

**CHAPTER 3**

**ALCOHOLIC BEVERAGE TAX  
ACT—STATE LICENSEES**

**Authority**

N.J.S.A. 54:42-1 and 54:50-1.

**Source and Effective Date**

R.1999 d.10, effective December 9, 1998.  
See: 30 N.J.R. 3607(b), 31 N.J.R. 55(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 3, Alcoholic Beverage Tax Act—State Licensees, expires on December 9, 2003.

**Chapter Historical Note**

Chapter 3, Alcoholic Beverage Tax Act—State Licensees, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 3, Alcoholic Beverage Tax Act—State Licensees, was readopted as R.1984 d.170, effective April 23, 1984. See: 16 N.J.R. 513(b), 16 N.J.R. 1097(b).

Pursuant to Executive Order No. 66(1978), Chapter 3, Alcoholic Beverage Tax Act—State Licensees, was readopted as R.1989 d.200, effective March 14, 1989. See: 21 N.J.R. 122(a), 21 N.J.R. 1018(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Alcoholic Beverage Tax Act—State Licensees, was readopted as R.1994 d.183, effective March 14, 1994. See: 26 N.J.R. 758(a), 26 N.J.R. 1695(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Alcoholic Beverage Tax Act—State Licensees, was readopted as R.1999 d.10, effective December 9, 1998. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

**18:3-1.1 Director's power to make rules and regulations**

The Alcoholic Beverage Tax Law authorizes and empowers the Director to make and enforce such rules and regulations as he may deem necessary for the administration and enforcement of the law.

**Statutory References**

N.J.S.A. 54:42-1.

**18:3-1.2 Definitions**

The following words and terms, when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Alcoholic beverages" means liquors, fruit brandies, beer, wines, sparkling wine and vermouth, having an alcoholic content of 1/2 of one percent or more by volume.

"Beer" means, beer, lager beer, ale, stout, porter and all similar fermented malt beverages having an alcoholic content of 1/2 of one percent or more by volume.

"Cider" means a beverage made from the alcoholic fermentation of the juice of apples, including, but not limited to, flavored, sparkling or carbonated cider.

"Container" means the receptacle immediately surrounding the alcoholic beverage and not the carton, box, case, sack, bag or other covering in which such containers may be packed, placed or transported.

"Department" means the New Jersey Department of the Treasury.

"Director" means the Director of the Division of Taxation.

"Farm winery license" means: see N.J.S.A. 33:1-10 and N.J.A.C. 13:2.

"Inventory credit memorandum" means a receipt or other memorandum issued to a customer acknowledging the acceptance of the return of a certain quantity of alcoholic beverages as stated thereon in wine gallons or decimal parts thereof.

"Law" means the Alcoholic Beverage Tax Law, N.J.S.A. 54:41-1 et seq.

"Licensee" means the holder of any valid and unrevoked license or special permit issued pursuant to the provisions of any relevant law of this State pertaining to alcoholic beverages.

"Liquors" means all distilled or rectified spirits, alcohol, brandy, fruit brandy, whiskey, rum, gin and all similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing, such as liqueurs, cordials and similar compounds, having an alcoholic content of 1/2 of one percent or more by volume.

"Manufacturer" means any person holding a valid and unrevoked brewery, winery, distillery, supplementary limited distillery or rectifier and blender's license issued pursuant to the provisions of any relevant law of this State.

"Person" means a natural person, an association, a partnership or a corporation.

"Plenary retail transit licensee" means any person holding a valid and unrevoked plenary retail transit license issued pursuant to any relevant law of this State, authorizing the sale of alcoholic beverages for consumption only on railroad trains, airplanes and boats while in transit in this State.

"Plenary winery license" means: see N.J.S.A. 33:1-10 and N.J.A.C. 13:2.

"Retail licensee" means any person holding a valid and unrevoked plenary retail consumption, seasonal retail consumption, plenary retail distribution, limited retail distribution, or club license.

"Return" means the return (including exchange) of alcoholic beverages by a customer to the source from which such alcoholic beverages were obtained, upon the cancellation of a sale, and shall include:

1. Actual receipt of the alcoholic beverages on the licensed premises of the source or in a licensed public warehouse for the account of the source; or

2. The sending of the alcoholic beverages by the customer to another person upon instructions of the source; but shall not include any other disposition, such as samples, breakage, shortage, merchandising credits, or alcoholic beverages dumped on the premises of the customer, except where such dumping is done under the supervision of the Director or his representative. (See N.J.A.C. 18:3-2.21, Deductions for tax credits.)

“Sale” means and includes, in addition to its ordinary meaning, any exchange; gift, loss, theft or other disposition. In every case where alcoholic beverages are exchanged, given, lost, stolen or otherwise disposed of, they shall be deemed to have been sold, unless, in case of loss by fire, proof is furnished to the satisfaction of the Director that the alcoholic beverages have been so destroyed that they could not have been put to any use.

“Sparkling wine” means champagne and any other effervescent wine charged with carbon dioxide, whether artificial-ly or as the result of secondary fermentation of the wine within the container.

“State beverage distributor” means any person holding a valid and unrevoked State beverage distributor license issued pursuant to any relevant law of this State.

“State licensee” means any person holding a valid and unrevoked license or special permit, issued by the Director of the Division of Alcoholic Beverage Control, and who has posted a bond with the Treasurer of the State of New Jersey to secure the payment of the alcoholic beverage taxes.

“Taxpayer” means a person chargeable with the payment of a tax pursuant to the provisions of N.J.S.A. 54:41-1 et seq.

“Transportation licensee” means any person holding a valid and unrevoked license or special permit to transport alcoholic beverages pursuant to the provisions of any relevant law of this State.

“Vermouth” means any compound made by the mixture of extracts from macerated aromatic flavoring materials with wines, and manufactured in such a manner that the product possesses the taste, aroma and characteristics generally attributed to vermouth.

“Warehouse receipt” means certificate or receipt given upon the storage of alcoholic beverages in a United States Internal Revenue or United States Customs warehouse under Federal bond.

“Warehouse receipts licensee” means any person holding a valid and unrevoked warehouse receipts license issued pursuant to any relevant law of the State.

“Wholesaler” means any person holding a valid and unrevoked plenary wholesale, limited wholesale or wine wholesale license issued pursuant to any relevant law of this State.

“Wines” means all wines, whether known as “dry wines”, “sweet wines”, “still wines” or “fortified wines” and any artificial or imitation wine or compound sold as wine, and any fruit juice containing one-half of one percent or more of alcohol by volume, and any other beverage containing alcohol produced by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar, and consisting of one-half of one percent or more of alcohol by volume, but shall not mean or include vermouth or cider containing less than three and two-tenths percentum of alcohol by volume.

Amended by R.1973 d.297, effective October 17, 1973.

See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

Amended by R.1979 d.180, effective May 4, 1979.

See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

Deleted definition of “Bureau”.

Amended by R.1982 d.181, effective June 21, 1982.

See: 13 N.J.R. 839(a), 14 N.J.R. 664(a).

Added definitions of “Farm winery license”, “Manufacture” and “Plenary wine license” and amended definitions of “wines”.

Amended by R.1989 d.200, effective April 17, 1989.

See: 21 N.J.R. 122(a), 21 N.J.R. 1018(a).

Deleted definition of “Manufacture”.

Amended by R.1999 d.10, effective January 4, 1999.

See: 30 N.J.R. 3607(b), 31 N.J.R. 55(a).

Added “Cider” definition.

#### Statutory References

As to the short title and definitions, see N.J.S.A. 54:41-1, 2.

#### Case Notes

Statutory provision for tax on sales of alcoholic beverages and including within the sales definition the theft of such beverages held not to deny due process or equal protection: cigarette tax rules cited for common scheme support. *Hoffman Import & Distributing Co. v. Director, Division of Taxation*, 146 N.J.Super. 132, 369 A.2d 29 (App. Div.1977), certification denied 75 N.J. 8, 379 A.2d 239 (1977).

## SUBCHAPTER 2. DESCRIPTION OF TAX, EXEMPTIONS, CREDITS OR REFUNDS

### 18:3-2.1 Tax rates on alcoholic beverages

(a) The Alcoholic Beverage Tax Law levies and imposes upon any sale of alcoholic beverages made within this State, or upon any delivery of alcoholic beverages made within or into this State, the following excise taxes:

1. Beer—at the rate of \$0.10 a gallon or fraction thereof from July 1, 1990 through June 30, 1992. On and after July 1, 1992, the rate will be \$0.12 a gallon or fraction thereof;

2. Liquors—at the rate of \$4.20 a gallon thereof from July 1, 1990 through June 30, 1992. On and after July 1, 1992, the rate will be \$4.40 a gallon thereof;