

P.L. 2000, CHAPTER 33, *approved June 28, 2000*  
Senate Committee Substitute for  
Senate, No. 692

1 AN ACT concerning possession and consumption of alcoholic  
2 beverages by underaged persons, supplementing Title 40 of the  
3 Revised Statutes and amending R.S.40:48-1.

4  
5 1. (New section) a. A municipality may enact an ordinance  
6 making it unlawful for any person under the legal age who, without  
7 legal authority, knowingly possesses or knowingly consumes an  
8 alcoholic beverage on private property. The ordinance shall provide  
9 that a violation shall be punished by a fine of \$250 for a first offense  
10 and \$350 for any subsequent offense.

11 b. The ordinance shall provide that the court may, in addition to  
12 the fine authorized for this offense, suspend or postpone for six  
13 months the driving privilege of the defendant. Upon the conviction of  
14 any person and the suspension or postponement of that person's  
15 driver's license, the court shall forward a report to the Division of  
16 Motor Vehicles stating the first and last day of the suspension or  
17 postponement period imposed by the court pursuant to this section.  
18 If a person at the time of the imposition of a sentence is less than 17  
19 years of age, the period of license postponement, including a  
20 suspension or postponement of the privilege of operating a motorized  
21 bicycle, shall commence on the day the sentence is imposed and shall  
22 run for a period of six months after the person reaches the age of 17  
23 years.

24 If a person at the time of the imposition of a sentence has a valid  
25 driver's license issued by this State, the court shall immediately collect  
26 the license and forward it to the division along with the report. If for  
27 any reason the license cannot be collected, the court shall include in  
28 the report the complete name, address, date of birth, eye color, and  
29 sex of the person, as well as the first and last date of the license  
30 suspension period imposed by the court.

31 The court shall inform the person orally and in writing that if the  
32 person is convicted of operating a motor vehicle during the period of  
33 license suspension or postponement, the person shall be subject to the  
34 penalties set forth in R.S.39:3-40. A person shall be required to  
35 acknowledge receipt of the written notice in writing. Failure to  
36 receive a written notice or failure to acknowledge in writing the  
37 receipt of a written notice shall not be a defense to a subsequent  
38 charge of a violation of R.S.39:3-40.

39 If the person convicted under such an ordinance is not a New  
40 Jersey resident, the court shall suspend or postpone, as appropriate,

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 the non-resident driving privilege of the person based on the age of the  
2 person and submit to the division the required report. The court shall  
3 not collect the license of a non-resident convicted under this section.  
4 Upon receipt of a report by the court, the division shall notify the  
5 appropriate officials in the licensing jurisdiction of the suspension or  
6 postponement.

7 c. (1) No ordinance shall prohibit an underaged person from  
8 consuming or possessing an alcoholic beverage in connection with a  
9 religious observance, ceremony, or rite or consuming or possessing an  
10 alcoholic beverage in the presence of and with the permission of a  
11 parent, guardian or relative who has attained the legal age to purchase  
12 and consume alcoholic beverages.

13 (2) As used in this section:

14 "Guardian" means a person who has qualified as a guardian of the  
15 underaged person pursuant to testamentary or court appointment.

16 "Relative" means the underaged person's grandparent, aunt or  
17 uncle, sibling, or any other person related by blood or affinity.

18 d. No ordinance shall prohibit possession of alcoholic beverages  
19 by any such person while actually engaged in the performance of  
20 employment by a person who is licensed under Title 33 of the Revised  
21 Statutes, or while actively engaged in the preparation of food while  
22 enrolled in a culinary arts or hotel management program at a county  
23 vocational school or post secondary educational institution; however,  
24 no ordinance enacted pursuant to this section shall be construed to  
25 preclude the imposition of a penalty under this section, R.S.33:1-81,  
26 or any other section of law against a person who is convicted of  
27 unlawful alcoholic beverage activity on or at premises licensed for the  
28 sale of alcoholic beverages.

29

30 2. R.S.40:48-1 is amended to read as follows:

31 40:48-1. Ordinances; general purpose. The governing body of  
32 every municipality may make, amend, repeal and enforce ordinances  
33 to:

34 Finances and property. 1. Manage, regulate and control the  
35 finances and property, real and personal, of the municipality;

36 Contracts and contractor's bonds. 2. Prescribe the form and  
37 manner of execution and approval of all contracts to be executed by  
38 the municipality and of all bonds to be given to it;

39 Officers and employees; duties, terms and salaries. 3. Prescribe  
40 and define, except as otherwise provided by law, the duties and terms  
41 of office or employment, of all officers and employees; and to provide  
42 for the employment and compensation of such officials and employees,  
43 in addition to those provided for by statute, as may be deemed  
44 necessary for the efficient conduct of the affairs of the municipality;

45 Fees. 4. Fix the fees of any officer or employee of the  
46 municipality for any service rendered in connection with his office or

1 position, for which no specific fee or compensation is provided. In the  
2 case of salaried officers or employees, such fee shall be paid into the  
3 municipal treasury;

4 Salaries instead of fees; disposition of fees. 5. Provide that any  
5 officer or employee receiving compensation for his services, in whole  
6 or in part by fees, whether paid by the municipality or otherwise, shall  
7 be paid a salary to be fixed in the ordinance, and thereafter all fees  
8 received by such officer or employee shall be paid into the municipal  
9 treasury;

10 Maintain order. 6. Prevent vice, drunkenness and immorality; to  
11 preserve the public peace and order; to prevent and quell riots,  
12 disturbances and disorderly assemblages; to prohibit the consumption  
13 of alcoholic beverages by underage persons on private property  
14 pursuant to section 1 of P.L. , c. (C. ) (now pending before the  
15 Legislature as this bill);

16 Punish beggars; prevention of loitering. 7. Restrain and punish  
17 drunkards, vagrants, mendicants and street beggars; to prevent  
18 loitering, lounging or sleeping in the streets, parks or public places;

19 Auctions and noises. 8. Regulate the ringing of bells and the  
20 crying of goods and other commodities for sale at auction or  
21 otherwise, and to prevent disturbing noises;

22 Swimming; bathing costume; prohibition of public nudity. 9.  
23 Regulate or prohibit swimming or bathing in the waters of, in, or  
24 bounding the municipality, and to regulate or prohibit persons from  
25 appearing upon the public streets, parks and places clad in bathing  
26 costumes or robes, or costumes of a similar character; regulate or  
27 prohibit persons from appearing upon State-owned lands within its  
28 borders in a state of nudity;

29 Prohibit annoyance of persons or animals. 10. Regulate or  
30 prohibit any practice tending to frighten animals, or to annoy or injure  
31 persons in the public streets;

32 Animals; pounds; establishment and regulation. 11. Establish and  
33 regulate one or more pounds, and to prohibit or regulate the running  
34 at large of horses, cattle, dogs, swine, goats and other animals, and to  
35 authorize their impounding and sale for the penalty incurred, and the  
36 costs of impounding, keeping and sale; to regulate or prohibit the  
37 keeping of cattle, goats or swine in any part of the municipality; to  
38 authorize the destruction of dogs running at large therein;

39 Hucksters. 12. Prescribe and regulate the place of vending or  
40 exposing for sale articles of merchandise from vehicles;

41 Building regulations; wooden structures. 13. Regulate and control  
42 the construction, erection, alteration and repair of buildings and  
43 structures of every kind within the municipality; and to prohibit, within  
44 certain limits, the construction, erection or alteration of buildings or  
45 structures of wood or other combustible material;

46 Inflammable materials; inspect docks and buildings. 14. Regulate

1 the use, storage, sale and disposal of inflammable or combustible  
2 materials, and to provide for the protection of life and property from  
3 fire, explosions and other dangers; to provide for inspections of  
4 buildings, docks, wharves, warehouses and other places, and of goods  
5 and materials contained therein, to secure the proper enforcement of  
6 such ordinance;

7 Dangerous structures; removal or destruction; procedure. 15.  
8 Provide for the removal or destruction of any building, wall or  
9 structure which is or may become dangerous to life or health, or might  
10 tend to extend a conflagration; and to assess the cost thereof as a  
11 municipal lien against the premises;

12 Chimneys and boilers. 16. Regulate the construction and setting  
13 up of chimneys, furnaces, stoves, boilers, ovens and other contrivances  
14 in which fire is used;

15 Explosives. 17. Regulate, in conformity with the statutes of this  
16 State, the manufacture, storage, sale, keeping or conveying of  
17 gunpowder, nitroglycerine, dynamite and other explosives;

18 Firearms and fireworks. 18. Regulate and prohibit the sale and  
19 use of guns, pistols, firearms, and fireworks of all descriptions;

20 Soft coal. 19. Regulate the use of soft coal in locomotives,  
21 factories, power houses and other places;

22 Theaters, schools, churches and public places. 20. Regulate the  
23 use of theaters, cinema houses, public halls, schools, churches, and  
24 other places where numbers of people assemble, and the exits  
25 therefrom, so that escape therefrom may be easily and safely made in  
26 case of fire or panic; and to regulate any machinery, scenery, lights,  
27 wires and other apparatus, equipment or appliances used in all places  
28 of public amusement;

29 Excavations. 21. Regulate excavations below the established  
30 grade or curb line of any street, not greater than eight feet, which the  
31 owner of any land may make, in the erection of any building upon his  
32 own property; and to provide for the giving of notice, in writing, of  
33 such intended excavation to any adjoining owner or owners, and that  
34 they will be required to protect and care for their several foundation  
35 walls that may be endangered by such excavation; and to provide that  
36 in case of the neglect or refusal, for 10 days, of such adjoining owner  
37 or owners to take proper action to secure and protect the foundations  
38 of any adjacent building or other structure, that the party or parties  
39 giving such notice, or their agents, contractors or employees, may  
40 enter into and upon such adjoining property and do all necessary work  
41 to make such foundations secure, and may recover the cost of such  
42 work and labor in so protecting such adjacent property; and to make  
43 such further and other provisions in relation to the proper conduct  
44 and performance of said work as the governing body or board of the  
45 municipality may deem necessary and proper;

46 Sample medicines. 22. Regulate and prohibit the distribution,

1 depositing or leaving on the public streets or highways, public places  
2 or private property, or at any private place or places within any such  
3 municipality, any medicine, medicinal preparation or preparations  
4 represented to cure ailments or diseases of the body or mind, or any  
5 samples thereof, or any advertisements or circulars relating thereto,  
6 but no ordinance shall prohibit a delivery of any such article to any  
7 person above the age of 12 years willing to receive the same;

8 Boating. 23. Regulate the use of motor and other boats upon  
9 waters within or bounding the municipality;

10 Fire escapes. 24. Provide for the erection of fire escapes on  
11 buildings in the municipality, and to provide rules and regulations  
12 concerning the construction and maintenance of the same, and for the  
13 prevention of any obstruction thereof or thereon;

14 Care of injured employees. 25. Provide for the payment of  
15 compensation and for medical attendance to any officer or employee  
16 of the municipality injured in the performance of his duty;

17 Bulkheads and other structures. 26. Fix and determine the lines  
18 of bulkheads or other works or structures to be erected, constructed  
19 or maintained by the owners of lands facing upon any navigable water  
20 in front of their lands, and in front of or along any highway or public  
21 lands of said municipality, and to designate the materials to be used,  
22 and the type, height and dimensions thereof;

23 Lifeguard. 27. Establish, maintain, regulate and control a  
24 lifeguard upon any beach within or bordering on the municipality;

25 Appropriation for life-saving apparatus. 28. Appropriate moneys  
26 to safeguard people from drowning within its borders, by location of  
27 apparatus or conduct of educational work in harmony with the plans  
28 of the United States volunteer life-saving corps in this State;

29 Fences. 29. Regulate the size, height and dimensions of any  
30 fences between the lands of adjoining owners, whether built or erected  
31 as division or partition fences between such lands, and whether the  
32 same exist or be erected entirely or only partly upon the lands of any  
33 such adjoining owners, or along or immediately adjacent to any  
34 division or partition line of such lands. To provide, in such ordinance,  
35 the manner of securing, fastening or shoring such fences. In the case  
36 of fences thereafter erected contrary to the provisions thereof, the  
37 governing body may provide for a penalty for the violation of such  
38 ordinance, and in the case of such fence or fences erected or existing  
39 at the time of the passage of any such ordinance, may provide therein  
40 for the removal, change or alteration thereof, so as to make such fence  
41 or fences comply with the provisions of any such ordinance;

42 Advertise municipality. 30. Appropriate funds for advertising the  
43 advantages of the municipality;

44 Government Energy Aggregation Programs. 31. Establish  
45 programs and procedures pursuant to which the municipality may act  
46 as a government aggregator pursuant to sections 40 through 45 of

1 P.L.1999, c.23 (C.48:3-89 through C.48:3-94. Notwithstanding the  
2 provisions of any other law, rule or regulation to the contrary, a  
3 municipality acting as a government aggregator pursuant to P.L.1999,  
4 c.23 (C.48:3-49 et al.) shall not be deemed to be a public utility  
5 pursuant to R.S.40:62-24 or R.S.48:1-1 et seq. or be deemed to be  
6 operating any form of public utility service pursuant to R.S.40:62-1 et  
7 seq., to the extent such municipality is solely engaged in the provision  
8 of such aggregation service and not otherwise owning or operating any  
9 plant or facility for the production or distribution of gas, electricity,  
10 steam or other product as provided in R.S.40:62-12.  
11 (cf: P.L.1999, c.141, s.1)

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13 3. This act shall take effect immediately.

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19 Permits municipalities to enact ordinance prohibiting possession or  
20 consumption of alcoholic beverages on private property by underage  
persons.