

STATE OF NEW YORK

1068

2021-2022 Regular Sessions

IN ASSEMBLY

January 7, 2021

Introduced by M. of A. CAHILL -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to requiring delinquent licensees to make future alcoholic beverage purchases to manufacturers and wholesalers in cash

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 3 of section 101-aa of the alcoholic beverage
2 control law, as amended by chapter 588 of the laws of 2008, is amended
3 to read as follows:

4 3. Each such manufacturer and wholesaler is hereby required, on or
5 before the respective notification dates for each retail license, to
6 give written notice of default, by first class mail, to all such licen-
7 sees therein who have failed to make payment to him or her on or before
8 their final payment date for alcoholic beverages sold or delivered to
9 them during a credit period ending on their final payment date. No
10 retail licensee shall be placed in default if the wholesaler has issued
11 an account credit to the licensee, which after application to all debts
12 owed by the retail licensee, is equal to or greater than the amount of
13 the default. Any such retail licensee receiving such notice shall not
14 thereafter purchase alcoholic beverages [~~except for cash until such time~~
15 ~~as the authority determines that his or her name shall not be published~~
16 ~~on the delinquent list as provided in subdivision four of this section,~~
17 ~~or until such time as the authority permits sales or deliveries to him~~
18 ~~or her as provided in subdivision five of this section]~~ from the
19 manufacturer or wholesaler such delinquent licensee received a notice of
20 default from, unless such purchase is made in cash. If such delinquent
21 licensee becomes delinquent on a second account within thirty days of
22 their first delinquency, such delinquent licensee shall be required to
23 make all future alcoholic beverage purchases to any manufacturer or
24 wholesaler in cash. Each such manufacturer and wholesaler is hereby

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

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1 required to file with the authority, on or before each notification
2 date, copies of the notices sent by him or her to all delinquent retail
3 licensees as required in this subdivision, and in addition, if the
4 authority shall so require, a written list setting forth the names and
5 addresses of all such delinquent licensees. The authority, in its
6 discretion, may extend for a period not exceeding three days the date
7 for giving written notice of default to delinquent retail licensees and
8 extend for three days the date for filing with the authority the copies
9 of notices sent to such licensees and/or the written list of delinquent
10 retail licensees as required in this subdivision. The authority, in its
11 discretion, may limit the documents to be filed to those relating to
12 licensees who are to be added or deleted from the default list and
13 direct that the manufacturer or wholesaler maintain copies of all other
14 documents required under this section for future inspection by the
15 authority. The authority shall, as soon as practicable after each
16 notification date, compile and publish and furnish each manufacturer and
17 wholesaler licensed under this chapter a list, to be designated the
18 delinquent list containing the names and addresses of all retail licen-
19 sees who have been reported by manufacturers and wholesalers pursuant to
20 the provisions of this section or section one hundred one-aaa of this
21 article as having failed to make payment as required by this section for
22 alcoholic beverages sold or delivered to them, and no such manufacturer
23 or wholesaler, on or after the fifth day after the receipt of such
24 delinquent list, shall knowingly, wilfully or intentionally sell or
25 deliver any alcoholic beverages to any such licensee whose name appears
26 on such list, except for cash, until such time as the name of such
27 licensee is removed therefrom, except as hereinafter permitted;
28 provided, however, a manufacturer or wholesaler may sell or deliver
29 alcoholic beverages to a licensee licensed to sell liquor and/or wine
30 for off-premises consumption on the delinquent list when such licensee
31 is not in default to such manufacturer or wholesaler. The receipt of a
32 delinquent list by a manufacturer or wholesaler shall constitute know-
33 ledge of the names of the retail licensees who have failed to make
34 payment for alcoholic beverages as required by this section. The failure
35 of any manufacturer or wholesaler to comply with the foregoing
36 provisions of this section may, at the discretion of the authority,
37 subject the license of such manufacturer or wholesaler to suspension for
38 not more than five days for the first offense, and not more than thirty
39 days for a subsequent offense. The authority may publish the delinquent
40 list on its website; provided, however, that full access shall be
41 restricted to those manufacturers and wholesalers licensed under this
42 chapter and access to their specific status shall be provided to retail-
43 ers licensed under this chapter. Such publication shall be considered
44 receipt thereof by all manufacturers and wholesalers.

45 § 2. This act shall take effect on the ninetieth day after it shall
46 have become a law.