S T A T E O F N E W Y O R K

5404--A

2011-2012 Regular Sessions

I N S E N A T E

May 18, 2011

Introduced by Sens. MARTINS, GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the alcoholic beverage control law, in relation to permitting the holder of a wholesaler's license to sell certain food and seasonal specialty items and to install and operate automated teller machines

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

Section 1. Paragraph (a) of subdivision 1 of section 104 of the alcoholic beverage control law, as amended by chapter 223 of the laws of 2002, is amended to read as follows:

(a) No wholesaler shall be engaged in any other business on the premises to be licensed; except that nothing contained in this chapter shall (1) prohibit a beer wholesaler from (i) acquiring, storing or selling non-alcoholic snack foods, as defined in paragraph (b) of this subdivision, (ii) manufacturing, bottling, storing, or selling non-alcoholic carbonated beverages, (iii) manufacturing, storing or selling non-alcoholic non-carbonated soft drinks, mineral waters, spring waters, drinking water, non-taxable malt or cereal beverages, juice drinks, fruit or vegetable juices, ice, liquid beverage mixes and dry or frozen beverage mixes, (iv) acquiring, storing or selling wine products, (v) the sale of promotional items on such premises, or (vi) the sale of tobacco products at retail by wholesalers who are licensed to sell beer and other products at retail, (2) prohibit a wholesaler authorized to sell wine from manufacturing, acquiring or selling wine merchandise, as defined in paragraph (d) of this subdivision, or (3) prohibit a licensed winery or licensed farm winery from engaging in the business of a wine wholesaler for New York state labeled wines produced by any licensed winery or licensed farm winery or prohibit such wine wholesaler from exercising

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

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any of its rights pursuant to sections seventy-six and seventy-six-a of this chapter provided that the operation of such beer and wine wholesalers business shall be subject to such rules and regulations as the liquor authority may prescribe. (4) THE SALE OF THE FOLLOWING PRODUCTS AT RETAIL SHALL NOT CONSTITUTE ENGAGING IN ANOTHER BUSINESS WITHIN THE MEANING OF THIS SUBDIVISION: (I) CANDY, CHEWING GUM AND COUGH DROPS; (II) NON-REFRIGERATED SALSA; (III) CIGARETTE LIGHTERS, LIGHTER FLUID, MATCHES AND ASHTRAYS; (IV) BARBECUE AND PICNIC-RELATED PRODUCTS AND SUPPLIES, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, CHARCOAL, GRILLS, PROPANE GAS, PLASTIC AND PAPER CUPS; PAPER OR PLASTIC TABLECLOTHS AND COOLERS; (V) BEER MAKING AND BREWING SUPPLIES AND PUBLICATIONS, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, BOOKS, MAGAZINES, EQUIPMENT AND INGREDIENTS; (VI) STEINS, MUGS AND OTHER GLASSWARE APPROPRIATE FOR THE CONSUMPTION OF BEER, MALT BEVERAGES AND WINE PRODUCTS; (VII) ITEMS TYPICALLY USED TO SERVE BEER AND MALT BEVERAGES INCLUDING, BUT NOT LIMITED TO, TAPS, KEGERATORS, COZIES AND BEER SOCKS; (VIII) LEMONS, LIMES AND ORANGES, PROVIDED THAT NO MORE THAN TWO DOZEN OF EACH SHALL BE DISPLAYED AT ANY ONE TIME; (IX) ROCK SALT, ICE AND SNOW MELTING COMPOUNDS, SNOW SHOVELS; WINDSHIELD WASHER SOLVENT; FIREWOOD; BEACH UMBRELLAS; SUNGLASSES AND SUN BLOCK; AND (X) PREPAID TELEPHONE CARDS. (5) THE INSTALLATION AND OPERATION OF A SINGLE AUTOMATED TELLER MACHINE IN EACH LICENSED PREMISES SHALL NOT CONSTITUTE ENGAGING IN ANOTHER BUSINESS WITHIN THE MEANING OF THIS SUBDIVISION. FOR THE PURPOSES OF THIS SUBDIVISION, "AUTOMATED TELLER MACHINE" MEANS A DEVICE WHICH IS LINKED TO THE ACCOUNTS AND RECORDS OF A BANKING INSTITUTION AND WHICH ENABLES CONSUMERS TO CARRY OUT BANKING TRANSACTIONS, INCLUDING BUT NOT LIMITED TO, ACCOUNT TRANSFERS, DEPOSITS, CASH WITHDRAWALS, BALANCE INQUIRIES AND LOAN PAYMENTS.

S 2. This act shall take effect immediately.