

4125

2013-2014 Regular Sessions

I N   S E N A T E

March 11, 2013

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Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the alcoholic beverage control law and the state finance law, in relation to establishing the wine industry and liquor store development act; and to repeal certain provisions of the alcoholic beverage control law relating thereto

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "wine industry and liquor store development act".  
3     S 2. Subdivision 8-b of section 17 of the alcoholic beverage control  
4     law, as added by chapter 396 of the laws of 2010, is amended to read as  
5     follows:  
6     8-b. On and after January first, two thousand eleven, the report  
7     provided for in subdivision eight of this section shall include informa-  
8     tion related to the number of licenses applied for, RENEWALS SOUGHT and  
9     the length of time required for the approval or denial of such retail  
10    [license] LICENSES AND RENEWALS applied for pursuant to subdivision  
11    two-c of section sixty-one, section sixty-four, section seventy-six,  
12    section seventy-six-a, section seventy-six-c, section seventy-six-d, and  
13    section seventy-six-f of this chapter.  
14    S 3. Subdivisions 4 and 5 of section 63 of the alcoholic beverage  
15    control law, subdivision 4 as amended by chapter 603 of the laws of  
16    1992, are amended and two new subdivisions 7 and 8 are added to read as  
17    follows:  
18    4. (A) No licensee under this section shall be engaged in any other  
19    business on the licensed premises. The SALE OF PRODUCTS COMPLEMENTARY TO  
20    THE BUSINESS OF THE LICENSED PREMISES SHALL NOT CONSTITUTE ENGAGING IN  
21    ANOTHER BUSINESS WITHIN THE MEANING OF THIS SUBDIVISION. SUCH PRODUCTS  
22    SHALL INCLUDE BUT NOT BE LIMITED TO THE sale of lottery tickets, when

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

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1 duly authorized and lawfully conducted, the sale of corkscrews or the  
2 sale of ice or the sale of publications, including prerecorded video  
3 and/or audio cassette tapes, designed to help educate consumers in their  
4 knowledge and appreciation of wine and wine products, as defined in  
5 section three of this chapter, or the sale of [non-carbonated, non-fla-  
6 vored mineral waters, spring waters and drinking waters or the sale of  
7 glasses designed for the consumption of wine] BOTTLED WATER, MIXERS,  
8 JUICE AND SODA, OR THE SALE OF CIGARS, CIGAR ACCESSORIES INCLUDING BUT  
9 NOT LIMITED TO HUMIDORS, LIGHTERS AND CUTTERS, CIGAR RELATED PUBLICA-  
10 TIONS DESIGNED TO HELP EDUCATE CONSUMERS IN THEIR KNOWLEDGE AND APPRECI-  
11 ATION OF CIGAR PRODUCTS, NEWSPAPERS OR FOOD ITEMS INCLUDING BUT NOT  
12 LIMITED TO LOCALLY GROWN FARM PRODUCTS AND ANY FOOD NOT SPECIFICALLY  
13 PREPARED FOR IMMEDIATE ON PREMISES CONSUMPTION AND FOOD PRODUCTS TYPI-  
14 CALLY CONSUMED WITH ALCOHOLIC BEVERAGES, INCLUDING BUT NOT LIMITED TO  
15 SNACK FOODS AND GOURMET FOODS, GIFTS, GIFT BAGS AND GIFT BASKETS, GLASS-  
16 WARE AND DECANTERS RELATED TO THE CONSUMPTION OR STORAGE OF WINE AND/OR  
17 LIQUOR, WINE REFRIGERATORS AND COOLERS, WINE MAKING PUBLICATIONS AND  
18 SUPPLIES, racks designed for the storage of wine, and devices designed  
19 to minimize oxidation in bottles of wine which have been uncorked[,  
20 shall not constitute engaging in another business within the meaning of  
21 this subdivision].

22 (B) THE INSTALLATION AND OPERATION OF AUTOMATED TELLER MACHINES SHALL  
23 NOT CONSTITUTE ENGAGING IN ANOTHER BUSINESS WITHIN THE MEANING OF THIS  
24 SUBDIVISION. FOR PURPOSES OF THIS SUBDIVISION, "AUTOMATED TELLER  
25 MACHINE" MEANS A DEVICE WHICH IS LINKED TO THE ACCOUNTS AND RECORDS OF A  
26 BANKING INSTITUTION AND WHICH ENABLES CONSUMERS TO CARRY OUT BANKING  
27 TRANSACTIONS, INCLUDING, BUT NOT LIMITED TO, ACCOUNT TRANSFERS, DEPOS-  
28 ITS, CASH WITHDRAWALS, BALANCE INQUIRIES, AND LOAN PAYMENTS.

29 5. [Not more than one license shall be] NOTHING IN THIS SECTION SHALL  
30 BE CONSTRUED TO PROHIBIT MULTIPLE LICENSES FROM BEING granted to any  
31 person under this section EXCEPT GROCERY AND DRUG STORES LICENSED PURSU-  
32 ANT TO SECTION SEVENTY-NINE-E OF THIS CHAPTER.

33 7. ANY LICENSE UNDER THIS SECTION GRANTED FOR LICENSED PREMISES OCCU-  
34 PYING LESS THAN THREE THOUSAND SQUARE FEET, INCLUDES THE PRIVILEGES TO  
35 SELL UP TO FIFTEEN BOTTLES OF LIQUOR AND/OR WINE IN ANY THIRTY DAY PERI-  
36 OD TO ANY PERSON LICENSED UNDER THIS CHAPTER TO SELL LIQUOR AT RETAIL  
37 FOR CONSUMPTION ON THE PREMISES AND WINE TO ANY PERSON LICENSED UNDER  
38 THIS CHAPTER TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES.  
39 SUCH SALES SHALL NOT BE SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED  
40 ONE-AA OR ONE HUNDRED ONE-B OF THIS CHAPTER.

41 8. EVERY LICENSEE UNDER THIS SECTION SHALL HAVE AN INDIVIDUAL IN A  
42 POSITION OF MANAGEMENT AND CONTROL ASSIGNED TO IT WHO HAS BEEN ISSUED A  
43 CERTIFICATE OF COMPLETION FROM AN APPROVED ALCOHOL TRAINING AWARENESS  
44 PROGRAM.

45 S 4. Subdivision 2 of section 79 of the alcoholic beverage control law  
46 is amended and two new subdivisions 5 and 6 are added to read as  
47 follows:

48 2. [Not more than one license shall be] NOTHING IN THIS SECTION SHALL  
49 BE CONSTRUED TO PROHIBIT MULTIPLE LICENSES FROM BEING granted to any  
50 person under this section EXCEPT GROCERY AND DRUG STORES LICENSED PURSU-  
51 ANT TO SECTION SEVENTY-NINE-E OF THIS ARTICLE.

52 5. ANY LICENSE UNDER THIS SECTION GRANTED FOR LICENSED PREMISES OCCU-  
53 PYING LESS THAN THREE THOUSAND SQUARE FEET INCLUDES THE PRIVILEGES TO  
54 SELL UP TO FIFTEEN BOTTLES OF LIQUOR AND/OR WINE IN ANY THIRTY DAY PERI-  
55 OD TO ANY PERSON LICENSED UNDER THIS CHAPTER TO SELL WINE AT RETAIL FOR  
56 CONSUMPTION OFF THE PREMISES OR ANY PERSON HOLDING A SINGLE LICENSE

1 GRANTED PURSUANT TO SECTION SEVENTY-NINE-E OF THIS ARTICLE. SUCH SALES  
2 SHALL NOT BE SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED ONE-AA OR  
3 ONE HUNDRED ONE-B OF THIS CHAPTER.

4 6. EVERY LICENSEE UNDER THIS SECTION SHALL HAVE AN INDIVIDUAL IN A  
5 POSITION OF MANAGEMENT AND CONTROL ASSIGNED TO IT WHO HAS BEEN ISSUED A  
6 CERTIFICATE OF COMPLETION FROM AN APPROVED ALCOHOL TRAINING AWARENESS  
7 PROGRAM.

8 S 5. The alcoholic beverage control law is amended by adding a new  
9 section 79-e to read as follows:

10 S 79-E. GROCERY OR DRUG STORE WINE LICENSE. 1. ANY PERSON MAY APPLY TO  
11 THE AUTHORITY FOR A LICENSE TO SELL FROM THE LICENSED PREMISES WINE IN  
12 SEALED CONTAINERS FOR CONSUMPTION OFF SUCH PREMISES; PROVIDED, HOWEVER  
13 THAT NO PERSON LICENSED PURSUANT TO THIS SECTION MAY APPLY FOR A WARE-  
14 HOUSE PERMIT PURSUANT TO SECTION NINETY-SIX OF THIS CHAPTER.

15 2. NO SUCH LICENSE SHALL BE ISSUED, HOWEVER, TO ANY PERSON FOR ANY  
16 PREMISES OTHER THAN A GROCERY STORE, AS DEFINED IN SUBDIVISION THIRTEEN  
17 OF SECTION THREE OF THIS CHAPTER, OR A DRUG STORE, AS DEFINED IN SUBDI-  
18 VISION TWELVE OF SECTION THREE OF THIS CHAPTER.

19 3. (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, EXCEPT FOR  
20 GOOD CAUSE SHOWN, THE AUTHORITY SHALL ISSUE A GROCERY OR DRUG STORE WINE  
21 LICENSE TO THE HOLDER OF A LICENSE TO SELL BEER AT RETAIL FOR CONSUMP-  
22 TION OFF THE PREMISES PURSUANT TO SECTION FIFTY-FOUR OF THIS CHAPTER, OR  
23 BEER AND WINE PRODUCTS AT RETAIL FOR CONSUMPTION OFF THE PREMISES PURSU-  
24 ANT TO SECTION FIFTY-FOUR-A OF THIS CHAPTER, AT THE REQUEST OF SUCH  
25 LICENSEE.

26 (B) FOR THE PURPOSES OF THIS SUBDIVISION, THE PREMISES OF THE GROCERY  
27 OR DRUG STORE WINE LICENSEE SHALL BE THE SAME AS THE PREMISES LICENSED  
28 UNDER SECTION FIFTY-FOUR OR FIFTY-FOUR-A OF THIS CHAPTER.

29 (C) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY LICENSE  
30 ISSUED PURSUANT TO THIS SECTION SHALL RUN CONCURRENTLY WITH THE UNDERLY-  
31 ING LICENSE UNDER SECTION FIFTY-FOUR OR FIFTY-FOUR-A OF THIS CHAPTER,  
32 AND SHALL BE DEEMED EXPIRED AT SUCH TIME AS THE UNDERLYING LICENSE  
33 EXPIRES.

34 (D) ANY PERSON LICENSED TO SELL WINE PURSUANT TO THIS ARTICLE SHALL BE  
35 PERMITTED TO CONDUCT WINE TASTINGS. WINE TASTINGS WHICH ARE CONDUCTED  
36 UNDER THE AUSPICES OF AN OFFICIAL AGENT OF A FARM WINERY, WINERY, WHOLE-  
37 SALER, OR IMPORTER AND WHERE SUCH AGENT IS PHYSICALLY PRESENT AT ALL  
38 TIMES DURING THE CONDUCT OF THE TASTING, THEN, IN THAT EVENT, ANY  
39 LIABILITY STEMMING FROM A RIGHT OF ACTION RESULTING FROM A WINE TASTING  
40 AS AUTHORIZED PURSUANT TO THIS SECTION, AND IN ACCORDANCE WITH THE  
41 PROVISIONS OF SECTIONS 11-100 AND 11-101 OF THE GENERAL OBLIGATIONS LAW,  
42 SHALL ACCRUE TO THE FARM WINERY, WINERY, WHOLESALER, OR IMPORTER.

43 4. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE AUTHORITY  
44 MAY ISSUE A LICENSE UNDER THIS SECTION TO THE HOLDER OF A LICENSE TO  
45 SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES PURSUANT TO SECTION  
46 SEVENTY-NINE OF THIS ARTICLE, PROVIDED THAT: (A) THE LICENSEE MEETS THE  
47 REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION; AND (B) UPON ISSUANCE  
48 OF A LICENSE, THE LICENSEE UNDER THIS SECTION SURRENDERS THE LICENSE  
49 CERTIFICATE ISSUED PURSUANT TO SUCH SECTION SEVENTY-NINE.

50 5. SUCH APPLICATION SHALL BE IN SUCH FORM AND SHALL CONTAIN SUCH  
51 INFORMATION AS SHALL BE REQUIRED BY THE RULES OF THE AUTHORITY AND SHALL  
52 BE ACCOMPANIED BY A CHECK OR DRAFT IN THE AMOUNT REQUIRED BY THIS ARTI-  
53 CLE FOR SUCH LICENSE.

54 6. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY PERSON  
55 RECEIVING A LICENSE PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO THE

1 PROVISIONS OF SUBDIVISION TWO, THREE OR FOUR OF SECTION SEVENTY-NINE OF  
2 THIS ARTICLE.

3 7. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY PERSON  
4 RECEIVING A LICENSE PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO THE  
5 PROVISIONS OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION ONE HUNDRED  
6 FIVE OF THIS CHAPTER.

7 8. (A) A ONE-TIME FRANCHISE FEE SHALL BE PAID BY EACH RETAIL OUTLET TO  
8 THE STATE LIQUOR AUTHORITY. THIS FRANCHISE FEE IS HEREBY IMPOSED PURSU-  
9 ANT TO THE FOLLOWING SCHEDULE PER LOCATION BASED UPON GROSS SALES IN THE  
10 PREVIOUS YEAR:

11 ANNUAL SALES	FRANCHISE FEE PER LOCATION
12 \$0-\$249,999	\$1,000
13 \$250,000-\$499,999	0.39 OF ONE PERCENT OF TOTAL GROSS SALES
14 \$500,000-\$999,999	0.39 OF ONE PERCENT OF TOTAL GROSS SALES
15 \$1,000,000-\$2,499,000	0.49 OF ONE PERCENT OF TOTAL GROSS SALES
16 \$2,500,000-\$4,999,999	0.49 OF ONE PERCENT OF TOTAL GROSS SALES
17 \$5,000,000-\$9,999,999	0.49 OF ONE PERCENT OF TOTAL GROSS SALES
18 \$10,000,000-\$24,999,999	0.99 OF ONE PERCENT OF TOTAL GROSS SALES
19 \$25,000,000-\$39,999,999	1.5 OF ONE PERCENT OF TOTAL GROSS SALES
20 \$40,000,000 AND GREATER	1.7 PERCENT OF TOTAL GROSS SALES
21 WAREHOUSE STORES	2.0 PERCENT OF TOTAL GROSS SALES

22 FOR THE PURPOSES OF THIS PARAGRAPH, "TOTAL GROSS SALES" SHALL NOT  
23 INCLUDE SALES RESULTING FROM THE SALE OF TOBACCO AS DEFINED BY ARTICLE  
24 TWENTY OF THE TAX LAW, MOTOR FUEL AS DEFINED BY ARTICLE TWELVE-A OF THE  
25 TAX LAW NOR SHALL IT INCLUDE A MEMBERSHIP FEE PURSUANT TO SECTION NINE-  
26 TY-SIX OF THIS CHAPTER. FOR THE PURPOSES OF THIS PARAGRAPH, NOTWITH-  
27 STANDING THE GROSS SALES OF THE APPLICANT, AN ESTABLISHMENT THAT CHARGES  
28 A MEMBERSHIP FEE TO ITS CUSTOMERS SHALL BE DEEMED A "WAREHOUSE STORE".

29 (B) IN THE EVENT AN APPLICANT HAS BEEN IN BUSINESS FOR LESS THAN  
30 TWELVE MONTHS PRIOR TO THE FILING OF THE APPLICATION FOR THIS LICENSE,  
31 SUCH APPLICANT SHALL, IN ACCORDANCE WITH THE RULES OF THE AUTHORITY,  
32 REMIT AN ESTIMATE OF ITS FRANCHISE FEE BASED ON SQUARE FOOTAGE AT A  
33 LICENSEE'S LOCATION PURSUANT TO THE FOLLOWING SCHEDULE:

34 SQUARE FOOTAGE LICENSEE'S	FRANCHISE FEE PER LOCATION
35 LOCATION	
36 0-999	\$825
37 1,000-1,999	\$1,650
38 2,000-3,999	\$3,300
39 4,000-9,999	\$8,250
40 10,000-19,999	\$16,500
41 20,000-24,999	\$33,000
42 25,000-29,999	\$82,500
43 30,000-39,999	\$132,000
44 40,000-79,999	\$250,000
45 80,000 AND GREATER	\$350,000

46 WITHIN SIXTY DAYS AFTER SUCH LICENSEE SHALL HAVE BEEN IN BUSINESS FOR  
47 TWELVE MONTHS, SUCH LICENSEE SHALL SUBMIT TO THE AUTHORITY, IN ACCORD-  
48 ANCE WITH THE RULES OF THE AUTHORITY, A STATEMENT SHOWING ITS ACTUAL  
49 TOTAL GROSS SALES FOR THE FIRST TWELVE MONTHS OF OPERATION AND THE FRAN-  
50 CHISE FEE DUE PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION. IN THE  
51 EVENT THE FRANCHISE FEE DETERMINED PURSUANT TO SUCH PARAGRAPH EXCEEDS  
52 THE AMOUNT PAID PURSUANT TO THIS PARAGRAPH, THE LICENSEE SHALL REMIT  
53 PAYMENT FOR THE BALANCE OF THE REQUIRED FRANCHISE FEE WITHIN SUCH  
54 SIXTY-DAY PERIOD. FAILURE TO REMIT PAYMENT WITHIN SUCH SIXTY-DAY PERIOD  
55 SHALL BE GROUNDS FOR CANCELLATION OR REVOCATION OF SUCH LICENSE. IN THE  
56 EVENT THAT THE FRANCHISE FEE DUE PURSUANT TO PARAGRAPH (A) OF THIS

SUBDIVISION IS LESS THAN THE AMOUNT PAID PURSUANT TO THIS PARAGRAPH, THE LICENSEE SHALL BE ENTITLED TO A REFUND EQUAL TO THE DIFFERENCE BETWEEN THE FRANCHISE FEE PAID PURSUANT TO THIS PARAGRAPH AND THE AMOUNT DUE PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION.

(C) NO LICENSE SHALL BE ISSUED PURSUANT TO THIS SECTION UNTIL THE FRANCHISE FEE OR ESTIMATED FRANCHISE FEE UNDER THIS SUBDIVISION REQUIRED BY EITHER PARAGRAPH (A) OR (B) OF THIS SUBDIVISION HAS BEEN PAID IN FULL.

9. EVERY LICENSEE UNDER THIS SECTION SHALL HAVE AN INDIVIDUAL IN A POSITION OF MANAGEMENT AND CONTROL ASSIGNED TO IT WHO HAS BEEN ISSUED A CERTIFICATE OF COMPLETION FROM AN APPROVED ALCOHOL TRAINING AWARENESS PROGRAM.

10. NOTWITHSTANDING SUBDIVISION EIGHT OF THIS SECTION, NO FRANCHISE FEE SHALL BE REQUIRED FROM AN APPLICANT WHO IS PURCHASING THE BUSINESS OF A LICENSEE WHO HAS ALREADY PAID A FRANCHISE FEE, PROVIDED THAT SUCH APPLICANT CONTINUES THE BUSINESS OPERATION AT THE SAME GEOGRAPHIC LOCATION AS THE LICENSEE. IN THE EVENT THE APPLICANT SUBSEQUENTLY REMOVES THE BUSINESS TO ANOTHER LOCATION, PAYMENT OF THE APPROPRIATE FRANCHISE FEE SHALL BE REQUIRED PRIOR TO THE APPROVAL OF THE REMOVAL PURSUANT TO SUBDIVISION THREE OF SECTION NINETY-NINE-D OF THIS CHAPTER.

11. THE AUTHORITY MAY MAKE SUCH RULES AS IT DEEMS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION, HOWEVER, SUCH RULES SHALL NOT BE CONSTRUED TO PLACE ADDITIONAL LIMITATIONS UPON THE HOLDERS OF LICENSES ISSUED PURSUANT TO SECTION SEVENTY-NINE OF THIS ARTICLE UNRELATED TO THE SALE OF WINE.

S 6. Section 83 of the alcoholic beverage control law is amended by adding a new subdivision 8 to read as follows:

8. THE ANNUAL FEE FOR A GROCERY OR DRUG STORE WINE LICENSE PURSUANT TO SECTION SEVENTY-NINE-E OF THIS ARTICLE SHALL BE FIVE HUNDRED DOLLARS. WHERE, HOWEVER, THE APPLICANT IS THE HOLDER OF TWO OR MORE SUCH LICENSES, THE ANNUAL FEE FOR EACH ADDITIONAL LICENSE SHALL BE ONE THOUSAND DOLLARS. TEN PERCENT OF THE OVERALL FEES PAID UP TO ONE MILLION DOLLARS SHALL BE DEPOSITED TO THE MISCELLANEOUS SPECIAL REVENUE FUND (339) WINE INDUSTRY MARKETING AND PROMOTION ACCOUNT FOR APPROPRIATION AND ALLOCATION TO THE NEW YORK WINE MARKETING PROGRAM, AS ESTABLISHED IN SECTION THREE-A OF CHAPTER EIGHTY OF THE LAWS OF NINETEEN EIGHTY-FIVE, SUCH SECTION AS ADDED BY CHAPTER THREE HUNDRED THIRTY OF THE LAWS OF TWO THOUSAND FOUR. FURTHER, TEN PERCENT OF THE OVERALL FEES PAID UP TO TWO MILLION DOLLARS PER YEAR SHALL BE APPROPRIATED TO MAKE STATE ASSISTANCE PAYMENTS TO NOT-FOR-PROFIT CONSERVATION ORGANIZATIONS FOR FARMLAND PROTECTION PROGRAMS PURSUANT TO SECTION THREE HUNDRED TWENTY-FIVE-A OF THE AGRICULTURE AND MARKETS LAW.

S 7. The state finance law is amended by adding a new section 97-llll to read as follows:

S 97-LLLL. NEW YORK WINE INDUSTRY MARKETING AND PROMOTION ACCOUNT. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT TO BE KNOWN AS THE NEW YORK WINE INDUSTRY MARKETING AND PROMOTION ACCOUNT.

2. SUCH ACCOUNT SHALL CONSIST OF REVENUES RECEIVED FROM GROCERY OR DRUG STORE WINE LICENSE FEES PURSUANT TO SUBDIVISION EIGHT OF SECTION EIGHTY-THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW.

3. MONEYS OF THE ACCOUNT, FOLLOWING APPROPRIATION BY THE LEGISLATURE, SHALL BE EXPENDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION THREE-A OF CHAPTER EIGHTY OF THE LAWS OF NINETEEN HUNDRED EIGHTY-FIVE, SUCH SECTION AS ADDED BY CHAPTER THREE HUNDRED THIRTY OF THE LAWS OF TWO THOUSAND FOUR. MONEYS SHALL BE PAID OUT OF THE ACCOUNT ON THE AUDIT AND

1 WARRANT OF THE STATE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY  
2 THE COMMISSIONER OF AGRICULTURE AND MARKETS.

3 S 8. Subdivision 2-a of section 100 of the alcoholic beverage control  
4 law, as amended by chapter 249 of the laws of 2002, is amended to read  
5 as follows:

6 2-a. No retailer shall employ, or permit to be employed, or shall  
7 suffer to work, on any premises licensed for retail sale hereunder, any  
8 person under the age of eighteen years, as a hostess, waitress, waiter,  
9 or in any other capacity where the duties of such person require or  
10 permit such person to sell, dispense or handle alcoholic beverages;  
11 except that: (1) any person under the age of eighteen years and employed  
12 by any person holding a grocery or drug store beer license shall be  
13 permitted to handle and deliver beer and wine products for such licen-  
14 see, (2) any person under the age of eighteen employed as a cashier by a  
15 person holding a grocery or drug store beer license shall be permitted  
16 to record and receive payment for beer and wine product sales when in  
17 the presence of and under the direct supervision of a person eighteen  
18 years of age or over, (2-a) any person under the age of eighteen years  
19 and employed by a person holding a grocery store or drug store beer  
20 license as either a cashier or in any other position to which handling  
21 of containers which may have held alcoholic beverages is necessary,  
22 shall be permitted to handle the containers if such have been presented  
23 for redemption in accordance with the provisions of title ten of article  
24 twenty-seven of the environmental conservation law, [and] (3) any person  
25 under the age of eighteen years employed as a dishwasher, busboy, or  
26 other such position as to which handling of containers which may have  
27 held alcoholic beverages is necessary shall be permitted to do so under  
28 the direct supervision of a person of legal age to purchase alcoholic  
29 beverages in the state, (4) ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS  
30 AND EMPLOYED BY A PERSON HOLDING A GROCERY OR DRUG STORE WINE LICENSE  
31 SHALL BE PERMITTED TO HANDLE AND DELIVER WINE FOR SUCH LICENSEE, AND (5)  
32 ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS AND EMPLOYED BY A PERSON  
33 HOLDING A GROCERY OR DRUG STORE WINE LICENSE SHALL BE PERMITTED TO  
34 RECORD AND RECEIVE PAYMENT FOR WINE SALES WHEN IN THE PRESENCE OF AND  
35 UNDER THE DIRECT SUPERVISION OF A PERSON EIGHTEEN YEARS OR OVER.

36 S 9. Section 100 of the alcoholic beverage control law is amended by  
37 adding a new subdivision 2-c to read as follows:

38 2-C. NO PERSON SHALL SELL, DELIVER OR GIVE AWAY OR CAUSE, PERMIT OR  
39 PROCURE TO BE SOLD, DELIVERED OR GIVEN AWAY ANY ALCOHOLIC BEVERAGES TO  
40 ANY PERSON, ACTUALLY OR APPARENTLY, UNDER THE AGE OF TWENTY-ONE YEARS.  
41 AS A PRECONDITION TO THE SALE OF ANY ALCOHOLIC BEVERAGE FOR OFF-PREMISES  
42 CONSUMPTION, THE PURCHASER OF ANY ALCOHOLIC BEVERAGE MUST PROVIDE WRIT-  
43 TEN EVIDENCE OF AGE. NO LICENSEE, OR AGENT OR EMPLOYEE OF A LICENSEE  
44 UNDER THIS CHAPTER, SHALL ACCEPT AS WRITTEN EVIDENCE OF AGE BY ANY SUCH  
45 PERSON FOR THE PURCHASE OF ANY ALCOHOLIC BEVERAGE, ANY DOCUMENTATION  
46 OTHER THAN: (A) A VALID DRIVER'S LICENSE OR NON-DRIVER IDENTIFICATION  
47 CARD ISSUED BY THE COMMISSIONER OF MOTOR VEHICLES, THE FEDERAL GOVERN-  
48 MENT, ANY UNITED STATES TERRITORY, COMMONWEALTH OR POSSESSION, THE  
49 DISTRICT OF COLUMBIA, A STATE GOVERNMENT WITHIN THE UNITED STATES OR A  
50 PROVINCIAL GOVERNMENT OF THE DOMINION OF CANADA, OR (B) A VALID PASSPORT  
51 ISSUED BY THE UNITED STATES GOVERNMENT OR ANY OTHER COUNTRY, OR (C) AN  
52 IDENTIFICATION CARD ISSUED BY THE ARMED FORCES OF THE UNITED STATES.

53 S 10. Paragraph a of subdivision 1 of section 101-aa of the alcoholic  
54 beverage control law, as amended by chapter 84 of the laws of 2004, is  
55 amended to read as follows:

1 a. "Credit period" means a period beginning on the date alcoholic  
2 beverages are delivered and ending thirty days thereafter, EXCEPT THAT  
3 WITH REGARD TO LICENSEES LICENSED UNDER SECTION SIXTY-THREE OF THIS  
4 CHAPTER THE "CREDIT PERIOD" MEANS A PERIOD BEGINNING ON THE DATE ALCO-  
5 HOLIC BEVERAGES ARE DELIVERED AND ENDING SIXTY DAYS THEREAFTER.

6 S 11. Section 101-aa of the alcoholic beverage control law is amended  
7 by adding a new subdivision 3-a to read as follows:

8 3-A. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OF THIS  
9 SECTION, THE HOLDER OF A LICENSE TO SELL LIQUOR AND WINE AT RETAIL FOR  
10 CONSUMPTION OFF THE PREMISES, PURSUANT TO SECTION SIXTY-THREE OF THIS  
11 CHAPTER, OR A LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE  
12 PREMISES PURSUANT TO SECTION SEVENTY-NINE OF THIS CHAPTER, WHO IS IN  
13 DEFAULT EXCEPT TO A FARM WINERY LICENSED PURSUANT TO SECTION  
14 SEVENTY-SIX-A OF THIS CHAPTER MAY PURCHASE ALCOHOLIC BEVERAGES ON CREDIT  
15 EXCEPT FROM THE MANUFACTURER OR WHOLESALER WHO PLACED SUCH RETAIL LICEN-  
16 SEE IN DEFAULT.

17 S 12. Paragraph (b) of subdivision 2 of section 101-b of the alcoholic  
18 beverage control law, as amended by chapter 669 of the laws of 1989, is  
19 amended to read as follows:

20 (b) to grant, directly or indirectly, any discount, rebate, free  
21 goods, allowance or other inducement of any kind whatsoever, except a  
22 discount or discounts for quantity of liquor or for quantity of wine and  
23 a discount not in excess of one per centum for payment on or before ten  
24 days from date of shipment. A DISCOUNT ON WINE PURCHASED ON A QUANTITY  
25 BASIS SHALL NOT BE AUTHORIZED ON THE PURCHASE OF MORE THAN ONE HUNDRED  
26 CASES OF WINE PER MONTH, OF THE SAME VARIETAL.

27 S 13. Paragraph (b) of subdivision 3 of section 101-b of the alcoholic  
28 beverage control law, as amended by section 1 of part E of chapter 56 of  
29 the laws of 2006, is amended to read as follows:

30 (b) No brand of liquor or wine shall be sold to or purchased by a  
31 retailer unless a schedule, as provided by this section, is transmitted  
32 to and received by the liquor authority, and is then in effect. Such  
33 schedule shall be transmitted to the authority in such form, manner,  
34 medium and format as the authority may direct; shall be deemed duly  
35 verified by the person submitting such schedule upon its transmission to  
36 the authority; and shall contain, with respect to each item, the exact  
37 brand or trade name, capacity of package, nature of contents, age and  
38 proof where stated on the label, the number of bottles contained in each  
39 case, the bottle and case price to retailers, the net bottle and case  
40 price paid by the seller, which prices, in each instance, shall be indi-  
41 vidual for each item and not in "combination" with any other item, the  
42 discounts for quantity, if any, and the discounts for time of payment,  
43 if any. PROVIDED HOWEVER THAT, FOR THE PURPOSES OF THIS PARAGRAPH,  
44 DIFFERENT PRODUCTS OR DIFFERENT SIZED BOTTLES FROM THE SAME MANUFACTURER  
45 MAY BE COMBINED. Such brand of liquor or wine shall not be sold to  
46 retailers except at the price and discounts then in effect unless prior  
47 written permission of the authority is granted for good cause shown and  
48 for reasons not inconsistent with the purpose of this chapter. Such  
49 schedule shall be transmitted by each manufacturer selling such brand to  
50 retailers and by each wholesaler selling such brand to retailers.

51 S 14. Subdivision 2 of section 105 of the alcoholic beverage control  
52 law is REPEALED.

53 S 15. Subdivision 7 of section 105 of the alcoholic beverage control  
54 law is REPEALED.

55 S 16. Paragraphs (b) and (c) of subdivision 10 of section 105 of the  
56 alcoholic beverage control law are REPEALED and paragraph (a), as

amended by chapter 679 of the laws of 1950, is amended to read as follows:

[(a)] Each retail licensee of liquor and/or wine for off-premises consumption shall have conspicuously displayed within the interior of the licensed premises where sales are made and where it can be readily inspected by consumers a printed price list of the liquors and/or wines offered for sale therein; and no liquor and/or wine shall be sold except at the price set forth in such list[;].

S 17. Paragraphs (a) and (b) of subdivision 14 of section 105 of the alcoholic beverage control law, paragraph (a) as amended by section 1 of part U of chapter 63 of the laws of 2003 and paragraph (b) as amended by chapter 334 of the laws of 2004, are amended to read as follows:

(a) No premises licensed to sell liquor and/or wine for off-premises consumption shall be permitted to [remain open] SELL LIQUOR AND/OR WINE:

(i) On Sunday before twelve o'clock post meridian and after nine o'clock post meridian.

(ii) On any day between midnight and eight o'clock antemeridian.

(iii) On the twenty-fifth day of December, known as Christmas day.

In any community where daylight saving time is in effect, such time shall be deemed the standard time for the purpose of this subdivision.

(b) This subdivision shall only be interpreted to prohibit the sale of liquor and/or wine for off-premises consumption [when it is closed to the public, provided however, retail licensees may undertake all other activities allowed during the course of normal business operations]. A LICENSEE MAY ENGAGE IN ANY OTHER LAWFUL ACTIVITY ALLOWED ON THE LICENSEE'S PREMISES, including but not limited to:

(i) placing orders with or taking deliveries from wholesalers AND MANUFACTURERS;

(ii) meeting with individuals who have valid solicitors permits issued by the liquor authority;

(iii) stocking shelves;

(iv) filling or building displays; [and]

(v) rotating product on store shelves; AND

(VI) IN THE CASE OF PERSONS LICENSED UNDER SECTION SEVENTY-NINE-E OF THIS CHAPTER, THE SALE OF OTHER PRODUCTS, INCLUDING BEER AND WINE PRODUCTS IF THE PERSON IS ALSO LICENSED UNDER SECTION FIFTY-FOUR OR SECTION FIFTY-FOUR-A OF THIS CHAPTER.

S 18. Section 105 of the alcoholic beverage control law is amended by adding a new subdivision 24 to read as follows:

24. FOR THE PURPOSES OF PURCHASING ONLY, ANY TWO OR MORE PERSONS LICENSED PURSUANT TO SECTIONS SIXTY-THREE AND/OR SEVENTY-NINE OF THIS CHAPTER MAY JOIN IN AN AGREEMENT TO MAKE JOINT PURCHASES OF LIQUOR AND/OR WINE IN LARGER QUANTITIES THAN MIGHT OTHERWISE BE PURCHASED; PROVIDED, HOWEVER, THAT ALL SUCH ALCOHOLIC BEVERAGES PURCHASED PURSUANT TO ANY SUCH AGREEMENT SHALL BE DISTRIBUTED TO NONE OTHER THAN A LICENSEE WHO IS A PARTY TO SUCH AGREEMENT. THE COOPERATIVE AGREEMENTS, AS AUTHORIZED UNDER THIS SUBDIVISION, SHALL BE VOID IF, WITHIN A CITY WITH A POPULATION OF ONE MILLION OR MORE AND THE PREMISES OPERATING UNDER THE COOPERATIVE AGREEMENTS AUTHORIZED IN THIS SUBDIVISION ARE LOCATED MORE THAN ONE MILE FROM ONE ANOTHER. THE COOPERATIVE AGREEMENTS, AS AUTHORIZED UNDER THIS SUBDIVISION, SHALL BE VOID IF, OUTSIDE OF A CITY WITH A POPULATION OF ONE MILLION OR MORE AND THE PREMISES OPERATING UNDER AGREEMENTS AUTHORIZED IN THIS SUBDIVISION ARE LOCATED MORE THAN FIFTY MILES FROM ONE ANOTHER. THE AUTHORITY MAY PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBDIVISION.



1 S 19. This act shall take effect immediately; provided, that the  
2 amendments to subdivision 8-b of section 17 of the alcoholic beverage  
3 control law made by section two of this act shall take effect on the  
4 same date as the reversion of such section as provided in section 4 of  
5 chapter 118 of the laws of 2012, as amended; provided further, that  
6 section nine of this act shall take effect on the one hundred eightieth  
7 day after it shall have become a law; and provided further, that, effec-  
8 tive immediately, the addition, amendment and/or repeal of any rules or  
9 regulations necessary for the implementation of this act on or before  
10 its effective date are authorized to be made by the state liquor author-  
11 ity on or before such date.