

**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).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 3, Alcohol Beverage Tax Act—State Licensees, expires on June 6, 2004. See: 35 N.J.R. 2800(a).

Chapter Historical Note

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

Pursuant to Executive Order No. 66(1978), Chapter 3, Alcohol 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, Alcohol 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, Alcohol 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, Alcohol 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.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 18:3-1.1 Director's power to make rules and regulations
- 18:3-1.2 Definitions

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

- 18:3-2.1 Tax rates on alcoholic beverages
- 18:3-2.2 Due date of taxes
- 18:3-2.3 Method of tax payment; improperly drawn checks
- 18:3-2.4 Purchaser payment for certain transactions
- 18:3-2.5 Sales to plenary retail transit licensees not posting surety bond taxable
- 18:3-2.6 Sale and delivery for non-beverage use not taxable; certificates; exemptions
- 18:3-2.7 Sales and deliveries for vinegar stock not taxable
- 18:3-2.8 No tax imposed on beverage lost by fire
- 18:3-2.9 Sales outside State
- 18:3-2.10 Sales of warehouse receipts
- 18:3-2.11 Purchases or sales in bond
- 18:3-2.12 Breakage in transit
- 18:3-2.13 Deliveries for resale and consumption out-of-State
- 18:3-2.14 Out-of-State sales for temporary storage in New Jersey
- 18:3-2.15 Sale to Army, Air Force, Navy and Coast Guard organizations
- 18:3-2.16 Temporary storage reported on Schedule "A"
- 18:3-2.17 Transportation through State not taxable

- 18:3-2.18 Tax credit memoranda issued by Division
- 18:3-2.19 Cancellation of sale; tax credit
- 18:3-2.20 Tax credit and issuance of inventory credit memoranda for returned alcoholic beverages
- 18:3-2.21 When deductions for tax credits are taken
- 18:3-2.22 Destruction of alcoholic beverages under supervision
- 18:3-2.23 through 18:3-2.26 (Reserved)

SUBCHAPTER 3. TAX RULINGS

- 18:3-3.1 Tax on sparkling cider
- 18:3-3.2 Tax on mixture of cider and malt beverage
- 18:3-3.3 Tax on bottled drinks
- 18:3-3.4 Tax on bitters, grenadine and other mixes
- 18:3-3.5 Sales to religious organizations
- 18:3-3.6 Sales to governmental agencies and concessionaires
- 18:3-3.7 Deliveries of alcoholic beverages to steamships at piers in New Jersey; tax exemptions for licensees; reports filed
- 18:3-3.8 Tax liability of transporter of alcoholic beverages to steamships
- 18:3-3.9 Delivery of alcoholic beverages to licensed ships in New Jersey
- 18:3-3.10 through 18:3-3.12 (Reserved)

SUBCHAPTER 4. PENALTIES

- 18:3-4.1 Failure to file report
- 18:3-4.2 Failure to pay tax
- 18:3-4.3 Suspension or revocation of license or special permit
- 18:3-4.4 (Reserved)

SUBCHAPTER 5. BONDS

- 18:3-5.1 Bond requirements
- 18:3-5.2 Amount of bond required
- 18:3-5.3 Bond duration
- 18:3-5.4 Deposit in lieu of bond
- 18:3-5.5 Bond approval necessary for license to be issued

SUBCHAPTER 6. RECORDS

- 18:3-6.1 Records kept by persons subject to Act
- 18:3-6.2 Preservation of records
- 18:3-6.3 Records to be kept separate
- 18:3-6.4 Uniformity of records; information
- 18:3-6.5 Uniform invoices; information
- 18:3-6.6 Records to be kept in State
- 18:3-6.7 Uniform inventories; items includible
- 18:3-6.8 Recording and reporting delivery in New Jersey to a person other than the actual purchaser
- 18:3-6.9 Recording and reporting delivery by a shipper located in New Jersey to a consignee outside the State for the account of the seller
- 18:3-6.10 Recording and reporting returns to persons in New Jersey other than the source from which the alcoholic beverages were actually purchased
- 18:3-6.11 Recording and reporting returns from a place in New Jersey to a consignee, located out-of-State, who is other than the original seller
- 18:3-6.12 Recording and reporting returns from a place in New Jersey to a nonresident licensee who maintains inventory in New Jersey
- 18:3-6.13 Delivery slips, freight bills to accompany deliveries
- 18:3-6.14 Cash and charge sales filed together
- 18:3-6.15 Examination of records and premises
- 18:3-6.16 through 18:3-6.17 (Reserved)

SUBCHAPTER 7. REPORTS IN GENERAL

- 18:3-7.1 When due
- 18:3-7.2 Manner of executing reports
- 18:3-7.3 Report forms; how obtained
- 18:3-7.4 Reports without postage refused

- 18:3-7.5 Reporting required in wine gallons
- 18:3-7.6 Seizures; tax postponed
- 18:3-7.7 Reporting donations
- 18:3-7.8 Reporting samples
- 18:3-7.9 Losses by theft, breakage or other disposition
- 18:3-7.10 Consolidated reports with consent of Director
- 18:3-7.11 Procedure where statements disagree
- 18:3-7.12 Preservation of reports
- 18:3-7.13 through 18:3-7.14 (Reserved)

SUBCHAPTER 8. RULES AND INSTRUCTION CONCERNING MANUFACTURERS

- 18:3-8.1 Passage of tax
- 18:3-8.2 Consumer sales reports
- 18:3-8.3 Samples reported
- 18:3-8.4 Out-of-State sales and returns
- 18:3-8.5 Tax exemptions for nonbeverage use
- 18:3-8.6 Alcoholic beverages bottled for nonlicensees
- 18:3-8.7 Alcoholic beverages bottled for others
- 18:3-8.8 Alcoholic beverages bottled for retail licensees
- 18:3-8.9 Alcoholic beverages bottled "in-bond"
- 18:3-8.10 Consolidated reports
- 18:3-8.11 Number of schedules required in report
- 18:3-8.12 Entries in schedules to be by accounts
- 18:3-8.13 Schedule "B"—inventory, control, distillers, rectifiers and blenders
- 18:3-8.14 Schedule "C"—inventory control, wineries
- 18:3-8.15 Schedule "J"—brewery inventory control, Federal-tax-paid beer
- 18:3-8.16 Schedule "A"—sales and "returns made" within this State to State licensees, Army, Air Force, Navy, Coast Guard or National Guard organizations, nonlicensees for storage
- 18:3-8.17 Schedule "D"—sales to retailers and miscellaneous sales
- 18:3-8.18 Schedule "E"—exemptions
- 18:3-8.19 Schedule "F"—claims for exemptions
- 18:3-8.20 Schedule "H"—alcoholic beverages received during the reporting period, in transit at the end of the reporting period, returns accepted from customers
- 18:3-8.21 Schedule "BW"—withdrawals from bond
- 18:3-8.22 Inventories
- 18:3-8.23 Procedure where statements disagree
- 18:3-8.24 through 18:3-8.25 (Reserved)

SUBCHAPTER 9. RULES AND INSTRUCTIONS CONCERNING WHOLESALERS AND STATE BEVERAGE DISTRIBUTORS

- 18:3-9.1 Passage of tax
- 18:3-9.2 Out-of-State sales and returns
- 18:3-9.3 Samples
- 18:3-9.4 Consumer sales
- 18:3-9.5 Exemptions for nonbeverage use
- 18:3-9.6 Consolidated reports
- 18:3-9.7 Number of schedules required
- 18:3-9.8 Entries in schedules to be by accounts
- 18:3-9.9 Schedule "A"—sales and "returns made" within this State to State licensees, Army, Air Force, Navy, Coast Guard or National Guard organizations, nonlicensees for storage
- 18:3-9.10 Schedule "D"—sales to retailers and miscellaneous sales
- 18:3-9.11 Schedule "E"—exemptions
- 18:3-9.12 Schedule "F"—claims for exemptions
- 18:3-9.13 Schedule "H"—alcoholic beverages received during the reporting period, in transit at the end of the reporting period, returns accepted from customers
- 18:3-9.14 Schedule "BW"—withdrawals from bond
- 18:3-9.15 Inventory taken at the end of reporting period
- 18:3-9.16 Procedure where statements disagree
- 18:3-9.17 through 18:3-9.19 (Reserved)

SUBCHAPTER 10. RULES AND INSTRUCTIONS CONCERNING ALCOHOLIC BEVERAGE WAREHOUSE RECEIPTS LICENSEES

- 18:3-10.1 Reporting purchases and sales of warehouse receipts

- 18:3-10.2 Samples and donations
- 18:3-10.3 Records required
- 18:3-10.4 Consolidated reports
- 18:3-10.5 Number of schedules required
- 18:3-10.6 Schedule "WR-1"—purchases of warehouse receipts
- 18:3-10.7 Schedule "WR-2"—sales of warehouse receipts
- 18:3-10.8 Schedule "WR-3"—inventory of warehouse receipts
- 18:3-10.9 Schedule "WR-4"—alcoholic beverages received
- 18:3-10.10 Procedure where statements disagree
- 18:3-10.11 through 18:3-10.12 (Reserved)

SUBCHAPTER 11. RULES AND INSTRUCTIONS CONCERNING PUBLIC WAREHOUSE LICENSEES

- 18:3-11.1 Temporary storage by a nonlicensee; tax exempt
- 18:3-11.2 Releases to State licensees; not taxable
- 18:3-11.3 Releases to retail licensees and special permittees
- 18:3-11.4 Releases from Federal bond for out-of-State deliveries
- 18:3-11.5 Losses by theft or breakage
- 18:3-11.6 Number of schedules required
- 18:3-11.7 Entries in schedules
- 18:3-11.8 Schedule "R"—receipts in bond
- 18:3-11.9 Schedule "RR"—receipts in the Federal-tax-paid section
- 18:3-11.10 Schedule "S"—releases for delivery in this State
- 18:3-11.11 Schedule "T"—releases for delivery outside this State
- 18:3-11.12 Schedule "WR-4"—losses by thefts or breakage
- 18:3-11.13 Procedure where statements disagree

SUBCHAPTER 12. RULES AND INSTRUCTIONS CONCERNING TRANSPORTATION LICENSEES AND SPECIAL PERMITTEES TO TRANSPORT ALCOHOLIC BEVERAGES

- 18:3-12.1 Taxability of deliveries
- 18:3-12.2 Transportation through State
- 18:3-12.3 Consolidated reports
- 18:3-12.4 Delivery slips, freight bills required
- 18:3-12.5 Records to be kept separate
- 18:3-12.6 Recording and reporting shipments involving more than two persons
- 18:3-12.7 Transfers from one transporter to another in course of delivery
- 18:3-12.8 Number of schedules required
- 18:3-12.9 Penalties for failure to file reports or pay taxes
- 18:3-12.10 Transportation licensees; schedules required
- 18:3-12.11 Special permittees; Schedule "M-N"
- 18:3-12.12 through 18:3-12.14 (Reserved)

SUBCHAPTER 13. SPECIAL RULES FOR PLENARY RETAIL/TRANSIT LICENSEES TO WHOM THE TAX HAS BEEN PASSED

- 18:3-13.1 Purchases reported
- 18:3-13.2 Sales taxable
- 18:3-13.3 Reporting required in wine gallons
- 18:3-13.4 Consolidated reports
- 18:3-13.5 Number of schedules required
- 18:3-13.6 Schedule "H"—alcoholic beverages received in New Jersey
- 18:3-13.7 Schedule "BW"
- 18:3-13.8 Schedule "A-E"—returns made
- 18:3-13.9 Reporting beverages issued to New Jersey carriers
- 18:3-13.10 Schedule "D"—sales to consumers, breakage, thefts, inventory adjustments
- 18:3-13.11 Inventories
- 18:3-13.12 Preservation of records
- 18:3-13.13 Purchases reported; special for plenary retail transit licensees for whom the tax has been prepaid
- 18:3-13.14 Schedule "H"—alcoholic beverages received during the reporting period
- 18:3-13.15 Schedule "A-E"—returns
- 18:3-13.16 Physical inventories
- 18:3-13.17 (Reserved)

SUBCHAPTER 14. RULES AND REGULATIONS
CONCERNING SPECIAL PERMITTEES TO SELL
ALCOHOL

18:3-14.1	Tax rates
18:3-14.2	When due
18:3-14.3	How paid
18:3-14.4	Penalties
18:3-14.5	Records required
18:3-14.6	Reports—when due
18:3-14.7	Preservation of reports
18:3-14.8	Report forms
18:3-14.9	Reporting, required in wine gallons
18:3-14.10	Manner of executing reports
18:3-14.11	Losses by theft, breakage or other disposition
18:3-14.12	Number of reports required
18:3-14.13	Certificate of use of alcohol for nonbeverage purposes
18:3-14.14	Entries on schedules to be by accounts
18:3-14.15	Schedule "H"—alcohol received during the reporting period
18:3-14.16	Schedule "A-E"—returns
18:3-14.17	Inventories

APPENDIX "A". BEVERAGE TAX BUREAU REPORT
FORMS PRESCRIBED BY THE DIRECTOR

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 artificially 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;