

# ASSEMBLY, No. 4251

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 13, 2022

**Sponsored by:**

**Assemblyman JOE DANIELSEN**

**District 17 (Middlesex and Somerset)**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

Establishes special license to allow food and beverage establishments to sell alcoholic beverages in shopping malls.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/13/2022)**

1 AN ACT concerning the sale of alcoholic beverages and  
2 supplementing Title 33 of the Revised Statutes.

3

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

6

7 1. a. As used in this act:

8 “Food court area” means a communal seating area designated by  
9 the shopping mall in which patrons may consume food and  
10 beverages purchased from one or more establishments.

11 “Shopping mall” means a standalone, enclosed publicly  
12 accessible building with a gross square footage of not less than  
13 500,000 and a fully enclosed walkway or hall area that serves to  
14 connect retail, entertainment, and food and beverage  
15 establishments, and office space.

16 “Special permit” means a permit issued by a municipal  
17 governing body pursuant to this section to sell any alcoholic  
18 beverage for consumption on the shopping mall premises by the  
19 glass or other open receptacle.

20 “Strip mall” means a retail shopping complex that consists of  
21 stores, restaurants, or other businesses in adjacent spaces or  
22 storefronts in one or more buildings that are connected by a  
23 doorway or open onto a common parking lot or outdoor pedestrian  
24 walkway.

25 b. The governing body of a municipality may, by ordinance or  
26 resolution, issue special permits to a person or other legal entity for  
27 use in connection with a food and beverage establishment located  
28 within a shopping mall. The holder of this permit shall be entitled  
29 to sell any alcoholic beverage for consumption on the premises of  
30 the retail food establishment or food court area.

31 The governing body may issue up to four special permits for use  
32 in connection with a food and beverage establishment located  
33 within a shopping mall with a minimum gross square footage of not  
34 less than 500,000 and one additional special permit for each  
35 150,000 square feet greater than the 500,000 minimum square  
36 footage established pursuant to this section.

37 c. A special permit issued pursuant to this section shall not be  
38 transferred for use in connection with any premises other than a  
39 premises that is operated as a food and beverage establishment  
40 located within the same shopping mall. The holder of this permit  
41 shall not be entitled to transfer the permit for use in connection with  
42 a premises located on the shopping mall property which is not  
43 physically connected to the enclosed walkway or hall area that  
44 serves to connect retail, entertainment, and food and beverage  
45 establishments, and office space.

46 A person who acquires a permit in a private transaction pursuant  
47 to this subsection shall pay to the governing body of the

1 municipality in which the premises is situated a \$5,000 permit  
2 transfer fee. A permit that is not transferred pursuant to this section  
3 and expires because it is no longer sited at the food and beverage  
4 establishment may be reissued by the governing body pursuant to  
5 this section.

6 d. A special permit shall not be issued for use in connection  
7 with a premises operating within a strip mall as defined in  
8 subsection a. of this section or a premises in which 25 percent of the  
9 gross square footage is comprised of office space that is not open to  
10 the public as a retail, entertainment, or food and beverage  
11 establishment.

12 e. A permit issued pursuant to this subsection shall not be  
13 subject to the population limitation established pursuant to section 2  
14 of P.L.1947, c.94 (C.33:1-12.14). An interest in a special permit  
15 issued pursuant to this section shall be excluded in determining the  
16 maximum number of plenary retail consumption licenses issued to a  
17 person pursuant to P.L.1962, c.152 (C.33:1-12.31 et seq.). The  
18 limitation on the number of special permits issued for use in  
19 connection with a shopping mall based on square footage pursuant  
20 to subsection b. of this section shall not limit the number of plenary  
21 retail consumption licenses that may be issued pursuant to R.S.33:1-  
22 12 for use in connection with a shopping mall.

23 f. Except as otherwise provided by this section, each special  
24 permit shall be governed by the provisions of R.S.33:1-12 in the  
25 same manner as plenary retail consumption licenses. The permit  
26 shall be issued by the governing body of the municipality and shall  
27 be renewed annually at the request of the permit holder. The initial  
28 issuance fee for the permit shall be \$25,000 and the annual renewal  
29 fee shall be \$5,000.

30 g. A special permit issued pursuant to this section shall not be  
31 issued to any person who would not qualify as a plenary retail  
32 consumption license holder pursuant to Title 33 of the Revised  
33 Statutes and the rules and regulations of the director.

34 h. A municipality that prohibits the sale of alcoholic beverages  
35 within its borders shall not be entitled to issue a special permit  
36 pursuant to this section unless the municipality by resolution or  
37 referendum, as appropriate, allows the sale of alcoholic beverages  
38 by plenary retail consumption license holders following the  
39 effective date of this act.

40 i. A special permit issued pursuant to this section shall be used  
41 in a manner consistent with the provisions of Title 33 of the  
42 Revised Statutes, regulations, and any applicable municipal  
43 ordinances.

44

45 2. This act shall take effect immediately.

STATEMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

This bill establishes a special permit that may be issued to a person or other legal entity for use in connection with a food and beverage establishment located within a shopping mall. The permit holder would be entitled to sell any alcoholic beverage for consumption on the premises of the retail food establishment or food court area.

Under the bill, a “shopping mall” is defined as a standalone, enclosed publicly accessible building with a gross square footage of not less than 500,000 and a fully enclosed walkway or hall area that serves to connect retail, entertainment, and food and beverage establishments, and office space. The bill defines “food court” as a communal seating area designated by the shopping mall in which patrons may consume food and beverages purchased from one or more establishments.

The bill establishes certain restrictions on the number of special permits that may be issued and the transfer of this permit. Under the bill, a municipality may issue up to four special permits for use in connection with a food and beverage establishment located within a shopping mall with a minimum gross square footage of not less than 500,000. The bill also allows the municipality to issue one additional special license for each 150,000 square feet greater than the 500,000 minimum square footage requirement. The permit holder would be entitled to transfer the permit but only in connection with another food and beverage establishment located within the same shopping mall. A person who acquires a transferred license in a private transaction would be required to pay the municipality a \$5,000 transfer fee. An expired permit may be reissued by the municipal governing body.

The bill prohibits a municipality from issuing the permit for use in connection with a strip mall or a premises in which 25 percent of the gross square footage is comprised of office space. A municipality in which the sale of alcoholic beverages is prohibited, also commonly referred to as a “dry town,” would be prohibited from issuing these special permits unless the municipality, by resolution or referendum, allows the sale of alcoholic beverages by plenary retail consumption license holders.

Under current law, a municipality may issue plenary retail consumption licenses until the combined total number in the municipality is fewer than one license for each 3,000 municipal residents. A person is prohibited by current law from holding an interest in more than two plenary retail consumption licenses. These restrictions would not apply to the holder of a special permit issued under the bill. In addition, the issuance of special permits would not limit the number of other plenary retail consumption licenses issued for use in connection with a shopping mall.

**A4251 DANIELSEN, FREIMAN**

5

1       The initial issuance fee for the license would be \$25,000 and the  
2       annual renewal fee would be \$5,000. Except as otherwise provided  
3       by the bill, each special permit would be governed in the same  
4       manner as plenary retail consumption licenses.