

STATE OF NEW YORK

1279--A

2025-2026 Regular Sessions

IN SENATE

January 9, 2025

Introduced by Sens. KRUEGER, COMRIE, COONEY, GOUNARDES, SALAZAR, SEPULVEDA -- 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 establishing supermarket wine licenses

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 13-a to read as follows:

3 13-a. "Supermarket" shall mean any retail establishment (a) whose
4 primary business is the sale of foodstuffs for off-premises consumption,
5 and (b) which is at least four thousand square feet, in total floor
6 area. There shall be a rebuttable presumption that a retail establish-
7 ment is primarily engaged in the sale of foodstuffs where such sales of
8 foodstuffs constitutes greater than sixty-five percent of the total
9 revenue of such establishment in the twelve months preceding submission
10 of an application.

11 § 2. Subdivisions 3 and 5 of section 75 of the alcoholic beverage
12 control law, subdivision 3 as amended by section 4 of part K of chapter
13 60 of the laws of 2004 and subdivision 5 as added by chapter 355 of the
14 laws of 2013, are amended and a new subdivision 6 is added to read as
15 follows:

16 3. Seven day license to sell wine at retail for consumption off the
17 premises subject to paragraph (a) of subdivision fourteen of section one
18 hundred five of this chapter~~[-]~~;

19 5. Roadside farm market license~~[-]~~; and

20 6. Supermarket wine license.

21 § 3. The alcoholic beverage control law is amended by adding a new
22 section 79-e to read as follows:

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

LBD01847-13-5

1 § 79-e. Supermarket wine license. 1. Any person may apply to the
2 authority for a license to sell from the licensed premises wine in
3 sealed containers for consumption off such premises.

4 2. No such license shall be issued, however, to any person for any
5 premises other than a supermarket, as defined in subdivision thirteen-a
6 of section three of this chapter.

7 3. (a) For the purposes of this section, the premises of the supermar-
8 ket wine licensee shall be the same as the premises licensed under
9 section fifty-four or fifty-four-a of this chapter.

10 (b) Notwithstanding any other provisions of this chapter, any license
11 issued pursuant to this section shall run concurrently with the underly-
12 ing license under section fifty-four or fifty-four-a of this chapter,
13 and shall be deemed expired at such time as the underlying license
14 expires.

15 (c) Any person licensed to sell wine pursuant to this article shall be
16 permitted to conduct wine tastings. Wine tastings which are conducted
17 under the auspices of an official agent of a farm winery, winery, whole-
18 saler, or importer and where such agent is physically present at all
19 times during the conduct of the tasting, then, in that event, any
20 liability stemming from a right of action resulting from a wine tasting
21 as authorized pursuant to this section, and in accordance with the
22 provisions of sections 11-100 and 11-101 of the general obligations law,
23 shall accrue to the farm winery, winery, wholesaler, or importer.

24 4. Such application shall be in such form and shall contain such
25 information as shall be required by the rules of the authority and shall
26 be accompanied by a check or draft in the amount required by this arti-
27 cle for such license.

28 5. Notwithstanding any other provisions of this chapter, any person
29 receiving a license pursuant to this section shall not be subject to the
30 provisions of subdivision two, three or four of section seventy-nine of
31 this article.

32 6. Notwithstanding any other provisions of this chapter, any person
33 receiving a license pursuant to this section shall not be subject to the
34 provisions of subdivision two, paragraph (a) of subdivision three,
35 subdivision fourteen, and subdivision sixteen of section one hundred
36 five of this chapter.

37 7. (a) A one-time franchise fee shall be paid for by each licensee to
38 the state liquor authority. This franchise fee is hereby imposed at a
39 rate of ten thousand dollars.

40 (b) No license shall be issued pursuant to this section until the
41 franchise fee or estimated franchise fee required by paragraph (a) of
42 this subdivision has been paid in full.

43 (c) The franchise fee shall be deposited and disposed of in the same
44 manner as any license fee as provided in section one hundred twenty-five
45 of this chapter.

46 (d) The authority shall transfer any monies received, in excess of
47 five hundred thousand dollars annually, by franchise or license fees
48 received pursuant to this subdivision to the department of agriculture
49 and markets for promotion of New York state wines pursuant to subdivi-
50 sion two-b of section sixteen of the agriculture and markets law.

51 8. Any person licensed to sell wine at retail for consumption off the
52 premises under section seventy-nine of this article is authorized to
53 sell wine to persons licensed to sell wine under this article and this
54 section who operate the premises of the supermarket wine licensee.

55 9. The state liquor authority may make such rules as it deems neces-
56 sary to carry out the provisions of this section.

10. All county, town, city and village governing bodies are hereby preempted from adopting any law, rule, ordinance, regulation or prohibition pertaining to the operation or licensure of supermarket wine licenses. However, towns, cities and villages may pass local laws and regulations governing the time, place and manner of the operation of supermarket wine licenses, provided such law or regulation does not make the operation of such licensed sales unreasonably impracticable as determined by the authority.

11. (a) No supermarket wine license shall be granted for any premises which shall be:

(i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship; or

(ii) on the same street or avenue and within five hundred feet of a building occupied exclusively as a liquor store licensed pursuant to section one hundred five of this chapter; or

(iii) in a city, town or village having a population of twenty thousand or more within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this chapter.

(b) The measurements in paragraph (a) of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship, such liquor store licensed pursuant to section one hundred five of this chapter or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this chapter; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to when a building on the same street or avenue and within five hundred feet of said premises has been occupied exclusively as a liquor store and except that no license shall be denied to any premises, which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this chapter, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three.

(c) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, sixty-four-d and/or one hundred five of this chapter or of the premises sought to be licensed, regularly used to give ingress to the general public attending, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

(d) Notwithstanding the provisions of subparagraphs (ii) and (iii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of a liquor store licensed pursuant to section one hundred

1 five of this chapter or to the center of the nearest entrance of each
2 such premises licensed and operating pursuant to this section and
3 sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-d of
4 this chapter if, after consultation with the municipality or community
5 board, it determines that granting such license would be in the public
6 interest. Before it may issue any such license, the authority shall
7 conduct a hearing, upon notice to the applicant and the municipality or
8 community board, and shall state and file in its office its reasons
9 therefor. The hearing may be rescheduled, adjourned or continued, and
10 the authority shall give notice to the applicant and the municipality or
11 community board of any such rescheduled, adjourned or continued hearing.
12 Before the authority issues any said license, the authority or one or
13 more of the commissioners thereof may, in addition to the hearing
14 required by this paragraph, also conduct a public meeting regarding said
15 license, upon notice to the applicant and the municipality or community
16 board. The public meeting may be rescheduled, adjourned or continued,
17 and the authority shall give notice to the applicant and the munici-
18 pality or community board of any such rescheduled, adjourned or contin-
19 ued public meeting. Notice to the municipality or community board shall
20 mean written notice mailed by the authority to such municipality or
21 community board at least fifteen days in advance of any hearing sched-
22 uled pursuant to this paragraph. Upon the request of the authority, any
23 municipality or community board may waive the fifteen-day notice
24 requirement. No premises having been granted a license pursuant to this
25 section shall be denied a renewal of such license upon the grounds that
26 such premises are within five hundred feet of a liquor store licensed
27 pursuant to section one hundred five of this chapter or of a building or
28 buildings wherein three or more premises are licensed and operating
29 pursuant to this section and sections sixty-four-a, sixty-four-b,
30 sixty-four-c, and/or sixty-four-d of this chapter.

31 § 4. Section 83 of the alcoholic beverage control law is amended by
32 adding a new subdivision 10 to read as follows:

33 10. The annual fee for a supermarket wine license pursuant to section
34 seventy-nine-e of this article shall be at a rate of one-half (0.5)
35 percent of sales of wine sold, less the amount from sales of wines sold
36 that were produced in New York state.

37 § 5. Subdivision 2-a of section 100 of the alcoholic beverage control
38 law, as amended by chapter 249 of the laws of 2002, is amended to read
39 as follows:

40 2-a. No retailer shall employ, or permit to be employed, or shall
41 suffer to work, on any premises licensed for retail sale hereunder, any
42 person under the age of eighteen years[~~, as a hostess, waitress, waiter,~~
43 ~~or~~] in any [~~other~~] capacity where the duties of such person require or
44 permit such person to sell, dispense or handle alcoholic beverages;
45 except that: (1) any person under the age of eighteen years and employed
46 by any person holding a grocery or drug store beer license shall be
47 permitted to handle and deliver beer and wine products for such licen-
48 see, (2) any person under the age of eighteen employed as a cashier by a
49 person holding a grocery or drug store beer license shall be permitted
50 to record and receive payment for beer and wine product sales when in
51 the presence of and under the direct supervision of a person eighteen
52 years of age or over, (2-a) any person under the age of eighteen years
53 and employed by a person holding a grocery store or drug store beer
54 license as either a cashier or in any other position to which handling
55 of containers which may have held alcoholic beverages is necessary,
56 shall be permitted to handle the containers if such have been presented

1 for redemption in accordance with the provisions of title ten of article
2 twenty-seven of the environmental conservation law, ~~[and]~~ (3) any person
3 under the age of eighteen years employed as a dishwasher, busboy, or
4 other such position as to which handling of containers which may have
5 held alcoholic beverages is necessary shall be permitted to do so under
6 the direct supervision of a person of legal age to purchase alcoholic
7 beverages in the state, (4) any person under the age of eighteen years
8 and employed by any person holding a supermarket wine license shall be
9 permitted to handle and deliver wine for such licensee, and (5) any
10 person under the age of eighteen employed as a cashier by a person hold-
11 ing a supermarket wine license shall be permitted to record and receive
12 payment for wine when in the presence of and under the direct super-
13 vision of a person eighteen years of age or over.

14 § 6. Subdivisions 3-a and 3-b of section 102 of the alcoholic beverage
15 control law, as amended by chapter 458 of the laws of 1993, are amended
16 to read as follows:

17 3-a. No licensee or permittee shall purchase or agree to purchase any
18 alcoholic beverages from any person within the state who is not duly
19 licensed to sell such alcoholic beverage as the case may be, at the time
20 of such agreement and sale nor give any order for any alcoholic beverage
21 to any individual who is not the holder of a solicitor's permit, except
22 as provided for in section eighty-five ~~[or]~~, ninety-nine-g, or seventy-
23 nine-e of this chapter.

24 3-b. No retail licensee shall purchase, agree to purchase or receive
25 any alcoholic beverage except from a person duly licensed within the
26 state by the liquor authority to sell such alcoholic beverage at the
27 time of such agreement and sale to such retail licensee, except as
28 provided for in section eighty-five ~~[or]~~, ninety-nine-g, or seventy-
29 nine-e of this chapter.

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

33 4. No licensee under this section shall be engaged in any other busi-
34 ness on the licensed premises. The sale of products complementary to the
35 business of the licensed premises shall not constitute engaging in busi-
36 ness within the meaning of this subdivision. Such products shall include
37 but not be limited to the sale of lottery tickets, when duly authorized
38 and lawfully conducted, the sale of reusable bags as defined in section
39 27-2801 of the environmental conservation law, the sale of corkscrews or
40 the sale of ice or the sale of publications, including prerecorded video
41 and/or audio cassette tapes, or educational seminars, designed to help
42 educate consumers in their knowledge and appreciation of alcoholic
43 beverages, as defined in section three of this chapter and allowed
44 pursuant to their license, or the sale of ~~[non-carbonated, non-flavored~~
45 ~~mineral waters, spring waters and drinking waters]~~ non-alcoholic bever-
46 ages for consumption on or off premises, including but not limited to
47 bottled water, juice and soda beverages, or the sale of gift bags and
48 gift baskets including, but not limited to, shot glasses, single malt
49 glasses, grappa glasses, decanters, or other glassware, all of which is
50 related to the consumption and enjoyment of wine and liquor or the sale
51 of glasses designed for the consumption of wine or liquor, racks
52 designed for the storage of wine, and devices designed to minimize
53 oxidation in bottles of wine which have been uncorked, or the sale of
54 gift bags, gift boxes, associated gift or promotional items, or wrap-
55 ping, for alcoholic beverages purchased at the licensed premises shall
56 not constitute engaging in another business within the meaning of this

1 subdivision. Any fee obtained from the sale of an educational seminar
2 shall not be considered as a fee for any tasting that may be offered
3 during an educational seminar, provided that such tastings are available
4 to persons who have not paid to attend the seminar and all tastings are
5 conducted in accordance with section sixty-three-a of this article. For
6 the purposes of this section, gift or promotional items shall only
7 include those items that are complimentary and directly associated with
8 the sale of wine or liquor they are promoting and shall mean: (i) items
9 that are de minimis in value, but in no instance shall merchandise be
10 valued at more than fifteen dollars in total; (ii) items that are
11 imprinted with the wine or liquor brand logo on the gift or promotional
12 item; and (iii) items that are included as part of a manufactured pre-
13 sealed package with the wine or liquor that is being gifted or promoted.
14 Further, for the purposes of this section, promotional items shall not
15 include any food, non-alcoholic beverage, or other drink or food mix,
16 nor shall these items be offered for sale to the general public as indi-
17 vidual items.

18 § 8. Severability clause. If any clause, sentence, paragraph, subdivi-
19 sion, section or part of this act shall be adjudged by any court of
20 competent jurisdiction to be invalid, such judgment shall not affect,
21 impair, or invalidate the remainder thereof, but shall be confined in
22 its operation to the clause, sentence, paragraph, subdivision, section
23 or part thereof directly involved in the controversy in which such judg-
24 ment shall have been rendered. It is hereby declared to be the intent of
25 the legislature that this act would have been enacted even if such
26 invalid provisions had not been included herein.

27 § 9. This act shall take effect immediately.