ASSEMBLY, No. 3842

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MAY 9, 2022

Sponsored by:
Assemblyman STERLEY S. STANLEY
District 18 (Middlesex)

SYNOPSIS

Clarifies certain responsibilities of licensed wineries and retail salesrooms.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning wineries and salesrooms, amending P.L.1999, c.90, and supplementing Title 33 of the Revised Statutes.

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

1. Section 5 of P.L.1999, c.90 (C.2C:33-27) is amended to read as follows:

5. Consumption of alcohol in restaurants.

a. No person who owns or operates a restaurant, dining room, salesroom, or other public place where food or liquid refreshments are sold or served to the general public, and for which premises a license or permit authorizing the sale of alcoholic beverages for on-premises consumption has not been issued:

(1) Shall allow the consumption of alcoholic beverages, other than wine or a malt alcoholic beverage, in a portion of the premises which is open to the public; **[**or**]**

(2) Shall charge any admission fee or cover, corkage or service charge or advertise inside or outside of such premises that patrons may bring and consume their own wine or malt alcoholic beverages in a portion of the premises which is open to the public **[**.**]** ;

(3) Shall allow the consumption of wine or malt alcoholic beverages at times or by persons to whom the service or consumption or alcoholic beverages on licensed premises is prohibited by State or municipal law or regulation **[**.**]** ; or

(4) Shall allow the consumption of wine by a person under the legal age to purchase or consume alcoholic beverages when the premises is used as a salesroom established pursuant to the provisions of subsection 2a. or 2b. of R.S.33:1-10.

b. Nothing in this act shall restrict the right of a municipality or an owner or operator of a restaurant, dining room or other public place where food or liquid refreshments are sold or served to the general public from prohibiting the consumption of alcoholic beverages on those premises.

c. A person who violates any provision of this act is a disorderly person, and the court, in addition to the sentence imposed for the disorderly person violation, may by its judgment bar the owner or operator from allowing consumption of wine or malt alcoholic beverages in his premises as authorized by this act.

(cf: P.L.1999, c.90, s.5)

2. (New section) a. As used in this section, an "authorized person" means a person who completes a training program prior to selling wine at a retail salesroom, and receives supplemental training on at least an annual basis.

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

Matter underlined thus is new matter.

b. Any alcohol management plan agreed to by the holder of a plenary winery license or farm winery license, issued pursuant to R.S.33:1-10, and an owner or operator of a retail salesroom shall provide that:

(1) only an authorized person may sell wine and deliver it to a patron;

(2) an authorized person is responsible for ensuring the wine is not sold to any person under the legal age for purchasing alcoholic beverages; and

(3) all authorized persons are under the direction and control of the owner or operator of the retail salesroom.

c. A person who sells wine at a retail salesroom to a person under the legal age for purchasing alcoholic beverages commits a disorderly persons offense under R.S.33:1-77.

d. The owner or operator of a restaurant with a retail salesroom shall comply with the provisions of section 5 of P.L.1999, c.90 (C.2C:33-27).

3. This act shall take effect on the first day of the fourth month next following the date of enactment.

STATEMENT

This bill clarifies the responsibilities of winery licensees and the owners and operators of salesrooms which serve as retail outlets for the licensee's wine. Under the bill, the salesroom owner or operator is responsible for preventing persons under 21 years of age from purchasing or consuming any wine on the retail outlet premises.

Under current law, wineries may sell their wines at retail outlets, in accordance with statutory law, rules and regulations, and an alcohol management plan agreed to by the licensed winery and the owner or operator of the retail salesroom or outlet (for example, a "bring-your-own-bottle" or BYOB restaurant).

This bill clarifies that the responsibility for ensuring any buyer of alcohol is at least 21 years of age or older rests on the retail outlet and its employees, and not the winery. Any alcohol management plan, agreed to between the winery and outlet, would have to provide that:

(1) only an authorized person may sell and deliver wine to a patron;

(2) an authorized person is responsible for ensuring the wine is not sold to an underage person; and

(3) all authorized persons are under the direction and control of the owner or operator of the retail salesroom.

The bill also provides that to be considered "authorized," a person is required to complete a training program prior to selling

wine at the outlet and would need to receive supplemental training, at least on an annual basis.

A person who owns or operates a restaurant that allows patrons to "bring-your-own-bottle" is already responsible for ensuring that no person under the legal drinking age consumes any alcohol on the restaurant premises. An owner or operator of a BYOB restaurant who allows an underage person to consume wine is a disorderly person pursuant to section 5 of P.L.1999, c.90 (C.2C:33-27). In addition to the sentence imposed for the disorderly person violation, the court may bar the owner or operator from allowing the consumption of wine or malt alcoholic beverages on the licensed premises.

Under R.S.33:1-77, a person operating under a license issued by the Division of Alcoholic Beverage Control is a disorderly person if the person sells an alcoholic beverage to an underage person. A disorderly persons conviction is punishable by a term of imprisonment of up to six months, a fine of up to $1,000, or both.