

STATE OF NEW YORK

7864--A

IN SENATE

January 3, 2024

Introduced by Sens. HINCHEY, SCARCELLA-SPANTON -- 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 the sale of non-alcoholic versions of alcoholic beverages

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

1 Section 1. Section 3 of the alcoholic beverage control law is amended
2 by adding a new subdivision 20-h to read as follows:

3 20-h. "Non-alcoholic version of an alcoholic beverage" means a non-al-
4 coholic beverage that contains five-tenths percent or less alcohol by
5 volume and that is marketed to appeal to persons more than twenty-one
6 years of age as a substitute for an alcoholic beverage.

7 § 2. Subdivision 4 of section 63 of the alcoholic beverage control
8 law, as amended by chapter 24 of the laws of 2024, is amended to read as
9 follows:

10 4. No licensee under this section shall be engaged in any other busi-
11 ness on the licensed premises. The sale of lottery tickets, when duly
12 authorized and lawfully conducted, the sale of reusable bags as defined
13 in section 27-2801 of the environmental conservation law, the sale of
14 corkscrews or the sale of ice or the sale of publications, including
15 prerecorded video and/or audio cassette tapes, or educational seminars,
16 designed to help educate consumers in their knowledge and appreciation
17 of alcoholic beverages, as defined in section three of this chapter and
18 allowed pursuant to their license, or the sale of non-carbonated, non-
19 flavored mineral waters, spring waters ~~[and]~~, drinking waters, or the
20 sale of non-alcoholic versions of alcoholic beverages, or the sale of
21 glasses designed for the consumption of wine or liquor, racks designed
22 for the storage of wine, and devices designed to minimize oxidation in
23 bottles of wine which have been uncorked, or the sale of gift bags, gift
24 boxes, associated gift or promotional items, or wrapping, for alcoholic
25 beverages purchased at the licensed premises shall not constitute engag-

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

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ing in another business within the meaning of this subdivision. Any fee obtained from the sale of an educational seminar shall not be considered as a fee for any tasting that may be offered during an educational seminar, provided that such tastings are available to persons who have not paid to attend the seminar and all tastings are conducted in accordance with section sixty-three-a of this article. For the purposes of this section, gift or promotional items shall only include those items that are complimentary and directly associated with the sale of wine or liquor they are promoting and shall mean: (i) items that are de minimis in value, but in no instance shall merchandise be valued at more than fifteen dollars in total; (ii) items that are imprinted with the wine or liquor brand logo on the gift or promotional item; and (iii) items that are included as part of a manufactured pre-sealed package with the wine or liquor that is being gifted or promoted. Further, for the purposes of this section, promotional items shall not include any food, non-alcoholic beverage, or other drink or food mix, nor shall these items be offered for sale to the general public as individual items, except for those beverages specifically authorized to be sold pursuant to this subdivision.

§ 3. Paragraph (a) of subdivision 1 of section 104 of the alcoholic beverage control law, as amended by chapter 24 of the laws of 2024, 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 (i) manufacturing, acquiring or selling wine merchandise, as defined in paragraph (d) of this subdivision or (ii) acquiring, transporting, or selling non-alcoholic versions of alcoholic beverages; (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 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) prohibit a beer wholesaler who is authorized to sell beer at retail from selling at retail: (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,

1 kegerators, koozies and beer socks; (viii) lemons, limes and oranges,
2 provided that no more than two dozen of each shall be displayed at any
3 one time; (ix) rock salt, ice and snow melting compounds, snow shovels;
4 windshield washer solvent; firewood; beach umbrellas; sunglasses and sun
5 block; and (x) prepaid telephone cards; (5) prohibit the installation
6 and operation of a single automated teller machine in the premises of a
7 beer wholesaler who is authorized to sell beer at retail; or (6) prohib-
8 it a liquor or a wine wholesaler from (i) transporting or selling gifts
9 or promotional items associated with wine or liquor products as provided
10 for in subdivision four of section sixty-three of this chapter or (ii)
11 acquiring, transporting, or selling non-alcoholic versions of alcoholic
12 beverages. For the purposes of this subdivision, "automated teller
13 machine" means a device which is linked to the accounts and records of a
14 banking institution and which enables consumers to carry out banking
15 transactions, including but not limited to, account transfers, deposits,
16 cash withdrawals, balance inquiries and loan payments.
17 § 4. This act shall take effect immediately.