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STATE OF NEW JERSEY

ALCOHOLIC BEVERAGE CONTROL STUDY COMMISSION

REPORT

December 31, 1983

Senator Herman T. Costello, Chairman

Norman S. Feldman, Vice-Chairman

Aggie Szilagyi, Staff to the Commission  
Office of Legislative Services




December 31, 1983

Governor Thomas H. Kean  
President of the Senate  
Speaker of the General Assembly  
Members of the Legislature

Ladies and Gentlemen:

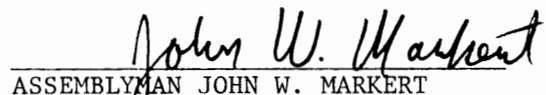
The Alcoholic Beverage Control Study Commission, created by Joint Resolution No. 4 of 1982 (approved July 28, 1982), hereby respectfully submits its report for the year of 1983 in compliance with the terms of the enabling resolution as amended by Joint Resolution No. 16 of 1983 (approved October 26, 1983).

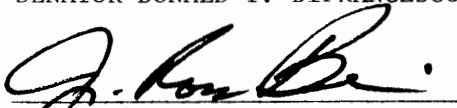
  
SENATOR HERMAN T. COSTELLO  
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NORMAN S. FELDMAN  
Vice-Chairman

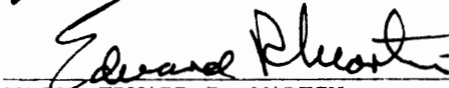
  
ASSEMBLYMAN JOSEPH D. PATERO

  
SENATOR DONALD T. DIFRANCESCO

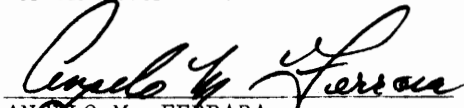
  
ASSEMBLYMAN JOHN W. MARKERT

  
J. ROSS BEVIS

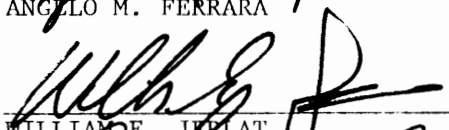
  
LEO BROMLEY

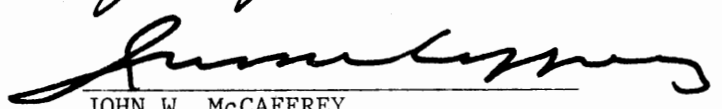
  
MAJOR EDWARD R. MARTIN

  
THOMAS D. FARRELL

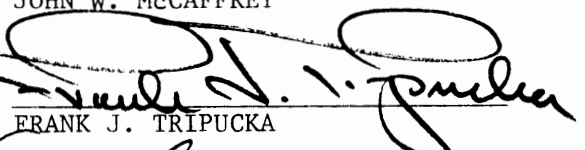
  
ANGELO M. FERRARA

  
JOHN J. GARRITY

  
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JOHN W. McCAFFREY

  
ANTHONY J. NAPODANO

  
FRANK J. TRIPUCKA

  
JOHN F. VASSALLO, JR.



December 31, 1983

Governor Thomas H. Kean  
President of the Senate  
Speaker of the General Assembly  
Members of the Legislature

Ladies and Gentlemen:

I am pleased to transmit with this letter the report of the Alcoholic Beverage Control Study Commission for the year of 1983.

This report is a summary of the progress and activities of this Commission from June 28, 1983 to December 31, 1983. Described briefly in this report is the scope and course of study taken by the Commission and a summary of the major issues raised and discussed at the numerous meetings of the Commission and its subcommittees. The final section of this report presents the recommendations developed by the Commission to ensure the continuation of its study and to set a firm and clear policy foundation for that study and for alcoholic beverage control in this State.

The Alcoholic Beverage Control Study Commission was created for the ultimate purpose of modernizing the statutes and administrative regulations which control the alcoholic beverage industry. The Commission members began their mandated study toward that goal with a thorough understanding of the seriousness of the task entrusted to them and with a strong determination to achieve results that would benefit state and local government, the alcoholic beverage industry and the consumers of this State.

The Commission made an impressive effort toward its objectives, but the six months within which it was required to function soon became a deadline impossible to achieve. The shortness of time within which it was required to function was simply not enough to conduct a thorough and efficient study and to make reasonable and comprehensive recommendations based on that study. Six months has only been time enough to provide an open forum within which the issues and problems that plague the alcoholic beverage industry could be raised and discussed.

Again, I reiterate, the Commission has made an impressive beginning, but it is only a beginning. This study must continue; it must not fade into oblivion as so many past studies, hearings, workshops and other efforts to resolve the continuing problems of the alcoholic beverage industry have before it. For these reasons, I strongly urge the passage of the joint resolution prefiled for the 1984/1985 legislative session in both the Senate and General Assembly which would extend the term of the Commission to December 31, 1987.

This report is a tribute to the talented members of the Commission who have contributed substantial amounts of their time and effort to the meetings and discussions. The caliber and expertise of the members ensure that the Commission's study will provide a significant contribution to the future of alcoholic beverage control in this State. Therefore, the Commission must be given time to make that contribution.


My colleagues Senator Donald T. DiFrancesco, Assemblyman Joseph D. Patero and Assemblyman John W. Markert have demonstrated their dedication to the Commission by making room in their busy schedules for our meetings and by providing their expert advice and leadership skills.

Recognition should be given to the many members of the alcoholic beverage industry who have shown their concern by attending the public meetings and who have submitted invaluable testimony on the issues and problems raised. The Commission urges all members of the alcoholic beverage industry who are concerned with its stability and who depend on an efficient system of control to contribute their time and effort to make the Commission's work a success. With their assistance and knowledge, the Commission is better able to examine the intricacies of the alcoholic beverage industry and to ultimately draft recommendations and goals for its improvement.

My term as a member of this Commission ends with the end of the 1982/1983 legislative session, but I earnestly hope, as do the other Commission members, that this report is but the first of many future reports filled with substantive recommendations and legislative proposals designed to modernize the statutes and administrative regulations controlling the alcoholic beverage industry.

It has been a distinct pleasure to work with the prominent and talented members of this Commission. Their professionalism, dedication and expertise have made my term as Chairman a rewarding experience. I thank them all for their wholehearted consideration and I wish them the best of luck in their future efforts on behalf of the Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Herman T. Costello", with a large, stylized initial "H".

Senator Herman T. Costello,  
Chairman

Alcoholic Beverage Control Study  
Commission

December 31, 1983

Governor Thomas H. Kean  
President of the Senate  
Speaker of the General Assembly  
Members of the Legislature

Ladies and Gentlemen:

Senator Herman T. Costello, Chairman of the Alcoholic Beverage Control Study Commission, is concluding his tenure as a member of this Commission with the end of the 1982/1983 legislative session. Without his dedication, it is doubtful that the Commission would have come into formal being and completed the initial portion of its legislative mandate.

Herman Costello utilized his talents and experience as the Mayor of Burlington City for fifteen years, as an Assemblyman for five years and as a member of the New Jersey Senate in the current legislative session in a selfless manner. The Commission wishes to extend to him its appreciation for his valuable contributions, for sharing his expertise with us and for the leadership role which he has played.

Aggie Szilagyi was designated by the Office of Legislative Services as the staff member assigned to the Commission. She quickly and efficiently acquired knowledge about the alcoholic beverage industry with particular expertise in the rules and regulations governing the industry. It soon became apparent that she had also studied the operations of the various State agencies who monitor the conduct of this industry. The Commission members wish to express their appreciation for her evaluation of the Commission's legislative mandate and for developing long range concepts for its implementation. Her selfless dedication should not go unrecognized. During this formative period of the Commission, both Aggie Szilagyi and Senator Herman Costello have been the mainstays of the Commission.

Sincerely,



Norman S. Feldman  
Vice-Chairman  
Alcoholic Beverage  
Control Study Commission





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2. Senator Donald T. DiFrancesco  
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4. Assemblyman John W. Markert  
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of the General Assembly
5. J. Ross Bevis  
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(609) 771-1515  
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(representing the general  
public)
6. Leo Bromley  
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Montclair, New Jersey 07042  
(201) 746-5088  
appointed by the President  
of the Senate and Speaker  
of the General Assembly  
(Executive Director of the  
New Jersey Liquor Stores  
Association)
7. Major Edward R. Martin  
Division of State Police  
P.O. Box 7068  
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(609) 882-2000  
designee of Colonel Clinton L.  
Pagano, Sr.  
(State law enforcement  
official)
8. Thomas D. Farrell  
Vice President & General Counsel  
Harrah's Marina Hotel Casino  
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industry)
9. Norman S. Feldman, Vice Chairman  
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(alcoholic beverage wholesaler)

10. Angelo M. Ferrara  
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official)
11. John J. Garrity  
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of the Senate and Speaker  
of the General Assembly  
(Executive Director of the  
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tion of New Jersey)
12. William E. Jerlat  
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appointed by the President  
of the Senate and Speaker  
of the General Assembly  
(representing the New  
Jersey Licensed Beverage  
Association)
13. John W. McCaffrey  
708 Bendermere Avenue  
Interlaken, New Jersey 07712  
(201) 531-7392  
(609) 392-7600 (Trenton)  
appointed by the President  
of the Senate and Speaker  
of the General Assembly  
(representing the New  
Jersey Conference of  
Mayors and Anheuser Busch)
14. Anthony J. Napodano, Esq.  
629 Amboy Avenue  
Edison, New Jersey 08837  
(201) 738-8444  
appointed by the President  
of the Senate and Speaker  
of the General Assembly  
(Shop Rite Liquor Stores)
15. Frank J. Tripucka  
11 Getty Avenue  
Paterson, New Jersey 07503  
(201) 278-6000  
appointed by the President  
of the Senate and Speaker  
of the General Assembly  
(beer distributor)
16. John F. Vassallo, Jr., Director  
Division of Alcoholic  
Beverage Control  
Richard J. Hughes Justice Complex  
3rd floor  
Trenton, New Jersey 08625  
(609) 984-2830  
designated by J.R. No. 4 of  
1982

MEMBERS OF THE SUBCOMMITTEES

LICENSING

Assemblyman Joseph D. Patero,  
Chairman  
Leo Bromley,  
Vice-Chairman  
John J. Garrity  
John W. McCaffrey  
Anthony J. Napodano

LAW ENFORCEMENT

Senator Donald T. DiFrancesco,  
Chairman  
John F. Vassallo, Jr.,  
Vice-Chairman  
J. Ross Bevis  
Angelo M. Ferrara  
Major Edward R. Martin

TRADE PRACTICES

Assemblyman John W. Markert,  
Chairman  
Norman S. Feldman,  
Vice-Chairman  
Thomas D. Farrell  
William E. Jerlat  
Frank J. Tripucka

Senator Herman T. Costello - Ex-officio member  
of all three subcommittees



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## I. Creation of the Commission

On July 28, 1982, Governor Thomas H. Kean signed Joint Resolution No. 4 of 1982, creating a fifteen member commission to thoroughly examine existing statutes and administrative regulations concerning the alcoholic beverage industry.

The resolution instructed the Commission to study and evaluate the statutes and administrative regulations affecting the manufacture, distribution, sale and consumption of alcoholic beverages; to ascertain if the existing legal controls are appropriate and effective, and if they continue to serve their intended purpose; and to determine if revisions of the statutes and administrative regulations are necessary, practical and feasible. In short, the purpose of the Commission as stated by J.R. 4 of 1982 was to modernize the statutes, as set forth generally in Title 33 of the New Jersey Statutes (N.J.S.A. 33:1-1 et seq.), and administrative regulations relating to alcoholic beverage control, as set forth in Title 13 of the New Jersey Administrative Code (N.J.A.C. 13:2-1.1 et seq.).

Title 33 of the New Jersey Statutes provides a fairly comprehensive directive to the Division of Alcoholic Beverage Control (A.B.C.) in the Department of Law and Public Safety. While certain specific requirements are established for licensees and while there are mandatory policies that the A.B.C. must follow, Title 33 delegates to the A.B.C. broad regulatory authority over the alcoholic beverage industry. Since 1933, the A.B.C. has promulgated a vast array of administrative regulations affecting virtually every aspect of the alcoholic beverage industry. In light of the changed social attitudes and economic conditions of the 1980's a comprehensive review of the statutory and regulatory controls over alcoholic beverages was deemed necessary.

J.R. 4 of 1982 was enacted so that a valuable public purpose would be served by the review of the underlying principles for the State's control of the manufacture, distribution, sale and consumption of alcoholic beverages because these underlying principles were first established by the Legislature back in 1933 with the passage of the Alcoholic Beverage Law, P.L. 1933, c. 436 (now N.J.S.A. 33:1-1 et seq.).

The Commission was further instructed by J.R. 4 of 1982 to convey to the Legislature its findings and recommendations within six months after the date on which the resolution was signed by the Governor. The Commission was also to issue its final report to the Legislature and expire one year after the date on which the resolution was signed by the Governor. J.R. 4 of 1982 was signed on July 28, 1982; therefore, the Commission was set to expire on July 28, 1983.

Unfortunately, due to a delay in the appointment of members, the Commission did not organize and hold its first meeting until June 28, 1983, just one month before the Commission as an entity was due to expire according to J.R. 4 of 1982. Consequently, two joint resolutions were introduced on June 20, 1983, one in the Senate and one in the General Assembly, to extend the final reporting date and the expiration date of the Commission. SJR 3021 was introduced by Senator Herman T. Costello and AJR 3032 was introduced by Assemblyman John W. Markert.

These identical resolutions were designed to amend J.R. 4 of 1982 by increasing the membership of the Commission from 15 to 16 members and by extending the final reporting date and expiration date to January 1, 1984. AJR 3032 passed the Assembly on June 27, 1983 and the Senate on September 15, 1983. On October 26, 1983, the Governor signed AJR 3032, now Joint Resolution No. 16 of 1983. During the interim period between July 28, 1983, when J.R. 4 of 1982 mandated the expiration of the Commission, and October 26, 1983, when the Governor signed J.R. 16 of 1983 extending the term of the Commission to January 1, 1984, the Commission vigorously continued its study by conducting numerous public meetings resulting in the compilation of voluminous transcripts of oral presentations and discussions and the collection of remarkable amounts of written materials.



## II. Business Meetings of the Commission

At its organizational meeting on June 28, 1983, the Commission elected Senator Herman T. Costello as Chairman and Norman S. Feldman as Vice-Chairman. The organizational meeting's agenda included discussion of the objectives of the Commission and the scope of its study. Comments and discussion included the need for simplification of the statutes and regulations relating to alcoholic beverage control and the need for the reinstatement of the Commission for the 1984/1985 legislative session in order to continue its study and to follow through on its report and recommendations.

The Commission members discussed the need for a moratorium on the introduction, consideration and passage of legislation dealing with alcoholic beverage control by the Legislature during the remainder of the 1982/1983 legislative session. The need for a moratorium on the proposal and adoption of administrative regulations by regulatory entities was also discussed. The members determined that a moratorium was necessary so that the Commission could study the existing status of the statutes and administrative regulations without the potential conflicting problems which could result if statutes or regulations ultimately contrary to the Commission's report and recommendations were passed in the interim. A motion to endorse a moratorium was passed and letters requesting a moratorium were sent to the President of the Senate, Speaker of the General Assembly, various legislative committee chairmen, the Casino Control Commission and the Division of Alcoholic Beverage Control.

In addition to this organizational meeting, the Commission held three additional business meetings. These meetings were held on July 8, 1983, October 12, 1983 and December 16, 1983. At the July 8th meeting, the Commission was divided into three subcommittees and members of the Commission were assigned to one of the three subcommittees. The task of the subcommittees was to conduct the investigative work of the Commission and to report their findings and preliminary recommendations to the Commission.

At the October 12th meeting, the Commission discussed at great length the merits of amendments to the administrative regulations proposed by the Director of the Division of Alcoholic Beverage Control in the September 19, 1983 issue of the New Jersey Register (15 N.J.R. 1557). The proposed amendments to the regulations dealt with the certification of debt upon the transfer of an alcoholic beverage license (N.J.A.C. 13:2-7.10) and the regulation of credit extended by an alcoholic beverage wholesaler to an alcoholic beverage retailer (N.J.A.C. 13:2-24.4). The Commission, at this meeting, also discussed and endorsed the passage of Assembly Bills 3873, 3890, 3667.

At its final business meeting on December 16th, the Commission reviewed and finalized the wording and format of this report and determined that the recommendations described in Section VI should be made.

### III. Subcommittee Meetings

The investigative work of the Commission was conducted by three subcommittees, comprised of members of the Commission. On July 8, 1983, at the second meeting of the Commission, three subcommittees were formed in order to facilitate the work of the Commission: the Licensing Subcommittee, the Law Enforcement Subcommittee and the Trade Practices Subcommittee.

The Licensing Subcommittee, chaired by Assemblyman Joseph D. Patero, held meetings on July 21, 1983 and October 5, 1983. The Trade Practices Subcommittee, chaired by Assemblyman John W. Markert, held meetings on July 22, 1983, August 18, 1983 and October 14, 1983. The Law Enforcement Subcommittee, chaired by Senator Donald T. DiFrancesco, held meetings on August 17, 1983 and September 19, 1983.

A transcript of each subcommittee meeting was made so that all the members of the Commission could review the discussions and presentations made by any and all speakers at each subcommittee meeting. The transcripts provide a permanent record of the issues raised and problems discussed which the Commission can now use as the basis from which to develop solutions and make recommendations for improvement in the control of the alcoholic beverage industry.

All subcommittee meetings were open to the public in order to provide a forum for the presentation of information and personal viewpoints on issues dealing with alcoholic beverage control by speakers who were concerned with the statutory and regulatory structure which controls the alcoholic beverage industry and who acted on that concern by providing constructive input for the Commission's study. Approximately 45 speakers made presentations to the subcommittees on behalf of a wide variety of groups. State agencies, retail liquor store owners, wholesalers, restaurant owners, winery operators, alcoholic beverage buying cooperatives and advertising cooperations and other groups were represented. Numerous letters and written presentations discussing relevant issues were submitted for the Commission's consideration.

#### IV. Public Meetings and Issues Discussed

The public meetings of the Commission and its subcommittees were conducted at the State House Annex in Trenton, except for the August 18, 1983 meeting of the Trade Practices Subcommittee which was held at the County Administration Building in Hackensack. Approximately 45 people made presentations at these meetings and written presentations were also submitted by some of the speakers and those persons who were unable to attend. The issues raised and problems discussed were as varied as the groups represented by these speakers.

The issues raised and the problems discussed at the Licensing Subcommittee meetings included: alternatives to the annual renewal process for alcoholic beverage licenses in order to alleviate the administrative burden on municipalities; the purpose behind and effects of the two-license limitation imposed by N.J.S.A. 33:1-12.31; the problem of the sale of alcoholic beverages to persons under 21 years of age; the need for and effects of the issuance of special permits to sell wine and beer by the glass in restaurants; and the need for and effects of an extension of the plenary winery license to include sale of all types of alcoholic beverages in a restaurant on the site of the winery facilities.

The Law Enforcement Subcommittee's review and discussions have concentrated on the effects of the 1979 transfer of the Alcoholic Beverage Control Enforcement Bureau from the Division of Alcoholic Beverage Control to the Division of State Police. In this area, the subcommittee discussed enforcement priorities set for the Enforcement Bureau, procedures used by enforcement inspectors in the course of their duties and the need to promulgate a penalty schedule to differentiate between minor technical violations and serious violations of the statutes and regulations.

The discussions of the Trade Practices Subcommittee have included the following topics: use of manufacturers' rebates and coupons in alcoholic beverage sales according to N.J.A.C. 13:3-24.11; the need for and effects of quantity discounts offered by wholesalers when making a sale of a large quantity of alcoholic beverages; the effects of price advertising in alcoholic beverage sales; the organization, operating procedures and effects of buying cooperatives and advertising cooperatives; the practice

of price affirmation by suppliers of distilled spirits sold in this State as required by N.J.A.C. 13:2-24.5; the problems experienced by casino alcoholic beverage licensees given the present state of the statutes and administrative regulations; the effects of deregulation on alcoholic beverage retailers and consumers; the need for a redefinition of cost as used in N.J.A.C. 13:2-24.8; and the problems with the regulation of credit extended to alcoholic beverage retailers on their purchases from alcoholic beverage wholesalers.

Recurring during all three subcommittee public meetings was discussion of the need for the effective training and on-going education of the persons on the municipal level who handle the administrative work relating to alcoholic beverage control and who receive and answer questions concerning alcoholic beverage licenses. More concentrated and consistent education on the system of alcoholic beverage control as set forth in the statutes and regulations--the ambiguities in that system and how they have been resolved, the clarification and interpretation given by the A.B.C. to provisions relevant to their work and the resources available through which answers may be readily obtained--will better equip those persons to understand the ramifications of their work and to respond to questions presented to them quickly, concisely and knowledgeably.

Also recurring was discussion of ways to develop the channels of communication for the dissemination of up-to-date information on the statutes and administrative regulations to alcoholic beverage licensees statewide. The consensus of the Commission members is that the complex structure of the statutes and administrative regulations results in an inadequate and sometimes misinterpreted understanding of its privileges and requirements by persons other than those who devote many hours to their in-depth study and those who work with them on a full-time daily basis. Because of imperfect channels of communication from the Division of Alcoholic Beverage Control to each individual alcoholic beverage licensee, misinformation, incomplete understanding and inadvertent violations of the statutes and administrative regulations have occurred and will continue to occur.

Discussions on developing the channels of communication between the A.B.C. and the alcoholic beverage industry elicited the suggestion that the A.B.C. issue its bulletins more frequently and on a consistent basis and that subscription to this bulletin be mandatory for all alcoholic beverage licensees. Bulletins have been issued by the A.B.C. since 1933 and it is the policy of the current director to continue their issuance on as frequent and regular a basis as possible given the personnel and budgetary constraints within the A.B.C. Within these bulletins, the A.B.C. sets forth notices to the alcoholic beverage industry, provides clarification and interpretation of the different aspects of the administrative regulations and describes specific cases as factual examples to illustrate the result of the application of a specific statute or administrative regulation. At present, the bulletin has only a small number of subscribers even though it is as important a source of information on alcoholic beverage control in this State as the statutes and administrative regulations.

## V. Endorsement of Legislative Proposals

Several bills pending in the 1982/1983 legislative session were discussed by the Commission, or a subcommittee, with the result that the bills were endorsed as necessary and appropriate additions to or amendments of the alcoholic beverage statutes. Letters of endorsement on the following bills were sent to persons in a position to facilitate their passage through the Legislature. Those persons included the President of the Senate, Speaker of the General Assembly and the chairmen of the committees in which the bills resided at the time of the Committee's endorsement.

On July 21, 1983, Assembly Bill 2274, sponsored by Assemblyman Herman, was endorsed by the Licensing Subcommittee. This bill had reached the Governor's desk on May 26, 1983, approximately one month before the Commission began its study, but was returned to the Legislature unsigned with a recommended amendment. The General Assembly and the Senate again approved the bill with the amendment and the Governor signed A 2274 into law on October 13, 1983 as P.L. 1983, c. 365 (N.J.S.A. 33:1-46.1).

The effect of P.L. 1983, c. 365 is to extend the law concerning the granting of alcoholic beverage club licenses and special permits to various organizations in certain municipalities in which referenda have resulted in a ban on the retail sale of alcoholic beverages. Before A 2274 was signed into law, the club licenses and special permits were only available to golf and country clubs. Now, under P.L. 1983, c. 365, club licenses and special permits are available to local chapters of national organizations, such as the Knights of Columbus, the Elks and other such constituent units, chapters or member clubs of national or state orders, organizations or associations.

On October 5, 1983, Assembly Bill 3873, sponsored by Assemblyman Paterno, was endorsed by the Licensing Subcommittee. The Commission endorsed the same bill on October 12, 1983. In general, this bill subjects a person under the legal age to purchase alcoholic beverages to the suspension or postponement of motor vehicle driving privileges if that underaged person is convicted of purchasing alcoholic beverages.

The consensus of the speakers at the October 5th subcommittee meeting, and the members of the Commission at both meetings, was that alcoholic beverage retailers confront a serious and increasing problem in their efforts to determine if a customer attempting to purchase alcoholic beverages is of legal age to do so. With the passage of P.L. 1982, c. 215 (N.J.S.A. 9:17B-1) which increased the legal drinking age in this State to twenty-one, alcoholic beverage retailers confront an increased incidence of persons under twenty-one years of age who attempt to purchase alcoholic beverages with false identification. The responsibilities of the retailers become more burdensome as the sophistication of the techniques used by underaged persons and the quality of the false identification they present improves.

A necessary and appropriate response to this problem is legislative action which will increase the penalties against underaged persons who present false identification as proof of age and against persons who are twenty-one years of age or older who loan identification to an underaged person to enable the underaged person to purchase alcoholic beverages. By recommending the passage of A 3873, the Commission members expressed their view that an increase in the consequences of a violation will deter future violations of the alcoholic beverage laws by underaged persons.

On October 12, 1983, Assembly Bill 3890, sponsored by Assemblyman Muziani, was endorsed by the Commission. The bill increases the minimum penalties for violation of certain statutes concerning alcoholic beverages. This bill was endorsed by the Commission as a more comprehensive approach to the same problems addressed by A 3873.

The provisions of A 3890 include an increase in the minimum monetary penalty which may be assessed against an underaged person who purchases or attempts to purchase or consumes in public any alcoholic beverage. The bill also allows an alcoholic beverage retailer under certain circumstances to institute a civil action against an underaged person for the recovery of damages resulting from a sale made to that underaged person.



Also on October 12, 1983, Assembly Bill 3667, sponsored by Assemblyman Bocchini, was endorsed by the Commission. This bill amends present law to allow an exception to the "tied-house" statute so that, under specific conditions, a product supplier or wholesaler may acquire an interest in a retail license. The statute in its current form is broadly written and could be read to prohibit certain business activities and relationships that would not violate the public policy embodied in the "tied-house" statute which is to prevent manufacturers or wholesalers from unfairly influencing retailers or the consuming public by promoting consumption of their own products at the retail level. The statute now prohibits new development or acquisition of hotels in this State by large corporations which might have subsidiary wholesalers, wineries or distilleries outside the State or country.

The amendment set forth in A 3667 only provides an exception for retail licenses operated in conjunction with hotels or motels having at least 150 guest rooms and limits alcoholic beverage sales to 20% or less of gross receipts. This ensures that the primary operation is the hotel or motel and the sale of alcoholic beverages is only a small part. The amendment also prohibits the retail licensee from selling the alcoholic beverage products produced or sold by the supplier or wholesaler. This preclusion retains the basic intent of the statute which is to deter exclusive outlets or tied sales.

## VI. Recommendations

A. The Commission has begun a vigorous and comprehensive study of the statutes and administrative regulations which control the alcoholic beverage industry and their effects on business practices in the industry and consumption by consumers. The scope and complexity of the subject to be studied as set forth in J.R. 4 of 1982 make the six months allotted to the Commission for its study an impossible deadline. The six month period has only been time enough to make known the existence of the Commission throughout the alcoholic beverage industry and to elicit initial presentations on the varied issues and problems requiring discussion and resolution. Six months is not enough time within which to harmonize the numerous and divergent interests involved in this complex area so as to enable the Commission to make thoughtful and effective recommendations for the improvement of the system of alcoholic beverage control. To allow the Commission to terminate its study on January 1, 1984 by inaction, just as it has painstakingly begun that study, would be an unwise waste of the talent and experience of the Commission members assembled.

The Commission's efforts toward fulfilling the mandate of J.R. 4 of 1982 have been highlighted and endorsed by such individuals as the Governor, Thomas H. Kean, the speaker of the General Assembly, Alan J. Karcher, the President of the Senate, Carmen A. Orechio, as well as by members of the alcoholic beverage industry including leaders of industry associations and individual licensees operating under the present structure of the statutes and administrative regulations and seeking its improvement. All individuals who have made note of the work of the Commission readily acknowledge the urgent need for an industrious and productive Commission to tackle and resolve to the fullest extent possible the problems which plagued the alcoholic beverage industry.

Modernization of the statutes and administrative regulations and simplification of the structure of control are vital for a stable alcoholic beverage industry which satisfies existing consumer demand but does not unwisely encourage new consumers or over-consumption. This Commission is committed to the improvement of alcoholic beverage control through the resolution of conflicts, the elimination of statutory and regulatory

ambiguities and the harmonization of divergent viewpoints so that the stability of the industry is promoted and ensured.

Therefore, the Commission members strongly urge the passage of the joint resolution prefiled for the 1984/1985 legislative session in both the Senate and General Assembly which would extend the term of the Commission to December 31, 1987 with the option of further extension if necessary. The overwhelming consensus of the Commission members is that only with a guarantee of continued existence for a reasonable period of time can the Commission prove to be an effective entity and contribute significantly to the future of alcoholic beverage control. The Commission's continuing efforts for effective statutory and regulatory reform and the fine tuning of the system of alcoholic beverage control will depend on the responsiveness of the legislative and executive branches of government to this and future recommendations of the Commission and the responsiveness of the members of the alcoholic beverage industry to the forum for discussion provided by the public meetings of the Commission.

B. The present system of alcoholic beverage control commenced in 1933 following the repeal of national prohibition and the passage of the Alcoholic Beverage Law, P.L. 1933, c. 436 (now N.J.S.A. 33:1-1 et seq.). The legislative policy underlying alcoholic beverage control is set forth in various provisions of Title 33 of the New Jersey Statutes and has been used to justify and explain statutory and regulatory enactments since 1933. Some of these policy statements include:

It shall be the duty of the Commissioner to supervise the manufacture, distribution and sale of alcoholic beverages in such a manner as to promote temperance and eliminate the racketeer and bootlegger. N.J.S.A. 33:1-3.

The Director of Alcoholic Beverage Control shall, in accordance with R.S. 33:1-39, make and promulgate such rules and regulations with respect to sales by licensees selling to consumers relative to the following subjects as will assist in properly supervising the alcoholic beverage industry, preventing discrimination in the alcoholic beverage industry and promoting temperance:

(a) Gifts of things of value in connection with or as an inducement to the purchase of malt alcoholic beverages,

(b) Combination sales of malt alcoholic beverages of different brands, of different manufacturers, of different names or trade names, or combination sales of any alcoholic beverages and other merchandise,

(c) Publication and maintenance of prices at which malt alcoholic beverages may be sold within recognized trading areas or below which malt alcoholic beverages may not be sold within such areas. N.J.S.A. 33:1-39.2.

This chapter is intended to be remedial of abuses inherent in liquor traffic and shall be liberally construed. N.J.S.A. 33:1-73.

The State Commissioner of Alcoholic Beverage Control is hereby vested with power to promulgate such rules and regulations on the following subjects as will assist in properly supervising the liquor industry and promoting temperance: (a) maximum discounts, rebates, free goods, allowances and other inducements to retailers by manufacturers, wholesalers and other persons privileged to sell to retailers; (b) gifts and deliveries of money, products and other things of value by manufacturers, wholesalers, other persons privileged to sell to retailers, their stockholders, officers, directors and employees, to retailers, their stockholders, directors, officers and employees; (c) maintenance and publication of invoice prices, discounts, rebates, free goods, allowances and other inducements; and (d) such other matters as may be necessary to fulfill the restrictions embodied in this act.  
N.J.S.A. 33:1-93.

These brief statements and others of the legislative policy underlying the enactment of alcoholic beverage control statutes were left largely undefined by the Legislatures which enacted the provisions cited above. Several decisions of the New Jersey Supreme Court and other courts have provided interpretations of the public policies underlying Title 33 of the New Jersey Statutes.\*

These statements of legislative policy and the judicial interpretation of the policy as set forth by the courts have not been comprehensively reviewed with the objective of updating the statutes. Since 1933, no Legislature of this State has attempted to repeal, modify or clearly define the legislative policy underlying alcoholic beverage control.

\*See section A of the Appendices.

The mandate of the Alcoholic Beverage Control Study Commission as explained in J.R. 4 of 1982 is to conduct a comprehensive review of the statutory and regulatory controls over alcoholic beverages in light of present day social and economic attitudes. Also, the Commission is required to ascertain if the existing legal controls are appropriate, effective and continue to serve their intended purpose. In order to effectively pursue this mandate, the Commission should continue to examine the public purpose underlying the control of alcoholic beverages in light of social attitudes and economic conditions which exist in the 1980's.

After lengthy discussion and thoughtful consideration, the consensus of the Commission members is that the legislative policy underlying Title 33 of the New Jersey Statutes should be reviewed and precisely articulated in a statement which must be incorporated into Title 33. Future recommendations of the Commission and future additions to and amendments of the statutes and administrative regulations could then be firmly based on a direct statement of legislative policy.

APPENDICES

The following court opinions may be of interest in that they provide, directly or indirectly, interpretations of the public policy underlying alcoholic beverage control. (NOTE: This is not a definitive listing of available decisions rendered by the courts.)

Affiliated Distillers Brands Corp. v. Sills, 56 N.J. 251 (1970)

Blanck v. Mayor and Borough Council of Magnolia, 38 N.J. 484 (1962)

Borough of Fanwood v. Rocco, 33 N.J. 404 (1960)

Canada Dry Ginger Ale, Inc. v. F & A Distributing Co., 28 N.J. 444 (1959)

Franklin Stores Co. v. Burnett, 120 N.J.L. 596 (Sup. Ct. 1938)

Gaine v. Burnett, 122 N.J.L. 39 (Sup. Ct. 1939), aff'd 123 N.J.L. 317  
(E&A 1939)

Grand Union Co. v. Sills, 43 N.J. 390 (1964)

Heir v. Degnan, 82 N.J. 109 (1980)

Joseph H. Reinfeld, Inc. v. Schieffelin & Co., -- N.J. -- (1983)

Matter of C. Schmidt & Sons, Inc., 79 N.J. 344 (1979)

Other Decisions Which May Be Of Interest

California Retail Liquor Dealers Asso. v. Midcal Aluminum, Inc., 445  
U.S. 97 (1980)

Rice v. Norman Williams Co., -- U.S. --, 102 S. Ct. 3294 (1982)

Ziffrin v. Reeves, 308 U.S. 132 (1939)



Joint Resolution No. 4, *approved July 28, 1982*

1982 Senate Joint Resolution No. 21

A JOINT RESOLUTION creating a commission to study the statutes and regulations concerning the alcoholic beverage industry.

WHEREAS, The Legislature finds that the underlying principles for the State's control of the manufacture, distribution, sale and consumption of alcoholic beverages were established by legislation adopted in 1933; that under this basic mandate, the Division of Alcoholic Beverage Control has promulgated a vast array of rules affecting virtually every aspect of the alcoholic beverages industry; and

WHEREAS, In light of changing social and economic attitudes and conditions, a comprehensive review of the statutory and regulatory controls over alcoholic beverages would serve a valuable public purpose; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. There is established an Alcoholic Beverage Control Study Commission to consist of 15 members to be appointed as follows:

a. Two from among the members of the Senate, by the President of the Senate, and shall not be of the same political party;

b. Two from among the members of the General Assembly, by the Speaker of the General Assembly, and shall not be of the same political party;

c. Six citizens of the State, to be appointed jointly by the President of the Senate and the Speaker of the General Assembly who shall be representatives of the alcoholic beverage industry, and no more than three of whom shall be of the same political party;

d. Three citizens of the State, to be appointed by the Governor, including a representative of a local law enforcement agency, the casino industry and the general public, and no more than two of whom shall be of the same political party; and

e. The Director of the Division of Alcoholic Beverage Control, ex officio, or his designee and the Superintendent of the New Jersey Division of State Police, ex officio, or his designee. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. It shall be the duty of the commission to study and evaluate the statutes and regulations affecting the manufacture, distribution, sale and consumption of alcoholic beverages to ascertain whether the existing legal controls are appropriate, effective and continue to serve their intended purposes or whether revisions of the laws or regulations are necessary, practical and feasible.

3. The commission shall organize as soon as possible after the appointment of its members and shall elect a chairman from among its members. The chairman shall appoint a vice-chairman from among its members. The commission may appoint a secretary who need not be a member of the commission.

4. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purpose, and to employ counsel, stenographic and clerical assistants and incur traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for its purposes.

5. The commission may meet and hold hearings at any place or places as it shall designate during the sessions or recesses of the Legislature and shall report within 6 months of the effective date of this joint resolution its findings and recommendations to the Legislature and issue its final report after 12 months of the effective date of this joint resolution, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

6. The commission shall have all of the powers provided by the provisions of chapter 13 of Title 52 of the Revised Statutes.

7. This joint resolution shall take effect immediately and shall expire 1 year following enactment.

P. L. 1983, Joint Resolution No. 16, *approved October 26, 1983*

1983 Assembly Joint Resolution No. 3032

A JOINT RESOLUTION concerning the commission to study the statutes and regulations relating to the alcoholic beverage industry and amending Joint Resolution No. 4 of 1982.

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of Joint Resolution No. 4 of 1982 is amended to read as follows:

1. There is established an Alcoholic Beverage Control Study Commission to consist of **[15]** 16 members to be appointed as follows:

a. Two from among the members of the Senate, by the President of the Senate, and shall not be of the same political party;

b. Two from among the members of the General Assembly, by the Speaker of the General Assembly, and shall not be of the same political party;

c. **[Six]** *Seven* citizens of the State, to be appointed jointly by the President of the Senate and the Speaker of the General Assembly who shall be representatives of the alcoholic beverage industry, and no more than **[three]** *four* of whom shall be of the same political party;

d. Three citizens of the State, to be appointed by the Governor, including a representative of a local law enforcement agency, the casino industry and the general public, and no more than two of whom shall be of the same political party; and

e. The Director of the Division of Alcoholic Beverage Control, ex officio, or his designee and the Superintendent of the New

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 printed in italics *thus* is new matter.

Jersey Division of State Police, ex officio, or his designee. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. Section 5 of Joint Resolution No. 4 of 1982 is amended to read as follows:

5. The commission may meet and hold hearings at any place or places as it shall designate during the sessions or recesses of the Legislature and shall report [within six months of the effective date of this joint resolution] its findings and recommendations to the Legislature and issue its final report [after 12 months of the effective date of this joint resolution], *by January 1, 1984*, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

3. Section 7 of Joint Resolution No. 4 is amended to read as follows:

7. This joint resolution shall take effect immediately and shall expire [one year following enactment] *January 1, 1984*.

4. This joint resolution shall take effect immediately.

P. L. 1983, CHAPTER 365, approved October 13, 1983

1982 Assembly No. 2274 (*Third Official Copy Reprint*)

AN ACT to amend "An act concerning alcoholic beverages, and supplementing chapter 1 of Title 33 of the Revised Statutes," approved March 30, 1945 (P. L. 1945, c. 55).

1 BE IT ENACTED by the Senate and General Assembly of the State  
2 of New Jersey:

1 1. Section 1 of P. L. 1945, c. 55 (C. 33:1-46.1) is amended to read  
2 as follows:

3 1. It shall be lawful for the governing board or body of any muni-  
4 cipality **\*\****["with a population in excess of 16,000 but less than*  
5 *40,000, according to the most recent decennial federal census, in a*  
6 *county of the second class"]\*\** in which a referendum has been held  
7 pursuant to the provisions of **[section]** R. S. 33:1-45 or **[section]**  
8 R. S. 33:1-46, **[of the Revised Statutes]** wherein a majority of the  
9 legal voters of said municipality voted "No," to issue a club license  
10 as defined in and regulated by subsection **[five]** 5 of **[section]** R. S.  
11 33:1-12 **[of the Revised Statutes]**, *to any constituent unit,*  
12 *chartered or otherwise duly enfranchised chapter or member club*  
13 *of a national or state order, organization or association, or to a*  
14 *bona fide golf and country club in said municipality, incorporated*  
15 *not for pecuniary gain, and which is in possession of a suitable*  
16 *premises and to adopt an enabling ordinance therefor.*

1 2. Section 2 of P. L. 1945, c. 55 (C. 33:1-46.2) is amended to read  
2 as follows:

3 2. The **[commissioner]** *director* may, subject to rules and regu-  
4 lations, issue special permits *to a constituent unit, chartered or*  
5 *otherwise duly enfranchised chapter or member club of a national*

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendment adopted February 14, 1983.

\*\*—Assembly amendments adopted in accordance with Governor's recom-  
mendations May 26, 1983.

\*\*\*—Further Assembly amendments adopted in accordance with Governor's  
recommendations September 15, 1983.

6 or state order, organization or association, or to [such] a bona  
7 fide golf and country club in the event that the said municipality  
8 has failed or neglected to adopt an enabling ordinance as aforesaid,  
9 or has failed or neglected to properly act upon an application by  
10 [such] \*\*\*[an order, organization or association or a]\*\*\* \*\*such  
11 a constituent unit, chartered or otherwise duly enfranchised chapter  
12 or member club or a\*\*\* bona fide golf and country club for a club  
13 license, as aforesaid; the fee for the same shall be determined in  
14 each case by the [commissioner] director and shall not be less nor  
15 more than the fee provided for by [Revised Statutes, section]  
16 subsection 5 of R. S. 33:1-12[, (5)].

1 3. Section 3 of P. L. 1945, c. 55 (C. 33:1-46.3) is amended to read  
2 as follows:

3 3. Nothing in this act shall be deemed to limit or modify any  
4 powers otherwise granted by law to the [commissioner] director.

1 4. This act shall take effect immediately.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 3873

# STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 6, 1983

By Assemblymen PATERO and BOCCHINI

AN ACT concerning the retail sale of alcoholic beverages, amending  
R. S. 33:1-81, P. L. 1968, c. 313 and R. S. 39:3-39.

1 *BE IT ENACTED by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. R. S. 33:1-81 is amended to read as follows:

2 33:1-81. It shall be unlawful for (a) a person under the legal  
3 age for purchasing alcoholic beverages to enter any premises  
4 licensed for the retail sale of alcoholic beverages for the purpose  
5 of purchasing, or having served or delivered to him or her, any  
6 alcoholic beverage; or

7 (b) A person under the legal age for purchasing alcoholic bev-  
8 erages to consume any alcoholic beverage on premises licensed  
9 for the retail sale of alcoholic beverages, or to purchase, attempt to  
10 purchase or have another purchase for him or her any alcoholic  
11 beverage; or

12 (c) Any person to misrepresent or mistake his or her age, or  
13 the age of any other person for the purpose of inducing any licensee  
14 or any employee of any licensee, to sell, serve or deliver any alco-  
15 holic beverage to a person under the legal age for purchasing  
16 alcoholic beverages; or

17 (d) Any person to enter any premises licensed for the retail sale  
18 of alcoholic beverages for the purpose of purchasing, or to purchase  
19 alcoholic beverages, for another person who does not because of his  
20 age have the right to purchase and consume alcoholic beverages.

21 Any person who shall violate any of the provisions of this section  
22 shall be deemed and adjudged to be a disorderly person, and upon

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly amendment adopted September 15, 1983.

2

23 conviction thereof, shall be punished by a fine of not less than  
24 \$100.00 *and suspension or postponement of motor vehicle driving*  
25 *privileges for six months or until the person attains 21 years of age,*  
26 *whichever is longer.* In addition to the general penalty prescribed  
27 for an offense, the court may[:

28 (1) Suspend or postpone for up to 30 days the driving privileges  
29 for any violator of this section;

30 (2)] Require any person under the legal age to purchase alcoholic  
31 beverages who violates this act to participate in an alcohol educa-  
32 tion or treatment program authorized by the Department of Health  
33 for a period not to exceed the maximum period of confinement  
34 prescribed by law for the offense for which the individual has  
35 been convicted.

1 2. Section 6 of P. L. 1968, c. 313 (C. 33:1-81.7) is amended to  
2 read as follows:

3 6. It shall be unlawful for the owner of an identification card,  
4 as defined by this act, to transfer said card to any other person  
5 for the purpose of aiding such person to secure alcoholic beverages.  
6 Any person who shall transfer such identification card for the  
7 purpose of aiding such transferee to obtain alcoholic beverages  
8 shall be guilty of a [misdemeanor] *disorderly persons offense* and,  
9 upon conviction thereof, shall [be sentenced to] pay a fine of not  
10 less than \$100.00 nor more than \$300.00, or undergo imprisonment  
11 for not more than 60 days *and shall have his license to operate a*  
12 *motor vehicle suspended or postponed for six months.* Any person  
13 not entitled thereto who shall have unlawfully procured or have  
14 issued or transferred to him, as aforesaid, identification card or  
15 any person who shall make any false statement on any card re-  
16 quired by subsection (c) [hereof] of R. S. 33:1-81 to be signed by  
17 him shall be guilty of a [misdemeanor] *disorderly persons offense*  
18 and, upon conviction thereof, shall [be sentenced to] pay a fine of  
19 not less than \$100.00 nor more than \$300.00, or undergo imprison-  
20 ment for not more than 60 days.

1 3. R. S. 39:3-39 is amended to read as follows:

2 39:3-39. a. No person shall loan an operator's license issued to  
3 him for use by another person, under penalty of a fine of not less  
4 than \$25.00 nor more than \$100.00. *A person with an operator's*  
5 *license who loans that license to another person for the purpose of*  
6 *aiding that other person to secure alcoholic beverages shall be fined*  
7 *not less than \$100.00 nor more than \$300.00 and shall have his*  
8 *license to operate a motor vehicle suspended or postponed for six*  
9 *months.*



10 b. No person owning or having control or custody of a motor  
11 vehicle registered as provided in this subtitle shall allow the vehicle  
12 to be operated by a nonlicensed driver, under penalty of a fine of  
13 not more than \$100.00.

14 c. Any person operating a motor vehicle who exhibits the driver's  
15 license of another whether he be licensed or not as provided in [sec-  
16 tion 39:3-10 of this Title] *R. S. 39:3-10* shall be subject to a fine of  
17 not less than \$200.00 or imprisonment for not more than 60 days or  
18 both, at the discretion of the court.

19 d. Any person exhibiting the driver's license of another for pur-  
20 poses of identification in all situations other than those described  
21 in subsection c. of this section, shall be subject to a fine of not less  
22 than \$25.00 nor more than \$100.00, at the discretion of the court.

23 *\*A person under the legal age to purchase alcoholic beverages who*  
24 *exhibits the driver's license of another for the purpose of identifica-*  
25 *tion to purchase alcoholic beverages shall be punished pursuant to*  
26 *R. S. 33:1-81.\**

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On December 8, 1983, the Senate Law, Public Safety and Defense Committee amended A 3873 so that it became identical to S 1546 OCR.

These amendments make A 3873  
identical to S 1546 OCR

R-61  
12/8/83

Senate  
Committee Amendments

to

Assembly Bill No. 3873 OCR

Amend:

Page	Sec.	Line	
1	1	10	Omit "or her"
1	1	12	Omit "or her"
2	1	24-26	On line 24 omit "and suspension or postponement of motor vehicle driving" Omit line 25 in entirety On line 26 omit "whichever is longer." insert ". In addition, the court shall suspend the person's license to operate a motor vehicle for 1 year or prohibit the person from obtaining a license to operate a motor vehicle in this State for 1 year beginning on the date he becomes eligible to obtain a license or on the date of conviction, whichever is later."
2	1	30	Omit "Require" insert "require"
2	2	1-20	Omit section 2. in entirety
2-3	3	1-26	Omit section 3. in entirety
3	after 3	after 26	Insert "2. This act shall take effect immediately."

[OFFICIAL COPY REPRINT]  
SENATE, No. 1546

STATE OF NEW JERSEY

INTRODUCED JUNE 17, 1982

By Senators BASSANO, LASKIN and GRAVES

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning alcoholic beverages and amending R. S. 33:1-81.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. R. S. 33:1-81 is amended to read as follows:

2 33:1-81. It shall be unlawful for (a) a person under the legal  
3 age for purchasing alcoholic beverages to enter any premises  
4 licensed for the retail sale of alcoholic beverages for the purpose  
5 of purchasing, or having served or delivered to him or her, any  
6 alcoholic beverage; or

7 (b) A person under the legal age for purchasing alcoholic bev-  
8 erages to consume any alcoholic beverage on premises licensed  
9 for the retail sale of alcoholic beverages, or to purchase, attempt to  
10 purchase or have another purchase for him **[or her]** any alcoholic  
11 beverage; or

12 (c) Any person to misrepresent or misstate his **[or her]** age, or  
13 the age of any other person for the purpose of inducing any licensee  
14 or any employee of any licensee, to sell, serve or deliver any alco-  
15 holic beverage to a person under the legal age for purchasing  
16 alcoholic beverages; or

17 (d) Any person to enter any premises licensed for the retail sale  
18 of alcoholic beverages for the purpose of purchasing, or to purchase  
19 alcoholic beverages, for another person who does not because of his  
20 age have the right to purchase and consume alcoholic beverages.

21 Any person who shall violate any of the provisions of this section  
22 shall be deemed and adjudged to be a disorderly person, and upon  
23 conviction thereof, shall be punished by a fine of not less than

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted September 23, 1982.

24 \$100.00. In addition, the court shall suspend the person's license to  
25 operate a motor vehicle for 1 year or prohibit the person from ob-  
26 taining a license to operate "a" motor vehicle in this State for 1 year  
27 beginning on the date he becomes eligible to obtain a license or on  
28 the date of conviction, whichever is later. In addition to the general  
29 penalty prescribed for an offense, the court may[:

30 (1) Suspend or postpone for up to 30 days the driving privileges  
31 for any violator of this section;

32 (2)] "[Require]" "require" any person under the legal age to  
33 purchase alcoholic beverages who violates this act to participate in  
34 an alcohol education or treatment program authorized by the  
35 Department of Health for a period not to exceed the maximum  
36 period of confinement prescribed by law for the offense for which  
37 the individual has been convicted.

1 2. This act shall take effect immediately.

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SENATE LAW, PUBLIC SAFETY AND DEFENSE  
COMMITTEE

STATEMENT TO  
**SENATE, No. 1546**  
with Senate committee amendment

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 23, 1982

The purpose of this bill is to strengthen the penalties imposed upon persons who purchase or consume alcoholic beverages when under the legal age.

The law currently provides that a person who violates R. S. 33:1-81 is guilty of a disorderly persons offense and shall be fined not less than \$100.00. Current law also permits the court to suspend or postpone a violator's driving privileges for up to 30 days, require the violator to participate in an alcohol education or treatment program, or both.

This bill would retain the minimum fine of \$100.00 but would require the court to suspend the violator's driver's license or prohibit the violator from obtaining a driver's license for one year. The bill retains the court's option to require the violator to participate in an alcohol education or treatment program.

Technical amendments are required to correct printing errors.

ASSEMBLY, No. 3890

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STATE OF NEW JERSEY

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INTRODUCED SEPTEMBER 15, 1983

By Assemblymen MUZIANI and CHINNICI

AN ACT concerning alcoholic beverages, amending R. S. 33:1-81, P. L. 1968, c. 313 and P. L. 1979, c. 264, supplementing Title 2A of the New Jersey Statutes and repealing sections 7 and 8 of P. L. 1968, c. 313.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 1 of P. L. 1979, c. 264 (C. 2C:33-15) is amended to  
2 read as follows:

3 1. a. Any person under the legal age to purchase alcoholic bev-  
4 erages who knowingly possesses without legal authority or who  
5 knowingly consumes any alcoholic beverage in any school, public  
6 conveyance, public place, or place of public assembly, or motor  
7 vehicle, is guilty of a disorderly persons offense, and shall be fined  
8 not less than **[\$100.00]** *\$1,000.00*.

9 b. Whenever this offense is committed in a motor vehicle, the  
10 court may, in addition to the sentence authorized for the offense,  
11 suspend or postpone for up to 30 days the driving privilege of the  
12 defendant.

13 c. In addition to the general penalty prescribed for a disorderly  
14 persons offense, the court may require any person who violates  
15 this act to participate in an alcohol education or treatment pro-  
16 gram, authorized by the Department of Health, for a period not  
17 to exceed the maximum period of confinement prescribed by law  
18 for the offense for which the individual has been convicted.

19 d. Nothing in this act shall apply to possession of alcoholic  
20 beverages by any such person while actually engaged in the per-

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 printed in italics thus is new matter.

21 formance of employment pursuant to an employment permit issued  
22 by the Director of the Division of Alcoholic Beverage Control, or  
23 for a bona fide hotel or restaurant, in accordance with the provi-  
24 sions of R. S. 33:1-26.

1 2. R. S. 33:1-77 is amended to read as follows:

2 33:1-77. Anyone who sells any alcoholic beverage to a person  
3 under the legal age for purchasing alcoholic beverages is a dis-  
4 orderly person; provided, however, that the establishment of all  
5 of the following facts by a person making any such sale shall  
6 constitute a defense to any prosecution therefor: (a) that the  
7 purchaser falsely represented *["in writing or"]* by producing a  
8 driver's license bearing a photograph of the licensee *or by pro-*  
9 *ducing an identification card bearing a photograph of the holder*  
10 *issued under P. L. 1968, c. 313 (C. 33:1-81.2 et seq.) or a similar*  
11 *card issued under the laws of another state or the federal govern-*  
12 *ment if the card contains a photograph of the holder* that he or she  
13 was of legal age to make the purchase, (b) that the appearance of  
14 the purchaser was such that an ordinary prudent person would  
15 believe him or her to be of legal age to make the purchase, and  
16 (c) that the sale was made in good faith relying upon *["such written*  
17 *representation or"]* the production of a driver's license bearing a  
18 photograph of the licensee *or the production of the identification*  
19 *card bearing a photograph of the holder* and appearance and in  
20 the reasonable belief that the purchaser was actually of legal age  
21 to make the purchase.

1 3. R. S. 33:1-81 is amended to read as follows:

2 33:1-81. It shall be unlawful for (a) a person under the legal  
3 age for purchasing alcoholic beverages to enter any premises  
4 licensed for the retail sale of alcoholic beverages for the purpose  
5 of purchasing, or having served or delivered to him or her, any  
6 alcoholic beverage; or

7 (b) a person under the legal age for purchasing alcoholic bev-  
8 erages to consume any alcoholic beverage on premises licensed  
9 for the retail sale of alcoholic beverages, or to purchase, attempt  
10 to purchase or have another purchase for him or her any alcoholic  
11 beverage; or

12 (c) any person to misrepresent or misstate his or her age, or  
13 the age of any other person for the purpose of inducing any licensee  
14 or any employee of any licensee, to sell, serve or deliver any alco-  
15 holic beverage to a person under the legal age for purchasing  
16 alcoholic beverages; or

17 (d) any person to enter any premises licensed for the retail sale  
18 of alcoholic beverages for the purpose of purchasing, or to pur-

19 chase alcoholic beverages, for another person who does not because  
20 of his age have the right to purchase and consume alcoholic  
21 beverages.

22 Any person who shall violate **[any of the provisions]** subsection  
23 *(a), (b) or (c)* of this section **[shall be deemed and adjudged to**  
24 **be]** is a disorderly person, and upon conviction thereof, shall be  
25 punished by a fine of not less than **[\$100.00]** *\$750.00. A person*  
26 *who violates subsection (d) of this section is a disorderly person,*  
27 *and upon conviction thereof, shall be punished by a fine of \$1,000.00*  
28 *in addition to any term of imprisonment the court may impose. In*  
29 addition to the general penalty prescribed for an offense, the  
30 court may:

31 (1) suspend or postpone for up to 30 days the driving privileges  
32 for any violator of this section;

33 (2) require any person under the legal age to purchase alcoholic  
34 beverages who violates this act to participate in an alcohol educa-  
35 tion or treatment program authorized by the Department of Health  
36 for a period not to exceed the maximum period of confinement  
37 prescribed by law for the offense for which the individual has  
38 been convicted.

1 4. Section 6 of P. L. 1968, c. 313 (C. 33:1-81.7) is amended to  
2 read as follows:

3 6. **[It shall be unlawful for the owner of an identification card,**  
4 as defined by this act, to transfer said card to any other person  
5 for the purpose of aiding such person to secure alcoholic beverages.  
6 Any person who shall transfer such] *A person is guilty of a dis-*  
7 *orderly persons offense and shall be fined not less than \$1,000.00*  
8 *in addition to any term of imprisonment the court may impose if*  
9 *the person:*

10 a. *Transfers an* identification card for the purpose of aiding such  
11 transferee to obtain alcoholic beverages **[shall be guilty of a**  
12 misdemeanor and, upon conviction thereof, shall be sentenced to  
13 pay a fine of not more than \$300.00, or undergo imprisonment for  
14 not more than 60 days. Any person not entitled thereto who shall  
15 have unlawfully procured];

16 b. *Procures or* **[have]** has issued or transferred to him**[, as**  
17 **aforsaid,]** an identification card **[or any person who shall make];**

18 c. Makes any false statement **[on any card required by sub-**  
19 **section (c) hereof to be signed by him shall be guilty of a mis-**  
20 **demeanor and, upon conviction thereof, shall be sentenced to pay**  
21 **a fine of not more than \$300.00, or undergo imprisonment for not**  
22 **more than 60 days]** *to the issuing authority or the Director of the*



23 *Division of Alcoholic Beverage Control on a matter concerning the*  
24 *identification card;*

25 *d. Without authority, alters or counterfeits an identification*  
26 *card;*

27 *e. Possesses or conceals an altered or counterfeited identification*  
28 *card, knowing the card is altered or counterfeited, with intent to*  
29 *use the card unlawfully;*

30 *f. Exhibits to a person for purposes of identification an altered*  
31 *or counterfeit identification card knowing the card is altered or*  
32 *counterfeit; or*

33 *g. Possesses with intent to distribute two or more altered or*  
34 *counterfeit identification cards.*

1 5. (New section) a. If a person who sells an alcoholic beverage  
2 to a person under the legal age for purchasing alcoholic beverages  
3 establishes the facts set forth in (a), (b) and (c) of R. S. 33:1-77,  
4 he may recover his damages as a result of the sale in a civil action  
5 against the person under the legal age for purchasing alcoholic  
6 beverages.

7 b. As used in this section "damages" mean:

8 (1) reasonable attorney fees and court costs incurred by a  
9 person in defending against a prosecution under R. S. 33:1-77 or a  
10 disciplinary action under R. S. 33:1-31; and

11 (2) the pecuniary loss to a person caused by a suspension or  
12 revocation of his alcoholic beverage license under R. S. 33:1-31.

1 6. Sections 7 and 8 of P. L. 1968, c. 313 (C. 33:1-81.8 and C.  
2 33:1-81.9) are repealed.

1 7. This act shall take effect immediately.

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#### STATEMENT

This bill would make various amendments to the law concerning alcoholic beverages. The bill would:

1. Increase the minimum penalty, from \$100.00 to \$1,000.00 which may be assessed against an underage person who purchases, attempts to purchase or consumes in public any alcoholic beverage;

2. Increase the minimum penalty, from \$100.00 to \$1,000.00, which may be assessed against a person of legal age who purchases alcoholic beverages for an underage person;

3. Provide that the production of an identification card issued by a county clerk under P. L. 1968, c. 313 (C. 33:1-81.2 et seq.) by an underage person may establish a defense to a prosecution against a person who sells alcoholic beverages to the underage person. The bill would also eliminate the defense to such a prose-

cution that the underage person represented in writing to be of legal age;

4. Provide that the establishment of the facts which constitute a defense to a prosecution against a person for the sale of alcoholic beverages to an underage person may allow the person to recover certain damages he suffers as a result of the sale, in a civil suit against the underage person;

5. Establish a disorderly persons offense with a minimum fine of \$1,000.00 for certain actions concerning the misuse of an identification card issued by a county clerk;

6. Repeal certain sections of the law concerning identification cards issued by a county clerk which are rendered obsolete by the bill's amendments.

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[OFFICIAL COPY REPRINT]  
**ASSEMBLY, No. 3667**  
[CORRECTED COPY]

**STATE OF NEW JERSEY**

INTRODUCED JUNE 23, 1983

By Assemblymen BOCCHINI and PATERO

AN ACT concerning alcoholic beverages and amending R. S. 33:1-43.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. R. S. 33:1-43 is amended to read as follows:

2 33:1-43. a. It shall be unlawful for any owner, part owner, stock-  
3 holder or officer or director of any corporation, or any other person  
4 whatsoever interested in any way whatsoever in any brewery,  
5 winery, distillery or rectifying and blending plant, or any wholesal-  
6 er of alcoholic beverages, to conduct, own either in whole or in part,  
7 or be directly or indirectly interested in the retailing of any alco-  
8 holic beverages except as provided in this chapter, and such inter-  
9 est shall include any payments or delivery of money or property by  
10 way of loan or otherwise accompanied by an agreement to sell the  
11 product of said brewery, winery, distillery, rectifying and blending  
12 plant or wholesaler. **[**Prior to June 6, 1941, the ownership of or  
13 mortgage upon or any other interest in licensed premises if such  
14 ownership, mortgage or interest existed on December 6, 1933, shall  
15 not be deemed to be an interest in the retailing of alcoholic bever-  
16 ages. On and after June 6, 1941, the ownership of or mortgage  
17 upon or any other interest in licensed premises if such ownership,  
18 mortgage or interest existed on December 6, 1933, shall not be  
19 deemed to be an interest in the retailing of alcoholic beverages;  
20 provided, none of the products of the brewery, winery, distillery,  
21 rectifying and blending plant, or wholesaler, is sold directly or  
22 indirectly at the licensed premises.

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendment adopted November 21, 1983.

23 It shall be unlawful for any owner, part owner, stockholder or  
24 officer or director of any corporation, or any other person or corpo-  
25 ration whatsoever interested in any way whatsoever in any winery,  
26 distillery, or rectifying and blending plant, to conduct, own either  
27 whole or in part, or be directly or indirectly interested in the  
28 business of any licensee for the sale at wholesale to licensed retail-  
29 ers in New Jersey of any alcoholic beverages, other than malt  
30 alcoholic beverages, and such interest shall include any payments  
31 or delivery of money or property by way of loan or otherwise  
32 accompanied by an agreement to sell the product of said winery,  
33 distillery or rectifying and blending plant; except that the foregoing  
34 shall not apply in the case of a licensee for the sale at wholesale  
35 who on July 1, 1965, and thereafter until the effective date of this  
36 act, shall have filed for publication by the Division of Alcoholic  
37 Beverage Control price listings for brands of alcoholic beverages  
38 pursuant to the rules and regulations of the Division of Alcoholic  
39 Beverage Control.]

40 b. It shall be unlawful for any owner, part owner, stockholder or  
41 director of any corporation, or any other person whatsoever, inter-  
42 ested in any way whatsoever in the retailing of alcoholic beverages  
43 to conduct, own either whole or in part, or to be a shareholder,  
44 officer or director of a corporation or association, directly or  
45 indirectly, interested in any brewery, winery, distillery, rectifying  
46 and blending plant, or wholesaling or importing interests of any  
47 kind whatsoever [outside of the State].

48 No interest in the retailing of alcoholic beverages shall be deemed  
49 to exist by reason of the ownership, delivery or loan of interior  
50 signs designed for and exclusively used for advertising the product  
51 of or product offered for sale by such brewery, winery, distillery  
51a or rectifying and blending plant or wholesaler.

52 [It shall be unlawful for any owner, part owner, stockholder or  
53 officer or director of any corporation, or any other person or corpo-  
54 ration whatsoever interested in any way whatsoever in the whole-  
55 saling of alcoholic beverages, other than malt alcoholic beverages,  
56 to own either in whole or in part, or to be a stockholder, officer or  
57 director of a corporation or association, directly or indirectly,  
58 interested in, any winery, distillery or rectifying and blending  
59 plant, or wholesaling or importing interests of any kind whatsoever  
60 outside of the State, unless such relationship with respect to such  
61 winery, distillery or rectifying and blending plant or wholesaling  
62 or importing interests of any kind whatsoever outside the State  
63 shall have been in existence on July 1, 1965 and shall have contin-  
64 ned to be in effect on the effective date of this act.]

66 (1) the exercise of limited retail privileges by Class A or Class B  
67 licensees conferred pursuant to R. S. 33:1-10, R. S. 33:1-11, by  
68 rule or regulation or by special permit issued by the director;

69 (2) any owner, part owner, stockholder, officer or director of any  
70 corporation, or any other person whatsoever interested in any way  
71 whatsoever in any brewery, winery, distillery, rectifying and  
72 blending plant or any wholesaler of alcoholic beverages, from  
73 conducting, owning, either in whole or in part, or being directly  
74 or indirectly interested in the retailing of any alcoholic beverages,  
75 under any retail consumption license or State issued permit, in  
76 conjunction with and as a part of the operations of a hotel or motel;  
77 or

78 (3) any owner, part owner, stockholder or officer or director of  
79 any corporation, or any other person or corporation interested in  
80 any way whatsoever in the retailing of alcoholic beverages, under  
81 a retail consumption license or State issued permit, in conjunction  
82 with and as a part of the operations of a hotel or motel from con-  
83 ducting, owning, either in whole or in part, or being a shareholder,  
84 officer or director of a corporation or association, directly or indi-  
85 rectly, interested in any brewery, winery, distillery, rectifying and  
86 blending plant, or wholesaling or importing interest of any kind  
87 whatsoever.

88 No more than 20% of the total gross annual revenues of a hotel  
89 or motel described in paragraphs (2) and (3) shall be derived from  
90 the sale of alcoholic beverages by the hotel or motel. A retail  
91 licensee described in paragraphs (2) and (3) shall not purchase or  
92 sell any alcoholic beverage product produced or sold by the brew-  
93 ery, winery, distillery, rectifying and blending plant or wholesaler  
94 that has any interest in the retail license of the hotel or motel\*, and  
95 shall, within 30 days following the effective date of this act, file with  
96 the Division of Alcoholic Beverage Control a list of all alcoholic  
97 beverage products which shall not be purchased or sold by the hotel  
98 or motel. Thereafter, the retail licensee shall file a new or amended  
99 list with the division within 30 days of any changed circumstances  
100 which affect the information on the list. This list shall be made  
101 available to the public upon request.\*

102 For purposes of this subsection "hotel" or "motel" means an  
103 establishment containing at least 150 guest room accommodations  
104 where the relationship between the occupants thereof and the  
105 owner or operator of the establishment is that of innkeeper and  
106 guest.



On December 8, 1983, A 3667 was amended by the General Assembly and passed by the General Assembly on December 12, 1983.

XIII-8/a1  
12/2/83

OK  
JH

Assembly Amendments

to

ADOPTED

Assembly Bill No. 3667 OCR C.C.

Amend: DEC 8 1983

(Proposed by Assemblyman Bocchini, 12/8/83)

Page	Sec.	Line	
3	1	103	Omit "150" insert "100"
	After	After	
3	1	106	Insert "2. This act shall take effect immediately."

STATEMENT

This amendment conforms the minimum number of guest rooms required under the definition of "hotel" or "motel" in the section of law in the bill to the number required to qualify under section 8 of P.L. 1947, c. 94 (C. 33:1-12.20).

The amendment also restores the effective date of the bill which was omitted in the printing of the official copy reprint.

Joint Resolution Proposed for Passage in Section VI A of this Report

A JOINT RESOLUTION concerning the commission to study the statutes and regulations relating to the alcoholic beverage industry and amending Joint Resolution No. 4 of 1982.

BE IT RESOLVED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of Joint Resolution No. 4 of 1982 is amended to read as follows:

1. There is established an Alcoholic Beverage Control Study Commission to consist of 16 members to be appointed as follows:

PRINT ALL IN  
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WHERE UNDERLINE

a. Two from among the members of the Senate, by the President of the Senate, and shall not be of the same political party;

b. Two from among the members of the General Assembly, by the Speaker of the General Assembly, and shall not be of the same political party;

c. Seven citizens of the State, to be appointed jointly by the President of the Senate and the Speaker of the General Assembly who shall be representatives of the alcoholic beverage industry, and no more than four of whom shall be of the same political party;

d. Three citizens of the State, to be appointed by the Governor, including a representative of a local law enforcement agency, the casino industry and the general public, and no more than two of whom shall be of the same political party; and

e. The Director of the Division of Alcoholic Beverage Control, ex officio, or his designee and the Superintendent of the New Jersey Division of State Police, ex officio, or his designee. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. ; and

f. A member of the commission appointed from either House of the Legislature under subsection a. or b. of this section shall serve only as long as that member of the commission is also a member of that House of the Legislature. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.



2. Section 5 of Joint Resolution No. 4 of 1982 is amended to read as follows:

5. The commission may meet and hold hearings at any place or places as it shall designate during the sessions or recesses of the Legislature [and] . The commission shall [report its findings and recommendations] make recommendations which it deems proper and shall prepare and submit to the Legislature and [issue its final report, by January 1, 1984] the Governor reports which it deems necessary, accompanying [the same] its recommendations and reports with any legislative bills which it may desire to recommend for adoption by the Legislature.

In addition to the recommendations and reports made by the commission during the course of a year, the commission shall submit an annual report, no later than December 31 of each year, to the President of the Senate, the Speaker of the General Assembly, and the Governor, describing the activities and accomplishments of the commission.

If the commission determines in 1987 that the termination date of December 31, 1987 should be extended, a recommendation to that effect may be submitted to the President of the Senate, Speaker of the General Assembly and the Governor. The recommendation shall be submitted by September 1, 1987 and shall state the reasons for the commission's decision to make the recommendation.

3. Section 7 of Joint Resolution No. 4 is amended to read as follows:

7. This joint resolution shall take effect immediately and shall expire [January 1, 1984] December 31, 1987.

4. This joint resolution shall take effect immediately.

STATEMENT

The purpose of this joint resolution is to extend the expiration date of the commission, created by Joint Resolution No. 4 of 1982 for the study of the statutes and regulations affecting the manufacture, distribution, sale and consumption of alcoholic beverages, to December 31, 1987. Under this joint resolution, the commission may make recommendations and submit any reports which it deems proper and necessary. An annual report describing the activities and accomplishments of the commission is required to be submitted no later than December 31 of each year. If the commission determines in 1987 that the termination date of December 31, 1987 should be extended, a recommendation to that effect may be made by September 1, 1987. The recommendation is to state the reasons for the commission's decision to make that recommendation.



