

3109--A

Cal. No. 424

2011-2012 Regular Sessions

I N   S E N A T E

February 8, 2011

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Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the alcoholic beverage control law, in relation to permitting licensees to provide beer samples

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     Section 1. Section 54 of the alcoholic beverage control law is amended  
2     by adding a new subdivision 6 to read as follows:  
3     6. (A) A LICENSEE OR HIS OR HER EMPLOYEE MAY SERVE AT THEIR LICENSED  
4     ESTABLISHMENT, PROVIDED THE LICENSEE DOES NOT SELL GASOLINE, SAMPLES OF  
5     BEER OR MALT BEVERAGES HE OR SHE SELLS AT SUCH ESTABLISHMENT; PROVIDED,  
6     HOWEVER, THAT SUCH SAMPLES SHALL NOT BE SERVED AT THE LICENSED ESTAB-  
7     LISHMENT AFTER TEN O'CLOCK IN THE EVENING ON ANY DAY.  
8     (B) EACH SAMPLE SHALL BE SERVED ONLY BY THE LICENSEE OR HIS OR HER  
9     EMPLOYEE AND SHALL BE LIMITED TO ONE OUNCE OR LESS OF A BRAND OF BEER OR  
10    MALT BEVERAGE SOLD BY THE LICENSEE AND NO CONSUMER OF LEGAL AGE SHALL BE  
11    PROVIDED OR GIVEN MORE THAN FOUR SERVINGS OF SUCH SAMPLES IN ANY ONE  
12    DAY.  
13    (C) A PERSON VIOLATING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDI-  
14    VISION SHALL BE GUILTY OF A VIOLATION AND SHALL BE SENTENCED IN ACCORD-  
15    ANCE WITH THE FOLLOWING:  
16    (I) FOR A FIRST VIOLATION, THE COURT SHALL ORDER PAYMENT OF A FINE OF  
17    NOT MORE THAN ONE HUNDRED DOLLARS.  
18    (II) FOR A SECOND VIOLATION, THE COURT SHALL ORDER PAYMENT OF A FINE  
19    OF NOT MORE THAN FIVE HUNDRED DOLLARS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 (III) FOR THIRD AND SUBSEQUENT VIOLATIONS, THE AUTHORITY MAY RECOVER,  
2 AS PROVIDED IN SECTION ONE HUNDRED TWELVE OF THIS CHAPTER, THE PENAL SUM  
3 OF THE BOND FILED BY THE LICENSEE.

4 S 2. Section 54-a of the alcoholic beverage control law is amended by  
5 adding a new subdivision 4 to read as follows:

6 4. (A) A LICENSEE OR HIS OR HER EMPLOYEE MAY SERVE AT THEIR LICENSED  
7 ESTABLISHMENT, PROVIDED THE LICENSEE DOES NOT SELL GASOLINE, SAMPLES OF  
8 BEER OR MALT BEVERAGES HE OR SHE SELLS AT SUCH ESTABLISHMENT; PROVIDED,  
9 HOWEVER, THAT SUCH SAMPLES SHALL NOT BE SERVED AT THE LICENSED ESTAB-  
10 LISHMENT AFTER TEN O'CLOCK IN THE EVENING ON ANY DAY.

11 (B) EACH SAMPLE SHALL BE SERVED ONLY BY THE LICENSEE OR HIS OR HER  
12 EMPLOYEE AND SHALL BE LIMITED TO ONE OUNCE OR LESS OF A BRAND OF BEER OR  
13 MALT BEVERAGE SOLD BY THE LICENSEE AND NO CONSUMER OF LEGAL AGE SHALL BE  
14 PROVIDED OR GIVEN MORE THAN FOUR SERVINGS OF SUCH SAMPLES IN ANY ONE  
15 DAY.

16 (C) A PERSON VIOLATING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDI-  
17 VISION SHALL BE GUILTY OF A VIOLATION AND SHALL BE SENTENCED IN ACCORD-  
18 ANCE WITH THE FOLLOWING:

19 (I) FOR A FIRST VIOLATION, THE COURT SHALL ORDER PAYMENT OF A FINE OF  
20 NOT MORE THAN ONE HUNDRED DOLLARS.

21 (II) FOR A SECOND VIOLATION, THE COURT SHALL ORDER PAYMENT OF A FINE  
22 OF NOT MORE THAN FIVE HUNDRED DOLLARS.

23 (III) FOR THIRD AND SUBSEQUENT VIOLATIONS, THE AUTHORITY MAY RECOVER,  
24 AS PROVIDED IN SECTION ONE HUNDRED TWELVE OF THIS CHAPTER, THE PENAL SUM  
25 OF THE BOND FILED BY A LICENSEE.

26 S 3. Section 53 of the alcoholic beverage control law, as amended by  
27 chapter 361 of the laws of 1994, is amended to read as follows:

28 S 53. Wholesaler's license. 1. Any person may apply to the liquor  
29 authority for a license to sell beer at wholesale. Such application  
30 shall be in writing and verified and shall contain such information as  
31 the liquor authority shall require. Such application shall be accompa-  
32 nied by a check or draft for the amount required by this article for  
33 such license. If the liquor authority shall grant the application it  
34 shall issue a license in such form as shall be determined by its rules.  
35 Such a license shall contain a description of the licensed premises and  
36 in form and in substance shall be a license to the person therein  
37 specifically designated to sell beer at wholesale in the premises there-  
38 in specifically licensed to duly licensed wholesalers, retailers and  
39 permittees in this state, and to sell or deliver beer to persons outside  
40 the state pursuant to the laws of the place of such sale or delivery. A  
41 wholesaler's license issued or renewed prior to July first, nineteen  
42 hundred sixty, and thereafter renewed or transferred, shall authorize  
43 the holder thereof to sell beer at retail to a person for consumption in  
44 his OR HER home; provided, however, that regardless of the date issued,  
45 renewed or transferred, a wholesaler's license issued to a brewer or to  
46 the wholly-owned subsidiary of a brewer, shall authorize the holder  
47 thereof to sell beer at retail to a person for consumption in his OR HER  
48 home.

49 2. (A) A LICENSEE OR HIS OR HER EMPLOYEE MAY SERVE AT THEIR LICENSED  
50 PREMISES, PROVIDED THE LICENSEE DOES NOT SELL GASOLINE, SAMPLES OF BEER  
51 OR MALT BEVERAGES HE OR SHE SELLS AT WHOLESALE AT SUCH PREMISES;  
52 PROVIDED, HOWEVER, THAT SUCH SAMPLES SHALL NOT BE SERVED AT THE LICENSED  
53 PREMISES AFTER TEN O'CLOCK IN THE EVENING ON ANY DAY.

54 (B) EACH SAMPLE SHALL BE SERVED ONLY BY THE LICENSEE OR HIS OR HER  
55 EMPLOYEE AND SHALL BE LIMITED TO ONE OUNCE OR LESS OF A BRAND OF BEER OR  
56 MALT BEVERAGE SOLD BY THE LICENSEE AND NO CONSUMER OF LEGAL AGE SHALL BE

1 PROVIDED OR GIVEN MORE THAN FOUR SERVINGS OF SUCH SAMPLES IN ANY ONE  
2 DAY.

3 (C) A PERSON VIOLATING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDI-  
4 VISION SHALL BE GUILTY OF A VIOLATION AND SHALL BE SENTENCED IN ACCORD-  
5 ANCE WITH THE FOLLOWING:

6 (I) FOR A FIRST VIOLATION, THE COURT SHALL ORDER PAYMENT OF A FINE OF  
7 NOT MORE THAN ONE HUNDRED DOLLARS.

8 (II) FOR A SECOND VIOLATION, THE COURT SHALL ORDER PAYMENT OF A FINE  
9 OF NOT MORE THAN FIVE HUNDRED DOLLARS.

10 (III) FOR THIRD AND SUBSEQUENT VIOLATIONS, THE AUTHORITY MAY RECOVER,  
11 AS PROVIDED IN SECTION ONE HUNDRED TWELVE OF THIS CHAPTER, THE PENAL SUM  
12 OF THE BOND FILED BY THE LICENSEE.

13 S 4. This act shall take effect immediately. Effective immediately,  
14 the state liquor authority is authorized to promulgate such rules and  
15 regulations as it deems necessary or appropriate to implement the  
16 provisions of this act to protect the health, safety and welfare of the  
17 people of this state.