



MICROBREWING, THE *NEW* JERSEY
INDUSTRY:
WILL MICROBREWING PROVIDE ECONOMIC
GROWTH FOR NEW JERSEY?

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I. INTRODUCTION

The state of New Jersey, and the United States in general, are experiencing a microbrewing boom. Microbrewing¹ is the fastest growing segment of the \$223.8 billion American beer brewing industry.² In 2011, 1,970 microbreweries were operating in the United States.³ By June of 2013, 2,483 microbreweries were operating in the United States.⁴ That is a growth of twenty-six percent in two years.⁵ World industry leader and Heineken CEO Jean-François Van Boxmeer says the company's flagship brand, Heineken, "cannot directly compete with a craft beer sector that has hogged U.S. beer growth over the past decade."⁶

The potential for business growth and individual economic prosperity in this rapidly growing field is evident. New Jersey lawmakers recognize this. There is continued development of the regulations in New Jersey concerned with microbrewing that is

¹ See generally Richard Newman, *Modified N.J. Rules Aid Craft Brewers*, NORTHJERSEY.COM (Mar. 15, 2015, 11:17AM), <http://www.northjersey.com/news/business/modified-n-j-rules-aid-craft-brewers-1.1289302> (stating that a craft brewery or microbrewery in New Jersey is a brewery with an annual production capped at 300,000 barrels, which is approximately 9.3 million gallons).

² Peter Van Allen, *State of the Craft*, PHILA. BUS. J. (July 2, 2013, 9:38 AM), <http://www.bizjournals.com/philadelphia/print-edition/2013/05/31/state-of-the-craft.html?page=all>.

³ Dan Eldridge, *From Dream to Drink: How to Start a Craft Brewery in Pennsylvania*, KEYSTONE EDGE (Jan. 16, 2014), <http://www.keystoneedge.com/features/howtobrewerypa011614.aspx>.

⁴ *Id.*

⁵ *Id.*

⁶ Ben Bouckley, 'Heineken Cannot Compete with US Craft Beer Phenomenon': CEO, BEVERAGEDAILY.COM (Aug. 21, 2013, 12:20 PM), <http://www.beveragedaily.com/Manufacturers/Heineken-cannot-compete-with-US-craft-beer-phenomenon-CEO>. See generally *Heineken World Wide*, HEINEKEN, <http://www.heineken.com/global/faq/faq-category.aspx?category=HeinekenWorldwide> (last visited Mar. 6, 2016). The frequently asked questions section of the Heineken website indicates that Heineken has 125 breweries in more than seventy countries and has the largest presence of all international beers. *Id.* In addition, the site indicates that the company is the largest brewer and cider producer in Europe. *Id.*

making it easier for entrepreneurs and perceptive, experienced businesspersons to cash in on this modern day gold rush. It remains uncertain what benefit these opportunities will afford the state's economy as a whole, however.

While the laws governing microbreweries continue to become more relaxed, the laws governing other forms of liquor licenses remain the same. Directed by legislation that sought to stop organized crime from taking over the liquor industry in New Jersey in the 1940s,⁷ these antiquated liquor license laws impede business growth and development in the state. One particular industry adversely affected by the liquor license scheme, the restaurant industry, employs hundreds of thousands of people in New Jersey.⁸ As will be shown, a change in the liquor license distribution scheme in New Jersey would undoubtedly benefit a large percentage of these businesses and their workers. In addition, the number of businesses and jobs created by such a change could have a tremendous effect on the state's economy. The appropriate legislation could go a long way in this regard. Unfortunately, each time a change in this area is proposed, it is met with fierce resistance. If a genuine economic benefit is to be found in this sector for the citizens of New Jersey, this resistance must be overcome, not ignored or sidestepped. In addition, the legislation will need to be substantial, not piecemeal.

This note argues that the steps taken to enable a microbrewing boom are misguided, as any growth in the state microbrewing industry will likely have a trivial effect on New Jersey's economy. Instead, legislators should focus their efforts on a general overhaul of the entire liquor license structure if they wish to promote genuine economic growth within the state. This argument will be set forth in three sections. The first section of this note will present background law on microbrewing from the state of New Jersey as well as the neighboring states of Delaware and Pennsylvania for comparison. The second section of this note will set forth the realized and potential economic benefits of a

⁷ Linda Moss, *New Push on Liquor Licenses in New Jersey*, NORTHJERSEY.COM (Aug. 26, 2014, 11:21 AM), <http://www.northjersey.com/news/business/new-push-on-liquor-licenses-1.1072832?page=all>, see also Verdon, *infra* note 122.

⁸ See Marilou Halvorsen, *Welcome to NJRA*, NJ RESTAURANT & HOSPITALITY ASS'N, <http://njra.org/about/> (last visited Mar. 6, 2016).

growing microbrewing industry and will contrast those benefits with the potential economic benefits of a general liquor license overhaul. Finally, the note will conclude by proposing a general overhaul to liquor license law, which would likely better serve the state economy and New Jersey as a whole.

II. THE LAW IN NEW JERSEY AND THE TRI-STATE REGION

New Jersey is not the only state showing favor to the microbrewing industry. As was mentioned earlier, the industry is growing at a rapid rate across the country. Different states have chosen to deal with the phenomenon in different ways. While the statutes may vary, locally they share a commonality. This commonality is in the form of a relaxation of restrictions. The microbrewing laws of New Jersey's tri-state⁹ neighbors appear to have been a logical cue for New Jersey lawmakers to relax the state's own microbrewing laws. Pennsylvania and Delaware have both taken a liberal approach to the laws governing microbrewing. Both states have also seen success in this industry, though for different reasons.

A. NEW JERSEY: THE NEWCOMER

Microbrewing licenses in New Jersey fall under the gamut of regulations concerning liquor licenses. Specifically, N.J.S.A. § 33:1-10 sets forth the license requirements to produce, sell, and distribute alcoholic beverages originating in the state of New Jersey.¹⁰ Recently, this legislation has undergone several changes. For example, on September 19, 2012, Assembly Bill 1277 was introduced to amend N.J.S.A. § 33:1-10.¹¹ Once enacted, the new law made significant changes to the New Jersey law concerned with limited breweries, commonly known as craft breweries or microbreweries, and restricted breweries,

⁹ The tri-state referred to here includes New Jersey, Delaware, and Pennsylvania.

¹⁰ See N.J. STAT. ANN. § 33:1-10 (West, Westlaw through 2015).

¹¹ See Assemb. B. 1277, 215th Leg., 1st Ann. Sess. (N.J. 2012).

commonly known as brewpubs.¹² The law increased the amount of malt alcoholic beverages that a brewpub may produce from 3,000 barrels annually to 10,000 barrels annually.¹³ Additionally, the new law significantly decreased the cost of a license to operate a brewpub.¹⁴

Prior to the change in law, the annual fee for a restricted brewer's license was \$1,250 to brew 1,000 barrels and an additional \$625 for every additional 1,000 barrels brewed.¹⁵ The new law decreased the cost to \$250 for every additional 1,000 barrels brewed.¹⁶ To put this change in perspective, for a brewpub that produces 9,000 barrels annually, this translates to a license cost reduction of \$3,000 annually. The new law also enabled holders of restricted brewery licenses to distribute and sell their products to licensed wholesalers for distribution and sale to licensed retailers, thus greatly expanding their potential market.¹⁷ The law also increased the amount of restricted brewery licenses that an entity could obtain from two to ten.¹⁸ With regard to microbreweries, the new law permitted holders of permits for microbreweries to sell and distribute their products to consumers for consumption off of the licensed premises, or for consumption on the premises in connection with a tour of the brewery.¹⁹ Practically speaking, this means the new law allows the breweries to serve and sell their patrons the beverages they brew by the glass, over the counter, just as they are served at a

¹² Act of Sept. 19, 2012, Ch. 47, 2012 N.J. Sess. Law Serv. 606-07 (West) (codified as amended at N.J. STAT. ANN. § 33:1-10 (West, Westlaw through 2015)).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Act of Sept. 19, 2012, Ch. 47, 2012 N.J. Sess. Law Serv. 606-07 (West) (codified as amended at N.J. STAT. ANN. § 33:1-10 (West, Westlaw through 2015)).

¹⁹ *Id.* See generally *Tour Information*, FLYING FISH BREWING CO., <https://www.flyingfish.com/brewery/tours/> (last visited Mar. 6, 2016). At the Flying Fish Brewery, the required tour is given in person or via video tour, which plays on repeat in the sampling area. *Id.*

tavern.²⁰ The new law also increased the amount that breweries can sell for consumption off the premises to 15.5 fluid gallons.²¹ Prior to the enactment of Assembly Bill 1277, microbreweries in New Jersey were only able to sell two growlers²² to each customer.²³ The new law makes microbreweries much more attractive to patrons and seems to have the purpose of making it much easier for an upstart in the microbrewing industry.

B. PENNSYLVANIA: THE BREWING BEHEMOTH

When it comes to microbrewing, Pennsylvania is a behemoth. The Keystone State is home to at least 107 microbreweries, making it the sixth most microbrewery-populated state.²⁴ It

²⁰ Cf. Michelle Minton, *Loosened Laws in New Jersey Result in Brewery Boom*, COMPETITIVE ENTERPRISE INST. (Oct. 18, 2013), <https://cei.org/blog/loosened-laws-new-jersey-result-brewery-boom>. Prior to this legislation, a microbrewery which produced less than six million barrels annually could only give away samples of their beverage. *Id.*

²¹ Act of Sept. 19, 2012, Ch. 47, 2012 N.J. Sess. Law Serv. 606-07 (West). The law prohibits limited breweries from selling food or operating a restaurant on the licensed premises. *Id.* However, a proposal currently exists which seeks to enable certain limited microbreweries to operate a restaurant on their premises. This proposal will be considered later in this note. *See infra*, note 63.

²² Jessica Beym, *N.J. Bill to Boost Microbreweries Signed into Law by Governor Chris Christie*, NJ.COM (Sept. 21, 2012, 1:42 PM), http://www.nj.com/gloucester-county/index.ssf/2012/09/nj_bill_to_boost_microbrewerie.html. A growler is the approximate equivalent of one six-pack of beer, or approximately seventy-two fluid ounces. *Id.*

²³ *Id.*

²⁴ Eldridge, *supra* note 3 (stating that the only states ahead of Pennsylvania in the microbrewery count are California with an impressive 325 breweries, Washington with 161 breweries, Colorado with 154 breweries, Oregon with 143 breweries, and Michigan with 122 breweries). *But see* Newman, *supra* note 1 (claiming Pennsylvania ranks twenty-fifth out of the fifty states and Washington D.C.). *See generally* Michael Milberger, *American Snapshot: Yuengling, America's Oldest Brewery*, ABC NEWS (Oct. 24, 2009), <http://abcnews.go.com/GMA/Weekend/yuengling-brewery-180-years-beer-americas-oldest/story?id=8650554> (setting forth another reason Pennsylvania has to boost when it comes to brewing). Situated in Pottsville, Pennsylvania, Yuengling Brewery is recognized as the oldest brewery in America. *Id.* The brewery was established in 1829 by a German immigrant named David G. Yuengling and has operated continuously ever since. *Id.* See also FAQs, YUENGLING, <http://www.yuengling.com/faq/> (last visited Mar. 6, 2015) (indicating that the

appears that the laws, which govern those breweries, may have played a part in inspiring the recent law changes in New Jersey. A holder of a brewery license in Pennsylvania may sell malt and brewed beverages to patrons for consumption on the license premises.²⁵ He or she may also distribute the malt or brewed beverages to a hotel, restaurant, club, or public service liquor licensee.²⁶ Somewhat differently, the same general brewing license permits the holder to operate a restaurant or brewpub.²⁷ There is no separate license requirement to establish a restricted brewery.²⁸ In addition, if a holder of this license operates a brewpub, they may sell wines purchased from either the holder of

brewery continued in operation during Prohibition by producing near-beer which was .5 percent alcohol).

²⁵ 47 PA. STAT. AND CONS. STAT. ANN. § 4-446(a)(1) (West, Westlaw through 2015).

²⁶ *Id.*

²⁷ *Id.* § 4-446(a)(2).

²⁸ *Id.* See also Act of Sept. 19, 2012, Ch. 47, 2012 N.J. Sess. Law Serv. 606-07 (West) (codified as amended at N.J. STAT. ANN. § 33:1-10 (West, Westlaw through 2015)).

a Pennsylvania limited winery license²⁹ or from the board,³⁰ provided that those wines are consumed on the brewpub premises.³¹ No such sale of alcohol produced off-premises is permitted in New Jersey.³² The Pennsylvania law also allows for the sale of alcoholic beverages that are not produced in the state and do not fall under the category of microbrewed, under certain circumstances, stating that holders may also, “apply for and hold a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license to sell for consumption . . . liquor, wine and malt or brewed beverages regardless of the place of manufacture, . . . but must brew at least two hundred fifty barrels per year.”³³

The fee structure associated with the license is also different in Pennsylvania. The initial application fee is \$700.³⁴ The fee for

²⁹ The provisions governing a limited winery license, in relevant part, are as follows:

[H]olders of a limited winery license may: (1) Produce alcoholic ciders, wines and wine coolers . . . from an agricultural commodity grown in Pennsylvania. (2) Sell alcoholic cider, wine and wine coolers produced by the limited winery or purchased in bulk in bond from another Pennsylvania limited winery on the licensed premises . . . to individuals and to brewery, hotel, restaurant, club and public service liquor licensees, and to Pennsylvania winery licensees (3) Separately or in conjunction with other limited wineries, sell alcoholic cider, wine and wine coolers produced by the limited winery on no more than five (5) board-approved locations other than the licensed premises . . . to individuals and to brewery, hotel, restaurant, club and public service liquor licensees

Id. §5-505.2(a).

³⁰ *See Id.* §1-102 (stating that “the board” refers to the Pennsylvania Liquor Control Board); *see also* § 4-446(a)(2) (stating that “the board” refers to the Pennsylvania Liquor Control Board).

³¹ 47 PA. STAT. AND CONS. STAT. ANN. § 4-446(a)(2).

³² *See* N.J. STAT. ANN. § 33:1-10 (West, Westlaw through 2015).

³³ 47 PA. STAT. AND CONS. STAT. ANN. § 4-446(a)(4).

³⁴ 71 PA. STAT. AND CONS. STAT. ANN. § 240.14A(10)(i) (West, Westlaw through 2015).

the licenses itself is \$1,425.³⁵ Additionally, there is a renewal fee of \$30 per year.³⁶ Overall, this translates to a license that is significantly more affordable than that in New Jersey for breweries producing substantial quantities of beer or cider. The license may be transferred from person to person for a fee of \$650, or from place to place for a fee of \$550.³⁷ Lastly, a double transfer costs \$700.³⁸

C. DELAWARE: THE FIRST STATE AND THE BEST BREWERY

Another useful comparison comes from the state of Delaware, home of the microbrewing industry leader, Dogfish Head.³⁹ As in New Jersey, the relevant law in Delaware is tailored to microbreweries rather than breweries in general.⁴⁰ Title 4, §512C of the Delaware Annotated Code states, in relevant part, that,

- (a) . . . the Commissioner may grant a license to any person who is the owner or lessee of a microbrewery to manufacture and sell beer, mead and cider . . . (c) . . . a microbrewery license shall allow the licensee:
 - (1) To manufacture and sell on the licensed premises beer, mead or cider or a combination

³⁵ *Id.* § 240.14A(10)(iii). There is no increase in cost for this license based on output. *Id.* § 240.14A(10).

³⁶ *Id.* § 240.14A(10)(ii).

³⁷ *Id.* § 240.14A(10)(iv)(A)-(B).

³⁸ *Id.* § 240.14A(10)(iv)(C). See generally *Licensing FAQs*, PENNSYLVANIA LIQUOR CONTROL BOARD, <http://www.lcb.state.pa.us/PLCB/Licensees/FAQs/index.htm> (last visited Mar. 6, 2016) (stating that a double transfer is one which is both person to person and place to place).

³⁹ See generally Marcy Franklin, *Top 15 Craft Beer Breweries in the USA*, USA TODAY, (Aug. 26, 2013, 2:59 PM), <http://www.usatoday.com/story/travel/destinations/2013/08/10/top-15-craft-beer-breweries-in-usa/2637493/> (recognizing Delaware as the home of one of the most popular craft brew brands in the country, Dogfish Head). The brewery was founded in 1995 and is credited with establishing the First State's first brewpub. *Id.* The company has grown from the smallest commercial brewery in America to a present day industry leader. *Id.* The company has a 100,000-square-foot production facility and sells their brews to more than twenty-five states throughout the country. *Id.*

⁴⁰ DEL. CODE ANN. tit. 4, §512C (West, Westlaw through 2015).

thereof, but the licensee shall not manufacture or sell more than the maximum amount permitted by federal regulations to qualify for a “reduced rate of tax for certain brewers” as currently found in the 27 C.F.R., Part 25, § 25.152(a)(2) or as hereafter amended; (2) To manufacture on the licensed premises beer, mead or cider for persons, other than the licensee, licensed under this title or for persons outside this State; (3) To sell beer, mead and cider manufactured on the licensed premises in labeled barrels, bottles or other closed containers to importers licensed under this title for delivery by them to persons inside or outside the State; (4) To sell at the licensed premises beer, mead and cider manufactured on the licensed premises for consumption on or off the licensed premises. The amount of beer, mead and cider sold for off-premises consumption shall be limited to a maximum of 5 cases per day to each retail customer; and (5) The provisions of § 506 of this title to the contrary notwithstanding, to be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a farm winery, brewery-pub, and/or craft distillery licensed under this chapter and actually located in this State, provided that the total domestic sales of all affiliated suppliers or manufacturers shall not exceed the maximum amount currently specified in 27 CFR Part 25, § 25.152(a)(2) or as hereafter amended.⁴¹

The fees structure associated with the license in Delaware is somewhat similar to that of New Jersey. Like New Jersey’s microbrewery license fees, the Delaware fees are based upon annual production.⁴² The cost is \$1,500 for a brewery that

⁴¹ *Id.* §512C.

⁴² *Id.* §554.

produces no more than 25,000 barrels of beer or cider a year.⁴³ The cost is \$3,000 for a brewery that produces more than 25,000 barrels but not more than 50,000 barrels of beer or cider a year.⁴⁴ The cost is \$6,000 for a brewery that produces more than 50,000 barrels but not more than 100,000 barrels of beer or cider a year.⁴⁵ The cost is \$9,000 for a brewery that produces more than 100,000 barrels of beer or cider per year.⁴⁶ This license is also significantly less than that in New Jersey for a brewery that produces substantial quantities of beer or cider. Delaware also has an additional statute that governs licenses for brewpubs.⁴⁷

III. MICROBREWING VERSUS A LIQUOR LICENSES OVERHAUL: COMPARING THE ECONOMIC BENEFITS

It seems as though, generally, legislation governing the licenses for microbreweries and brewpubs in New Jersey and throughout the region is financially friendly to microbrewers. Yet, friendliness to businesspersons and dream chasers was not the only stated objective of New Jersey lawmakers when they amended N.J.S.A. § 33:1-10 with Assembly Bill 1277. The bill's sponsor, then-Senator Donald Norcross⁴⁸ stated, "With this law,

⁴³ *Id.* §554(j).

⁴⁴ *Id.* §554(j).

⁴⁵ *Id.* §554(j).

⁴⁶ DEL. CODE ANN. tit. 4, §554(j).

⁴⁷ *See Id.* § 512B (establishing the license for a brewery-pub) stating, in relevant part, that,

[T]he Commissioner may grant a brewery-pub license to each qualified applicant therefor. No person shall own or operate a brewery-pub unless licensed to do so by the Commissioner. For purposes of this section, a "brewery-pub" shall be an establishment in which beer is manufactured on the premises of the licensed establishment, limited to restaurants owned or leased by the brewery-pub applicant.

Id. at §512B(a).

⁴⁸ *See generally* Michelle Caffrey, *Donald Norcross on 1st Congressional District Victory: 'We Have to Get America Back to Work'*, NJ.COM,

we will create a more friendly business environment for New Jersey's craft brewing industry, giving it the opportunity to expand and thrive. *Growing the industry will create new local jobs, increase tourism and help contribute to an overall healthier state economy.*"⁴⁹

A. THE CASE FOR MICROBREWERIES AND BREWPUBS

True to part of its aim, the law appears to be facilitating the creation of new businesses in the microbrewing industry in New Jersey. In May of 2013, there were a total of twenty-five microbreweries and brewpubs combined in the state.⁵⁰ As of February of 2016, there were a total of thirty-eight microbreweries and brewpubs combined in operation within the state.⁵¹ That is an increase of fifty-two percent in a little more than a year. An additional thirty-two breweries and/or brewpubs are soon to open or are in various stages of preparing to open.⁵² These numbers suggest not only that the legislation has enabled entrepreneurs in the industry to pursue their endeavors, but also that many continue to follow suit. These positive numbers are not lost on the State Legislature. This success has inspired additional changes to the laws concerned with microbrewing, the distribution of craft beers, and the crafting of other spirits in New Jersey. These changes seek to continue the positive trend in the industry with the purpose of stimulating the economy in areas throughout the state.

http://www.nj.com/gloucester-county/index.ssf/2014/11/donald_norcross_1st_congressional_district_race_victory.html (Nov. 5, 2014, 2:37 AM) (discussing then-Senator Norcross's recent rise from State Senator to the United States Representative for the New Jersey 1st Congressional District in Washington, D.C.).

⁴⁹ Beym, *supra* note 22 (emphasis added).

⁵⁰ Ed Beeson, *Garden State Brews: With New Brewers On the Horizon, Jersey Craft Beer Looks to Break Out*, NJ.COM (May 28, 2013, 2:13 PM), http://www.nj.com/business/index.ssf/2013/05/garden_state_brews_with_dizens.html.

⁵¹ *New Jersey Breweries, Brewpubs, & Startups*, N.J. CRAFT BEER (Feb. 5, 2016), <http://newjerseycraftbeer.com/new-jersey-breweries/>.

⁵² *Id.*

In 2013, lawmakers sought to amend N.J.S.A. § 33:1-10 once more.⁵³ The proposed legislation sought to ease the license requirements for producers of alcohol within the state of New Jersey, much like Assembly Bill 1277 did the year before.⁵⁴ The legislation, Senate Bill 2286, focused on distilling liquor.⁵⁵ The bill was enacted into law on August 7, 2013, and created a craft distillery license in New Jersey.⁵⁶ The license allows craft distillers to produce up to 20,000 gallons of distilled alcoholic beverages, to sell and distribute those beverages to wholesalers and retailers, to sell their product to consumers on the licensed premises in connection with a tour of the distillery, to offer samples of their spirits, and to sell their product for consumption off of the license premises.⁵⁷ The fee for this license is \$938.⁵⁸ As a result of this legislation, the first distillery operating under a

⁵³ See S.B. 2286, 215th Leg., 2d Ann. Sess. (N.J. 2013).

⁵⁴ *Id.*

⁵⁵ *Id.* See also Press Release, State of N.J. Office of the Governor, Acting Governor Guadagno Visits “NJ Tried and True” Business Laird & Co., (Sept. 4, 2014), <http://www.nj.gov/governor/news/news/552014/approved/20140904b.html> (demonstrating the significance of distilling in New Jersey). New Jersey was home to the first domestic distillery licensed establishment in America. *Id.* In 1780, Robert Laird established Laird & Company in Colts Neck, New Jersey, with the first license issued from the Department of Treasury. *Id.* Today, the company produces several brands, including the Banker’s Club. *Id.* Laird & Co. is famous for several reasons, including the favor the spirit has held with American presidents. *Id.* Prior to the Revolutionary War, George Washington wrote to Robert Laird and requested his recipe for AppleJack, which was the flagship spirit of the company at the time. *Id.* The Laird Company later supplied the spirit to the American troops during the war. *Id.* Nearly two centuries later, President Lyndon B. Johnson presented a case of Laird’s AppleJack to Soviet Premier Alexei Kosygin during the Glassboro Summit. *Id.*

⁵⁶ S.B. 2286, 215th Leg., 2d Ann. Sess. (N.J. 2013).

⁵⁷ See N.J. STAT. ANN. § 33:1-10 (West, Westlaw through 2015). The licensee may only sell five liters per person on the premises. *Id.* For the purposes of this bill, “sampling” means the gratuitous offering of an open container of one-half ounce serving or less of distilled alcoholic beverage produced on the premises. *Id.* The bill also sets forth the requirements to label distilled spirits as “New Jersey Distilled.” *Id.* Those requirements are that no less than fifty-one percent of the raw materials used in the production of the spirits are grown within New Jersey or purchased from providers within New Jersey. *Id.*

⁵⁸ *Id.*

craft distillery license opened in Fairfield, New Jersey 2013.⁵⁹ That is an increase of one-hundred Camden, New Jersey in April of 2014.⁶⁰ Cooper River Distillers is the first legal craft distillery to open in the city since the pre-Prohibition era.⁶¹ These progressions and the accompanying legislation would be impressive alone, if they were the only ones made. However, it seems that then-Senator Donald Norcross, who represented portions of Camden County and Gloucester County and sponsored Senate Bill 2286, intended to push these progressions even further.⁶² On October 27, 2014, then-Senator Donald Norcross introduced Senate Bill 2548, which has the potential, if passed, to authorize a limited brewery licensee to operate a restaurant on the premises of a microbrewery under certain circumstances.⁶³ The bill would create an exception to N.J.S.A. § 33:1-10(1)(b), which generally prohibits limited brewery licensees from operating restaurants on the licensed premises,⁶⁴ by amending the section to include the words,

except the holder of this license may sell this product at retail to consumers at a restaurant operated on a licensed premises located in a Garden State Growth Zone as defined in section 2 of P.L.2011, c.149 (C.34:1B-243). No more than three such restaurants may be operated in a Garden State Growth Zone.⁶⁵

⁵⁹ Julia Terruso, *New Jersey Slowly Gets Into Craft Distilling*, PHILLY.COM (Apr. 29, 2014), http://articles.philly.com/2014-04-29/news/49467532_1_distillery-craft-brewers-liquor-regulations.

⁶⁰ *Id.*

⁶¹ COOPER RIVER DISTILLERS, <http://cooperriverdistillers.com/CRD/> (last visited Mar. 6, 2016).

⁶² N.J. S.B. 2286. *See generally* Assemb. B. 1277, 215th Leg., 1st Ann. Sess. (N.J. 2012). Then-Senator Donald Norcross was also a sponsor of Senate Bill 641, which became Assembly Bill 1277 on June 25, 2012. *Id.*

⁶³ *See* S.B. 2548, 216th Leg., 1st Ann. Sess. (N.J. 2014).

⁶⁴ N.J. STAT. ANN. § 33:1-10(1)(b).

⁶⁵ *See generally* N.J. S.B. 2548; N.J. STAT. ANN. § 34:1B-243 (West, Westlaw through 2015) (defining a Garden State Growth Zone). A “Garden State Growth

The bill, if passed, would enable an individual or entity to purchase a limited brewery license for a fee of, at minimum, \$1,250 and then use that license to legally establish a brewpub in a Garden State Growth Zone, thus stimulating the economies in those cities.⁶⁶

A further complement to this proposed bill is already in existence. The law, N.J.S.A. § 34:1B-244, which is better known as the Grow New Jersey Assistance Program, has the purpose of encouraging economic development, job creation, and job preservation in fields that currently exist in New Jersey, but are in danger of relocating to places outside of the state.⁶⁷ To achieve this mandate, the statute authorizes the issuance of tax credits to eligible businesses for a period of up to ten years.⁶⁸ These tax credits can be lucrative and financially enticing. The first five projects approved include an award worth up to \$39.5 million distributed over ten years to Pharmaceuticals International, Inc. (the company which recently acquired Bausch & Lomb) in exchange for locating its United States headquarters in New Jersey (which would preserve 274 jobs in the state and create 550 new jobs); an award worth up to \$12.7 million distributed over ten years to WebiMax, to encourage the company to move to Camden, New Jersey (which would create 100 jobs and preserve fifty jobs at risk of leaving the state); an award worth up to \$3.2 million to Marathon Data Operating Co., LLC for a plan to locate the company in Neptune, New Jersey (which would create thirty-five jobs); an award worth up to \$24.3 million distributed over ten years to IDT Corp. to encourage the company to maintain its headquarters in Newark, New Jersey (which would preserve nearly 530 full-time jobs and create forty new ones); and an award worth up to \$13.1 million distributed over ten years to VF

Zone” is defined as any of the four cities in the State of New Jersey with the lowest median family income according to the 2009 American Community Survey from the U.S. Census. *Id.* See also Jonathan Sanders, *Business Report: Garden State Growth Zones*, BUS. FACILITIES (May 22, 2014), <http://businessfacilities.com/2014/05/garden-state-growth-zones-aim-to-lift-new-jerseys-cities/>. As of May 22, 2014, those cities were Camden, Trenton, Passaic, and Paterson. *Id.*

⁶⁶ S.B. 2548, 216th Leg., 1st Ann. Sess. (N.J. 2014).

⁶⁷ N.J. STAT. ANN. § 34:1B-244(a).

⁶⁸ *Id.*

Sports-wear to encourage the lifestyle apparel and footwear company to relocate to a new facility in Jersey City, New Jersey (which would bring 175 new jobs to the state).⁶⁹

Admittedly, a brewpub or a microbrewery does not seem to fit the mold that these other projects create for businesses seeking the tax incentives. However, if Senate Bill 2548 is enacted, a brewpub or a microbrewery could be established in a Garden State Growth Zone for a nominal licensing fee. The proprietors of the brewpub or microbrewery could attempt to receive tax credits pursuant to N.J.S.A. § 34:1B-244. Together, N.J.S.A. § 34:1B-244 and Senate Bill 2548 could make the notion of starting a business in any of the four poorest cities in the state a very attractive one, which could help stimulate those economies in some fashion.

Other entities within the state are showing support for the microbrewery and brewpub movement as well. In April of 2013, Paul Simmons and Justin Arenberg received a zoning variance from the city of Millville, New Jersey.⁷⁰ The variance allowed the two entrepreneurs to open a microbrewery, later named Glasstown Brewery, in a warehouse located at the city's airport.⁷¹ The hanger is owned and leased by the Delaware River and Bay Authority.⁷² The initial brewery proposal received the full support of the Delaware Bay Port Authority, as well as the then-Mayor of Millville, Timothy Shannon, who indicated that other microbreweries had attempted to come into the area, but had not been approved.⁷³ Perhaps the difference with Glasstown Brewery's proposal, which made it more attractive to the municipality, was the brewer's plans to keep manufacturing operations local.⁷⁴ The founders indicated their intention to

⁶⁹ *Minutes of the Meeting*, NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (Jan. 14, 2014), <http://www.njeda.com/web/pdf/eda/1142014minutes.pdf>.

⁷⁰ Chris Torres, *Beer-loving Pals Hope to Brew Drinks In Millville*, ASBURY PARK PRESS (Apr. 5, 2013), <http://www.app.com/article/A8/20130405/NEWS01/304050033/Beer-loving-pals-hope-brew-drinks-Millville>.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

utilize other businesses in the area throughout the brewing process.⁷⁵ These businesses included a local glass manufacturer called Gerresheimer Glass Inc., which the brewers intended to use to manufacture twelve ounce, twenty-two ounce, and growler-sized bottles to use for their various products, and a local graphics company called Custom Graphics to produce all of Glasstown Brewery's apparel.⁷⁶ The grain used by the company was also recycled and used to feed a local farmer's stock.⁷⁷ Glasstown Brewery held its grand opening on January 18, 2014.⁷⁸ The start-up cost was approximately \$80,000, and Paul Simmons and his wife put up thousands of dollars of their own money to fund the project.⁷⁹ However, they also received substantial support from the community, as \$50,000 in funding was provided in the form of a small business loan from the Millville Urban Redevelopment Corporation ("MURC"), and additional amounts of funding were provided from New Jersey Economic Development and Cumberland Empowerment Zone.⁸⁰ The Director of MURC, Don Ayres, stated that, "Paul Simmons and his wife showed great initiative . . . and showed a strong future for success."⁸¹ Millville's current Mayor, Michael Santiago, said Glasstown Brewery is a positive addition to the Millville community, and Freeholder Joseph Derella said the microbrewery has Cumberland County's full support.⁸²

At first glance, the story of Glasstown Brewery looks to be a potential model for economic growth. When considering the Glasstown example, it is understandable why communities and

⁷⁵ *Id.*

⁷⁶ Torres, *supra* note 71.

⁷⁷ Spencer Kent, *Clink! Millville's New Glasstown Brewing Company Holds Grand Opening*, NJ.COM (Jan. 20, 2014, 4:15 PM), http://www.nj.com/cumberland/index.ssf/2014/01/local_beer_leaves_good_taste_at_ribbon_cutting_ceremony_for_brand_new_millville_brewery.html.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

lawmakers across New Jersey would potentially support the development of microbreweries and brewpubs, particularly in areas of the state that have suffered economically. One such place is Camden, New Jersey, which is one of the poorest cities in the United States.⁸³ The unemployment rate in Camden is a staggering fifteen percent,⁸⁴ compared to the then-state average of 5.1 percent.⁸⁵ These devastating figures are only a relatively recent development in a place where the famous poet Walt Whitman, in describing the city, once said, “In a dream I saw a city invincible.”⁸⁶ In the twentieth century, Camden, New Jersey was a manufacturing hub, which was home to industry giants such as RCA Victor, Campbell’s Soup, and the biggest shipbuilding company in the world.⁸⁷ Then came a shift away from manufacturing throughout America, and jobs in Camden, New Jersey began to disappear as factories were shut down or relocated to areas outside of the city.⁸⁸ Subsequently in 1969 and 1971, race riots in the city took a toll on the people of Camden,

⁸³ Mike Kelly, *Kelly: N.J.’s poorest city, Camden, ‘not a shining example yet’*, NORTHJERSEY.COM (Jan. 16, 2015), <http://www.northjersey.com/news/kelly-n-j-s-poorest-city-camden-not-a-shining-example-yet-1.1196270?page=all>. According to figures from the United States Census Bureau, nearly forty percent of Camden residents live below the poverty level of \$11,880 per annum. See *State and County Quick Facts*, UNITED STATES CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/34/3410000.html> (last revised Dec. 2, 2015); *Federal Poverty Level*, HealthCare.gov, <https://www.healthcare.gov/glossary/federal-poverty-level-FPL/> (last visited Mar. 6, 2016).

⁸⁴ Kelly, *supra* note 84.

⁸⁵ New Jersey Unemployment Falls to 5.1 Percent, Within 0.1 Percent of National Rate, NEW JERSEY DEPT. OF LABOR AND WORKFORCE DEVELOPMENT (Jan. 21, 2016), <https://lwd.state.nj.us/labor/lpa/pub/emppress/pressrelease/prelease.pdf>.

⁸⁶ Shoshana Guy, *America’s ‘Invincible’ City Brought to Its Knees by Poverty, Violence*, NBC NEWS (Mar. 7, 2013, 5:03 PM), <http://www.nbcnews.com/feature/in-plain-sight/americas-invincible-city-brought-its-knees-poverty-violence-v17225824>. These famous words remain etched in stone on the side of Camden’s City Hall Building. *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

leaving wounds that may still need healing.⁸⁹ In the time since, political corruption,⁹⁰ an increase in poverty amongst the population, and an increase in violence have all plagued the city.⁹¹ This series of regrettable events has left Camden in desperate need of industry, jobs, and economic stimulus. Lawmakers are going to great lengths to promote business growth in this city and other cities like it throughout the state.⁹² Promoting the growth of the microbrewing industry is an example of this. It remains to be seen whether promoting this particular industry is worth it, let alone fair, however.

B. THE TRIVIAL EFFECT OF MICROBREWERIES AND BREWPUBS

Promoting economic growth is a noble and just cause. However, it is doubtful that promoting the development of microbreweries and brewpubs will have a significant impact on the state economy. It is plausible that then-Senator Donald Norcross's goal of creating a more friendly business environment for brewers may be realized. Unfortunately, the goal of local job

⁸⁹ *Id.*

⁹⁰ See *Real-life Camden Mayor Portrayed in 'American Hustle' Film Was Complex Character*, NJ.COM (Dec. 22, 2013, 1:04 PM), http://www.nj.com/news/index.ssf/2013/12/real-life_camden_mayor_portrayed_in_american_hustle_film_was_complex_character.html. This political corruption has led to the indictments of three of Camden's former mayors. *Id.* The recent Hollywood film, "American Hustle," tells the dramatized story of one such Mayor, Mayor Angelo Errichetti, known for "Abscam," which led to the conviction of Errichetti, six members of the United States House of Representatives, and United States Senator Harrison Williams. *Id.*; see also Iver Petterson, *In Camden, Another Mayor is Indicted on Corruption Charges*, N.Y. TIMES (Mar. 31, 2000), <http://www.nytimes.com/2000/03/31/nyregion/in-camden-another-mayor-is-indicted-on-corruption-charges.html> (telling the tale of the other two mayors indicted, those being Milton Milan in 2000 and Arnold Webster in 1998).

⁹¹ See generally HOWARD GILLETE JR., *CAMDEN AFTER THE FALL* (Lauren Osborne et al. eds., 1st ed. 2006) (discussing the history of Camden, New Jersey as an economic powerhouse and the city's subsequent decline).

⁹² See generally N.J. STAT. ANN. § 34:1B-244(a) (West, Westlaw through 2015) (providing an example of such an effort); see also Assemb. B. 3213, 216th Leg., 1st Ann. Sess. (N.J. 2014).

creation and contribution to a healthier state economy is not likely to see the same success.

A recent study conducted by the Beer Institute, an advocacy group for the beer industry, suggests that the beer industry, as a whole, was responsible for 34,300 jobs in the state of New Jersey in 2014.⁹³ However, the study includes not just those employed in brewing, wholesaling, and retailing; but also construction, mining, travel and entertainment, government, transportation and communication, finance insurance and real estate, and various other categories.⁹⁴ To say that all of the jobs listed in these various categories exist solely because of the beer industry would be a stretch.⁹⁵ To say that all of these jobs, or even a significant portion of them, exist because of microbrewing and brewpubs would be nothing short of imaginary. In the 2014 study, brewing accounted for 729 jobs which included brewing at macrobreweries.⁹⁶ Macrobreweries are not craft breweries; they are industry goliaths such as the Anheuser-Busch Brewery located in Newark, New Jersey.⁹⁷ The study also included

⁹³ BEER INST., STATE LEGISLATIVE & CONGRESSIONAL DISTRICT DATA (2014), <http://www.beerservesamerica.org/state-and-congressional-district-data> (last visited Mar. 6, 2015), (follow “State” hyperlink; then follow “NJ” hyperlink; then follow “Economic Impact Report” hyperlink; then click “view” hyperlink).

⁹⁴ *Id.*

⁹⁵ *Id.* The study does not necessarily maintain that the jobs all exist as a direct result of the beer industry. It breaks down the job categories into three groups; direct economic impact - which the study indicates created 19,408 jobs, supplier economic impact—which the study indicates created 7,096 jobs, and induced economic impact—which the study indicates created 7,796 jobs. *Id.* No information is provided to indicate how many of these jobs have a direct correlation to the increase in microbrewing within the state.

⁹⁶ *Id.* See The Beer Institute Economic Contribution Study: Methodology and Documentation, <http://beer.guerrillaeconomics.net/assets/site/res/2012%20BSA%20Economic%20Impact%20Methodology.pdf> for an explanation of the methodology involved in the 2014 study.

⁹⁷ See generally *Anheuser-Busch Newark Brewery Fact Sheet*, ANHEUSER-BUSCH, <http://www.anheuser-busch.com/s/uploads/2015FactSheetNWK.pdf> (last visited Mar. 6, 2015) (describing the brewery). This is a 3,223,440 square foot facility, which pumps out approximately 250 trucks full of beer a day. *Id.* The facility produces various beers including Budweiser, Bud Light, Michelob ULTRA, Busch, Busch Light, Natural Light, Natural Ice, Budweiser Select, and King Cobra. *Id.* The areas served by the brewery include New Jersey, New York, Pennsylvania, Rhode Island, Connecticut, Delaware, and military exports. *Id.*

companies that import beer, companies that own packaging and wholesaling operations, companies that are regional breweries, companies that are microbreweries, and companies that operate brewpubs.⁹⁸ Thus, it cannot be maintained that all of these jobs (or even a significant portion of them) resulted from the microbrewing industry.

Admittedly, it is difficult to separate the jobs created by microbreweries from the jobs created by macrobreweries and downstream economics. Information regarding the precise number of jobs created in New Jersey by microbreweries and brewpubs is not readily available. However, a brief survey of the microbreweries of differing sizes in the state suggests that the number, if made available, would not be significant. Glasstown Brewery of Millville, New Jersey, which is representative of a startup microbrewery, employs three people, including the owner and his wife.⁹⁹ River Horse Brewing Company of Ewing, New Jersey, which has been in existence since 1995, produces more than 9,000 barrels a year of thirteen different ales, is distributed throughout New Jersey, New York, Pennsylvania, and Connecticut, and is representative of an established microbrewery, employs only fifteen workers (including the owners).¹⁰⁰ Even Flying Fish Brewing Co., which produces 12,000 barrels a year and is the biggest microbrewery in the State of New Jersey, has a workforce of only thirteen.¹⁰¹ With numbers such as these, it is extremely difficult to argue that a loosening of license restrictions concerned with microbreweries will result in

This indicates that the brewery contributes to the economies of multiple states in the region.

⁹⁸ BEER INST., THE BEER INSTITUTE ECONOMIC CONTRIBUTION STUDY: METHODOLOGY AND DOCUMENTATION 2, 5-6 (2013). See also The Beer Institute Economic Contribution Study, *supra* note 97.

⁹⁹ Kent, *supra* note 78.

¹⁰⁰ Kelly Johnson, *River Horse Brewing Co. Finds Room to Grow In Ewing*, NJ.COM (Aug. 18, 2013, 7:20 AM), http://www.nj.com/mercer/index.ssf/2013/08/river_horse_brewing_co_finds_room_to_grow_in_ewing.html.

¹⁰¹ Mike Frassinelli, *Exit 4: Cherry Hill's Flying Fish Brewing Co. Drums Up Controversy with Turnpike-Based Beer*, NJ.com (Nov. 4, 2011, 5:13 PM), http://www.nj.com/news/index.ssf/2011/10/at_nj_turnpikes_exit_4_cherry.html.

any significant job growth in the Garden State Growth Zones, or in the state generally.

It is possible that there are other reasons behind the special treatment of breweries and brewer hopefuls. One plausible reason is that, in general, microbreweries have seen a significant increase in popularity throughout the country.¹⁰² In 2013, microbreweries accounted for just ten percent of sales in the entire beer market, which is still dominated by beer giants such as Anheuser-Busch and MillerCoors.¹⁰³ However, the 2,300-plus microbreweries in existence at that time had seen a fifteen percent increase in their sales collectively since the previous year.¹⁰⁴ Paul Gatza, director of the advocacy group, Brewers Association,¹⁰⁵ suggests that this increase in popularity is attributable to a number of things.¹⁰⁶ He submits that beer drinkers are experimenting with different types of beers, which is resulting in a revision of the once parochial American palate.¹⁰⁷ He points to a forty percent increase in the sale of India Pale Ales.¹⁰⁸ Gatza suggests that the microbrewers are constantly

¹⁰² See generally Megan Durisin, *Why Everyone is Going Crazy for Craft Beer*, BUS. INSIDER (Apr. 23, 2013, 1:42 PM), <http://www.businessinsider.com/why-craft-beer-is-so-popular-2013-4>.

¹⁰³ *Id.*

¹⁰⁴ *Id.* See also *Brewers Association: Staff*, BREWERS ASS'N, <https://www.brewersassociation.org/statistics/number-of-breweries/> (last visited Mar. 6, 2015). The numbers of microbreweries in existence across the country had increased to 3,418 as of 2014. *Id.* That is an increase of over 1,000 microbreweries in less than two years.

¹⁰⁵ See *Brewers Association: Staff*, *supra* note 105.

¹⁰⁶ See Durisin, *supra* note 103.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* (reflecting the sales increase from 2010 to 2013); see also S.W., *How India Pale Ale Conquered the World*, ECONOMIST (May 13, 2014, 11:50 PM), <http://www.economist.com/blogs/economist-explains/2014/05/economist-explains-6> (setting forth a brief history of India Pale Ales). India Pale Ales (“IPAs”) have a characteristically strong hoppy flavor and high alcohol content. *Id.* While the origin of the beer is subject to debate, what is clear is that the beer was utilized during the British occupation of India to serve officers, officials, and the like. *Id.* The subcontinent of India was considered too hot for brewing beer, and so beer was imported from Britain. *Id.* The use of excess hops not only gave

developing different and new styles of beer to accommodate this new appreciation for various beers, and are earning more and more support as a result.¹⁰⁹ The microbrewers are also making the craft beers more portable, as a number of microbreweries have begun canning their beer.¹¹⁰ In addition, retailers are responding to the demand and are carrying more and more microbrews.¹¹¹

This note does not purport to know whether a simple rise in the popularity of microbreweries and craft beers is the driving force behind the legislation developing in New Jersey. It merely suggests that this is a plausible reason amongst many others, including the success of New Jersey's neighboring businesspersons in Pennsylvania and Delaware, and the possibility of economic stimulus. However, if economic stimulus is indeed the driving force, as indicated by then-Senator Donald Norcross,¹¹² this note does suggest that there are other areas of law and regulation related to the alcoholic beverage industry that, if modified, would have a greater economic impact throughout the state of New Jersey. One such area of law and regulation involves the issuance of liquor licenses for retailers and wholesalers.

C. THE OLD REGIME: OPERATING UNDER OUTDATED LIQUOR LAWS

Liquor licenses in New Jersey are issued by the Division of Alcoholic Beverage Control.¹¹³ Those who own a liquor license are

the ale a robust taste, but the hops also acted as a preservative, which ensured that the ale did not spoil on the longsea voyage from Britain to India. *Id.*

¹⁰⁹ See Durisin, *supra* note 103.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Beym, *supra* note 22.

¹¹³ *Division of Alcoholic Beverage Control: ABC Licensing Bureau*, N.J. OFF. ATT'Y GEN, DEP'T OF LAW & PUB. SAFETY, <http://www.state.nj.us/lps/abc/licensing.html> (last visited Mar. 6, 2015). The Division of Alcoholic Beverage Control regulates the conduct of licensees and the issuance of licenses. *Id.* The Division also processes and reviews all retail license transfers and renewal

permitted to operate a business in the liquor industry.¹¹⁴ The three types of licenses sold in the state include licenses for manufacturing operations (discussed to some extent earlier), licenses for wholesale operations, and licenses for retail operations.¹¹⁵ Retail liquor consumption licenses—the licenses used by restaurants and taverns—sell by person-to-person transfer for as much as \$2 million in New Jersey.¹¹⁶ An example of this is the Cheesecake Factory at the Mall at Short Hills in Short Hills, New Jersey.¹¹⁷ The liquor license for that establishment was reportedly purchased for an astonishing \$2.3 million.¹¹⁸ Such astronomical figures leave one wondering how a business could be forced to pay such a substantial cost to sell liquor. After all, Prohibition ended with the ratification of the Twenty-first Amendment to the Constitution on December 5, 1933.¹¹⁹ Yet, the cost of obtaining a liquor license in some municipalities has become so great, that it is as if there is a *de facto* prohibition on the sale of liquor. The underlying cause of this steep pricing seems to be the way new licenses are issued.

applications. *Id.* It also archives all official records establishing liquor license ownership. *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ Moss, *supra* note 7. *But cf.* Michelle Gladden, *No Liquor License? For Some, it Means Lost Profits*, ASBURY PARK PRESS (Oct. 13, 2011), Westlaw 2011 WLNR 20915413 (indicating that \$2 million represents the extreme end of purchase price). In Gladden's article, a sampling of transactions indicates that in 2011, person-to-person transactions of liquor license transfers averaged \$375,000 in Edison, New Jersey and \$350,000 in Randolph, New Jersey. *Id.* At the time of the article's publication, the last person-to-person transaction of a license in Hillsborough, New Jersey was for \$300,000 and the last person-to-person transaction of a license in Howell, New Jersey was for \$100,000. *Id.*

¹¹⁷ Linda Moss, *NJ Liquor-License Law Needs Reform, Developers Say*, NORTHJERSEY.COM (July 31, 2014, 11:00 AM), <http://www.northjersey.com/news/business/liquor-licensing-faulted-1.1060238>.

¹¹⁸ *Id.*

¹¹⁹ *This Day in History: Prohibition Ends*, HISTORY.COM, <http://www.history.com/this-day-in-history/prohibition-ends> (last visited Mar. 6, 2015).

The issuance of new retail consumption licenses is based on the population of municipalities in the state.¹²⁰ The laws, which regulate their transfer, sale, and issuance, date back to the 1940s.¹²¹ It is said that these liquor license laws are the most restrictive in America.¹²² One such law, N.J.S.A. § 33:1-12.14, states that no new plenary retail consumption or seasonal retail consumption licenses may be issued in a municipality until the existing licenses have a ratio of less than one per 3,000 residents in the municipality.¹²³ The same law restricts the issuance of new

¹²⁰ Moss, *supra* note 118.

¹²¹ See also Joan Verdon, *Movement Brewing to Loosen New Jersey's Liquor License Laws*, NORTHJERSEY.COM (June 6, 2010, 11:21 AM), <http://www.northjersey.com/news/movement-brewing-to-loosen-new-jersey-s-liquor-license-laws-1.953049?page=all> (suggesting the laws were originally designed to keep organized crime out of the liquor business in the state).

¹²² Moss, *supra* note 7.

¹²³ N.J. STAT. ANN. § 33:1-12.14 (West, Westlaw through 2015 legislation). New Jersey is not alone in using this method to issue liquor licenses. However, it appears that other states have created numerous exceptions to these ratio requirements. See 47 PA. STAT. AND CONS. STAT. ANN. § 4-405(a) (West, Westlaw through 2015), stating:

License fees for hotel and restaurant liquor licenses shall be graduated according to the population of the municipality as determined by the last preceding decennial census of the United States in which the hotel or restaurant is located, as prescribed in section 614-A of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929."

See also *Licensing FAQs*, *supra* note 38, stating:

The legislature has generally limited the number of licenses for the retail sale of malt or brewed beverages and liquor to one (1) license for each three thousand (3,000) inhabitants in any county, exclusive of licenses granted to public venues, performing arts facilities, continuing care retirement communities, airport restaurant, municipal golf courses, hotels, privately-owned public golf courses, racetracks, automobile racetracks, non-primary pari-mutual wagering locations, and national veterans' organizations. Club licenses are somewhat different in that they are not included in the quota but are subject to the quota. Once the quota is filled, no additional club licenses, except for incorporated units of national veterans' organizations, may be issued. Once the number of existing retail licenses in a municipality exceeds

plenary retail distribution licenses by municipalities by requiring that there be no more licenses in existence than one per 7,500 residents in the municipality.¹²⁴

On its face, the issuing system makes a good deal of sense. It seems as though it would evenly distribute liquor licenses throughout the state. It also seems as though the ratio for determining when new licenses may be issued would prevent a saturation of any given market. However, an imbalance in many of the markets has existed since the inception of this law.¹²⁵ While the imbalance may have been tolerable initially, the situation in New Jersey has changed for the worse since the time when the law was created. In a state that saw a mere 1.1 percent increase in the population between the years of 2010 and 2013,¹²⁶ these restrictions create insurmountable barriers to the issuance of new retail consumption and retail distribution licenses in areas where they are truly desired but are unavailable.

one (1) license per three thousand (3,000) residents, then an applicant who wishes to move into that municipality must receive written approval, in the form of an ordinance or resolution following a hearing, from the municipality before the Board can consider the application.

But see DEL. CODE ANN. tit. 4, § 512 (West, Westlaw through 2015) (allowing for the issuance of a liquor license to any person who meets certain criteria, regardless of license-to-population ratios).

¹²⁴ N.J. STAT. ANN. § 33:1-12.14 (West, Westlaw through 2015).

¹²⁵ See Moss, *supra* note 118.

¹²⁶ *Population*, N.J. DATABANK, RUTGERS SCH. OF PUB. AFF. AND ADMIN., NEWARK, <http://nj databank.newark.rutgers.edu/population-immigration> (last visited Mar. 6, 2015). New Jersey DataBank is a project of the School of Public Affairs and Administration, Rutgers University, Campus at Newark. *Id.* See also James W. Hughes, Joseph J. Seneca & Will Irving, *Where Have All the Dollars Gone?*, RUTGERS REGIONAL REP., no. 26, Oct. 2007, at 2, stating:

There has been a sharp deceleration of population growth in New Jersey starting in 2002 and persisting since then. This has been primarily caused by the sharp *acceleration* in the number of New Jerseyans moving to other states, causing what the Census Bureau calls *net internal migration losses*, i.e., more people moving out of the state than moving in.

D. PROPOSED LIQUOR LICENSE LEGISLATION AND POTENTIAL BENEFITS

Not surprisingly, there is a movement to change these laws.¹²⁷ While the obvious solution seems to be an amendment to these antiquated laws, which would permit the issuance of more licenses, such a change could have the adverse effect of driving down the value of current liquor licenses.¹²⁸ Lawmakers and interest groups have suggested several potential solutions to this problem.¹²⁹ No real consensus on compensation or new criteria for the issuance of new licenses has been reached, however.¹³⁰

¹²⁷ See Moss, *supra* note 7. Noteworthy is an effort underway to change the method used to determine the issuance of new liquor licenses by the New Jersey real estate industry, which has increased lobbying efforts to change the way liquor licenses are distributed in the state and is arguing for a change in the law that would attract businesses and promote development. *Id.* See also Moss, *supra* note 118 (citing George Jacobs, the head of a company that manages and develops real estate, and remarks he made while speaking on a panel before 100 real estate officials at a National Association of Industrial and Office Properties (“NAIOP”) meeting). He said NAIOP is working with a member of the legislature on proposed legislation to update liquor-license regulations. *Id.* The NAIOP is also working with the same legislator to try and make transferring a liquor license from one municipality to another a possibility. *Id.*

¹²⁸ Moss, *supra* note 7. The New Jersey Restaurant Association has stated it will not support changes to the way liquor licenses are issued unless measures are taken to protect the interests of those who currently hold liquor licenses. *Id.* See also Gladden, *supra* note 117, quoting Diane M. Weiss, executive director of the New Jersey Licensed Beverage Association, who, in response to previous attempts at redrafting the issuance scheme, stated, “[w]e feel those kinds of changes would have a devastating affect and definitely devalue liquor licenses.” *Id.* She continued, stating, “[i]f you take the cap off, they aren’t worth that money anymore. . . . Some people are trying to sell licenses and aren’t getting people to buy them because the value has gone down. Add more licenses to the mix and the decline will continue.” *Id.*

¹²⁹ Moss, *supra* note 7. These attempts include such proposals as averaging the price of recent liquor license sales in a given municipality to set the cost of newly issued licenses and giving current license holders the opportunity to buy a second license at a discount, giving current license holders a tax credit, selling additional licenses to municipalities for resale, and allowing licenses to be transferred from one municipality to another. *Id.*

¹³⁰ Moss, *supra* note 7.

One attempt to appease both sides of the issue came in the form of the Bring Your Own Bottle (“BYOB”) law.¹³¹ Rather than issue new licenses to establishments, this law permits patrons to bring in their own bottle of wine or malt beverage for consumption on the premises.¹³² No distilled spirits are permitted, however.¹³³ In addition, BYOB establishments are not permitted to advertise themselves as BYOB establishments, and they cannot charge a corking fee, cover, service charge, or anything similar.¹³⁴ The law enables business owners to provide a service to their guests, but forbids them from advertising the service, and forbids them from making a profit from providing the service. It is difficult to say that this is a fair compromise.

There are attempts being made to loosen liquor license restrictions currently, which are more even-handed. Assembly Bill 797 would allow for the transfer of inactive liquor licenses to qualifying smart growth municipalities at a cost of twenty times the renewal fee of the license in the sending municipality.¹³⁵ The bill, if passed, would thus enable the transfer of liquor licenses from municipalities where the licenses are inactive, to municipalities where they will be utilized.¹³⁶ The fee associated with the transfer and purchase would be distributed as follows: “(1) [T]wenty-five percent is to be paid to the sending municipality; (2) twenty-five percent is to be paid to the director; and (3) fifty percent is to be divided equally among and paid to the holders of plenary retail consumption licensees in the qualifying smart growth municipality.”¹³⁷

¹³¹ John Hogan, *The Sober Truth About New Jersey's BYOB Law and the Acquisition of a Liquor License*, JD SUPRA BUS. ADVISOR (Aug. 1, 2014), <http://www.jdsupra.com/legalnews/the-sober-truth-of-new-jerseys-byob-law-92087/>.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ See Assemb. No. 797, 216th Leg., Reg. Sess. (N.J. 2014).

¹³⁶ *Id.* See also Gladden, *supra* note 117 (citing Alcoholic Beverage Control spokesperson Zachariah Hosseini, who indicated that there were 9,321 total licenses in the state in 2011, but 1,211 were inactive).

¹³⁷ N.J. Assemb. No. 797.

The bill has the potential to ensure that liquor licenses currently issued are fully utilized, rather than sitting idly in certain municipalities where they are undesired and currently nontransferable to other municipalities. Additionally, the bill provides compensation for current license holders who face potential devaluation in the receiving municipality. This bill, in itself, could bring a significant amount of licenses back into the market at a greatly reduced cost.

Another bill, Assembly Bill 1635, would create allowances for the issuance of liquor licenses even when the cap of one per 3,000 people is met, but only in limited circumstances.¹³⁸ The bill, if passed, would permit a municipality, in which twelve percent or more of the land in the municipality is exempt from property taxes, to issue up to two additional liquor licenses for plenary retail consumption.¹³⁹ The justification for the additional issuances is that a municipality, which contains land which is exempt from local property taxes, and which is generally not used for residential purposes, will have a smaller population than a municipality with a larger percentage of residential land.¹⁴⁰ Such a municipality would thus be at a disadvantage under the current liquor license distribution formula.¹⁴¹

The most promising proposal is Assembly Bill 4267, which was introduced by Assemblyman John Burzichelli on March 2, 2015.¹⁴² The bill proposes a new liquor license for small restaurants.¹⁴³ The new license would allow restaurants to serve drinks to their patrons, provided the establishment does not have a full bar.¹⁴⁴ In addition, the license would limit the number of

¹³⁸ See Assemb. No. 1635, 216th Leg., Reg. Sess. (N.J. 2014).

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² Assemb. No. 4267, 216th Leg., Reg. Sess. (N.J. 2015).

¹⁴³ *New-Style Liquor License Can Provide Needed Boost for N.J. Restaurants*, NJ.COM (Mar. 1, 2015, 10:29 AM), http://www.nj.com/opinion/index.ssf/2015/03/new-style_liquor_license_can_provide_needed_boost.html.

¹⁴⁴ *Id.*

drinks that may be served to a given lunch or dinner table.¹⁴⁵ What is most intriguing about the proposal is that these licenses would not be issued on the basis of the traditional population ratio.¹⁴⁶ Instead, the bill proposes a rubric in which the licenses are issued at a set price, based on the size of the restaurant.¹⁴⁷ The fee associated with the license is broken down into two categories.¹⁴⁸ In category one, the fee would be set at \$3,000 for an establishment ranging in size from 1,500 square feet to 3,000 square feet.¹⁴⁹ In category two, the fee would be set at \$10,000 for an establishment ranging in size from 3,001 square feet to 6,000 square feet.¹⁵⁰ The legislation also proposes another license option that would limit the establishment to selling beer or wine.¹⁵¹ This second option would have a fee of \$1,500 for an establishment ranging in size from 1,500 square feet to 3,000 square feet.¹⁵² It would have a fee of \$5,000 for an establishment ranging in size from 3,001 square feet to 6,000 square feet.¹⁵³ In addition, it would limit the alcoholic beverage sale hours from 12:00 PM to 10:00 PM.¹⁵⁴ The legislation even accounts for concerns revolving around devaluation of licenses already in existence by providing tax credits to present license holders.¹⁵⁵

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *New-Style Liquor License Can Provide Needed Boost for N.J. Restaurants*, *supra* note 144.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² Assemb. No. 4267, 216th Leg., Reg. Sess. (N.J. 2015).

¹⁵³ *Id.*

¹⁵⁴ *New-Style Liquor License Can Provide Needed Boost for N.J. Restaurants*, *supra* note 144.

¹⁵⁵ *Id.*

This legislation could be significant. The restaurant industry accounts for 300,000 jobs in the state.¹⁵⁶ In 2011, there were approximately 16,000 full-service restaurants in New Jersey.¹⁵⁷ Approximately 10,000 of those restaurants did not have liquor licenses.¹⁵⁸ That means 62.5 percent of all restaurants in the state do not have liquor licenses. A study by the Beer Institute conducted in 2014 indicated that retail sales of alcoholic beverages account for 16,250 jobs in the state.¹⁵⁹ The study included data from businesses involved in on-premises and off-premises sale of malt beverages.¹⁶⁰ The businesses surveyed included restaurants, bars, hotels, retail establishments (such as grocery stores, package shops, convenience stores, liquor stores, and so on), amusement places (examples include amusement parks, beer gardens, and bowling alleys), and airlines.¹⁶¹ This survey demonstrates just how large of an impact the liquor sale industry has when it comes to jobs in the state of New Jersey. This note submits that there is further untapped benefit, as demonstrated by the large percentage of restaurants without licenses, which is yet to be realized.

A change such as that proposed by the Assembly Bill 4267 would be of benefit to businesspersons seeking to enter the industry and to those already in the industry. This legislation has the potential to increase the profits of small restaurant operations.¹⁶² It sets forth a fee-cost rubric, which makes the license an affordable option for these small businesses. These

¹⁵⁶ Halvorsen, *supra* note 8.

¹⁵⁷ Lisa Fleisher, *N.J. BYOB Gets Check*, WALLST. J. (Jan. 5, 2011, 12:01 AM), <http://www.wsj.com/articles/SB10001424052748703581204576033934256064542>.

¹⁵⁸ *Id.*

¹⁵⁹ BEER INST., *supra* note 94.

¹⁶⁰ BEER INST., *supra* note 99, at 6.

¹⁶¹ *Id.* Note that model limitations “preclude the inclusion of ABC stores, military stores, colleges, or other government owned outlets as part of the retailing sector.” *Id.*

¹⁶² See Moss, *supra* note 118 (stating that service industry establishments miss out on thirty to sixty percent in potential sales when they are prohibited from selling alcoholic beverages).

small restaurants are vast in number and make up a significant portion of the economy.¹⁶³ Collectively, the benefit they would realize from these licenses would translate to greater profits, more money for workers, and more jobs. Yet, there is opposition to the legislation.

IV. ANALYSIS: THE ONLY CONSTANT IS CHANGE

A. ADDRESSING THE ARGUMENTS

There is fierce opposition to liquor license reform. For this reason, if there is to be a change for the better, it must acknowledge, address, and accommodate the concerns of those established in the industry. Those concerns are well known. “There are many reasons why the industry opposes this legislation, but chief among them is the fact that it would add way too many licenses to the industry,” explained Jeffrey Warsh, executive director and general counsel for the Trenton-based New Jersey Wine and Spirits Wholesalers Association.¹⁶⁴ He argued that the amount of alcohol sold in the state each year is a static figure, not likely to increase.¹⁶⁵ He continued, stating, “If you add 1,000 new licenses, you’re not going to sell more alcohol. Each slice is just going to get smaller.”¹⁶⁶ He also stated that there

¹⁶³ See *About the SBA: Mission*, U.S. SMALL BUS. ADMIN., https://www.sba.gov/about-sba/what_we_do/mission (last visited Mar. 6, 2015) (showing that the U.S. Small Business Administration echoes this sentiment in their mission statement, stating in relevant part, “[w]e recognize that small business is critical to our economic recovery and strength, to building America’s future, and to helping the United States compete in today’s global marketplace.”); see also U.S. SMALL BUS. ADMIN., TABLE OF SMALL BUSINESS SIZE STANDARDS MATCHED TO NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODES 38, https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf (last visited Mar. 6, 2015) (where the same administration defines a restaurant with annual sales receipts of less than \$7.5 million as a small business).

¹⁶⁴ Joan Verdon, *Wholesalers Group Opposes Restaurant Liquor License Change*, NORTHJERSEY.COM (Feb. 28, 2015, 1:20 AM), <http://www.northjersey.com/news/business/liquor-bill-draws-dissent-1.1280079>.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

are currently 1,400 inactive licenses in the state, indicating that adding new licenses to the mix will not solve any problems.¹⁶⁷ There are also concerns surrounding the potential devaluation of licenses currently held. The position of license holders is best stated by Marilou Halvorsen, current president of the New Jersey Restaurant Association, who stated, “I have concerns about any kind of expansion of liquor licenses, only because of those people who have already invested [in licenses]. . . . Any kind of liquor-license reform would have to come with some sort of compensation to existing licensees, acknowledging the investment that they put in.”¹⁶⁸

In response to Jeffrey Warsh’s assertion, one could argue that a logical explanation for static sales is a static number of sellers. Following that line of logic, more licenses readily available would mean more sellers, and potentially more sales. Alternatively (or in addition), a savings in the cost of obtaining a license could be passed directly to the consumer, in the form of lower prices for alcoholic beverages. This would also likely spur an increase in sales. While this note does not purport that the aforementioned hypotheticals are a certain result, it does suggest that they are plausible. Basic notions of supply and demand support the theory that to a certain point, lower prices translate to more sales.¹⁶⁹

Furthermore, George Jacobs of NAIOP provides an explanation as to why the amount of inactive licenses currently in existence is not an indication that new licenses would be of no use.¹⁷⁰ “Statewide, licenses are in the wrong place. . . . That’s putting a damper on businesses seeking to come into New Jersey,

¹⁶⁷ *Id.*

¹⁶⁸ Linda Moss, *N.J. Liquor-License Reform Brewing for New Year*, NORTHJERSEY.COM (Dec. 24, 2014, 1:29 PM), <http://www.northjersey.com/news/business/n-j-liquor-license-reform-brewing-for-new-year-1.1174900>.

¹⁶⁹ See generally Reem Heakal, *Economics Basics: Supply and Demand*, INVESTOPEDIA, <http://www.investopedia.com/university/economics/economics3.asp> (last visited Mar. 4, 2015) (setting forth a brief, but helpful, explanation of the concept of supply and demand). The explanation of the law of demand is particularly relevant here. It states that, “if all other factors remain equal, the higher the price of a good, the less people will demand that good.” *Id.*

¹⁷⁰ See Moss, *supra* note 118.

as well as businesses already here.”¹⁷¹ He explains that the laws, which date back to 1947, were created when there was a balance between available licenses and population.¹⁷² The cities and other areas of dense population received a great number of licenses, many of which continue in existence today.¹⁷³ Additionally, licenses already in existence were grandfathered in, creating an instant imbalance in the marketplace.¹⁷⁴ As a result, in areas like Newark, New Jersey and Atlantic City, New Jersey, the number of inactive licenses is going up as business declines.¹⁷⁵

Conversely, the suburbs and less populated areas ended up with fewer licenses.¹⁷⁶ In many of the areas where few licenses have been issued, the current demand has caused the price of obtaining a license to increase dramatically.¹⁷⁷ The result is that in some areas, developers scurry to obtain any of a limited number of licenses available.¹⁷⁸ “There’s an insufficient number—or complete lack—of available licenses in many municipalities, inflating the value of existing licenses and forcing prospective restaurateurs to buy a license at an exorbitant price,” Assemblyman John Burzichelli said, while introducing Assembly Bill 4267.¹⁷⁹

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ Fleisher, *supra* note 158. One such imbalance resulting from the grandfathered licenses exists in Point Pleasant Beach, New Jersey. *Id.* The town has eighteen licenses for its 5,400 year round inhabitants. *Id.*

¹⁷⁵ Moss, *supra* note 118. It should be noted that the overall number of liquor licenses existing in the state is on the decline, as older licenses continue to expire. See Star-Ledger Staff, *N.J. Lawmakers Consider Bills Expanding Liquor Sale Rules*, NJ.COM (MAY 24, 2010, 2:51 PM), http://www.nj.com/news/index.ssf/2010/05/nj_lawmakers_consider_bills_ex.html (“The number of liquor licenses in the state has been declining since the 1980s, from more than 10,000 to about 9,300, as the licenses have expired, according to the ABC.”).

¹⁷⁶ Moss, *supra* note 118.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ Verdon, *supra* note 165.

It is clear that current license holders must be given guarantees that they will be compensated for devaluation. This group has a strong voice and is capable of blocking most legislation that will change the current liquor license formula. Yet, the present license holders must also see the writing on the wall. It is unavoidable that such a change would decrease the value of the licenses currently held. While that is unfortunate, it is also necessary. The cost of liquor licenses has skyrocketed because there are limited amounts available.¹⁸⁰ The cost has become so great in certain areas that it is likely the sole inhibitor preventing development of future restaurants, liquor stores, and other businesses in that area. Not only do these license laws, as they currently exist, present a significant hurdle to entrepreneurs, but they also prevent the growth of the restaurant industry and the liquor industry generally, as well as the potential creation of jobs that comes with it.

B. MAKING REAL CHANGE

The aforementioned bills in this note reflect a changing of attitude amongst lawmakers towards the current system governing the issuance of liquor licenses in the state. This note submits that they are still insufficient if the overall purpose is to make the licenses more readily available throughout the state, however. Even the most promising proposal, Assembly Bill 4267, would only apply in certain circumstances. If only a relatively few number of licenses become available, supply and demand considerations indicate that it is unlikely that there will be a substantial change in the cost of any license outside of the exception carved out by the bill. Thus, the cost barriers that exist today will continue to exist tomorrow. The opposition to these bills from the restaurant establishment substantiates these barriers even further.

¹⁸⁰ See Verdon, *supra* note 122. This article provides an example of the drastic increase in license prices. Bob Wong, owner of Taos in East Rutherford, New Jersey, discussed how he bought the liquor license for Taos at the price of \$90,000 in 2000. *Id.* Two years later, Bob Wong was offered \$800,000 for the same license by a national chain wishing to put one of its restaurants in East Rutherford. *Id.* That is an increase in value worth 8.89 times the original cost. The article indicates that bidding such as this is typical in northern New Jersey, where demand for licenses is greater than the supply available. *Id.*

A greater effort must be put forth to effect change if the respective lawmakers can justify relaxing laws in an industry that employs fifteen individuals¹⁸¹ at most, at any given microbrewery, surely they can justify relaxing laws in an industry that employs hundreds of thousands across the state and has the potential to employ thousands more. Surely these lawmakers can find a common ground with current license holders. They must. More liquor licenses means more sales, which means more money for payroll and more profit for owners. It means higher percentage tips for servers and bartenders. It means higher purchase and resale value for businesses. All of these things translate to more jobs and more money flowing into the state economy. The fact that some may fear a decrease in the value of an asset (one which was likely never intended to be an asset in the fashion and value that it has become today), does not justify a roadblock to the changing of the guard that seems all too necessary in New Jersey.

C. THE PROPOSAL

In order to stimulate the economy via this sector, this note submits that new licenses must be issued on a large scale. The price of these licenses should be set by a minimum and maximum standard, with fluctuation factors to be considered by the relative municipality. The municipality should determine the amount of licenses to be issued, using local industry needs and community considerations as guidance. Holders of old licenses should receive some other type of incentive to compensate for the devaluation of their licenses, which will occur once more licenses enter the market. Assemblyman John Burzichelli's tax incentives included in Assembly Bill 4267 are an example of such an incentive. By taking an approach such as this, a common ground may be reached, which will benefit those in the industry, those entering the industry, and the state economy.

¹⁸¹ See Kent, *supra* note 78 (setting forth the number of employees at the Glasstown Brewery); see also Johnson, *supra* note 101 (setting for the number of employees at the River Horse Brewery); Frassinelli, *supra* note 102 (setting forth the number of employees at Flying Fish Brewery).

V. CONCLUSION

The only way to truly create job growth and stimulate the economy via the alcohol-related industry in impoverished cities within the state of New Jersey, and throughout the state generally, is to make significant changes to current liquor license laws. The current changes being made to the laws governing microbreweries are insufficient. A larger liquor license overhaul is needed if there is to be genuine economic growth. While relaxing laws concerned with microbreweries and brewpubs is a step in the right direction, it is not sufficient if the legislature wishes to make a real economic impact. There is no evidence that suggests that microbreweries create anything greater than a minimal amount of jobs, most of which are highly specialized. Proposals like Senate Bill 2548 will aid brewing entrepreneurs in their endeavors, but it is highly unlikely that they will benefit the state economy as a whole.

Conversely, the liquor industry as a whole (and the restaurant industry in particular) has traditionally, and will continue, to employ a vast amount of people throughout the state. It is clear that the current formula for the issuance of retail consumption and retail distribution licenses creates a significant barrier to the 62.5 percent of all restaurant owners in the state who have yet to obtain a liquor license.¹⁸² Making allowances for brew masters is unlikely to benefit these owners. Instead, it will allow a select few to enter the market at a cost that is significantly less than the current norm. Rather than punish restaurant owners and retail distributors for not having the knowledge or facilities to craft their own alcoholic beverages by making them pay absurdly high prices for liquor licenses, new licenses should be generated. A change such as this would increase sales, create jobs, and generate economic growth. A change such as this would be of great benefit to New Jersey.

¹⁸² Fleisher, *supra* note 158 and accompanying text.