

SENATE, No. 3474

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JANUARY 12, 2023

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Co-Sponsored by:

Senators Schepisi and Stanfield

SYNOPSIS

Allows municipalities to transfer inactive alcoholic beverage retail licenses for use in certain redevelopment and revitalization areas; establishes procedure to transfer inactive retail licenses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/11/2023)

1 AN ACT concerning alcoholic beverage licensing, supplementing
2 Title 33 of the Revised Statutes, and amending P.L.1977, c.246.

3

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

6

7 1. (New section) As used in this act:

8 “Sending municipality” means a municipality from which an
9 inactive license is issued pursuant to P.L. , c. (C.) (pending
10 before the Legislature as this bill) to the governing body of a
11 receiving municipality as part of an economic redevelopment plan
12 or in connection with a premises located within a redevelopment,
13 improvement, or revitalization area.

14 “Inactive license” means a plenary retail consumption license
15 that has been placed on inactive status and renewed as authorized
16 by the provisions of R.S.33:1-12.39 for two consecutive license
17 terms.

18 “Receiving municipality” means a municipality that enters into
19 an agreement to acquire an inactive plenary retail consumption
20 license from a sending municipality as part of an economic
21 redevelopment plan or in connection with a premises located within
22 a redevelopment, improvement, or revitalization area pursuant to
23 P.L. , c. (C.) (pending before the Legislature as this bill).

24 “Redevelopment, improvement, or revitalization area” means an
25 urban enterprise zone designated pursuant to P.L.1983, c.303
26 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); a
27 downtown business improvement zone designated pursuant to
28 P.L.1998, c.115 (C.40:56-71.1 et seq.); a pedestrian mall or
29 pedestrian mall improvement or special improvement district as
30 defined in section 2 of P.L.1972, c.134 (C.40:56-66); a transit
31 oriented development as defined by section 2 of P.L.2011, c.149
32 (C.34:1B-243); an area determined to be in need of redevelopment
33 pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
34 40A:12A-22); or an area determined to be in need of rehabilitation
35 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14), or any
36 improvement which is 100 percent new construction, which is an
37 entirely new improvement not previously occupied or used for any
38 purpose.

39

40 2. (New section) a. A governing board or body of a sending
41 municipality that is authorized to issue a new plenary retail
42 consumption licenses shall be entitled to offer the license at public
43 sale pursuant to P.L.1981, c.416 (C.33:1-19.3 et seq.) or offer the
44 license at public sale to the highest bidding governing body of any
45 other municipality in this State.

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.

1 A license transferred to a receiving municipality pursuant to this
2 section only shall be used in connection with a premises as part of
3 an economic redevelopment plan or located within a redevelopment,
4 improvement, or revitalization area as defined in section 1 of
5 P.L. , c. (C.) (pending before the Legislature as this bill).
6 The sending municipality shall not be entitled to issue a new license
7 pursuant to P.L.1975, c.275 (C.33:1-19.1 et seq.) to replace the
8 license transferred to the receiving municipality pursuant to this
9 section.

10 b. Notice of the public sale shall be provided to the director
11 and other municipalities at least 90 days prior to the sale. The
12 notice to the municipalities shall specify the minimum acceptable
13 bid and general conditions of sale including a statement that the
14 sending municipality reserves the right to reject all bids where the
15 highest bid is not accepted.

16 The funds derived from the sale shall be remitted to the
17 municipal treasurer for the general use of the sending municipality.

18 c. A receiving municipality that acquires a license pursuant to
19 subsection a. of this section shall be entitled to offer the license at
20 public sale pursuant to P.L.1975, c.275 (C.33:1-19.1 et seq.).

21 d. A license transferred to a receiving municipality and issued
22 to a qualified bidder that is not actively used in connection with the
23 operation of a premises within two years of the issuance date shall
24 revert to the receiving municipality. The receiving municipality
25 may reissue the license by public sale in a manner consistent with
26 P.L.1975, c.275 (C.33:1-19.1 et seq.) or may transfer the license to
27 the sending municipality to be reissued at public sale.

28 The license holder shall not be entitled to appeal the expiration
29 of the license to the director or a court of law unless the license
30 holder has been deprived of the use of the licensed premises as a
31 result of eminent domain, fire, or other casualty, and establishes by
32 affidavit filed with the director that the license holder is making a
33 good faith effort to resume active use of the license in connection
34 with the operation of a licensed premises.

35 e. A receiving municipality shall not be entitled to acquire
36 more than one license pursuant to this section each calendar year.

37 f. No person who would fail to qualify as a licensee under Title
38 33 of the Revised Statutes shall be permitted to hold an interest in a
39 license transferred under the provisions of this section.

40 g. Licenses transferred pursuant to the provisions of this
41 section shall be subject to all the provisions of Title 33 of the
42 Revised Statutes, rules and regulations promulgated by the director,
43 and municipal ordinances.

44 h. A license issued pursuant to this section shall not be
45 included in the total number of licenses based on the population
46 necessary to issue a new plenary retail consumption or seasonal
47 retail consumption license pursuant to section 2 of P.L.1947, c.94
48 (C.33:1-12.14).

1 3. (New section) a. The holder of an inactive plenary retail
2 consumption license issued by any municipality may apply to the
3 governing bodies of the issuing municipality and a receiving
4 municipality located within the same county to use the license in
5 connection with a premises located in the receiving municipality.

6 A license used in the receiving municipality pursuant to this
7 section shall remain in a redevelopment, improvement, or
8 revitalization area of the receiving municipality permanently and
9 shall not be transferred to any other location within the receiving
10 municipality or the governing body of any other municipality. The
11 sending municipality shall not be entitled to issue a new license
12 pursuant to P.L.1975, c.275 (C.33:1-19.1 et seq.) to replace the
13 license transferred to the receiving municipality pursuant to this
14 section.

15 b. The sending and receiving municipality shall submit to the
16 director notice of the intent to transfer a license at least 90 days
17 prior to the transfer. The issuing and receiving municipalities shall
18 adopt by majority vote identical resolutions authorizing the transfer
19 of the license. The identical resolutions shall establish the license
20 transfer fee, which shall be paid by the license holder and deposited
21 in the general fund of the host municipality. Prior to adopting the
22 resolution pursuant to this section, the governing body of both
23 municipalities shall give special consideration as to whether
24 sufficient attempts were made by the license holder to use or
25 transfer the license for use in connection with a premises located in
26 the sending municipality.

27 c. A license transferred to a receiving municipality pursuant to
28 this section that is not actively used in connection with the
29 operation of a premises within two years of the transfer date shall
30 expire and shall not be reissued by the receiving municipality. The
31 license holder shall not be entitled to appeal the expiration of the
32 license to the director or a court of law unless the license holder has
33 been deprived of the use of the licensed premises as a result of
34 eminent domain, fire, or other casualty, and establishes by affidavit
35 filed with the director that the license holder is making a good faith
36 effort to resume active use of the license in connection with the
37 operation of a licensed premises.

38 d. A receiving municipality shall not be entitled to acquire
39 more than one license pursuant to this section in each calendar year.

40 e. Licenses transferred pursuant to the provisions of this
41 section shall be subject to all the provisions of Title 33 of the
42 Revised Statutes, rules and regulations promulgated by the director,
43 and municipal ordinances.

44 f. An applicant for a license issued pursuant to this section
45 shall certify to the sending and receiving municipality that the
46 license will be used in connection with the operation of a restaurant
47 at which the retail sale of food is the primary and principal business
48 and will constitute a majority of the restaurant's total annual sales.

1 A license holder who applies to renew a license issued pursuant to
2 this section shall annually submit to the issuing authority a report
3 supported by receipts demonstrating that the sale of food
4 constituted at least 60 percent of the store's total annual sales in the
5 last full calendar year preceding the renewal date. A license holder
6 who fails to demonstrate that the sale of food constituted at least 60
7 percent of the store's total annual sales in the last full calendar year
8 may be subject to revocation of the plenary retail consumption
9 license.

10 g. The holder of a license issued pursuant to this section shall
11 cease the sale of alcoholic beverages each day at the time that food
12 service has ended or 11:00 p.m., whichever occurs earlier.

13 h. The holder of a license issued pursuant to this section may
14 transfer the license to another person in a private transaction. A
15 license issued pursuant to this section shall not be relocated to a
16 another premises.

17 i. The restriction in section 2 of P.L.1947, c.94 (C.33:1-12.14)
18 concerning the number of retail consumption licenses that may be
19 issued in a municipality shall not be applicable to a license issued
20 pursuant to this section.

21

22 4. (New section) a. A receiving municipality in which the
23 number of plenary retail consumption licenses has reached the
24 population limitation established in section 2 of P.L.1947, c.94
25 (C.33:1-12.14) may issue a request for proposal to acquire from a
26 license holder an additional inactive plenary retail consumption
27 license that was initially issued by any other host municipality in
28 this State. The inactive license acquired pursuant to this section
29 shall be used in connection with a premises as part of an economic
30 redevelopment plan or a redevelopment, improvement, or
31 revitalization area.

32 b. The request for proposal issued pursuant to subsection a. of
33 this section shall specify a time and date after which no further
34 applications from license holders will be accepted. The request
35 shall be published in a newspaper circulating generally throughout
36 the State by not less than two insertions, one week apart, the second
37 of which shall be made not less than 30 days prior to the time and
38 date specified in the notice as the time and date after which no
39 further applications will be accepted. In addition, the request for
40 proposal shall be published by the governing body on the official
41 Internet website of the receiving municipality. The request for
42 proposal shall require that all bids shall be sealed and remain
43 confidential to other bidders. Notwithstanding the provisions of
44 section 1 of P.L.1981, c. 416 (C.33:1-19.3) the license shall be
45 awarded to the highest qualified bidder.

46 c. The holder of an inactive plenary retail consumption license
47 shall apply to the governing body of the sending municipality for
48 permission to transfer the inactive plenary retail consumption

1 license from the sending municipality prior to submitting a bid in
2 response to the request for proposal. The governing body of the
3 sending municipality may approve the application only by a resolution
4 adopted by a majority vote. The sending municipality shall not
5 require the applicant to disclose the location of the proposed
6 licensed premises.

7 After the receiving municipality accepts a successful bid, the
8 sending municipality shall submit to the director notice of the intent
9 to transfer a license at least 90 days prior to the transfer. The
10 sending and receiving municipalities shall adopt by majority vote
11 identical resolutions authorizing the transfer of the license. The
12 identical resolutions shall establish the license transfer fee, which
13 shall be paid by the license holder and deposited in the general fund
14 of the sending municipality. Prior to adopting the resolution
15 pursuant to this section, the governing body of both municipalities
16 shall give special consideration as to whether sufficient attempts
17 were made by the license holder to use or transfer the license for
18 use in connection with a premises located in the host municipality.

19 d. A receiving municipality that acquires a license pursuant to
20 subsection a. of this section shall be entitled to offer the license at
21 public sale pursuant to P.L.1975, c.275 (C.33:1-19.1 et seq.). A
22 license issued by the receiving municipality to a qualified bidder
23 that is not actively used in connection with the operation of a
24 premises within two years of the issuance date shall expire and shall
25 not be reissued by the receiving municipality. The license holder
26 shall not be entitled to appeal the expiration of the license to the
27 director or a court of law unless the license holder has been
28 deprived of the use of the licensed premises as a result of eminent
29 domain, fire, or other casualty, and establishes by affidavit filed
30 with the director that the license holder is making a good faith
31 effort to resume active use of the license in connection with the
32 operation of a licensed premises.

33 e. A receiving municipality shall not be entitled to acquire
34 more than one license pursuant to this section in each calendar year.

35 f. Licenses transferred pursuant to the provisions of this
36 section shall be subject to all the provisions of Title 33 of the
37 Revised Statutes, rules and regulations promulgated by the director,
38 and municipal ordinances.

39 g. A license issued pursuant to this section shall not be
40 included in the total combined population necessary to issue a new
41 plenary retail consumption or seasonal retail consumption license
42 pursuant to section 2 of P.L.1947, c.94 (C.33:1-12.14).

43

44 5. Section 1 of P.L.1977, c.246 (C.33:1-12.39) is amended to
45 read as follows:

46 1. **[No]** a. Following the effective date of P.L. _____,
47 c. (C. _____) (pending before the Legislature as this bill), a Class
48 C license **[,]** as **[the same is]** defined in R.S.33:1-12 **[,]** shall not

1 be renewed if the **same** license has not been actively used in
2 connection with the operation of a licensed premises within **a**
3 period of two years prior to the commencement date of the license
4 period for which the renewal application is filed unless the director,
5 for good cause and after a hearing, authorizes a further application
6 for one or more renewals within a stated period of years; provided,
7 however that, if two consecutive license terms. A license that
8 remains inactive at the end of the two-year period shall expire.
9 Prior to the expiration of a plenary retail consumption license
10 pursuant to this subsection, the license holder may transfer the
11 license for use as part of an economic redevelopment plan or in
12 connection with a redevelopment, improvement, or revitalization
13 area pursuant to P.L. , c. (C.) (pending before the
14 Legislature as this bill).

15 b. Notwithstanding subsection a. of this section, if the licensee
16 has been deprived of the use of the licensed premises as a result of
17 eminent domain, fire or other casualty, and establishes by affidavit
18 filed with the director that **he** the licensee is making a good faith
19 effort to resume active use of the license in connection with the
20 operation of a licensed premise then the time period **of two years**
21 provided for in this section shall be automatically extended for an
22 additional period of two **years** license terms.

23 c. Following the effective date of P.L. , c. (C.) (pending
24 before the Legislature as this bill) and in accordance with the
25 schedule established by the director pursuant to subsection d. of this
26 section, an inactive license that is not transferred pursuant to
27 subsection a. of this section shall be:

28 (1) actively used by the license holder;

29 (2) transferred to another person who intends to use the license
30 in a private transaction for fair market value. The transferee shall
31 actively use the license in connection with a premises upon receipt
32 of the license; or

33 (3) transferred from a sending municipality to a receiving
34 municipality in accordance with P.L. , c. (C.) (pending before
35 the Legislature as this bill)

36 d. The director shall divide the inactive plenary retail
37 consumption licenses that are placed on inactive status on the
38 effective date of P.L. , c. (C.) (pending before the Legislature
39 as this bill) into quartiles based on the total length of time that the
40 licenses have been inactive. The licenses shall be transferred
41 pursuant to subsection c. of this section in accordance with the
42 following time schedule:

43 (1) the quartile that has been inactive for the longest period of
44 time shall be transferred pursuant to subsection c. of this section
45 within one year of the effective date of P.L. , c. (C.) (pending
46 before the Legislature as this bill);

1 (2) the quartile that has been inactive for the second longest
2 period of time shall be transferred pursuant to subsection c. of this
3 section within two years following the effective date of P.L. , c.
4 (C.) (pending before the Legislature as this bill);

5 (3) the quartile that has been inactive for the third longest period
6 of time shall be transferred pursuant to subsection c. of this section
7 within three years following the effective date of P.L. , c. (C.)
8 (pending before the Legislature as this bill); and

9 (4) the quartile that has been inactive for the shortest period of
10 time shall be transferred pursuant to subsection c. of this section
11 within four years following the effective date of P.L. , c. (C.)
12 (pending before the Legislature as this bill).

13 e. Any request for relief under this section shall be
14 accompanied by a nonreturnable filing fee of **[\$100.00]** \$100
15 payable to the director.

16 (cf: P.L.1996, c.127, s.1)

17

18 6. This act shall take effect on the first day of the seventh
19 month following the date of enactment.

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21

22

STATEMENT

23

24 This bill establishes several procedures by which a plenary retail
25 consumption license, generally issued to bars and restaurants, may
26 be transferred for use as part of an economic redevelopment plan or
27 in connection with premises located in a redevelopment,
28 improvement, or revitalization area located in another municipality.
29 The bill defines “redevelopment, improvement, or revitalization
30 area” as an urban enterprise zone; a downtown business
31 improvement zone; a pedestrian mall or pedestrian mall
32 improvement or special improvement district; a transit oriented
33 development; an area determined to be in need of redevelopment;
34 an area determined to be in need of rehabilitation; or any
35 improvement which is 100 percent new construction, which is an
36 entirely new improvement not previously occupied or used for any
37 purpose.

38 Under current law, a municipality may issue plenary retail
39 consumption licenses until the combined total number in the
40 municipality is fewer than one license for each 3,000 municipal
41 residents. This bill allows a municipality that is entitled to issue an
42 additional plenary retail consumption license to offer the license at
43 public sale to the highest bidding governing body of any other
44 municipality in this State. A license transferred to a receiving
45 municipality only is to be used in connection with a premises as
46 part of an economic redevelopment plan or located within a
47 redevelopment, improvement, or revitalization area. The bill
48 requires the host municipality to provide notice of the public sale to

1 the Director of the Division of Alcoholic Beverage Control and
2 other municipalities at least 90 days prior to the sale. The notice to
3 the municipalities is to specify the minimum acceptable bid and
4 general conditions of sale including a statement that the transferring
5 municipality reserves the right to reject all bids where the highest
6 bid is not accepted. The funds derived from the sale are to be
7 remitted to the municipal treasurer for the general use of the host
8 municipality. A receiving municipality that acquires the license
9 would be entitled to offer the license at public sale. A license
10 issued by the receiving municipality to a qualified bidder that is not
11 actively used in connection with the operation of a premises within
12 two years of the issuance date is to expire and not be reissued by the
13 receiving municipality. The receiving municipality would be
14 prohibited from acquiring more than one license through this
15 bidding process in each calendar year.

16 In addition, this bill establishes two procedures for transferring
17 an inactive plenary retail consumption license to a different
18 municipality. Under current law, an inactive plenary retail
19 consumption license is a license to sell alcoholic beverages for on
20 premises consumption that is not being used at an open and
21 operating licensed premises. A licensee is required to place the
22 license on "inactive status" when the licensed business ceases
23 operation and the license continues to be held by the licensee of
24 record.

25 Under this bill, a license that remains inactive for two license
26 terms is to expire. Prior to the expiration of the license, an inactive
27 license is to be actively used by the license holder or transferred to
28 another person who intends to use the license in a private
29 transaction for fair market value. The bill also allows the holder of
30 the inactive license to apply to the governing body of a sending
31 municipality that issued the license and a receiving municipality
32 located within the same county to use the license in connection with
33 a premises located in the receiving municipality. An inactive
34 plenary retail consumption license used in the receiving
35 municipality only would be used as part of an economic
36 redevelopment plan or in connection with a premises located within
37 a redevelopment, improvement, or revitalization area. The bill
38 requires the transferred license to remain in the receiving
39 municipality and prohibits the transfer of license to any other
40 municipality. Under the bill, the sending and receiving
41 municipalities are to submit to the director notice of the intent to
42 transfer a license at least 90 days prior to the transfer. The bill
43 requires the sending and receiving municipalities to adopt by
44 majority vote identical resolutions authorizing the transfer of the
45 license. The identical resolutions are to establish the license
46 transfer fee agreed upon by both municipal governing bodies. A
47 receiving municipality that acquires a license would be entitled to
48 offer the license at public sale in accordance with current law. A

1 license issued by a receiving municipality that is not actively used
2 in connection with the operation of a premises within two years of
3 the transfer date would expire and not be reissued by the receiving
4 municipality. In addition, the bill provides that these licenses
5 would be subject to certain restrictions. The receiving municipality
6 would be required to issue the license to an applicant who certifies
7 to the sending and receiving municipality that the license will be
8 used in connection with the operation of a restaurant at which the
9 retail sale of food is the primary and principal business. The license
10 holder would then be required to annually submit to the issuing
11 authority a report supported by receipts demonstrating that the sale
12 of food constituted at least 60 percent of the store's total annual
13 sales in the last full calendar year preceding the renewal date. A
14 license holder who fails to demonstrate that the sale of food
15 constituted at least 60 percent of the store's total annual sales in the
16 last full calendar year may be subject to revocation of the plenary
17 retail consumption license. The bill also requires the license holder
18 to cease the sale of alcoholic beverages each day at the time that
19 food service has ended or 11:00 p.m., whichever occurs earlier. A
20 license holder would be entitled to transfer the license to another
21 person in a private transaction, but the bill prohibits the license
22 from being relocated to another premises.

23 This bill also allows a receiving municipality that has reached
24 the license population limitation established under current law to
25 issue a request for proposal (RFP) to acquire an inactive plenary
26 retail consumption license from any license holder in this State. The
27 bill requires the receiving municipality to issue the license for use
28 in connection with a premises as part of economic redevelopment
29 plan or a redevelopment, improvement, or revitalization area. The
30 RFP would specify a time and date after which no further
31 applications from license holders will be accepted. The
32 municipality is to publish the RFP in a newspaper circulating
33 generally throughout the State by not less than two insertions, one
34 week apart, the second of which is to be made not less than 30 days
35 prior to the time and date specified in the notice as the time and
36 date after which no further applications will be accepted. In
37 addition, the request for proposal is to be published by the
38 governing body on the official Internet website of the receiving
39 municipality. The RFP is to require that all bids be sealed and
40 remain confidential to other bidders. The holder of an inactive
41 plenary retail consumption license is to apply for permission to
42 transfer the inactive plenary retail consumption license from the
43 sending municipality prior to submitting a bid in response to the
44 RFP. The sending municipality may approve the application by
45 resolution. The sending municipality would be prohibited from
46 requiring the applicant to disclose the location of the proposed
47 licensed premises.

1 After the receiving municipality accepts a successful bid, the
2 sending and receiving municipality are to submit to the director
3 notice of the intent to transfer a license at least 90 days prior to the
4 transfer. The bill requires the sending and receiving municipalities
5 to adopt by majority vote identical resolutions authorizing the
6 transfer of the license. The identical resolutions are to establish the
7 license transfer fee agreed upon by both municipal governing
8 bodies. The bill requires a license that is not actively used within
9 two years of issuance date to expire. A receiving municipality that
10 issued the RFP would be prohibited from acquiring more than one
11 license through this process in each calendar year.

12 Finally, the bill requires the director to establish a four-year
13 timeline for the reissuance of inactive licenses based on the length
14 of time that the license has been inactive. The plenary retail
15 consumption licenses transferred to or acquired by a receiving
16 municipality under the bill's provisions would not be included in
17 the population formula used to issue new licenses.