S T A T E O F N E W Y O R K

2637

2009-2010 Regular Sessions

I N S E N A T E

February 25, 2009

Introduced by Sens. LARKIN, BONACIC, FLANAGAN, MAZIARZ, SALAND, VOLKER -- 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, in relation to authorizing the issuance of a special class A-1 distiller's license to help promote the production and sale of New York agricultural products, and certain distiller's licenses and trade or brand name labels

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

Section 1. Section 60 of the alcoholic beverage control law is amended by adding a new subdivision 1-b to read as follows:

1-B. DISTILLER'S LICENSE, SPECIAL CLASS A-1.

S 2. Section 61 of the alcoholic beverage control law is amended by adding a new subdivision 1-b to read as follows:

1-B. (A) A SPECIAL CLASS A-1 DISTILLER'S LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO OPERATE A DISTILLERY WHICH HAS A PRODUCTION CAPACITY OF NO MORE THAN TEN THOUSAND GALLONS PER YEAR FOR THE MANUFACTURE OF LIQUORS BY DISTILLATION OR REDISTILLATION. NO LICENSED SPECIAL CLASS A-1 DISTILLERY SHALL MANUFACTURE OR SELL ANY LIQUOR, BRANDY OR OTHER DISTILLED PRODUCT THAT IS NOT PRODUCED EXCLUSIVELY FROM GRAPES, FRUITS OR OTHER AGRICULTURAL PRODUCTS GROWN OR PRODUCED IN NEW YORK STATE. ANY PERSON MAY APPLY TO THE LIQUOR AUTHORITY FOR A SPECIAL CLASS A-1 DISTILLER'S LICENSE TO OPERATE ON THE PREMISES OF AN EXISTING CLASS A-1 DISTILLER LICENSEE, CLASS B-1 DISTILLER LICENSEE OR CLASS C DISTILLER LICENSEE AS PROVIDED FOR IN THIS ARTICLE. SUCH APPLICATION SHALL BE IN WRITING AND VERIFIED AND SHALL CONTAIN SUCH INFORMATION AS THE LIQUOR AUTHORITY SHALL REQUIRE. SUCH APPLICATION SHALL BE ACCOMPANIED BY A CHECK OR DRAFT FOR THE AMOUNT REQUIRED BY THIS ARTICLE FOR SUCH LICENSE. IF THE LIQUOR AUTHORITY SHALL GRANT THE APPLICATION IT SHALL ISSUE A LICENSE IN SUCH FORM AS SHALL BE DETERMINED BY ITS RULES.

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

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(B) A SPECIAL CLASS A-1 DISTILLER'S LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO OPERATE A DISTILLERY UPON THE PREEXISTING LICENSED PREMISES OF ANOTHER CLASS A-1 DISTILLER LICENSEE, CLASS B-1 DISTILLER LICENSEE, OR CLASS C DISTILLER LICENSEE. SUCH LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO ALL THE PRIVILEGES PROVIDED IN SUBDIVISION ONE-A OF THIS SECTION TO OPERATE A CLASS A-1 DISTILLERY UNDER THE SAME TERMS AND CONDITIONS, EXCEPT FOR THE LIMITATION ON GALLONAGE PRODUCTION, AS A CLASS A-1 DISTILLER'S LICENSEE.

S 3. Subdivision 1-a of section 66 of the alcoholic beverage control law, as added by chapter 580 of the laws of 2002, is amended to read as follows:

1-a. The annual fee for a distiller's license, class A-1, OR A SPECIAL DISTILLER'S LICENSE, CLASS A-1, shall be two hundred fifty dollars.

S 4. Section 111 of the alcoholic beverage control law, as amended by chapter 489 of the laws of 1993, is amended to read as follows:

S 111. License to be confined to premises licensed. A license issued to any person, pursuant to chapter one hundred eighty of the laws of nineteen hundred thirty-three or this chapter, for any licensed premises shall not be transferable to any other person or to any other premises or to any other part of the building containing the licensed premises except in the discretion of the authority. It shall be available only to the person therein specified, and only for the premises licensed and no other except if authorized by the authority. Provided, however, that the provisions of this section shall not be deemed to prohibit the issuance of a license under SUBDIVISION ONE-B OF SECTION SIXTY-ONE, section seventy-six-b [or], seventy-six-c, OR SEVENTY-SIX-D of this chapter. For the purposes of this section each railroad car and each vessel shall be deemed premises separately to be licensed.

S 5. Subdivisions 1-a and 2-b of section 61 of the alcoholic beverage control law, as amended by chapter 571 of the laws of 2008, are amended to read as follows:

1-a. A class A-1 distiller's license shall authorize the holder thereof to operate a distillery which has a production capacity of no more than thirty-five thousand gallons per year for the manufacture of liquors by distillation or redistillation at the premises specifically designated in the license. Such a license shall also authorize the sale in bulk by such licensee from the licensed premises of the products manufactured under such license to any person holding a winery license, farm winery license, distiller's class A , A-1, B, B-1 OR C license[, a distiller's class B license] or a permittee engaged in the manufacture of products which are unfit for beverage use. It shall also authorize the sale from the licensed premises and from one other location in the state of New York of liquors manufactured by such licensee to a wholesale or retail liquor licensee, A WINERY LICENSEE OR FARM WINERY LICENSEE THAT ALSO HOLDS A DISTILLER'S LICENSE PURSUANT TO THIS SECTION or permittee in sealed containers of not more than one quart each. In addition, it shall authorize such licensee to sell from the licensed premises New York state labelled liquors to a farm winery licensee in sealed containers of not more than one quart for retail sale for off-premises consumption. Such license shall also include the privilege to operate a rectifying plant under the same terms and conditions as the holder of a class B-1 distiller's license without the payment of any additional fee.

2-b. A class B-1 distiller's license shall authorize the holder thereof to operate a rectifying plant which has a production capacity of no more than thirty-five thousand gallons per year for the manufacture of the products of rectification by purifying or combining alcohol, spir-

its, wine, or beer and the manufacture of cordials by the redistillation of alcohol or spirits over or with any materials. Such a license shall also authorize the holder thereof to blend, reduce proof and bottle on his licensed premises or in a United States customs bonded warehouse for which a warehouse permit has been issued under this chapter for wholesale liquor licensees or for persons authorized to sell liquor at wholesale pursuant to the laws and regulation of any other state, territorial possession of the United States or foreign country liquor received in bulk by such wholesalers from other states, territorial possessions of the United States or a foreign country, and to rebottle or recondition for wholesale liquor or wine licensees or for persons authorized to sell liquor or wine at wholesale pursuant to the laws and regulations of any other state, territorial possession of the United States or foreign country, liquor or wine manufactured outside the state, which was purchased and received by such wholesalers in sealed containers not exceeding one quart each of liquor or fifteen gallons each of wine. Such a license shall also authorize the sale from the licensed premises of the products manufactured by such licensee to a wholesale or retail licensee in sealed containers of not more than one quart each. SUCH A LICENSE SHALL ALSO INCLUDE THE PRIVILEGE TO OPERATE A CLASS A-1 DISTILLERY UNDER THE SAME TERMS AND CONDITIONS AS THE HOLDER OF A CLASS A-1 DISTILLER'S LICENSE WITHOUT THE PAYMENT OF ANY ADDITIONAL FEE. In addition, it shall authorize such licensee to sell from the licensed premises New York state labelled liquors to a farm winery licensee in sealed containers of not more than one quart for retail sale for off-premises consumption.

S 6. Subparagraph 3 of paragraph (c) and the opening paragraph of paragraph (d) of subdivision 4 of section 107-a of the alcoholic beverage control law, subparagraph 3 of paragraph (c) as added by chapter 490 of the laws of 1993 and the opening paragraph of paragraph (d) as amended by chapter 361 of the laws of 1994, are amended to read as follows:

(3) Provided, however, that where a brand or trade name label for wine OR LIQUOR PRODUCED BY ANY PERSON HOLDING A DISTILLER'S CLASS A-1 LICENSE OR DISTILLER'S CLASS B-1 LICENSE has been approved by the federal bureau of alcohol, tobacco and firearms, it shall be deemed registered and approved by the authority and no application, application fee, or annual registration fee shall be submitted to the authority.

The annual fee for registration of any brand or trade name label for liquor shall be two hundred fifty dollars; the annual fee for registration of any brand or trade name label for beer shall be one hundred fifty dollars; the annual fee for registration of any brand or trade name label for wine shall be fifty dollars. Such fee shall be in the form of a check or draft. No annual fee for registration of any brand or trade name label for wine OR LIQUOR PRODUCED BY ANY PERSON HOLDING A DISTILLER'S CLASS A-1 LICENSE OR DISTILLER'S CLASS B-1 LICENSE shall be required if it has been approved by the federal bureau of alcohol, tobacco and firearms pursuant to this section.

S 7. This act shall take effect on the one hundred eightieth day after it shall have become a law, except that section five of this act shall take effect on the same date and in the same manner as chapter 571 of the laws of 2008, takes effect; provided that any rules or regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.