

CHAPTER 356

An Act concerning limousine service and revising parts of the statutory law.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

Definitions.

33:1-1. For the purpose of this chapter, the following words and terms shall be deemed to have the meanings herein given to them:

- a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral spirits from whatever source or by whatever process produced.
- b. "Alcoholic beverage." Any fluid or solid capable of being converted into a fluid, suitable for human consumption, and having an alcohol content of more than one-half of one per centum (1/2 of 1%) by volume, including alcohol, beer, lager beer, ale, porter, naturally fermented wine, treated wine, blended wine, fortified wine, sparkling wine, distilled liquors, blended distilled liquors and any brewed, fermented or distilled liquors fit for use for beverage purposes or any mixture of the same, and fruit juices.
- c. "Building." A structure of which licensed premises are or may be a part, including all rooms, cellars, outbuildings, passageways, closets, vaults, yards, attics, and every part of the structure of which the licensed premises are a part, and of any other structure to which there is a common means of access, and any other appurtenances.
- d. "Commissioner." The Director of the Division of Alcoholic Beverage Control.
- e. "Container." Any glass, can, bottle, vessel or receptacle of any material whatsoever used for holding alcoholic beverages, which container is covered, corked or sealed in any manner whatsoever.
- f. "Eligible." The status of a person who is a citizen of the United States, a resident of this State, of good moral character and repute, and of legal age.
- g. "Governing board or body." The board or body which governs a municipality, including a board of aldermen in municipalities so governed; but in every municipality having a board of public works which exercises general licensing powers such board shall be considered as the governing board or body.

h. "Importing." The act of bringing or causing to be brought any alcoholic beverage into this State.

i. "Illicit beverage." Any alcoholic beverage manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported in violation of this chapter, or on which any federal tax or tax imposed by the laws of this State has not been paid; and any alcoholic beverage possessed, kept, stored, owned or imported with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse or transport in violation of the provisions of this chapter.

j. "Licensed building." Any building containing licensed premises.

k. "Licensed premises." Any premises for which a license under this chapter is in force and effect.

l. "Magistrate." The Superior Court or municipal court.

m. "Manufacturer." Any person who, directly or indirectly, personally or through any agency whatsoever, engages in the making or other processing whatsoever of alcoholic beverages.

n. "Municipality." Any city, town, township, village, or borough, including a municipality governed by a board of commissioners or improvement commission, but excluding a county.

o. "Municipal board." The municipal board of alcoholic beverage control as established by this chapter.

p. "Officer." Any sheriff, deputy sheriff, constable, police officer, member of the Division of State Police, or any other person having the power to execute a warrant for arrest, or any inspector or investigator of the Division of Alcoholic Beverage Control.

q. "Original container." Any container in which an alcoholic beverage has been delivered to a retail licensee.

r. "Person." Any natural person or association of natural persons, association, trust company, partnership, corporation, organization, or the manager, agent, servant, officer, or employee of any of them.

s. "Premises." The physical place at which a licensee is or may be licensed to conduct and carry on the manufacture, distribution or sale of alcoholic beverages, but not including vehicular transportation.

t. "Restaurant." An establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for

the preparing, cooking and serving of food for its customers and in which no other business, except such as is incidental to such establishment, is conducted.

u. "Retailer." Any person who sells alcoholic beverages to consumers.

v. "Rules and regulations." The rules and regulations established from time to time by the director.

w. "Sale." Every delivery of an alcoholic beverage otherwise than by purely gratuitous title, including deliveries from without this State and deliveries by any person without this State intended for shipment by carrier or otherwise into this State and brought within this State, or the solicitation or acceptance of an order for an alcoholic beverage, and including exchange, barter, traffic in, keeping and exposing for sale, serving with meals, delivering for value, peddling, possessing with intent to sell, and the gratuitous delivery or gift of any alcoholic beverage by any licensee.

x. "Unlawful alcoholic beverage activity." The manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of any alcoholic beverage in violation of this chapter, or the importing, owning, possessing, keeping or storing in this State of alcoholic beverages with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse or transport alcoholic beverages in violation of this chapter, or the owning, possessing, keeping or storing in this State of any implement or paraphernalia for the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages in violation of this chapter, or to aid or abet another in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages in violation of this chapter, or the aiding or abetting of another in any of the foregoing activities.

y. "Unlawful property." All illicit beverages and all implements, vehicles, vessels, airplanes, and paraphernalia for the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages used in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages or owned, possessed, kept or stored with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages, whether such use be by the person owning, possessing, keeping, or storing the same, or by another with the consent of such person; and all alcoholic beverages, fixtures and personal property located in or upon any premises, building, yard or inclosure connected with a building, in which an illicit beverage is found, possessed, stored or kept.

z. "Wholesaler." Any person who sells an alcoholic beverage for the purpose of resale either to a licensed wholesaler or to a licensed retailer, or both.

aa. "Limousine." A motor vehicle used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided, that such a motor vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture. This shall not include taxicabs, hotel or airport shuttles and buses, or buses employed solely in transporting schoolchildren or teachers to and from school, or vehicles owned and operated without charge or remuneration by a business entity for its own purposes.

bb. "Entertainment facility" is a privately-owned facility in which athletic, commercial, cultural, or artistic events are featured.

Any definition herein contained shall apply to the same word in any form. Thus "sell" means to make a "sale" as above defined.

2. Section 1 of P.L.1966, c.113 (C.34:11-56a1) is amended to read as follows:

C.34:11-56a1 Definitions.

1. As used in this act:

(a) "Commissioner" means the Commissioner of Labor.

(b) "Director" means the director in charge of the bureau referred to in section 3 of this act.

(c) "Wage board" means a board created as provided in section 10 of this act.

(d) "Wages" means any moneys due an employee from an employer for services rendered or made available by the employee to the employer as a result of their employment relationship including commissions, bonus and piecework compensation and including any gratuities received by an employee for services rendered for an employer or a customer of an employer and the fair value of any food or lodgings supplied by an employer to an employee. The commissioner may, by regulation, establish the average value of gratuities received by an employee in any occupation and the fair value of food and lodging provided to employees in any occupation which average values shall be acceptable for the purposes of determining compliance with this act in the absence of evidence of the actual value of such items.

(e) "Regular hourly wage" means the amount that an employee is regularly paid for each hour of work as determined by dividing the total hours of work during the week into the employee's total earnings for the week, exclusive of overtime premium pay.

(f) "Employ" includes to suffer or to permit to work.

(g) "Employer" includes any individual, partnership, association, corporation or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

(h) "Employee" includes any individual employed by an employer.

(i) "Occupation" means any occupation, service, trade, business, industry or branch or group of industries or employment or class of employment in which employees are gainfully employed.

(j) "Minimum fair wage order" means a wage order promulgated pursuant to this act.

(k) "Fair wage" means a wage fairly and reasonably commensurate with the value of the service or class of service rendered and sufficient to meet the minimum cost of living necessary for health.

(l) "Oppressive and unreasonable wage" means a wage which is both less than the fair and reasonable value of the service rendered and less than sufficient to meet the minimum cost of living necessary for health.

(m) "Limousine" means a motor vehicle used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided, that such a motor vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture. "Limousine" shall not include taxicabs, hotel or airport shuttles and buses, or buses employed solely in transporting school children or teachers to and from school, or vehicles owned and operated without charge or remuneration by a business entity for its own purposes.

3. R.S.48:16-13 is amended to read as follows:

Definitions.

48:16-13. Except as provided in section 2 of P.L.1997, c.356 (C.48:16-13.1), as used in this article:

"Autocab" means a limousine.

"Limousine" means and includes any automobile or motor car used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided, that such a vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture. Nothing in this article contained shall be construed to include taxicabs, hotel buses or buses employed solely in transporting school children or teachers or autobuses which are subject to the jurisdiction of the Department of Transportation, or interstate autobuses required by federal or State law or regulations of the Department of Transportation to carry insurance against loss from liability imposed by law on account of bodily injury or death.

"Limousine or livery service" means and includes the business of carrying passengers for hire by limousines.

"Person" means and includes any individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever.

"Street" means and includes any street, avenue, park, parkway, highway, or other public place.

4. Section 2 of P.L.1997, c.356 (C.48:16-13.1) is amended to read as follows:

C.48:16-13.1 Limousine defined; county, certain.

2. In a county of the first class with a population density of over 10,000 persons per square mile, according to the latest federal decennial census, "limousine" means and includes any automobile or motor car which is issued special registration plates bearing the word "limousine" pursuant to section 12 of P.L.1979, c.224 (C.39:3-19.5) and is engaged in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided, that such a motor vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture.

5. R.S.48:16-14 is amended to read as follows:

Insurance policy on limousine.

48:16-14. No limousine shall be operated wholly or partly along any street in any municipality until the owner of the limousine shall have filed with the clerk of the

municipality in which the owner has his principal place of business, an insurance policy of a company duly licensed to transact business under the insurance laws of this State in the sum of \$1,500,000 against loss by reason of the liability imposed by law upon every limousine owner for damages on account of bodily injury or death suffered by any person as the result of an accident occurring by reason of the ownership, maintenance or use of the limousine upon any public street.

Such operation shall be permitted only so long as the insurance policy shall remain in force to the full and collectible amount of \$1,500,000.

The insurance policy shall provide for the payment of any final judgment recovered by any person on account of the ownership, maintenance and use of such limousine or any fault in respect thereto, and shall be for the benefit of every person suffering loss, damage or injury as aforesaid.

6. R.S.48:16-16 is amended to read as follows:

Power of attorney executed by owner of limousine.

48:16-16. The owner of the limousine shall execute and deliver to the Division of Motor Vehicles, concurrently with the filing of a policy referred to in R.S.48:16-14, a power of attorney, wherein and whereby the owner shall appoint the Director of the Division of Motor Vehicles his true and lawful attorney for the purpose of acknowledging service of any process out of a court of competent jurisdiction to be served against the insured by virtue of the indemnity granted under the insurance policy filed.

7. R.S.48:16-17 is amended to read as follows:

Issuance of license to operate limousine; fee.

48:16-17. The clerk of the municipality, in which the owner has his principal place of business, upon the filing of the required insurance policy and the payment of a fee which shall not exceed \$50, shall issue in duplicate a license to operate showing that the owner of the limousine has complied with the terms and provisions of this article.

The license shall recite the name of the insurance company, the number and date of expiration of the policy, a description of every limousine insured thereunder, and the registration number of the same.

The duplicate license shall be filed with the Division of Motor Vehicles before any such car is registered as a limousine.

The original license shall be retained within the limousine and shall be available for inspection by any police officer in the State. In lieu of the recital of insurance information required on the license pursuant to this section, the owner of a limousine may affix to the original license retained within the limousine a notarized letter from an insurance

company containing the same insurance information required in the recital, which shall constitute proof of insurance coverage, and which shall also be available for inspection by any police officer in the State. A copy of the notarized letter shall constitute proof to the Director of the Division of Motor Vehicles, that the applicant has complied with the insurance provisions of this section.

8. R.S.48:16-18 is amended to read as follows:

Insurance policy filed where owner has principal place of business.

48:16-18. Where a limousine service operates in more than one municipality, the insurance policy required by R.S.48:16-14 shall be filed with the clerk of the municipality in which the owner has his principal place of business.

9. R.S.48:16-21 is amended to read as follows:

Compliance with other laws.

48:16-21. Nothing in this article contained shall exempt any person owning or operating any limousine service from complying with the law relating to the ownership, registration and operation of automobiles in this State.

10. R.S.48:16-22 is amended to read as follows:

License required to operate limousine.

48:16-22. No person shall operate a limousine service in any street in this State without a license to operate issued by a municipality in which the owner has his principal place of business and without otherwise complying with the provisions of this article.

C.48:16-22.1 Requirements for operation of limousine.

11. No limousine shall be operated on the highways of this State unless it has a license issued pursuant to R.S.48:16-17 and the limousine is equipped, in accordance with minimum standards established by the Director of the Division of Motor Vehicles in the Department of Transportation, with:

- a. a two-way communications system, which, at a minimum, shall provide for communication to a person outside the vehicle for a distance of not less than 100 miles and which requirement may be satisfied by a mobile telephone;
- b. a removable first-aid kit and an operable fire extinguisher, which shall be placed in an accessible place within the vehicle;
- c. sideboards attached to the permanent body construction of the vehicle if the height of the vehicle floor is 10 inches or more above ground level.

C.48:16-22.2 General examination of condition of limousine.

12. a. Prior to any operation of a limousine on the highways of this State for the purpose of picking up passengers, the driver of the limousine shall conduct a general examination of the condition of the vehicle to ascertain its fitness to operate, which shall include, at a minimum, an examination of the tires, windshield wipers, horn, condition of the front and rear windshield and side windows, front and rear lights, fluid levels and brakes, as well as the condition of the two-way communications system. The completion of a check list by the driver containing, at a minimum, the items enumerated in this subsection and the date and time of the examination, and supplied by the owner of the limousine service, shall constitute proof of compliance with this subsection. Nothing in this subsection shall be construed as requiring more than the general examination to be conducted prior to the commencement of operation in any one day.

b. In a calendar year in which a limousine is not required to undergo an inspection as required pursuant to R.S.39:8-1, the owner of the limousine service shall cause to be conducted, by a person qualified to do so, an examination of the mechanical and operating condition of the limousine, including at a minimum, the condition of the brakes, the exhaust system, condition of the tires, functioning of front and rear lights, and operation of fan belts and other belts in the engine of the vehicle. The person conducting the examination shall issue a report thereof to the owner who shall retain the report of the examination until the time of the next inspection required pursuant to R.S.39:8-1. The report shall be subject to inspection by the Division of Motor Vehicles.

C.48:16-22.3 Limousine service owner, one license, etc. required.

13. Neither the State nor any political subdivision of the State shall enact, adopt or enforce any ordinance, resolution, rule, regulation, order, standard or other provision having the force and effect of law that would require a person lawfully engaged in limousine service on an intra-State basis between or among political subdivisions within the State to obtain a license, permit, certificate or other form of authority from any political subdivision of the State other than that political subdivision in which the owner of the limousine service maintains his principal place of business.

C.48:16-22.4 Proof of insurance for out-of-State limousine.

14. Notwithstanding the provisions of this act to the contrary, no limousine registered in another state or the District of Columbia shall conduct wholly intra-State operations on the highways of this State unless the owner of the limousine has proof of insurance in the amount of \$1,500,000 as provided in R.S.48:16-14 for limousines registered in this State, and is licensed pursuant to R.S.48:16-17 in a municipality in which it has a business address.

C.48:16-22.5 Construction of act in regard to taxis, limousine fares.

15. Nothing in this act shall be construed in any way as altering the authority of municipalities to regulate taxis, nor as giving the State or any political subdivision thereof the authority to set or regulate limousine fares or tariffs.

C.48:16-22.6 Construction of act in regard to filing complaint for consumer fraud.

16. Nothing in this act shall be construed as preventing the filing of a complaint concerning limousine service with the Division of Consumer Affairs in the Department of Law and Public Safety with regard to a violation of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.).

C.48:16-22.7 State Limousine Advisory Committee.

17. There is created in the Department of Transportation a State Limousine Advisory Committee consisting of six members appointed by the Commissioner of Transportation, three upon recommendation of the New Jersey Limousine Association and three upon recommendation of the South Jersey Limousine Association; the Director of the Division of Motor Vehicles or the director's designee who shall serve ex officio, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the director's designee who shall serve ex officio; and such additional public members or representatives of limousine services as the Director of the Division of Motor Vehicles or the director of the Division of Consumer Affairs may designate. The membership of the committee shall include at least one owner of a limousine service having 15 or more vehicles, at least one owner of a limousine service having no less than seven nor more than 14 vehicles, and at least one owner of a limousine service having six or fewer vehicles. The non-ex officio members shall serve at the pleasure of the appointing authority. The Director of the Division of Motor Vehicles shall serve as the chairman of the committee. The duty of the committee shall be to advise the Department of Transportation regarding policies, regulations and standards as may be necessary or desirable to promote the public safety and convenience in respect to limousine service. The committee shall meet at least twice during each year and all meetings shall be open to members of the public.

C.39:5G-1 Penalties for violations of limousine laws; enforcement.

18. A person who shall own and operate a limousine in any street in this State in violation of the provisions of article 2 of chapter 16 of Title 48 of the Revised Statutes or of Title 39 of the Revised Statutes shall be subject to the following penalties:

a. (1) For operating a limousine without a license issued by a municipality pursuant to R.S.48:16-17, operating a limousine without authority to operate a limousine in interstate service granted by the Federal Highway Administration, or the Interstate Commerce Commission, as provided in section 14 of P.L.1999, c.356 (C.48:16-22.4), knowingly permitting a driver to operate a limousine without a validly issued driver's license or a validly issued commercial driver license if required pursuant to N.J.A.C. 13:21-23.1, failure to have filed an insurance policy in the amount of \$1,500,000 which is currently in

force as provided in R.S.48:16-14 or required pursuant to section 14 of P.L.1999, c.356 (C.48:16-22.4), operating a limousine in which the number of passengers exceeds the maximum seating capacity as provided in R.S.48:16-13 or section 2 of P.L.1997, c.356 (C.48:16-13.1): a fine of \$2,500 for the first offense and a fine of \$5000 for the second or subsequent offense;

(2) For operating a limousine without the special registration plates required pursuant to section 12 of P.L.1979, c.224 (C.39:3-19.5), or operating a limousine without the limousine being properly inspected as provided in R.S.39:8-1: a fine of \$1,250 for the first offense and a fine of \$2,500 for the second or subsequent offense;

(3) For operating a limousine without the attached sideboards required by section 11 of P.L.1999, c.356 (C.48:16-22.1), failure to retain within the limousine appropriate proof of insurance or failure to execute and deliver to the Director of the Division of Motor Vehicles the power of attorney required pursuant to R.S. 48:16-16: a fine of \$250 for the first offense and \$500 for the second and subsequent offense;

(4) For failure to be equipped with a two-way communications system, a removable first-aid kit or an operable fire extinguisher as required by section 11 of P.L.1999, c.356 (C.48:16-22.1), or any other violation of the provisions of article 2 of chapter 16 of Title 48 of the Revised Statutes other than those enumerated in this subsection: a fine of \$50 for the first offense and \$100 for the second and subsequent offense.

b. Violations of this section shall be enforced and penalties collected in a summary proceeding pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or any municipal court where the violation was detected, or where the defendant was apprehended, shall have jurisdiction to enforce this section. Penalties imposed pursuant to this section shall be in addition to those otherwise imposed according to law. All penalties collected pursuant to the provisions of this section shall be forwarded as provided in R.S.39:5-40 and subsection b. of R.S.39:5-41.

19. Section 12 of P.L.1979, c.224 (C.39:3-19.5) is amended to read as follows:

C.39:3-19.5 Special registration plates for limousines.

12. a. Upon the application of any person who owns a limousine service, the Director of the Division of Motor Vehicles shall issue special registration plates bearing the word "limousine" in addition to the registration number and other markings or identification otherwise prescribed by law.

b. The special registration plates authorized by this act shall be issued upon proof, satisfactory to the director, that the applicant has complied with the provisions of article 2 of chapter 16 of Title 48 of the Revised Statutes.

c. The fee for such special registration plates shall be \$10.00 in addition to the fees otherwise prescribed by law for the registration of such motor vehicles.

20. Section 1 of P.L.1983, c.307 (C.39:4-51a) is amended to read as follows:

C.39:4-51a No consumption of alcoholic beverages in motor vehicles; presumption; penalties.

1. a. A person shall not consume an alcoholic beverage while operating a motor vehicle. A passenger in a motor vehicle shall not consume an alcoholic beverage while the motor vehicle is being operated. This subsection shall not apply to a passenger of a charter or special bus operated as defined under R.S.48:4-1 or a limousine service.

b. A person shall be presumed to have consumed an alcoholic beverage in violation of this section if an unsealed container of an alcoholic beverage is located in the passenger compartment of the motor vehicle, the contents of the alcoholic beverage have been partially consumed and the physical appearance or conduct of the operator of the motor vehicle or a passenger may be associated with the consumption of an alcoholic beverage. For the purposes of this section, the term "unsealed" shall mean a container with its original seal broken or a container such as a glass or cup.

c. For the first offense, a person convicted of violating this section shall be fined \$200.00 and shall be informed by the court of the penalties for a second or subsequent violation of this section. For a second or subsequent offense, a person convicted of violating this section shall be fined \$250.00 or shall be ordered by the court to perform community service for a period of 10 days in such form and on such terms as the court shall deem appropriate under the circumstances.

Repealer.

21. R.S.48:16-19 through R.S.48:16-20 are repealed.

22. This act shall take effect on the 90th day following enactment, except that section 19 shall take effect on March 1st next following 180 days after enactment, but the Commissioner of Transportation may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 14, 2000.