

STATE OF NEW YORK

9232

IN SENATE

May 7, 2024

Introduced by Sen. MAY -- (at request of the Department of Agriculture and Markets) -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, the alcoholic beverage control law, and the tax law, in relation to crop loss determinations for apples used in the production of New York state labeled cider

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

1 Section 1. Paragraphs (a) and (b) of subdivision 42 of section 16 of
2 the agriculture and markets law, paragraph (a) as amended and paragraph
3 (b) as added by chapter 108 of the laws of 2012, are amended to read as
4 follows:

5 (a) For purposes of making timely determinations and consulting with
6 the chairman of the state liquor authority pursuant to subdivision five
7 of section seventy-six-a of the alcoholic beverage control law, investi-
8 gate and compile information relative to natural disasters, acts of God,
9 or continued adverse weather conditions which shall affect: (i) the crop
10 of grapes or other fruit products used in the production of wine; and/or
11 (ii) the crop of apples used in the production of cider.

12 (b) For purposes of making timely determinations and consulting with
13 the chairman of the state liquor authority pursuant to subdivision eleven
14 of section fifty-one-a of the alcoholic beverage control law, inves-
15 tigate and compile information relative to natural disasters, acts of
16 God, or continued adverse weather conditions which shall affect: (i) the
17 necessary ingredients for brewing beer; and/or (ii) the crop of apples
18 used in the production of cider.

19 § 2. Paragraph (b) of subdivision 12 of section 51-a of the alcoholic
20 beverage control law, as added by chapter 108 of the laws of 2012, is
21 amended to read as follows:

22 (b) In the event that the commissioner of agriculture and markets,
23 after investigating and compiling information pursuant to subdivision
24 forty-two of section sixteen of the agriculture and markets law, deter-
25 mines that a natural disaster, act of God, or continued adverse weather
26 condition has destroyed [~~much~~] at least thirty percent of the apple crop

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

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1 necessary for producing cider, such commissioner, in consultation with
2 the chairman of the authority, may give authorization to a duly licensed
3 farm brewery to manufacture or sell cider produced from such apples
4 designated as necessary for producing cider and grown outside this
5 state. No such authorization shall be granted to a farm brewery licen-
6 see unless such licensee certifies to such commissioner the quantity of
7 such New York grown apples designated as necessary for producing cider
8 unavailable to such licensee due to such natural disaster, act of God,
9 or continuing adverse weather condition and satisfies such commissioner
10 that reasonable efforts were made to obtain such apples from a New York
11 state source for such cider making purpose. No farm brewery shall
12 utilize an amount of out-of-state grown apples exceeding the amount of
13 such designated New York grown apples that such brewery is unable to
14 obtain due to the destruction of New York grown apples by a natural
15 disaster, act of God, or continuing adverse weather condition as deter-
16 mined by the commissioner of agriculture and markets pursuant to this
17 subdivision. For purposes of this subdivision, the department of agri-
18 culture and markets and the authority are authorized to adopt rules and
19 regulations as they may deem necessary to carry out the provisions of
20 this subdivision which shall include ensuring that in manufacturing
21 cider farm breweries utilize apples grown in New York state to the
22 extent they are reasonably available, prior to utilizing apples from an
23 out-of-state source for such purpose.

24 § 3. Paragraph (b) of subdivision 11 of section 58-c of the alcoholic
25 beverage control law, as added by chapter 384 of the laws of 2013, is
26 amended to read as follows:

27 (b) In the event that the commissioner of agriculture and markets,
28 after investigating and compiling information pursuant to subdivision
29 forty-two of section sixteen of the agriculture and markets law, deter-
30 mines that a natural disaster, act of God, or continued adverse weather
31 condition has destroyed [~~much~~] at least thirty percent of the apple crop
32 necessary for producing cider, such commissioner, in consultation with
33 the chairman of the authority, may give authorization to a duly licensed
34 farm cidery to manufacture or sell cider produced from such apples
35 designated as necessary for producing cider and grown outside this
36 state. No such authorization shall be granted to a farm cidery licensee
37 unless such licensee certifies to such commissioner the quantity of such
38 New York grown apples designated as necessary for producing cider
39 unavailable to such licensee due to such natural disaster, act of God,
40 or continuing adverse weather condition and satisfies such commissioner
41 that reasonable efforts were made to obtain such apples from a New York
42 state source for such cider making purpose. No farm cidery shall utilize
43 an amount of out-of-state grown apples exceeding the amount of New York
44 grown apples that such cidery is unable to obtain due to the destruction
45 of New York grown apples by a natural disaster, act of God, or continu-
46 ing adverse weather condition as determined by the commissioner of agri-
47 culture and markets pursuant to this subdivision. For purposes of this
48 subdivision, the department of agriculture and markets and the authority
49 are authorized to adopt rules and regulations as they may deem necessary
50 to carry out the provisions of this subdivision which shall include
51 ensuring that in manufacturing cider farm cideries utilize apples grown
52 in New York state to the extent they are reasonably available, prior to
53 utilizing apples from an out-of-state source for such purpose.

54 § 4. Subdivisions 6, 7, 8, 9, 10 and 11 of section 76-a of the alco-
55 holic beverage control law are renumbered subdivisions 7, 8, 9, 10, 11
56 and 12 and a new subdivision 6 is added to read as follows:

1 6. (a) Except as provided in paragraph (b) of this subdivision, no
2 licensed farm winery shall manufacture or sell any cider other than New
3 York state labeled cider.

4 (b) In the event that the commissioner of agriculture and markets,
5 after investigating and compiling information pursuant to subdivision
6 forty-two of section sixteen of the agriculture and markets law, deter-
7 mines that a natural disaster, act of God, or continued adverse weather
8 condition has destroyed at least thirty percent of the apple crop neces-
9 sary for producing cider, the commissioner of agriculture and markets,
10 in consultation with the chairman of the authority, may give authori-
11 zation to a duly licensed farm winery to manufacture or sell cider
12 produced from such apples designated as necessary for producing cider
13 and grown outside this state. No such authorization shall be granted to
14 a farm winery licensee unless such licensee certifies to the commission-
15 er of agriculture and markets the quantity of such New York state apples
16 designated as necessary for producing cider unavailable to such licensee
17 due to such natural disaster, act of God, or continuing adverse weather
18 condition and satisfies the commissioner of agriculture and markets that
19 reasonable efforts were made to obtain such apples from a New York state
20 source for such cider making purpose. No farm winery shall utilize an
21 amount of out-of-state grown apples exceeding the amount of such desig-
22 nated New York grown apples that such cidery is unable to obtain due to
23 the destruction of New York grown apples by a natural disaster, act of
24 God, or continuing adverse weather condition as determined by the
25 commissioner of agriculture and markets pursuant to this subdivision.
26 For purposes of this subdivision, the department of agriculture and
27 markets and the authority are authorized to adopt rules and regulations
28 as they may deem necessary to carry out the provisions of this subdivi-
29 sion which shall include ensuring that in manufacturing cider farm
30 cideries utilize apples grown in New York state to the extent they are
31 reasonably available, prior to utilizing apples from an out-of-state
32 source for such purpose.

33 (c) The commissioner of agriculture and markets shall make available
34 to farm wineries and to the public each specific apple loss determi-
35 nation issued pursuant to paragraph (b) of this subdivision on or after
36 August twentieth of each year.

37 (d) In the event that the continuing effects of a natural disaster,
38 act of God, or adverse weather condition which occurred prior to August
39 twentieth of each year or the effects of a natural disaster, act of God,
40 or adverse weather condition which occurs subsequent to August twentieth
41 of each year results in any apple crop loss which meets the standards
42 provided in paragraph (b) of this subdivision, the commissioner of agri-
43 culture and markets, in consultation with the chairman of the authority,
44 may issue additional apple crop loss determinations and shall expe-
45 ditiously make available to farm wineries and to the public the loss
46 determination issued pursuant to this paragraph prior to October tenth
47 of each year.

48 § 5. Subparagraph (D) of paragraph 1 of subdivision (i) of section
49 1136 of the tax law, as added by section 3 of part J of chapter 59 of
50 the laws of 2020, is amended to read as follows:

51 (D) Notwithstanding the provisions of subparagraph (C) of this para-
52 graph, a person operating pursuant to any of the following licenses
53 shall not be subject to any of the requirements of this subdivision: (i)
54 a farm winery license, as provided in section seventy-six-a of the alco-
55 holic beverage control law; (ii) a winery license, as provided in
56 section seventy-six of the alcoholic beverage control law, where the

1 number of gallons of wine, cider and mead produced annually by such
2 person does not exceed the annual limits on the number of finished
3 gallons of wine, cider and mead permitted to be produced by a farm
4 winery under subdivision ~~eight~~ **nine** of section seventy-six-a of the
5 alcoholic beverage control law; (iii) a farm distillery license, as
6 provided in subdivision two-c of section sixty-one of the alcoholic
7 beverage control law; (iv) a distiller's license, as provided in section
8 sixty-one of the alcoholic beverage control law, where the number of
9 gallons of liquor produced annually by such person does not exceed the
10 annual limits on the number of gallons of liquor permitted to be
11 produced by a farm distillery under paragraph (f) of subdivision two-c
12 of section sixty-one of the alcoholic beverage control law; (v) a farm
13 cidery license, as provided in section fifty-eight-c of the alcoholic
14 beverage control law; (vi) a cider producers' license, as provided in
15 section fifty-eight of the alcoholic beverage control law, where the
16 number of gallons of cider produced annually by such person does not
17 exceed the annual limits on the number of gallons of cider permitted to
18 be produced by a farm cidery under subdivision ten of section fifty-
19 eight-c of the alcoholic beverage control law; (vii) a farm brewery
20 license, as provided in section fifty-one-a of the alcoholic beverage
21 control law; (viii) a brewer's license, as provided in section fifty-one
22 of the alcoholic beverage control law, where the number of finished
23 barrels of beer, cider and braggot produced annually by such person does
24 not exceed the annual number of finished barrels of beer, cider and
25 braggot permitted to be produced by a farm brewery under subdivision ten
26 of section fifty-one-a of the alcoholic beverage control law; (ix) a
27 farm meadery license, as provided in section thirty-one of the alcoholic
28 beverage control law; or (x) a mead producers' license, as provided in
29 section thirty of the alcoholic beverage control law, where the number
30 of gallons of mead and braggot produced annually by such person does not
31 exceed the annual number of finished barrels of mead and braggot permit-
32 ted to be produced by a farm meadery under subdivision ten of section
33 thirty-one of the alcoholic beverage control law. Nothing in this
34 subparagraph shall exempt a person operating pursuant to multiple
35 licenses under the alcoholic beverage control law from the requirements
36 of subparagraph (C) of this paragraph if such person produces an amount
37 of any alcoholic beverage in excess of the amounts permitted to be
38 produced annually by a person who holds only a farm winery, farm cidery,
39 farm distillery, farm brewery or farm meadery license for such beverage,
40 nor shall this section exempt any person holding a wholesalers' license
41 under the alcoholic beverage control law from the requirements of
42 subparagraph (C) of this paragraph.

43 § 6. This act shall take effect immediately.