where the permit is being issued, reduced by the non-transferability.

The director is authorized by the bill to impose penalties on operators who commit serious violations or a series of violations including substantial revocation or suspension of a license.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Division of Alcoholic Beverage Control

On a similar bill, the Division of Alcoholic Beverage Control within the Department of Law and Public Safety estimated that additional revenues would be approximately $4,000 or $5,000 per year. This estimate is based on the issuance of four to five permits at an annual administrative renewal fee of $2,000 or $2,500 each. Of this revenue, half would go to the State and half to the municipality. The division's estimate will vary based on the number of permits issued as well as any change in the administrative fee.

The division provided this estimate only under consideration that there will be only one or two projects that would meet the definition of a qualifying development project.

Office of Management and Budget

The Office of Management and Budget agrees with the estimated additional revenues of $5,000 per year. The Office of Management and Budget notes that changes in the annual administrative renewal fees and the number of permits issued will determine the amount of revenues.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive's unofficial estimate of the annual renewal administration fee of this bill. Additionally, the bill requires that ABC charge an initial issuance fee which is to be based on the average sales price of a plenary retail consumption license in the area, and then discounted for non-transferability. This estimated revenue is undetermined as it is based on the market value and location of the license to be issued.

As of December 30, 2005, there were 5,745 plenary retail consumption licenses and 481 plenary retail consumption licenses with package privileges. Current licenses that are sold vary in price based on location and market demand.

Section:	*Law and Public Safety*
Analyst:	*Kristin Brunner* *Associate Fiscal Analyst*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.

ASSEMBLY, No. 2678

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED FEBRUARY 27, 2006

Sponsored by:
Assemblyman JOSEPH CRYAN
District 20 (Union)
Assemblyman ALEX DECROCE
District 26 (Morris and Passaic)

SYNOPSIS

Provides for creation of special permits to serve alcoholic beverages in certain qualifying development projects.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 3/17/2006)

AN ACT concerning the issuance of special permits to serve alcoholic beverages and supplementing Title 33 of the Revised Statutes.

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

1. a. The Director of the Division of Alcoholic Beverage Control may issue one or more special permits to one or more individual corporations or other types of legal entities operating a restaurant on any premises located in a qualifying development project, as defined in subsection g. of this section.

b. Each permit may authorize the sale of alcoholic beverages on the operator's premises in accordance with an agreement, approved by the director, between the holder of a plenary retail consumption license pursuant to R.S.33:1-12 and the operator of those premises, which may provide for the terms and conditions of the management and operation of the premises and may establish legal liability and responsibility between the licensee and the operator for any violation of Title 33 of the Revised Statutes, provided that the licensee primarily shall be responsible for ensuring compliance with the terms and conditions of the permit and applicable statutes and regulations on the premises of the permit holders. In the case of a serious violation or a series of violations by an operator, the director also may impose penalties against the licensee which would result in a substantial revocation or suspension of the license.

c. The permits and plenary retail consumption license under which the permits were issued shall be subject to all the provisions of Title 33 of the Revised Statutes, rules and regulations promulgated by the director and municipal ordinances. Any violation by an operator may result in the denial of the renewal of the operator's permit. Any series of violations by multiple operators within the qualifying development project may result in the denial of the issuance of future permits or the renewal of existing permits.

d. No person who would fail to qualify as a licensee under Title 33 of the Revised Statutes shall be permitted to operate a licensed premises holding a special permit under this act.

e. Application for each permit shall be made on an annual basis and the administrative fee for the permit shall be fixed by the director. One-half of the administrative fee shall be allocated to the director and one-half of the administrative fee shall be allocated to the municipality in which the licensed premises is located. In addition, the initial administrative fee for a permit shall be based upon the average sales price for plenary retail consumption licenses recently sold in the county where the permit is being issued,reduced by the fair market value of the limitation on transferability, as set forth in subsection f. of this section.

f. No permit issued pursuant to this section shall be transferred to any premises other than a premises located within the same qualifying development project.

g. As used in this act, a "qualifying development project" means a real estate development project that:

(1) Is located in a municipality which lacks the anticipated number of plenary retail consumption licenses to be utilized within the real estate development project, as determined by the Director of the Division of Alcoholic Beverage Control;

(2) Is expected to generate directly or indirectly at least $250 million of private investments and more than $7.5 million annually in new sales and use tax revenue or hotel and motel occupancy fee revenue;

(3) Consists of at least 200 contiguous acres of land approved as a single unitary development by the planning board or zoning board of adjustment of the municipality where the real estate development project is located;

(4) Is contiguous to a minimum 1,500 acres of land which, in the aggregate, have been either preserved by the operator of the real estate development project or sold or donated by the operator or adjacent landowners to the State for a public use purpose;

(5) Includes a ski area as defined in section 2 of P.L.1979, c.29 (C.5:13-2); and

(6) Holds, through any entity having an interest in all or a part of the real estate development project, a plenary retail consumption license.

2. The Director of the Division of Alcoholic Beverage Control shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purposes of this act.

3. This act shall take effect on the first day of the third month after enactment; provided however, the Director of the Division of Alcoholic Beverage Control, prior to the effective date, may take such anticipatory action as needed for the act's timely implementation.

STATEMENT

Under current law, a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of these restrictions, there is a shortage of these licenses in some municipalities. This bill establishes a procedure for a municipality to issue special permits to sell alcoholic beverages to corporations or other legal entities in a qualifying development project.

The bill defines a "qualifying development project" as a real estate development project that:

(1) is located in a municipality lacking a sufficient number of plenary retail consumption licenses as determined by the Director of the Division of Alcoholic Beverage Control ("director");

(2) is expected to generate at least $250 million of private investments and $7.5 million in new sales and use tax revenue or hotel and motel occupancy fee revenue;

(3) consists of at least 200 contiguous acres of land approved as a single unitary development by the municipal planning board or zoning board of adjustment where the project is located;

(4) is contiguous to at least 1,500 acres of land which, in aggregate, have been preserved by the development's operator or sold or donated to the State for public use by the development's operator or an adjacent landowner;

(5) includes a ski area; and

(6) holds a plenary retail consumption license through an entity with an interest in the project.

Special permits to sell alcoholic beverages would operate in accordance with agreements between the holder of the plenary retail consumption license ("licensee") and the operator of the premises located in the qualifying development project. The agreement would have to be approved by the director. While the agreement may set forth terms and conditions of the premises' management and operation, including who assumes legal liability and responsibility for violations of alcoholic beverage law, the licensee would be primarily responsible for ensuring compliance with the agreement, as well as alcoholic beverages laws and regulations. The director is authorized by the bill to impose penalties on operators who commit serious violations or a series of violations. Renewal of a special permit may be denied an operator who violates a law or regulation. Renewals, as well as the granting of additional permits in the future, may be denied to operators within a development project who commit a series of violations.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2678

STATE OF NEW JERSEY

DATED: MARCH 13, 2006

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2678.

Assembly Bill No. 2678 establishes a procedure for a municipality to issue special permits to sell alcoholic beverages. Under current law, a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of that restriction, there is a shortage of these licenses in some municipalities. This bill allows a municipality to issue special permits to corporations or other legal entities operating a restaurant in a qualifying development project.

The bill defines a "qualifying development project" as a real estate development project that:

(1) is located in a municipality lacking a sufficient number of plenary retail consumption licenses as determined by the Director of the Division of Alcoholic Beverage Control ("director");

(2) is expected to generate at least $250 million of private investments and $7.5 million in new sales and use tax revenue or hotel and motel occupancy fee revenue;

(3) consists of at least 200 contiguous acres of land approved as a single unitary development by the municipal planning board or zoning board of adjustment where the project is located;

(4) is contiguous to at least 1,500 acres of land which, in aggregate, have been preserved by the development's operator or sold or donated to the State for public use by the development's operator or an adjacent landowner;

(5) includes a ski area; and

(6) holds a plenary retail consumption license through an entity with an interest in the project.

Special permits to sell alcoholic beverages would operate in accordance with agreements between the holder of the plenary retail consumption license ("licensee") and the operator of the premises located in the qualifying development project. The agreement would have to be approved by the director. While the agreement may set forth terms and conditions of the premises' management and operation, including who assumes legal liability and responsibility for violations of alcoholic beverage law, the licensee would be primarily responsible for ensuring compliance with the agreement, as well as alcoholic beverages laws and regulations; in the case of a serious violation or series of violations the director may impose penalties against the licensee that would result in a substantial revocation or suspension of the license. The director is authorized by the bill to impose penalties on operators who commit serious violations or a series of violations. Renewal of a special permit may be denied an operator who violates a law or regulation. Renewals, as well as the granting of additional permits in the future, may be denied to operators within a development project who commit a series of violations.

As reported by the committee, this bill is identical to Senate Bill No. 168 (1R) as also reported by the committee.

FISCAL IMPACT:

The Director of the Division of Alcoholic Beverage Control is authorized to set an annual administrative fee for each permit, which will be divided between the director and the municipality in which the licensed premises is located. In addition, the bill requires the director to charge an initial administrative issuance fee which is to be based on the average sales price for a plenary retail consumption license sold in the county where the permit is being issued, reduced for the limitation on transferability.

It is anticipated that one or two permits would be issued, at an annual fee of $2,000 or $2,500 each, so that the State and relevant municipalities would each receive $2,500 annually, plus sharing the amount of any additional fee for an initial issuance.

LEGISLATIVE FISCAL ESTIMATE

ASSEMBLY, No. 2678

STATE OF NEW JERSEY
212th LEGISLATURE

DATED: APRIL 21, 2006

SUMMARY

Synopsis: Provides for creation of special permits to serve alcoholic beverages in certain qualifying development projects.

Type of Impact: Minimal expenditure offset by a one time issuance fee and an annual renewal fee.

Agencies Affected: Department of Law and Public Safety, Division of Alcoholic Beverage Control

Office of Legislative Services Estimate

Fiscal Impact	**FY 2007**	**FY 2008**	**FY 2009**
State Cost		Minimal	
Revenue			
State	$2,500 Plus Undetermined Initial Issuance Fee	$2,500	$2,500
Local	$2,500 Plus Undetermined Initial Issuance Fee	$2,500	$2,500

- The Office of Legislative Services **concurs** with the Executive's unofficial estimate of the annual renewal administration fee of this bill. Additionally, the bill requires that ABC charge an initial administrative issuance fee which is to be based on the average sales price of a plenary retail consumption license in the area, and then discounted for non-transferability. This estimated revenue is undetermined as it is based on the market value and location of the license to be issued.

- Establishes a procedure for a municipality to issue special permits authorizing corporations or other legal entities to sell alcoholic beverages in a qualifying development project.

- Requires that both the initial issuance fee and the annual administrative fees set forth by the Director of the Division of Alcoholic Beverage Control (ABC) be split between ABC and the municipality where the licensed premises is located.

- Authorizes the director to impose penalties on operators who commit serious violations or a series of violations which could result in a revocation or suspension of the license.

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BILL DESCRIPTION

Assembly Bill No. 2678 of 2006 establishes a procedure for a municipality to issue special permits authorizing corporations or other legal entities to sell alcoholic beverages in a qualifying real estate development project.

Currently a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of this limitation, there is a shortage of these licenses in some municipalities.

Special permits to sell alcoholic beverages would operate in accordance with agreements between the holder of a plenary retail consumption license held by an entity having an interest in the project and the operator of the premises located in the real estate development project. The agreement is to be approved by the Director of the Division of ABC. Permits may not be transferred to any premises other than a premises located in the same qualifying development project.

The director is authorized to set an annual administrative renewal fee that will be divided between ABC and the municipality where the licensed premises will be located. Additionally, the bill requires ABC to charge an initial administrative issuance fee which is to be based on the average sales price for a plenary retail consumption license sold in the county where the permit is being issued, reduced by the non-transferability.

The director is authorized by the bill to impose penalties on operators who commit serious violations or a series of violations including substantial revocation or suspension of a license.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Division of Alcoholic Beverage Control

On a similar bill, the Division of ABC within the Department of Law and Public Safety estimated that additional revenues would be approximately $4,000 or $5,000 per year. This estimate is based on the issuance of four to five permits at an annual administrative renewal fee of $2,000 or $2,500 each. Of this revenue, half would go to the State and half to the municipality. The division's estimate will vary based on the number of permits issued as well as any change in the administrative fee.

The division provided this estimate only under consideration that there will be only one or two projects that would meet the definition of a qualifying development project.

Office of Management and Budget

The Office of Management and Budget agrees with the estimated additional revenues of $5,000 per year. The Office of Management and Budget notes that changes in the annual administrative renewal fees and the number of permits issued will determine the amount of revenues.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive's unofficial estimate of the annual renewal administration fee of this bill. Additionally, the bill requires that ABC charge an initial issuance fee which is to be based on the average sales price of a plenary retail consumption license in the area, and then discounted for non-transferability. This estimated revenue is undetermined as it is based on the market value and location of the license to be issued.

As of December 30, 2005, there were 5,745 plenary retail consumption licenses and 481 plenary retail consumption licenses with package privileges. Current licenses that are sold vary in price based on location and market demand.

Section:	*Law and Public Safety*
Analyst:	*Kristin A. Brunner* *Associate Fiscal Analyst*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.