

ASSEMBLY BILL NO. 5231

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Assembly Bill No. 5231 without my approval.

Assembly Bill No. 5231 amends the statute generally prohibiting sales of alcohol in public buildings. Current law prohibits alcohol sales in public buildings belonging to, or under the control of, the State, a county, or a municipality, unless such sales are permitted by the Director of the Division of Alcoholic Beverage Control ("ABC") in the Department of Law and Public Safety "in specified cases and subject to rules and regulations." N.J.S.A. 33:1-42. Under ABC regulations, a person or entity who has entered into a contract with the State or a locality to sell alcohol on public property may apply to ABC for a "special concessionaire permit" that authorizes the holder to sell alcoholic beverages on the premises of the public property.

Assembly Bill No. 5231 would allow the governing body of a county or municipality to enter into a revenue-sharing agreement with a special concessionaire permit holder who has been authorized to sell alcohol on premises owned or operated by the governing body, without any supervision from ABC. In other words, the bill would authorize a contract under which a governing body would be entitled to a percentage of the permit holder's revenue from alcohol sales.

ABC has expressed serious reservations about a law that would allow a municipality or county's governing body to become an active participant in the market for alcoholic beverage sales. Unlike a lease with a fixed monthly rent at fair market value, a revenue-sharing agreement of the kind contemplated by Assembly Bill No. 5231 would give the locality a stake in the permit holder's

financial success. Doing so would thereby indirectly place the locality in direct competition with any other current or potential alcoholic beverage sellers in the proximity of the permit holder. This is particularly problematic because municipalities are charged with administrative and criminal enforcement of the alcoholic beverage laws, which implicates conflict of interest concerns when the local government has a significant financial stake in the operations and success of alcoholic beverage sellers. Such a scenario would lead to the appearance of bias at best, and the potential for abuse at worst.

I share ABC's concerns. Our laws should not, as a general precept, promote the unbridled ability of municipalities and counties to directly invest in and profit from alcoholic beverage sales conducted by a holder of a special concessionaire permit.

Accordingly, I herewith return Assembly Bill No. 5231 without my approval.

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor