

CHAPTER 351

AN ACT concerning the issuance of special licenses to serve alcoholic beverages and certain plenary retail consumption licenses, and amending and supplementing Title 33 of the Revised Statutes.

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

C.33:1-24.1 Findings, declarations relative to issuance of special licenses to serve alcoholic beverages in smart growth development projects.

1. The Legislature finds and declares that:

- a. Smart growth is an innovative approach to land use planning that directs the State's resources and funding to projects that enhance the quality of life for New Jersey residents;
- b. Smart growth encourages the development of distinctive, attractive communities with mixed use development, walkable town centers and neighborhoods, a range of housing options, and a variety of transportation modes;
- c. Small businesses, including restaurants and other establishments that serve alcoholic beverages, enhance the economic viability of a smart growth community and the quality of life for residents and visitors;
- d. Many municipalities in New Jersey do not have a sufficient number of liquor licenses for all the establishments that wish to serve alcoholic beverages to patrons; and
- e. In order to foster and encourage development in smart growth communities, it is appropriate to create special licenses to serve alcoholic beverages for establishments located in smart growth projects and to provide financial compensation to alcoholic beverage licensees in those communities who already have established businesses and paid market value for their licenses.

C.33:1-24.2 Definitions relative to issuance of special licenses to serve alcoholic beverages in smart growth development projects; issuance, conditions; fees.

2. a. As used in this act:

“Smart growth development project” or “project” means a development project that:

- (1) Is located in a smart growth area as defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2); is expected to generate, directly or indirectly, at least \$50 million of private investments and more than \$25 million annually in new sales and use tax revenue; and consists of at least five acres of land under the control of a developer; or
- (2) Is expected to increase the value of all taxable property in a municipality by not less than 40% over the value of that property for the previous tax year as shown in column six of the abstract of ratables.

b. The Director of the Division of Alcoholic Beverage Control, upon approval of the municipality, may issue one or more special licenses to one or more individual corporations or other types of legal entities operating a premises where alcoholic beverages are intended to be served that is located in a smart growth development project. The license shall authorize the sale of alcoholic beverages for immediate consumption on the operator's premises. If the project is located within the boundaries of two or more municipalities, each municipality shall approve the issuance of the license or licenses. The director may issue not more than 566 such licenses.

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

d. Licenses shall be subject to all the provisions of Title 33 of the Revised Statutes, rules

and regulations promulgated by the director and municipal ordinances.

e. No license issued pursuant to this section shall be transferred to any premises other than a premises located within the same smart growth development project.

f. Application for the initial issuance and renewal of each license shall be made to the director on an annual basis. The fee for the initial issuance of the license shall be two and one half times the average sale price for the three most recent sales of plenary retail consumption licenses in the municipality where the license is being issued during the preceding five years. If the project is located within the boundaries of two or more municipalities, the highest average sale price of the two or more municipalities shall be used. If less than three plenary retail consumption licenses have been sold in the municipality or municipalities, as the case may be, within the previous five years, the municipality or municipalities, as the case may be, shall obtain an appraisal, at the applicant's expense, to determine the appropriate fee for the license. The appraisal process shall include an examination of previous transactions in the municipality or municipalities, as the case may be, and shall reflect what a willing buyer, under no pressure to buy, would pay a willing seller, under no pressure to sell, for a plenary retail consumption license in that municipality or municipalities, as the case may be. One half of the amount of the application fee for the initial issuance of the license shall be paid upon the issuance of the license and the other half of that amount shall be paid one year later. The director shall establish an annual fee for the license which shall not exceed the fee which may be imposed by a municipality for a plenary retail consumption license pursuant to R.S.33:1-12.

g. The fee for the initial issuance of the license shall be distributed in the following manner:

(1) Twenty-five percent shall be paid to the municipality wherein the smart growth development project is located and if the project is located within the boundaries of two or more municipalities, the fee shall be divided equally among those municipalities;

(2) Twenty-five percent shall be paid to the Director of the Division of Alcoholic Beverage Control;

(3) Fifty percent shall be divided equally among and paid to the plenary retail consumption licensees in the municipality or municipalities where the licensed premises will be located.

h. If the individual corporation or entity holding the license determines to sell a license issued pursuant to this section, the license shall be sold for the sum paid pursuant to paragraph (3) of subsection g. of this section.

i. The director shall not issue a special concessionaire permit for any location or premises which is eligible to obtain a license to serve alcoholic beverages under the provisions of this act.

j. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director shall adopt rules and regulations to effectuate the purposes of this act.

C.33:1-24.3 Acquisition, sale of inactive plenary retail consumption licenses.

3. a. Notwithstanding the provisions of section 1 of P.L.1977, c.246 (C.33:1-12.39), a municipality in which is located an urban enterprise zone as designated pursuant to P.L.1983, c.303 (C.52:27H-60 et al.) or any supplement thereto, and a Planning Area 1 (Metropolitan), as designated pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.), may acquire any existing plenary retail consumption licenses within the municipality that are inactive and retain any such licenses in an inactive status for a period of up to five years.

b. A municipality subject to the provisions of subsection a. of this section may issue at public sale one or more of any such inactive plenary retail consumption licenses in a manner consistent with the provisions of P.L.1975, c.275 (C.33:1-19.1 et seq.), to no more than one corporation or legal entity for each such plenary retail consumption license for use only at a licensed premises that shall be located in a development project within a smart growth area, as defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2), in the municipality. The use of any such plenary retail consumption license shall be in a manner consistent with the provisions of Title 33 of the Revised Statutes and any regulations promulgated thereunder by the director.

4. Section 1 of P.L.1975, c. 275 (C.33:1-19.1) is amended to read as follows:

C.33:1-19.1 Issuance of new, additional licenses, publication of notice.

1. Whenever a municipality is authorized to issue one or more new or additional plenary retail consumption, seasonal retail consumption or plenary retail distribution licenses or a plenary retail consumption license acquired pursuant to section 3 of P.L.2007, c.351 (C.33:1-24.3) and the governing body by resolution determines to permit the issuance thereof, the governing body shall cause to be published a notice of the proposed issuance of said license or licenses and that applications therefor will be accepted by the governing body or in municipalities having a municipal board of alcoholic beverage control or municipal excise commission, by the board or commission, as the case may be. The notice shall specify a time and date after which no further applications will be accepted. The notice shall be published in a newspaper circulating generally in the municipality by not less than two insertions, 1 week apart, the second of which shall be made not less than 30 days prior to the time and date specified in the notice as the time and date after which no further applications will be accepted.

5. This act shall take effect on the first day of the third month after the date of enactment; provided however, the Director of the Division of Alcoholic Beverage Control may take such anticipatory action in advance thereof as needed for the act's timely implementation.

Approved January 15, 2008.