

Bill S4265
Session 2022 - 2023



SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 4265

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 4, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 4265.

As amended and reported by the committee, Senate Bill No. 4265 makes various revisions to the law governing the manufacture and sale of alcoholic beverages in this State.

Craft Alcoholic Beverage Manufacturers

Under the bill, certain craft alcoholic beverage manufacturers would be entitled to hold events. Under the bill, a craft alcoholic beverage manufacturer is defined as a limited brewery license, cidery and meadery license, and craft distillery license.

Specifically, the bill allows these craft alcoholic beverage manufacturers to hold not more than 25 off-premises special events and an unlimited number of on-premises special events and private parties. In addition, these license holders would be entitled to hold not more than 25 social affair events hosted by the holder of a social affair permit.

Under the bill, a craft alcoholic beverage manufacturer would be entitled to sell and serve customers tableside utilizing servers or wait staff employed by the license holder. The license holder also would be entitled to serve the licensee's products for on-premises consumption in outdoor spaces approved by the municipality. A license holder that serves alcoholic beverages in outdoor spaces would be entitled to utilize a permanent or portable tap system located in the approved outdoor space. Pourers and servers employed by a craft manufacturer's license holder are to be certified by an industry-recognized server training program.

The bill also allows the holder of a craft manufacturer's license to offer for sale or make the gratuitous offering of de minimis food items including, but not limited to, packaged crackers, chips, nuts, and similar snacks to consumers. The license holder also would be entitled to sell non-alcoholic beverages.

Under the bill, a license holder also may coordinate with a food vendor, including food trucks and restaurants, for the provision of food on the licensed premises and provide menus to consumers for the sale of food. The bill prohibits a craft manufacturer's license holder from owning the food vendor. In addition, a craft manufacturer's licensed premises that is adjoining a food vendor's premises would be required to have its own entrance and exit to and from the licensed premises and would be prohibited from having a doorway that allows direct access and egress to the food vendor's premises.

Under the bill, the holder of a craft manufacturer license would be entitled to offer discounts for promotional purposes, provide targeted discounts, and establish membership programs that offer discounts. A craft manufacturer's licensee also would be entitled to show or display any televised program on televisions or other screening devices of any number or size on the licensed premises. The license holder would not be required to provide notice to or obtain a permit from the Division of Alcoholic Beverage Control prior to showing or displaying any televised event.

The bill also removes from current law the tour requirement for limited brewery and craft distillery license holders. Under current law, these licensees are authorized to sell their products at retail to consumers on the licensed premises for on-site consumption, but only in connection with a tour of the brewery or distillery. Under the bill, consumers would not be required to take a tour of the brewery or distillery to purchase beverages for on-site consumption.

The bill also increases from 10,000 to 300,000 the number of barrels that the holder of a restricted brewery license may manufacture per year. Under current law, a restricted brewery license is only issued to a person who also holds a Class C consumption license, which is generally issued to bars and restaurants. The restricted brewery license allows the licensee to brew the beer, while the Class C license allows the licensee to sell that beer directly to restaurant patrons. This bill allows the holder of restricted brewery license to manufacture more beer per year. These license holders also would be entitled to directly sell and distribute to retailers 50 percent of the beer that is produced on premises in each year.

Farm-Brewery License

The bill also establishes a farm-brewery license that would permit the licensee to produce malt alcoholic beverages for retail sale to consumers for consumption off the licensed premises. A farm brewery licensee would be permitted to brew up to 2,500 barrels of malt alcoholic beverages per year for retail sale for consumption off the premises and to offer samples. The license would be issued only when the brewery is located and constructed upon a tract of land exclusively under the license holder's control and the license holder is actively engaged in farming on or adjacent to the brewery premises. The bill also requires the license holder to manufacture beer that is substantially produced from hops or other ingredients grown or cultivated on the license holder's tract of land. The bill prohibits a license holder from selling or offering food for consumption on the licensed premises.

A graduated license based on volume would range in cost from \$100 to \$300 a year. A single individual or entity would be permitted to hold only one farm brewery license.

Transfer of Inactive Plenary Retail Consumption Licenses

In addition, this bill establishes procedures for transferring inactive Class C licenses, which allow for the retail sales of alcoholic beverages. Under current law, an inactive Class C license is a license to sell alcoholic beverages to the public that is not being used at an open and operating licensed premises. A licensee is required to place the license on "inactive status" when the licensed business ceases operation and the license continues to be held by the licensee of record.

Under this bill, a license that remains inactive for two consecutive license terms is to expire. However, the bill allows the governing body of a municipality to extend the period during which the license may remain inactive for an additional year. Prior to the expiration of the license, an inactive license is to be actively used by the license holder, transferred to another person who intends to use the license in a private transaction for fair market value, or transferred from a sending municipality to a contiguous receiving municipality for use in a redevelopment, improvement, or revitalization area. The bill requires the Director of the Division of Alcoholic Beverage Control to divide the inactive Class C licenses that were placed on inactive status prior to the bill's effective date into quartiles based on the total length of time that the licenses have been inactive. The quartile that has been inactive for the longest period of time would be required to be transferred within one year of the bill's effective date. The quartile that has been inactive for the second longest period of time would be required to be transferred within two years of the bill's effective date. The quartile that has been inactive for the third longest period of time would be transferred within three years following the bill's effective date. The quartile that has been inactive for the shortest period of time would be required to be transferred within four years following the effective date.

The bill also allows a receiving municipality that has reached the license population limitation established under current law to issue a request for proposal (RFP) to acquire an inactive plenary retail consumption license, generally issued to bars and restaurants, from a licensee who holds a license in another contiguous municipality. The bill requires the receiving municipality to issue the license for use in connection with a premises as part of economic redevelopment plan or a redevelopment, improvement, or revitalization area. The bill prohibits the transfer of licenses between municipalities that are not contiguously located.

Finally, the bill allows a municipality in which an inactive Class C license has lapsed and has not been renewed within eight years prior to the bill's enactment to issue a new Class C license at public sale. The bill allows the municipality to issue a new Class C license regardless of the limitation placed on the number of retail licenses that a municipality is permitted to issue.

Issuance of Special Licenses in Municipalities with Shopping Malls

Finally, the bill authorizes the issuance of special licenses to a person or other legal entity for use in connection with a food and beverage establishment located within a shopping mall. The license authorizes the sale of alcoholic beverages for immediate consumption on the operator's premises. Under the bill, an eligible municipality may, by ordinance or resolution, issue not more than two of these special licenses for use in connection with a shopping mall that has a gross square footage of not less than 750,000. A mall with a gross square footage of 1,500,000 or more would be entitled to receive four special licenses.

As amended, the bill requires the fee for the initial issuance of this license to be at least \$250,000. The municipal governing body would be entitled to establish an annual fee that would not exceed the annual fee charged for plenary retail consumption licenses within the municipality.

COMMITTEE AMENDMENTS

The committee amended the bill to:

1) change the fee for the initial issuance of a special license used in connection with a shopping mall to at least \$250,000. As introduced, the bill provided that the initial issuance fee was to be based on the three most recent sale amounts paid for plenary retail consumption licenses within the municipality, or an appraisal completed at the license applicant's expense, whichever amount is greater; and

2) make a technical correction.

FISCAL IMPACT:

The OLS finds that the bill will result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS, however, cannot assess the direction of the net effect of the increases given the absence of information on workload increases for the Division of Alcoholic Beverage Control and municipalities as well as the potential revenue collected from the total number of licenses issued annually, the future license fees, sales tax on products sold, and any penalty collections.

