

LEGISLATIVE HISTORY CHECKLIST
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(Alcohol vintage wines)

NJSA: 33:1-2

LAWS OF: 1996 CHAPTER: 152

BILL NO: A1230

SPONSOR(S): Augustine

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Law & Public Safety
SENATE: ---

AMENDED DURING PASSAGE: No Assembly committee
substitute enacted

DATE OF PASSAGE: ASSEMBLY: December 19, 1996
SENATE: December 19, 1996

DATE OF APPROVAL: December 27, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: No

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

N.Y. Statute attached:
KBP:pp

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1230

STATE OF NEW JERSEY

ADOPTED DECEMBER 16, 1996

Sponsored by Assemblyman AUGUSTINE

1 AN ACT concerning alcohol brand registration and amending
2 R.S.33:1-2.

3

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

6

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

8 33:1-2. a. It shall be unlawful to manufacture, sell, possess with
9 intent to sell, transport, warehouse, rectify, blend, treat, fortify, mix,
10 process, bottle or distribute alcoholic beverages in this State, except
11 pursuant to and within the terms of a license, or as otherwise expressly
12 authorized, under this chapter; but any drink actually intended for
13 immediate personal use may be mixed by any person. Except as
14 hereinafter provided, a person may, without limitation, purchase any
15 amount of alcoholic beverages intended in good faith to be used solely
16 for personal use and may personally transport those alcoholic
17 beverages so purchased for personal use in any vehicle from a point
18 within this State. Alcoholic beverages intended in good faith solely for
19 personal use may be transported, by the owner thereof, in a vehicle
20 other than that of the holder of a transportation license, from a point
21 outside this State to the extent of, not exceeding 1/4 barrel or one case
22 containing not in excess of 12 quarts in all, of beer, ale or porter, and
23 one gallon of wine and two quarts of other alcoholic beverages within
24 any consecutive period of 24 hours; provided, however, that except
25 pursuant to and within the terms of a license or permit issued by the
26 director, no person shall transport into this State or receive from
27 without this State into this State, alcoholic beverages where the
28 alcoholic beverages are transported or received from a state which
29 prohibits the transportation into that state of alcoholic beverages
30 purchased or otherwise obtained in the State of New Jersey. If any
31 person or persons desire to transport alcoholic beverages intended
32 only for personal use in quantities in excess of those above-mentioned,

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.

1 an application may be made to the director who may, upon being
2 satisfied of the good faith of the applicant, and upon payment of a fee
3 of \$25.00 issue a special permit limited by such conditions as the
4 director may impose, authorizing the transportation of alcoholic
5 beverages in quantities in excess of those above-mentioned.

6 b. A holder of a Class B license under R.S.33:1-11 shall not sell
7 or deliver for sale in New Jersey any brand of alcoholic beverage for
8 resale in this State unless the alcoholic beverage is acquired from the
9 brand owner, or his authorized agent, or a wholesale licensee
10 designated as the registered distributor by the brand owner, or his
11 authorized agent.

12 c. No licensee shall knowingly sell, offer for sale, deliver, receive
13 or purchase, for resale in this State, any alcoholic beverage, including
14 private label brands owned by a retailer and exclusive brands owned
15 by a manufacturer or wholesaler and offered for sale or sold by such
16 manufacturer or wholesaler exclusively to one New Jersey retailer or
17 affiliated retailer, unless the brand owner or his authorized agent files
18 with the Director of the Division of Alcoholic Beverage Control a
19 brand registration schedule containing such information as the director
20 shall by rule or regulation require. Each brand registration schedule
21 must be renewed annually by January 1 of each year.

22 d. Each person who files a brand registration schedule and
23 amendments thereto shall pay a filing fee of ~~【\$20.00】~~ \$23 per filing
24 for each initial brand registration and annual renewal and \$10 for each
25 amendment. All wines shall be subject to the initial brand registration
26 and annual renewal filings and fees, except that different vintages of
27 the same wine shall not require separate brand registrations or
28 renewals. Any registration may be suspended or revoked in the same
29 manner as an alcoholic beverage license for any violation of Title 33
30 of the Revised Statutes and the rules and regulations promulgated
31 thereto.

32 e. Nothing contained in this section shall be deemed to limit or
33 modify the prohibition against discrimination in the sale of any
34 nationally advertised brand of alcoholic beverages to currently
35 authorized wholesalers as set forth in P.L.1966, c.59 (C.33:1-93.6 et
36 seq.) nor shall this section be deemed to require the sale to anyone
37 other than authorized retailers of private label brands which are owned
38 by a retailer or exclusive brands which are owned by a manufacturer
39 or wholesaler and offered for sale or sold by the manufacturer or
40 wholesaler exclusively to one retailer or affiliated retailer, in this State.
41 (cf: P.L.1992, c.188, s.1)

42
43 2. This act shall take effect immediately.

ACS for A1230

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3 Reforms regulatory scheme for vintage wines; increases initial brand

4 registration fee for all alcoholic beverages.

ASSEMBLY, No. 1230

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman AUGUSTINE

1 AN ACT concerning alcohol brand registration and amending
2 R.S.33:1-2.

3

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

6

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

8 33:1-2. a. It shall be unlawful to manufacture, sell, possess with
9 intent to sell, transport, warehouse, rectify, blend, treat, fortify, mix,
10 process, bottle or distribute alcoholic beverages in this State, except
11 pursuant to and within the terms of a license, or as otherwise expressly
12 authorized, under this chapter; but any drink actually intended for
13 immediate personal use may be mixed by any person. Except as
14 hereinafter provided, a person may, without limitation, purchase any
15 amount of alcoholic beverages intended in good faith to be used solely
16 for personal use and may personally transport those alcoholic
17 beverages so purchased for personal use in any vehicle from a point
18 within this State. Alcoholic beverages intended in good faith solely for
19 personal use may be transported, by the owner thereof, in a vehicle
20 other than that of the holder of a transportation license, from a point
21 outside this State to the extent of, not exceeding 1/4 barrel or one case
22 containing not in excess of 12 quarts in all, of beer, ale or porter, and
23 one gallon of wine and two quarts of other alcoholic beverages within
24 any consecutive period of 24 hours; provided, however, that except
25 pursuant to and within the terms of a license or permit issued by the
26 director, no person shall transport into this State or receive from
27 without this State into this State, alcoholic beverages where the
28 alcoholic beverages are transported or received from a state which
29 prohibits the transportation into that state of alcoholic beverages
30 purchased or otherwise obtained in the State of New Jersey. If any
31 person or persons desire to transport alcoholic beverages intended
32 only for personal use in quantities in excess of those above-mentioned,

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

Matter underlined thus is new matter.

1 an application may be made to the director who may, upon being
2 satisfied of the good faith of the applicant, and upon payment of a fee
3 of \$25.00 issue a special permit limited by such conditions as the
4 director may impose, authorizing the transportation of alcoholic
5 beverages in quantities in excess of those above-mentioned.

6 b. A holder of a Class B license under R.S.33:1-11 shall not sell or
7 deliver for sale in New Jersey any brand of alcoholic beverage for
8 resale in this State unless the alcoholic beverage is acquired from the
9 brand owner, or his authorized agent, or a wholesale licensee
10 designated as the registered distributor by the brand owner, or his
11 authorized agent.

12 c. No licensee shall knowingly sell, offer for sale, deliver, receive
13 or purchase, for resale in this State, any alcoholic beverage, including
14 private label brands owned by a retailer and exclusive brands owned
15 by a manufacturer or wholesaler and offered for sale or sold by such
16 manufacturer or wholesaler exclusively to one New Jersey retailer or
17 affiliated retailer, unless the brand owner or his authorized agent files
18 with the Director of the Division of Alcoholic Beverage Control a
19 brand registration schedule containing such information as the director
20 shall by rule or regulation require. Each brand registration schedule
21 must be renewed annually by January 1 of each year; provided,
22 however, that where a brand or trade name label for wine has been
23 approved by the federal Bureau of Alcohol, Tobacco and Firearms, it
24 shall be deemed registered and approved by the division and no
25 application, application fee or annual registration fee shall be
26 submitted to the division.

27 d. Each person who files a brand registration schedule and
28 amendments thereto shall pay a filing fee of \$20.00 per filing for each
29 initial brand registration and annual renewal and \$10.00 for each
30 amendment. Any registration may be suspended or revoked in the
31 same manner as an alcoholic beverage license for any violation of Title
32 33 of the Revised Statutes and the rules and regulations promulgated
33 thereto. No annual fee for registration of any brand or trade name
34 label for wine shall be required if the label has been approved by the
35 federal Bureau of Alcohol, Tobacco and Firearms.

36 e. Nothing contained in this section shall be deemed to limit or
37 modify the prohibition against discrimination in the sale of any
38 nationally advertised brand of alcoholic beverages to currently
39 authorized wholesalers as set forth in P.L.1966, c.59 (C.33:1-93.6 et
40 seq.) nor shall this section be deemed to require the sale to anyone
41 other than authorized retailers of private label brands which are owned
42 by a retailer or exclusive brands which are owned by a manufacturer
43 or wholesaler and offered for sale or sold by the manufacturer or

1 wholesaler exclusively to one retailer or affiliated retailer, in this State.
2 (cf: P.L.1992, c.188, s.1)

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4 2. This act shall take effect immediately.

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STATEMENT

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9 Current law requires all alcoholic beverage labels to be registered
10 with the Director of the Division of Alcoholic Beverage Control. This
11 bill would allow those wine labels that have been approved by the
12 federal Bureau of Alcohol, Tobacco and Firearms to be deemed
13 registered and approved in New Jersey, and would eliminate the
14 registration fees for those labels. The bill, which is modeled on a New
15 York statute, would eliminate brand registration for wine only.

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20 Eliminates brand registration for wine.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

**ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1230**

STATE OF NEW JERSEY

DATED: DECEMBER 16, 1996

The Assembly Law and Public Safety Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1230.

The committee substitute for Assembly Bill No. 1230 amends R.S.33:1-2 to revise the regulatory scheme governing the brand registration filings and fee requirements for vintage wines.

Under current law, all alcoholic beverage brand and trade name labels must be registered annually with the Director of the Division of Alcoholic Beverages.

The provisions of the substitute specify that vintage wines are subject only to the Division of Alcoholic Beverage Control's (ABC) initial brand registration filing and fee requirements. Consequently, no annual renewal filings or fees are required for vintages once the initial registration has been filed and the appropriate fees paid.

In addition, the substitute also increases from \$20 to \$23 the initial brand registration fee for all alcoholic beverages.

This committee substitute is identical to the Senate Committee Substitute for Senate Bill No. 805.

LEGISLATIVE FISCAL ESTIMATE TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1230

STATE OF NEW JERSEY

DATED: JANUARY 7, 1997

Assembly Committee Substitute for Assembly Bill No. 1230 of 1996 would increase the annual brand registration fee for all alcoholic beverages from \$20 to \$23. The bill also eliminates the renewal brand registration filings and fee requirements for vintage wines. Current law requires all alcoholic beverage labels to be registered annually with the Division of Alcoholic Beverage Control (ABC) in the Department of Law and Public Safety. Thus, the bill would eliminate the current annual \$20 renewal fee for these wines.

The ABC indicated that 18,500 brand registrations for all alcoholic beverages were made in FY 1995, which amounted to \$370,000 in revenues. Of these brand registrations, 1,500 were for the renewal of vintage wines. The ABC assumes that the same number of alcoholic beverage registrations would be made in succeeding years. Based on the ABC's assumption, 17,000 brand registrations for alcoholic beverages, excluding vintage wines, would be subject to the \$3 registration fee increase, which would amount to a gross revenue gain of \$51,000.

This gross revenue gain would be offset by a gross revenue loss of \$30,000 in foregone renewal fees at \$20 for 1,500 vintage wines, as proposed by the bill. Thus, the net State revenue gain under this bill would be \$21,000 in the first year following enactment.

The Office of Legislative Services (OLS) concurs.

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

appearing topless within six feet from nearest patron on licensed premises, as well as other lewd or indecent conduct occurred on licensed premises and testimony of owner of premises that she was at bar every single day, and that if charged conduct occurred, she would have known about it was substantial evidence that owner did suffer or permit charged conduct in violation of SLA rules. *Vanda Hodge Pub, Inc. v. New York State Liquor Authority* (2 Dept. 1995) 215 A.D.2d 35, 634 N.Y.S.2d 152.

21. Off-premises sales or consumption

Liquor licensee had not violated statute prohibiting carry out and consumption of alcoholic beverages by on-sale licensee, even though investigator had observed patrons taking beverages in glasses out of establishment and consuming them in parking lot; it was an extremely hot night and bar was packed, as benefit was being conducted to raise money for family of person who had recently died, and patrons had stepped outside to avoid heat and congestion. *Bonhomme v. New York State Liquor Authority* (3 Dept. 1995) — A.D.2d —, 634 N.Y.S.2d 241.

Penalty of ten-day suspension of liquor license was not so disproportionate to the offense of selling liquor for off-premises

consumption as to be shocking to one's sense of fairness. *E.G. Pub, Inc. v. New York State Liquor Authority* (1 Dept. 1995) 213 A.D.2d 156, 623 N.Y.S.2d 222.

State liquor authority lacked express or implied authority to prohibit gambling on premises licensed to sell alcoholic beverages for consumption off premises. *L. Newstand, Inc. v. State Liquor Authority* (2 Dept. 1989) 151 A.D.2d 483, 542 N.Y.S.2d 275, appeal denied 75 N.Y.2d 710, 556 N.Y.S.2d 532, 555 N.E.2d 929.

24. Declaratory judgment

State Liquor Authority lacked statutory authority to promulgate rule banning "topless" dancing within six feet of patrons and requiring dancers to perform on platform raised at least 18 inches above floor level even though licensed premises are not otherwise disorderly and rule was thus null and void; rule circumvented specific legislative requirement of licensee's awareness of disorderly conduct, no public hearings were heard or scheduled before rule was promulgated, and there was complete absence of any findings by State Liquor Authority to support such blanket proximity probation. *Jay-Jay Cabaret, Inc. v. State*, 1994, 164 Misc.2d 673, 629 N.Y.S.2d 937.

[§ 106-b. Expired.]

Historical and Statutory Notes

Section 106-b, which required establishment of nonalcoholic seating by sports facilities operators if alcoholic beverages were furnished for consumption on premises, was added by L.1988, c. 694, § 2;

amended L.1988, c. 695, § 1; L.1988, c. 696, §§ 1, 2; L.1989, c. 741, § 1, and expired July 1, 1993, pursuant to L.1988, c. 694, § 4.

§ 107-a. Labeling containers of alcoholic beverages

[See main volume for 1 and 2]

3. The bottling, packaging, sale or possession by any licensee of any alcoholic beverage not labelled or offered in conformity with this section shall be ground for suspension, revocation or cancellation of the license.

4. (a) No liquor, wine or beer shall be labelled, offered or advertised for sale unless in accordance with this section and unless the brand or trade name label affixed to or imprinted upon the container of such alcoholic beverage shall have been registered with and approved by the authority and the appropriate fee paid as provided for in this section.

(b) An application for registration of a brand or trade name label shall be filed by (1) the owner of the brand or trade name if such owner is licensed by the authority, or (2) a wholesaler selling such brand who is appointed as exclusive agent, in writing, by the owner of the brand or trade name for the purpose of filing such application, if the owner of the brand or trade name is not licensed by the authority, or (3) any wholesaler, with the approval of the

authority, in the event that the owner of the brand or trade name does not file or is unable to file such application or designate an agent for such purposes, or (4) any wholesaler, with the approval of the authority, in the event that the owner of the brand or trade name is a retailer who does not file such application, provided that the retailer shall consent to such filing by such wholesaler. Such retailer may revoke his consent at any time, upon written notice to the authority and to such wholesaler.

Unless otherwise permitted or required by the authority, the application for registration of a liquor or wine brand or trade name label filed pursuant to this section shall be filed by the same licensee filing schedules pursuant to section one hundred one-b of this chapter.

Cordials and wines which differ only as to fluid content, age, or vintage year, as defined by such regulations, shall be considered the same brand; and those that differ as to type or class may be considered the same brand by the authority where consistent with the purposes of this section.

(c)(1) The application for registration of a brand or trade name label shall be filed by registered mail, return receipt requested, on a form prescribed by the authority, and shall contain such information as the authority shall require. Such application shall be accompanied by the appropriate fee prescribed by paragraph (d) of this subdivision.

(2) Provided, however, where a brand or trade name label has been approved by the federal bureau of alcohol, tobacco and firearms, it shall be deemed registered and approved by the authority if:

(i) the applicant submits on a form prescribed by the authority, by registered mail, return receipt requested, a true copy of the brand or trade name label approval issued by the federal bureau of alcohol, tobacco and firearms along with the appropriate fee as established in paragraph (d) of this subdivision; and

(ii) the authority does not deny such application within thirty days after receipt.

(3) Provided, however, that where a brand or trade name label for wine has been approved by the federal bureau of alcohol, tobacco and firearms, it shall be deemed registered and approved by the authority and no application, application fee, or annual registration fee shall be submitted to the authority.

(d) The annual fee for registration of any brand or trade name label for liquor shall be two hundred fifty dollars; the annual fee for registration of any brand or trade name label for beer shall be one hundred fifty dollars; the annual fee for registration of any brand or trade name label for wine shall be fifty dollars. Such fee shall be in the form of a check or draft. No annual fee for registration of any brand or trade name label for wine shall be required if it has been approved by the federal bureau of alcohol, tobacco and firearms pursuant to this section.

Each brand or trade name label registration approved pursuant to this section shall be valid for a term which shall run concurrently with the term of the license of the person registering such brand or trade name label.

Each brand or trade name label registration approved pursuant to this section shall be valid only for the licensee to whom issued and shall not be transferable.

(e) If the authority shall deny the application for registration of a brand or trade name label pursuant to this section, it shall return the registration fee to the applicant, less twenty-five per centum of such fee and shall notify the applicant, in writing with the specific reasons for its denial.

(f) When not inconsistent with the purposes of this subdivision and whenever necessary to avoid practical difficulties or unnecessary hardship to any licensee affected by this section, the authority may, until October first, nineteen hundred sixty-three, exempt any brand from the fee provisions of this subdivision upon satisfactory showing by the licensee that such brand is being discontinued. The authority may at any time exempt any discontinued brand from such fee provisions where a manufacturer or wholesaler has an inventory of one hundred cases or less of liquor or wine and five hundred cases or less of beer, and certifies to the authority in writing that such brand is being discontinued. The authority may also at any time exempt any discontinued brand from such fee provisions where a retailer discontinuing a brand owned by him has a balance of an order yet to be delivered of fifty cases or less of liquor or wine, or two hundred fifty cases or less of beer.

(As amended L.1993, c. 490, § 20; L.1994, c. 361, § 21.)

Historical and Statutory Notes

1994 Amendments. Subd. 4, par. (d). L.1994, c. 361, § 21, eff. July 20, 1994, substituted provisions requiring application be accompanied by check or draft, for provisions requiring application be accompanied by certified check, bank officers' check or draft or money order.

1993 Amendments. Subd. 3. L.1993, c. 490, § 20, eff. Jan. 1, 1994, substituted "conformity with this section" for "conformity with such rules and regulations".

Subd. 4, par. (a). L.1993, c. 490, § 20, eff. Jan. 1, 1994, required conformance with this section in lieu of prior provisions requiring conformance with such regulations.

Subd. 4, par. (b). L.1993, c. 490, § 20, eff. Jan. 1, 1994, in the second par., deleted reference to schedules pursuant to § 101-bbb of this chapter.

Subd. 4, par. (c), subpar. (3). L.1993, c. 490, § 20, eff. Jan. 1, 1994, added subpar. (3).

Subd. 4, par. (d). L.1993, c. 490, § 20, eff. Jan. 1, 1994, provided that no annual registration fee for any brand or trade name label for wine shall be required if it has been approved by the federal bureau of alcohol, tobacco and firearms pursuant to this section.

Separability of Provisions of L.1993, c. 490. The adjudication as invalid or unconstitutional of any provision of L.1993, c. 490, or the application thereof, not to affect, impair or invalidate the remainder of such act pursuant to L.1993, c. 490, § 24, set out as a note under § 76.

Study of Application Processes for Wineries. The office of business permits and regulatory assistance to conduct study on the consolidation or coordination of the application processes for winery and food processing licenses and to determine if tax forms and returns can be simplified or consolidated to reduce administrative burdens placed upon wineries and grape processors, pursuant to L.1993, c. 490, § 23, set out as a note under § 76.

Rules and Regulations Relating to Establishing and Operating Wineries. The state liquor authority to review its rules and regulations to determine which can be amended or repealed in order to streamline or reduce the number of requirements necessary to establish and operate a winery or farm winery and to explore the possibility of establishing a separate division on wineries within the authority, pursuant to L.1993, c. 490, § 22, set out as a note under § 76.

Law Review and Journal Commentaries

The Alcohol Beverage Labeling Act of 1988: A critical analysis. Jacobs. 40 Syracuse L.Rev. 1223 (1989).

Notes of Decisions

4. Registration of labels
Affiliated Distillers Brands Corp. v. State Liquor Authority (1 Dept. 1968) 29 A.D.2d 358, 288 N.Y.S.2d 198, [main volume] reversed 24 N.Y.2d 31, 298 N.Y.S.2d 713, 246 N.E.2d 518.