

Chapter 68: ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Mayor and Council of the Borough of Folsom as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Drug-free zones — See Ch. 98.

ARTICLE I Number of Plenary Retail Consumption Licenses [Adopted 12-2-1941 by Ord. No. 2]

§ 68-1. Limit on number.

Retail consumption licenses shall be limited in number to five; provided, however, that such limitation shall not affect the licenses presently issued or renewals of the same in subsequent years. No new retail consumption licenses shall be issued, until by relinquishment, revocation or otherwise, the number of retail consumption licenses shall be reduced below the number of five, and then new licenses may be issued until the limitation of five is reached. Licenses as herein used may be construed to apply to premises already licensed.

ARTICLE II Minors [Adopted 1-2-1958 by Ord. No. 38]

§ 68-2. Entering licensed premises.

It shall be unlawful for any minor to enter any premises located in the Borough of Folsom, County of Atlantic, State of New Jersey which is licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage.

§ 68-3. Consumption on licensed premises.

It shall be unlawful for a minor to consume any alcoholic beverage on premises so licensed for the retail sale of alcoholic beverages or to purchase, attempt to purchase or have another purchase for him or her any alcoholic beverage.

§ 68-4. Misrepresentation of age.

It shall be unlawful for a person to misrepresent or misstate his or her age or the age of any other person for the purpose of inducing any retail licensee or an employee of a retail beverage licensee to sell, serve or deliver any alcoholic beverage to a minor.

§ 68-5. Parent or guardian to attend hearing.

A parent or guardian of any minor charged with a violation of any of the provisions of this article shall be required to attend the hearing of the complaint. For the purpose of compelling such attendance, the Municipal Court Judge of the Borough of Folsom is hereby authorized and directed to cause a parent or guardian of the minor to attend the hearing by issuing appropriate subpoenas to compel such attendance. It shall be sufficient compliance with the provisions hereof if one of the parents or one of the guardians attend the hearing pursuant hereto.

§ 68-6. Impact on statutory provisions.

The provisions of this article are in addition to the provisions of N.J.S.A. 33:1-81 of the Revised Statutes of New Jersey, as amended.

§ 68-7. Violations and penalties.

Violation of any of the provisions of this article shall subject the person so violating the same to a fine not exceeding \$200 or imprisonment in the county jail not to exceed 90 days, or both said fine and imprisonment.

ARTICLE III License Fees [Adopted 4-8-1976 by Ord. No. 102; amended in its entirety 12-13-2006 by Ord. No. 15-2006]

§ 68-8. Annual fee for plenary retail distribution license.

The annual fee for a plenary retail distribution license for alcoholic beverages shall be \$360 per year.

§ 68-9. Annual fee for plenary retail consumption license.

The annual fee for a plenary retail consumption license for alcoholic beverages shall be \$420 per year.

ARTICLE IV Consumption and Possession on Private and Public Property [Adopted 5-9-1996 by Ord. No. 270]

§ 68-10. Unlawful acts.

It is hereby prohibited for any person to drink any alcoholic beverage in or about or upon any sidewalk, street, avenue, alley, highway, public park or parking lot or athletic field or in any motor vehicle not on private property within the Borough of Folsom, Atlantic County, New Jersey, at any time.

§ 68-11. Definitions.

As used in this article, the following terms shall have the meanings indicated:

STREET — Any street, avenue, boulevard, etc., which is an existing state, county or municipal roadway and shall comprise pavement, shoulders, gutters, sidewalks and parking areas within said street lines.

§ 68-12. Posting of regulations.

Copies of this article shall be posted on the public parks, the athletic fields, Borough Hall, and every place licensed for the sale of alcoholic beverages in this Borough.

§ 68-13. Violations and penalties. [Amended 5-20-2004 by Ord. No. 09-2004]

Any person or persons violating any provision of this article shall, upon conviction, be subject to a fine not exceeding \$1,250, a term of imprisonment not exceeding 90 days or a period of community service not exceeding 90 days, or any combination thereof, at the discretion of the Judge hearing said violation.

ARTICLE V Hours of Sale [Adopted 4-12-2001 by Ord. No. 284-2001]

§ 68-14. Purpose.

The purpose of this article is to control and regulate the sale of alcoholic beverages in the Borough of Folsom in order to preserve the public peace and order and protect the health, safety and welfare of the public.

§ 68-15. Closing hours.

No licensee shall sell, serve or deliver or allow, permit or suffer the sale, service, or delivery of any alcoholic beverage, at retail, or allow, permit, or suffer the consumption of any alcoholic beverage on the licensed premises or allow, permit or suffer the retail licensed premises to be open during the hours between 2:00 a.m. and 7:00 a.m. All licensed premises shall be closed from 2:00 a.m. to 7:00 a.m.

ARTICLE VI Possession or Consumption by Underaged Persons Prohibited [Adopted 5-20-2004 by Ord. No. 10-2004]

§ 68-16. Underaged possession or consumption.

It shall be unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property.

§ 68-17. Definitions.

As used in this article, the following terms shall have the meanings set forth:

GUARDIAN — A person who has qualified as a guardian of the underaged person pursuant to testamentary or court appointment.

RELATIVE — The underaged person's grandparent, aunt or uncle, sibling or any other person related by blood or affinity.

§ 68-18. Violations and penalties; suspension of driving privileges.

- A. Any person violating the provisions of this article shall, in accordance with the provisions of N.J.S.A. 40:48-1.2, be punished by a fine of \$250 for a first offense and \$350 for any subsequent offense.
- B. In addition to the fine authorized for this offense, the court may suspend or postpone for six months the driving privileges of the defendant. Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to N.J.S.A. 40:48-1.2. If a person at the time of the imposition of sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.
- C. If a person at the time of the imposition of a sentence has a valid driver's license issued by this state, the court shall immediately collect the license and forward it to the Division of Motor Vehicles along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color and the sex of the person, as well as the first and last date of the license suspension period imposed by the court.
- D. The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. A person shall be required to acknowledge receipt of written notice in writing. Failure to receive a written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.
- E. If a person convicted under this article is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresidential driving privilege of the person based on the age of the person and submit it to the Division of Motor Vehicles on the required report. The court shall not collect the license of a nonresident convicted under this article. Upon receipt of a report from the court, the Division of Motor Vehicles shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

§ 68-19. Exceptions.

- A. Nothing contained in this article is intended, nor shall it be construed, as prohibiting an underaged person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.
- B. Nothing contained in this article is intended nor shall it be construed as prohibiting possession of alcoholic beverages by any such person while actually engaged in the performance of employment by a person who is licensed under Title 33 of the Revised Statutes or while actively engaged in the preparation of food while enrolled in a culinary arts or a hotel management program at a county vocational school or post-secondary educational institution; provided, however, that this article shall not be construed to preclude the imposition of a penalty under this article, N.J.S.A. 33:1-81 or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.