

LEGISLATIVE HISTORY CHECKLIST
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(Alcoholic beverages prepackaged
with merchandise)

NJSA: 33:1-12

LAWS OF: 1993 **CHAPTER:** 198

BILL NO: A1539

SPONSOR(S) Warsh

DATE INTRODUCED: June 4, 1992

COMMITTEE: **ASSEMBLY:** Judiciary, Law

SENATE: Law & Public Safety

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** October 29, 1992

SENATE: June 17, 1993

DATE OF APPROVAL: July 23, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

1 AN ACT concerning the retail sale of alcoholic beverages and
2 amending R.S.33:1-12.

3

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

6 1. R.S.33:1-12 is amended to read as follows:

7 33:1-12. Class C licenses shall be subdivided and classified as
8 follows:

9 Plenary retail consumption license. 1. The holder of this license
10 shall be entitled, subject to rules and regulations, to sell any
11 alcoholic beverages for consumption on the licensed premises by
12 the glass or other open receptacle, and also to sell any alcoholic
13 beverages in original containers for consumption off the licensed
14 premises; but this license shall not be issued to permit the sale of
15 alcoholic beverages in or upon any premises in which a grocery,
16 delicatessen, drug store or other mercantile business is carried
17 on, except as hereinafter provided. Subject to such rules and
18 regulations established from time to time by the director, the
19 holder of this license shall be permitted to sell alcoholic
20 beverages in or upon the premises in which any of the following is
21 carried on: the keeping of a hotel or restaurant including the sale
22 of mercantile items incidental thereto as an accommodation to
23 patrons; the sale of distillers' brewers' and vintners' packaged
24 holiday merchandise prepacked as a unit with other suitable
25 [glassware] objects as gift items to be sold only as a unit; the sale
26 of novelty wearing apparel identified with the name of the
27 establishment licensed under the provisions of this section; the
28 sale of cigars, cigarettes, packaged crackers, chips, nuts and
29 similar snacks and ice at retail as an accommodation to patrons,
30 or the retail sale of nonalcoholic beverages as accessory
31 beverages to alcoholic beverages; or, in commercial bowling
32 establishments, the retail sale or rental of bowling accessories
33 and the retail sale from vending machines of candy, ice cream
34 and nonalcoholic beverages. The fee for this license shall be
35 fixed by the governing board or body of the municipality in which
36 the licensed premises are situated, by ordinance, at not less than
37 \$200.00 and not more than \$2,000.00. No ordinance shall be
38 enacted which shall raise or lower the fee to be charged for this
39 license by more than 20% from that charged in the preceding
40 license year or \$500.00, whichever is the lesser. The governing
41 board or body of each municipality may, by ordinance, enact that
42 no plenary retail consumption license shall be granted within its
43 respective municipality.

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 Seasonal retail consumption license. 2. The holder of this
2 license shall be entitled, subject to rules and regulations, to sell
3 any alcoholic beverages for consumption on the licensed premises
4 by the glass or other open receptacle, and also to sell any
5 alcoholic beverages in original containers for consumption off the
6 licensed premises, during the summer session from May 1 until
7 November 14, inclusive, or during the winter season from
8 November 15 until April 30, inclusive; but this license shall not be
9 issued to permit the sale of alcoholic beverages in or upon any
10 premises in which a grocery, delicatessen, drug store or other
11 mercantile business is carried on, except as hereinafter provided.
12 Subject to such rules and regulations established from time to
13 time by the director, the holder of this license shall be permitted
14 to sell alcoholic beverages in or upon the premises in which any
15 of the following is carried on: the keeping of a hotel or
16 restaurant including the sale of mercantile items incidental
17 thereto as an accommodation to patrons; the sale of distillers',
18 brewers' and vintners' packaged holiday merchandise prepacked
19 as a unit with other suitable [glassware] objects as gift items to
20 be sold only as a unit; the sale of novelty wearing apparel
21 identified with the name of the establishment licensed under the
22 provisions of this section; the sale of cigars, cigarettes, packaged
23 crackers, chips, nuts and similar snacks and ice at retail as an
24 accommodation to patrons; or the retail sale of nonalcoholic
25 beverages as accessory beverages to alcoholic beverages. The
26 fee for this license shall be fixed by the governing board or body
27 of the municipality in which the licensed premises are situated,
28 by ordinance, at 75% of the fee fixed by said board or body for
29 plenary retail consumption licenses. The governing board or body
30 of each municipality may, by ordinance, enact that no seasonal
31 retail consumption license shall be granted within its respective
32 municipality.

33 Plenary retail distribution license. 3. a. The holder of this
34 license shall be entitled, subject to rules and regulations, to sell
35 any alcoholic beverages for consumption off the licensed
36 premises, but only in original containers. The governing board or
37 body of each municipality may, by ordinance, enact that this
38 license shall not be issued to permit the sale of alcoholic
39 beverages in or upon any premises in which any other mercantile
40 business is carried on, except that any such ordinance, heretofore
41 or hereafter adopted, shall not prohibit the retail sale of
42 distillers', brewers' and vintners' packaged holiday merchandise
43 prepacked as a unit with other suitable [glassware] objects as gift
44 items to be sold only as a unit; the sale of novelty wearing
45 apparel identified with the name of the establishment licensed
46 under the provisions of this act; cigars, cigarettes, packaged
47 crackers, chips, nuts and similar snacks, ice, and nonalcoholic
48 beverages as accessory beverages to alcoholic beverages. The
49 fee for this license shall be fixed by the governing board or body
50 of the municipality in which the licensed premises are situated,
51 by ordinance, at not less than \$100.00 and not more than
52 \$2,000.00. No ordinance shall be enacted which shall raise or
53 lower the fee to be charged for this license by more than 20%
54 from that charged in the preceding license year or \$500.00,

1 whichever is the lesser. The governing board or body of each
2 municipality may, by ordinance, enact that no plenary retail
3 distribution license shall be granted within its respective
4 municipality.

5 Limited retail distribution license. 3. b. The holder of this
6 license shall be entitled, subject to rules and regulations, to sell
7 any unchilled, brewed, malt alcoholic beverages in quantities of
8 not less than 72 fluid ounces for consumption off the licensed
9 premises, but only in original containers; provided, however, that
10 this license shall be issued only for premises operated and
11 conducted by the licensee as a bona fide grocery store, meat
12 market, meat and grocery store, delicatessen, or other type of
13 bona fide food store at which groceries or other foodstuffs are
14 sold at retail; and provided further that this license shall not be
15 issued except for premises at which the sale of groceries or other
16 foodstuffs is the primary and principal business and at which the
17 sale of alcoholic beverages is merely incidental and subordinate
18 thereto. The fee for this license shall be fixed by the governing
19 body or board of the municipality in which the licensed premises
20 are situated, by ordinance, at not less than \$25.00 and not more
21 than \$50.00. The governing board or body of each municipality
22 may, by ordinance, enact that no limited retail distribution
23 license shall be granted within its respective municipality.

24 Plenary retail transit license. 4. The holder of this license shall
25 be entitled, subject to rules and regulations, to sell any alcoholic
26 beverages, for consumption only, on railroad trains, airplanes,
27 limousines and boats, while in transit. The fee for this license for
28 use by a railroad or air transport company shall be \$300.00, for
29 use by the owners of limousines shall be \$25.00 per vehicle, and
30 for use on a boat shall be \$50.00 on a boat 65 feet or less in
31 length, \$100.00 on a boat more than 65 feet in length but not
32 more than 110 feet in length, and \$300.00 on a boat more than
33 110 feet in length; such boat lengths shall be determined in the
34 manner prescribed by the Bureau of Customs of the United States
35 Government or any federal agency successor thereto for boat
36 measurement in connection with issuance of marine documents. A
37 license issued under this provision to a railroad or air transport
38 company shall cover all railroad cars and planes operated by any
39 such company within the State of New Jersey. A license for a
40 boat or limousine issued under this provision shall apply only to
41 the particular boat or limousine for which issued, and shall permit
42 the purchase of alcoholic beverages for sale or service in a boat
43 or limousine to be made from any Class A and B licensee or from
44 any Class C licensee whose license privilege permits the sale of
45 alcoholic beverages in original containers for off-premises
46 consumption. An interest in a plenary retail transit license issued
47 in accordance with this section shall be excluded in determining
48 the maximum number of retail licenses permitted under P.L.1962,
49 c.152 (C.33:1-12.31 et seq.).

50 Club license. 5. The holder of this license shall be entitled,
51 subject to rules and regulations, to sell any alcoholic beverages
52 but only for immediate consumption on the licensed premises and
53 only to bona fide club members and their guests. The fee for this
54 license shall be fixed by the governing board or body of the

1 municipality in which the licensed premises are situated, by
2 ordinance, at not less than \$50.00 and not more than \$150.00.
3 The governing board or body of each municipality may, by
4 ordinance, enact that no club licenses shall be granted within its
5 respective municipality. Club licenses may be issued only to such
6 corporations, associations and organizations as are operated for
7 benevolent, charitable, fraternal, social, religious, recreational,
8 athletic, or similar purposes, and not for private gain, and which
9 comply with all conditions which may be imposed by the
10 Commissioner of Alcoholic Beverage Control by rules and
11 regulations.

12 (cf: P.L.1985, c.157, s.2)

13 2. This act shall take effect immediately.

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STATEMENT

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18 This bill permits the sale of distilled spirit, wine and malt
19 products in combination with non-alcoholic items.

20 The Director of the Division of Alcoholic Beverage Control has
21 interpreted current law as prohibiting on-premise licensees from
22 selling prepackaged products where one of the elements in the
23 package is something other than glassware or a bar-related item,
24 such as openers or coasters.

25 This is in conflict with federal regulations promulgated under
26 the Federal Alcohol Administration Act which permit a supplier
27 or wholesaler to package and distribute spirits, wine or malt
28 beverages in combination with any other items providing that (1)
29 those items have no value or benefit to the retailer other than
30 that of having the potential of attracting purchasers and thereby
31 promoting sales, and (2) the package itself is designed to be
32 delivered intact to the consumer, and (3) any additional cost
33 incurred in creating the combination package is passed on to the
34 retailer.

35 This bill amends R.S.33:1-12 to permit the retail sale of
36 distillers', brewers' and vintners' merchandise by on-premise
37 licensees when that merchandise is prepacked as a unit with other
38 items. The Director of the Division of Alcoholic Beverage
39 Control will continue to have the discretion to promulgate rules
40 and regulations to limit specific types of merchandise that would
41 pose a danger to the public policy underlying the State alcoholic
42 beverage laws.

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47 Permits sale of alcoholic beverages in combination with certain
48 non-alcoholic items.

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2 ordinance, at not less than \$50.00 and not more than \$150.00.
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4 ordinance, enact that no club licenses shall be granted within its
5 respective municipality. Club licenses may be issued only to such
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8 athletic, or similar purposes, and not for private gain, and which
9 comply with all conditions which may be imposed by the
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21 interpreted current law as prohibiting on-premise licensees from
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23 package is something other than glassware or a bar-related item,
24 such as openers or coasters.

25 This is in conflict with federal regulations promulgated under
26 the Federal Alcohol Administration Act which permit a supplier
27 or wholesaler to package and distribute spirits, wine or malt
28 beverages in combination with any other items providing that (1)
29 those items have no value or benefit to the retailer other than
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ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1539

STATE OF NEW JERSEY

DATED: OCTOBER 1, 1992

The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Bill No. 1539.

This bill permits the sale of distilled spirit, wine and malt products in combination with non-alcoholic items by holders of certain licenses.

This bill amends R.S.33:1-12 to permit the retail sale of distillers', brewers' and vintners' merchandise by on-premise licensees when that merchandise is prepacked as a unit with other items. Currently the sale of distillers' and vintners' merchandise prepackaged with glassware is permitted. The Director of the Division of Alcoholic Beverage Control will continue to have the discretion to promulgate rules and regulations to limit specific types of merchandise that would pose a danger to the public policy underlying the State alcoholic beverage laws.

The Director of the Division of Alcoholic Beverage Control has interpreted current law as prohibiting on-premise licensees from selling prepackaged products where one of the elements in the package is something other than glassware or a bar-related item, such as an opener or coasters.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1539

STATE OF NEW JERSEY

DATED: MARCH 29, 1993

The Senate Law and Public Safety Committee favorably reports Senate Bill No. 1539.

This bill permits the sale of distilled spirit, wine and malt products in combination with non-alcoholic items by holders of certain licenses.

This bill amends R.S.33:1-12 to permit the retail sale of distillers', brewers' and vintners' merchandise by on-premise licensees when that merchandise is prepacked as a unit with other items. The Director of the Division of Alcoholic Beverage Control will continue to have the discretion to promulgate rules and regulations to limit specific types of merchandise that would pose a danger to the public policy underlying the State alcoholic beverage laws.

The Director of the Division of Alcoholic Beverage Control has interpreted current law as prohibiting on-premise licensees from selling prepackaged products where one of the elements in the package is something other than glassware or a bar-related item, such as an opener or coasters. However, federal regulations promulgated under the Federal Alcohol Administration Act permit a supplier or wholesaler to package and distribute spirits, wine or malt beverages in combination with any other items providing that (1) those items have no value or benefit to the retailer other than that of having the potential of attracting purchasers and thereby promoting sales, and (2) the package is designed to be delivered intact to the consumer, and (3) any additional cost incurred in creating the combination package is passed on to the retailer.

This bill is identical to Senate Bill No. 1378 which was also released by the committee on this date.