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

4499--A

2011-2012 Regular Sessions

I N S E N A T E

April 7, 2011

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- reported favorably from said committee and committed to the Committee on Finance -- 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 the shipment of alcoholic beverages into the state

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

Section 1. The alcoholic beverage control law is amended by adding a new section 101-c to read as follows:

S 101-C. PRIMARY SOURCE OF SUPPLY. 1. FOR THE PURPOSES OF THIS SECTION, AND TO IMPLEMENT SECTIONS ONE HUNDRED ONE-B, ONE HUNDRED THREE, ONE HUNDRED FOUR AND ONE HUNDRED SEVEN-A OF THIS ARTICLE AND SECTIONS FOUR HUNDRED TWENTY-ONE AND FOUR HUNDRED TWENTY-SIX OF THE TAX LAW, THE "PRIMARY SOURCE OF SUPPLY" OF AN ALCOHOLIC BEVERAGE SHALL MEAN THE MANUFACTURER OR BRAND OWNER IF LOCATED IN THE UNITED STATES OR, IN THE CASE OF AN ALCOHOLIC BEVERAGE MANUFACTURED OUTSIDE THE UNITED STATES, A LICENSED IMPORTER OF SUCH ALCOHOLIC BEVERAGE.

2. BEFORE COMMENCING THE SALE OR SHIPMENT OF ANY ALCOHOLIC BEVERAGE INTO OR WITHIN THIS STATE, THE PRIMARY SOURCE OF SUPPLY OF SUCH ALCOHOLIC BEVERAGE SHALL SUBMIT TO THE AUTHORITY A COMPLETE REPORT, ON ELECTRONIC FORMS PRESCRIBED BY THE AUTHORITY, WHICH SHALL INCLUDE:

(A) THE NAME OF THE PRIMARY SOURCE OF SUPPLY;

(B) A LIST OF THE NAMES OF THE LICENSED WHOLESALERS IN THIS STATE DESIGNATED TO SELL THE ALCOHOLIC BEVERAGE:

(I) SUCH LIST SHALL BE CONSISTENT WITH ANY LIST SUBMITTED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION FOUR-A OF SECTION ONE HUNDRED ONE-B OF THIS ARTICLE RESTRICTING THE DISTRIBUTION OF SUCH ALCOHOLIC BEVERAGE TO CERTAIN WHOLESALERS;

(II) THIS PARAGRAPH SHALL NOT REQUIRE THE PRIMARY SOURCE OF SUPPLY TO RESTRICT THE SALE OF ANY ALCOHOLIC BEVERAGE TO CERTAIN WHOLESALERS;

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

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(C) THE NAME OF THE PERSON, IF NOT THE PRIMARY SOURCE OF SUPPLY, DESIGNATED TO FILE THE PRICE SCHEDULE FOR THE PRODUCT REQUIRED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION ONE HUNDRED ONE-B OF THIS ARTICLE;

(D) THE NAME OF THE PERSON, IF NOT THE PRIMARY SOURCE OF SUPPLY, DESIGNATED TO FILE THE APPLICATION FOR REGISTRATION OF THE BRAND OR TRADE NAME LABEL PURSUANT TO PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED SEVEN-A OF THIS ARTICLE;

(E) THE PRODUCTS TO BE SOLD IN, OR SHIPPED INTO, THIS STATE, INCLUDING:

(I) THE BRAND NAME;

(II) CLASS TYPE;

(III) FANCIFUL NAME.

(F) IF APPLICABLE CONFIRMATION OF COMPLIANCE WITH APPLICABLE FEDERAL AND/OR STATE LABELING REQUIREMENTS, SUCH AS ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB) IDENTIFICATION NUMBER FOR THE BRAND LABEL AND NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS LABORATORY ANALYSIS.

3. SUCH FORM SHALL BE SUBMITTED TO THE AUTHORITY AT LEAST THIRTY DAYS BEFORE THE ALCOHOLIC BEVERAGES SET FORTH THEREIN ARE SHIPPED INTO OR SOLD IN THIS STATE. FOR GOOD CAUSE SHOWN, AND FOR REASONS NOT INCONSISTENT WITH THE PURPOSE OF THIS CHAPTER, THE AUTHORITY, IN ITS DISCRETION, MAY ALLOW FOR THE SUBMISSION OF A FORM LESS THAN THIRTY DAYS BEFORE THE ALCOHOLIC BEVERAGES SET FORTH THEREIN ARE SHIPPED INTO OR SOLD IN THIS STATE.

4. A NEW FORM MUST BE FILED IN THE EVENT THAT A MANUFACTURER CHANGES ITS DESIGNATED IMPORTER OR WHOLESALERS PRIOR TO CONTINUING THE SALE OR SHIPMENT OF ANY ALCOHOLIC BEVERAGE.

5. THE AUTHORITY SHALL SPECIFY THE ELECTRONIC FORMAT AND FORMS. THE AUTHORITY SHALL MAKE SUCH FILING AVAILABLE TO THE PUBLIC ON-LINE.

6. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO PRIVATELY HELD WINE OR LIQUOR BEING SOLD PURSUANT TO SECTIONS EIGHTY-FIVE OR NINETY-NINE-G OF THIS CHAPTER OR TO WINE SOLD PURSUANT TO A DIRECT INTERSTATE WINE SHIPPING LICENSE ISSUED UNDER SECTION SEVENTY-NINE-C OF THIS CHAPTER OR ALCOHOL SOLD PURSUANT TO A PERMIT UNDER SUBDIVISION F OF SECTION NINETY-NINE-B OF THIS CHAPTER.

7. NO LICENSED WHOLESALER SHALL SELL AN ALCOHOLIC BEVERAGE TO A RETAILER UNLESS SUCH WHOLESALER HAS PURCHASED THE ALCOHOLIC BEVERAGE FROM THE PRIMARY SOURCE OF SUPPLY, EXCEPT AS OTHERWISE PROVIDED BY LAW.

8. NO RETAILER SHALL PURCHASE AN ALCOHOLIC BEVERAGE OTHER THAN FROM THE MANUFACTURER, IF LICENSED IN THIS STATE TO MANUFACTURE SUCH ALCOHOLIC BEVERAGE, OR FROM A WHOLESALER WHO HAS BEEN AUTHORIZED BY THE PRIMARY SOURCE OF SUPPLY, PURSUANT TO SUBDIVISION TWO OF THIS SECTION, TO SELL SUCH ALCOHOLIC BEVERAGE.

9. THE PRIMARY SOURCE OF SUPPLY SHALL MAINTAIN RECORDS OF ALL TRANSACTIONS WITH WHOLESALERS LICENSED WITHIN THIS STATE WHICH SHALL SHOW THE NAMES, ADDRESSES AND LICENSE NUMBERS OF SUCH LICENSEES TOGETHER WITH THE QUANTITY AND PRICE OF ALCOHOLIC BEVERAGES SOLD TO SUCH LICENSEES. SUCH RECORDS SHALL BE MAINTAINED FOR A PERIOD OF TWO YEARS AND SHALL BE MADE AVAILABLE FOR INSPECTION BY THE AUTHORITY AND THE DEPARTMENT OF TAXATION AND FINANCE.

10. THE AUTHORITY IS HEREBY AUTHORIZED TO DO SUCH ACTS, PRESCRIBE SUCH FORMS AND MAKE SUCH RULES, REGULATIONS AND ORDERS AS IT MAY DEEM NECESSARY OR PROPER TO EFFECTUATE THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.