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

927

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DelMONTE, GUNTHER, SCHROEDER, LUPARDO, ZEBROWSKI, KOON, KELLNER -- Multi-Sponsored by -- M. of A. COOK, MAYERSOHN, REILLY -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the agriculture and markets law, in relation to wine; and to repeal certain provisions of the alcoholic beverage control law relating thereto

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

Section 1. Sections 75, 76, 76-a, 76-b, 76-c, 76-d, 77, 78, 79, 79-a, 79-b, 80, 81, 81-a, 82, 83, 84 and 85 of the alcoholic beverage control law are REPEALED.

S 2. The agriculture and markets law is amended by adding a new article 18 to read as follows:

ARTICLE 18

SPECIAL PROVISIONS RELATING TO WINE

SECTION 223. GENERAL POWERS.
224. KINDS OF LICENSES.
224-A. WINERY LICENSE.
224-B. FARM WINERY LICENSE.
224-C. TEMPORARY WINERY OR FARM WINERY PERMIT.
224-D. SPECIAL WINERY LICENSE.
224-E. SPECIAL FARM WINERY LICENSE.
224-F. SALE OF WINE IN BULK.
224-G. WHOLESALER'S WINE LICENSE.
224-H. SEVEN DAY LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES.
225. AUTHORIZATION TO SELL WINE PRODUCTS BY CERTAIN LICENSEES FOR CONSUMPTION OFF THE PREMISES.

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

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225-A. AUTHORIZATION TO SELL WINE PRODUCTS BY CERTAIN LICENSEES FOR CONSUMPTION ON THE PREMISES.
226. WINE TASTING.
226-A. LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES.
226-B. SPECIAL LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES.
226-C. PROHIBITED SALES.
227. LICENSE FEES.
227-A. LICENSE FEES; WHEN DUE AND PAYABLE; FEE FOR PART OF YEAR.
228. PURCHASE FROM PRIVATE COLLECTION.
229. RULES AND REGULATIONS.
229-A. SEVERABILITY.

S 223. GENERAL POWERS. THE DEPARTMENT, THROUGH THE COMMISSIONER, IS HEREBY VESTED WITH THE POWER TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ARTICLE.

S 224. KINDS OF LICENSES. THE FOLLOWING LICENSES MAY BE ISSUED FOR THE MANUFACTURE AND SALE OF WINE, TO WIT:

1. WINERY LICENSE;
2. FARM WINERY LICENSE;
3. TEMPORARY WINERY OR FARM WINERY PERMIT;
4. SPECIAL WINERY LICENSE;
5. SPECIAL FARM WINERY LICENSE;
6. WHOLESALER'S LICENSE;
7. SEVEN DAY LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES SUBJECT TO PARAGRAPH (A) OF SUBDIVISION FOURTEEN OF SECTION ONE HUNDRED FIVE OF THE ALCOHOLIC BEVERAGE CONTROL LAW; AND
8. LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES.

S 224-A. WINERY LICENSE. 1. ANY PERSON MAY APPLY TO THE COMMISSIONER FOR A WINERY LICENSE AS PROVIDED FOR IN THIS ARTICLE. SUCH APPLICATIONS SHALL BE IN WRITING AND VERIFIED AND SHALL CONTAIN SUCH INFORMATION AS THE COMMISSIONER SHALL REQUIRE. SUCH APPLICATION SHALL BE ACCOMPANIED BY A CHECK OR DRAFT FOR THE AMOUNT REQUIRED BY THIS ARTICLE FOR SUCH LICENSE. IF THE COMMISSIONER SHALL GRANT THE APPLICATION THE COMMISSIONER SHALL ISSUE A LICENSE IN SUCH FORM AS SHALL BE DETERMINED BY THE COMMISSIONER'S RULES.

2.(A) ANY PERSON HAVING APPLIED FOR AND RECEIVED A LICENSE AS A WINERY OR FARM WINERY UNDER THIS SECTION OR SECTION TWO HUNDRED TWENTY-FOUR-B OF THIS ARTICLE MAY CONDUCT WINE TASTINGS OF NEW YORK STATE LABELLED WINES IN ESTABLISHMENTS LICENSED UNDER SECTION SIXTY-THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW TO SELL ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION. SUCH WINERY OR FARM WINERY MAY CHARGE A FEE FOR EACH WINE SAMPLE TASTED. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS REGARDING SUCH TASTINGS AS PROVIDED FOR IN THIS SUBDIVISION.

(B) ANY PERSON HAVING APPLIED FOR AND RECEIVED A LICENSE AS A WINERY OR FARM WINERY UNDER THIS SECTION OR SECTION TWO HUNDRED TWENTY-FOUR-B OF THIS ARTICLE MAY CONDUCT WINE TASTINGS OF NEW YORK STATE LABELLED WINES AND APPLY TO THE COMMISSIONER FOR A PERMIT TO SELL WINE PRODUCED BY SUCH WINERY OR FARM WINERY, BY THE BOTTLE, DURING SUCH TASTINGS IN ESTABLISHMENTS LICENSED UNDER SECTION SIXTY-FOUR OF THE ALCOHOLIC BEVERAGE CONTROL LAW TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES. SUCH WINERY OR FARM WINERY MAY CHARGE A FEE OF NO MORE THAN TWENTY-FIVE CENTS FOR EACH WINE SAMPLE TASTED. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS REGARDING SUCH TASTINGS AS PROVIDED FOR IN THIS SUBDIVISION.

(C) TASTINGS SHALL BE CONDUCTED SUBJECT TO THE FOLLOWING LIMITATIONS: (I) WINE TASTINGS SHALL BE CONDUCTED BY AN OFFICIAL AGENT, REPRESENTATIVE OR SOLICITOR OF ONE OR MORE WINERIES OR FARM WINERIES. SUCH AGENT, REPRESENTATIVE OR SOLICITOR SHALL BE PHYSICALLY PRESENT AT ALL TIMES DURING THE CONDUCT OF THE TASTINGS; AND

(II) ANY LIABILITY STEMMING FROM A RIGHT OF ACTION RESULTING FROM A WINE TASTING AS AUTHORIZED HEREIN AND IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 11-100 AND 11-101 OF THE GENERAL OBLIGATIONS LAW, SHALL ACCRUE TO THE FARM WINERY OR WINERY LICENSEE.

(D)(I) ANY PERSON HAVING APPLIED FOR AND RECEIVED A LICENSE AS A WINERY OR FARM WINERY UNDER THIS SECTION OR SECTION TWO HUNDRED TWENTY-FOUR-B OF THIS ARTICLE MAY CONDUCT WINE TASTINGS OF NEW YORK STATE LABELLED WINES AND SELL SUCH WINE BY THE BOTTLE, DURING SUCH TASTING, FOR OFF-PREMISES CONSUMPTION AT OUTDOOR OR INDOOR GATHERINGS, FUNCTIONS, OCCASIONS OR EVENTS, WITHIN THE HOURS FIXED BY OR PURSUANT TO SUBDIVISION FOURTEEN OF SECTION ONE HUNDRED FIVE OF THE ALCOHOLIC BEVERAGE CONTROL LAW, SPONSORED BY A BONA FIDE CHARITABLE ORGANIZATION. FOR THE PURPOSES OF THIS PARAGRAPH, A BONA FIDE CHARITABLE ORGANIZATION SHALL MEAN AND INCLUDE ANY BONA FIDE RELIGIOUS OR CHARITABLE ORGANIZATION OR BONA FIDE EDUCATIONAL, FRATERNAL OR SERVICE ORGANIZATION OR BONA FIDE ORGANIZATION OF VETERANS OR VOLUNTEER FIREFIGHTERS, WHICH BY ITS CHARTER, CERTIFICATE OF INCORPORATION, CONSTITUTION, OR ACT OF THE LEGISLATURE, SHALL HAVE AMONG ITS DOMINANT PURPOSES ONE OR MORE OF THE LAWFUL PURPOSES AS DEFINED IN SUBDIVISION FIVE OF SECTION ONE HUNDRED EIGHTY-SIX OF THE GENERAL MUNICIPAL LAW.

(II) THE COMMISSIONER SHALL ISSUE A LICENSE TO AUTHORIZE SUCH WINERY OR FARM WINERY TO PARTICIPATE IN NO MORE THAN FIVE OUTDOOR OR INDOOR GATHERINGS, FUNCTIONS, OCCASIONS OR EVENTS SPONSORED BY A CHARITABLE ORGANIZATION IN ONE YEAR FOR A SINGLE FEE. THE WINERY OR FARM WINERY MUST GIVE WRITTEN NOTICE OF THE DATE, TIME AND SPECIFIC LOCATION OF EACH TASTING TO THE COMMISSIONER AT LEAST FIFTEEN DAYS PRIOR TO SUCH TASTING. A WINERY OR FARM WINERY THAT OBTAINS A LICENSE TO CONDUCT SUCH WINE TASTINGS DOES NOT NEED TO APPLY FOR OR OBTAIN A TEMPORARY BEER OR WINE PERMIT PURSUANT TO SECTION NINETY-SEVEN OF THE ALCOHOLIC BEVERAGE CONTROL LAW OR ANY OTHER PERMIT TO CONDUCT SUCH A TASTING OR TO SELL WINE BY THE BOTTLE FOR OFF-PREMISES CONSUMPTION.

(III) SUCH WINERY OR FARM WINERY MAY CHARGE A FEE FOR EACH WINE SAMPLE TASTED. TASTINGS SHALL BE CONDUCTED BY AN OFFICIAL AGENT, REPRESENTATIVE OR SOLICITOR OF SUCH WINERY OR FARM WINERY. THE COMMISSIONER MAY PROMULGATE RULES AND REGULATIONS REGARDING SUCH TASTINGS AS PROVIDED FOR IN THIS SUBDIVISION.

3. A LICENSED WINERY MAY APPLY TO THE COMMISSIONER FOR A LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES. ALL THE PROVISIONS OF THIS CHAPTER RELATIVE TO LICENSES TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES SHALL APPLY SO FAR AS APPLICABLE TO SUCH APPLICATION.

4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY WINERY, LICENSED PURSUANT TO SUBDIVISION THREE OF THIS SECTION TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES IN A RESTAURANT IN OR ADJACENT TO THE WINERY, MAY APPLY TO THE LIQUOR AUTHORITY FOR A LICENSE TO SELL BEER, WINE OR LIQUOR AT RETAIL FOR CONSUMPTION ON THE PREMISES OF SUCH RESTAURANT. ALL OF THE PROVISIONS OF THE ALCOHOLIC BEVERAGE CONTROL LAW RELATIVE TO LICENSES TO SELL BEER, WINE OR LIQUOR AT RETAIL FOR CONSUMPTION ON THE PREMISES SHALL APPLY SO FAR AS APPLICABLE TO SUCH APPLICATION.

5. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE TO THE CONTRARY, ANY ONE OR MORE WINERY LICENSEES OR FARM WINERY LICENSEES, SINGLY OR

JOINTLY, MAY APPLY TO THE COMMISSIONER FOR A LICENSE OR LICENSES TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES. THE DURATION OF SUCH LICENSE SHALL BE COEXTENSIVE WITH THE DURATION OF SUCH LICENSEE'S WINERY LICENSE OR FARM WINERY LICENSE, AND THE FEE THEREFOR SHALL BE FIVE HUNDRED DOLLARS IF SUCH RETAIL PREMISES IS LOCATED IN CITIES HAVING A POPULATION OF ONE MILLION OR MORE; IN CITIES HAVING LESS THAN ONE MILLION POPULATION AND MORE THAN ONE HUNDRED THOUSAND, TWO HUNDRED FIFTY DOLLARS; AND ELSEWHERE, THE SUM OF ONE HUNDRED TWENTY-FIVE DOLLARS. SUCH LICENSE SHALL ENTITLE THE HOLDER THEREOF TO SELL AT RETAIL FOR CONSUMPTION OFF THE PREMISES ANY NEW YORK STATE LABELLED WINE. SUCH LICENSE SHALL ALSO ENTITLE THE HOLDER THEREOF TO CONDUCT WINE TASTINGS AND ENGAGE IN ANY OF THE ACTIVITIES AUTHORIZED BY PARAGRAPHS (A), (B) AND (C) OF SUBDIVISION THREE OF SECTION TWO HUNDRED TWENTY-FOUR-F OF THIS ARTICLE ON SUCH LICENSED PREMISES. SUCH LICENSE SHALL ALSO AUTHORIZE THE SALE BY THE HOLDER THEREOF OF NEW YORK STATE LABELLED WINE, IN SEALED CONTAINERS FOR OFF-PREMISES CONSUMPTION, FROM THE SPECIALLY LICENSED PREMISES OF ANY PERSON LICENSED PURSUANT TO SECTION TWO HUNDRED TWENTY-SIX-B OF THIS ARTICLE TO SELL WINE AT RETAIL FOR CONSUMPTION ON PREMISE IN WHICH THE PRINCIPAL BUSINESS IS THE OPERATION OF A LEGITIMATE THEATER OR SUCH OTHER LAWFUL ADULT ENTERTAINMENT OR RECREATIONAL FACILITY AS THE LIQUOR AUTHORITY MAY CLASSIFY FOR ELIGIBILITY PURSUANT TO SUBDIVISION SIX OF SECTION SIXTY-FOUR-A OF THE ALCOHOLIC BEVERAGE CONTROL LAW. NOT MORE THAN FIVE SUCH LICENSES SHALL BE ISSUED TO ANY LICENSED WINERY OR FARM WINERY. ALL OTHER PROVISIONS OF THIS CHAPTER RELATIVE TO LICENSES TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES AT THE WINERY SHALL APPLY SO FAR AS APPLICABLE TO SUCH APPLICATION. THE COMMISSIONER IS HEREBY AUTHORIZED TO ADOPT SUCH RULES AS IT MAY DEEM NECESSARY TO CARRY OUT THE PURPOSE OF THIS SUBDIVISION, PROVIDED THAT ALL LICENSES ISSUED PURSUANT TO THIS SUBDIVISION SHALL BE SUBJECT TO THE SAME RULES AND REGULATIONS AS ARE APPLICABLE TO THE SALE OF WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES OF THE WINERY LICENSEE OR FARM WINERY LICENSEE.

6. ANY WINERY LICENSED PURSUANT TO THIS SECTION IS AUTHORIZED TO ENGAGE IN WHAT IS COMMONLY KNOWN AS WINE BY WIRE SERVICES WHEREBY A WINERY WITHIN THE STATE MAY MAKE DELIVERIES ON BEHALF OF OTHER WINERIES WITHIN THE STATE.

7. NOTWITHSTANDING ANY PROVISION OF THE LAW TO THE CONTRARY, A LICENSED WINERY OR A LICENSED FARM WINERY MAY APPLY TO THE COMMISSIONER FOR A PERMIT TO SELL NEW YORK STATE LABELLED WINE, BY THE BOTTLE, AT THE STATE FAIR, AT RECOGNIZED COUNTY FAIRS AND AT FARMERS' MARKETS OPERATED ON A NOT-FOR-PROFIT BASIS. AS A CONDITION OF THE PERMIT, AN AGENT, REPRESENTATIVE, OR SOLICITOR FROM THE WINERY MUST BE PRESENT AT THE TIME OF SALE.

8. ANY WINERY MAY SELL OR DELIVER SUCH WINE PRODUCED BY THE WINERY TO PERSONS OUTSIDE THE STATE PURSUANT TO THE LAWS OF THE PLACE OF SUCH SALE OR DELIVERY.

S 224-B. FARM WINERY LICENSE. 1. ANY PERSON MAY APPLY TO THE COMMISSIONER FOR A FARM WINERY LICENSE AS PROVIDED FOR IN THIS ARTICLE. SUCH APPLICATION SHALL BE IN WRITING AND VERIFIED AND SHALL CONTAIN SUCH INFORMATION AS THE COMMISSIONER SHALL REQUIRE. SUCH APPLICATION SHALL BE ACCOMPANIED BY A CHECK OR DRAFT FOR THE AMOUNT REQUIRED BY THIS ARTICLE FOR SUCH LICENSE. IF THE COMMISSIONER SHALL GRANT THE APPLICATION THE COMMISSIONER SHALL ISSUE A LICENSE IN SUCH FORM AS SHALL BE DETERMINED BY THE COMMISSIONER'S RULES.

2. A FARM WINERY LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO OPERATE A FARM WINERY FOR THE MANUFACTURE OF WINE 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 WINERY LICENSEE, ANY OTHER FARM WINERY LICENSEE, ANY DISTILLER LICENSEE OR TO A PERMITTEE ENGAGED IN THE MANUFACTURE OF PRODUCTS WHICH ARE UNFIT FOR BEVERAGE USE AND TO SELL OR DELIVER SUCH WINE TO PERSONS OUTSIDE THE STATE PURSUANT TO THE LAWS OF THE PLACE OF SUCH SALE OR DELIVERY. IT SHALL ALSO AUTHORIZE THE HOLDER THEREOF TO SELL FROM THE LICENSED PREMISES TO A LICENSED WHOLESALER OR RETAILER, OR TO A CORPORATION OPERATING RAILROAD CARS OR AIRCRAFT FOR CONSUMPTION ON SUCH CARRIERS, OR AT RETAIL FOR CONSUMPTION OFF THE PREMISES, WINE MANUFACTURED BY THE LICENSEE AS ABOVE SET FORTH AND TO SELL OR DELIVER SUCH WINE TO PERSONS OUTSIDE THE STATE PURSUANT TO THE LAWS OF THE PLACE OF SUCH SALE OR DELIVERY. ALL WINE SOLD BY SUCH LICENSEE FOR CONSUMPTION OFF THE PREMISES SHALL BE SECURELY SEALED AND HAVE ATTACHED THERETO A LABEL SETTING FORTH SUCH INFORMATION AS SHALL BE REQUIRED BY THIS ARTICLE. SUCH LICENSE SHALL ALSO BE DEEMED TO INCLUDE AUTHORIZATION TO SELL CIDER AND WINE AT RETAIL FOR CONSUMPTION ON OR OFF THE PREMISES; AND TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES OF A RESTAURANT, CONFERENCE CENTER, INN, BED AND BREAKFAST OR HOTEL BUSINESS OWNED AND OPERATED BY THE LICENSEE IN OR ADJACENT TO THE FARM WINERY FOR WHICH THE LICENSEE IS LICENSED. A LICENSEE WHO OPERATES A RESTAURANT, CONFERENCE CENTER, INN, BED AND BREAKFAST OR HOTEL PURSUANT TO SUCH AUTHORITY SHALL COMPLY WITH ALL APPLICABLE PROVISIONS OF THIS CHAPTER WHICH RELATE TO LICENSES TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES.

3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY FARM WINERY, LICENSED PURSUANT TO SUBDIVISION TWO OF THIS SECTION TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES IN A RESTAURANT, CONFERENCE CENTER, INN, BED AND BREAKFAST OR HOTEL BUSINESS OWNED AND OPERATED BY THE LICENSEE IN OR ADJACENT TO SUCH FARM WINERY, MAY APPLY TO THE LIQUOR AUTHORITY FOR A LICENSE TO SELL BEER AND/OR LIQUOR AT RETAIL FOR CONSUMPTION ON THE PREMISES OF SUCH FACILITY. ALL OF THE PROVISIONS OF THIS CHAPTER RELATIVE TO LICENSES TO SELL BEER, WINE OR LIQUOR AT RETAIL FOR CONSUMPTION ON THE PREMISES SHALL APPLY SO FAR AS APPLICABLE TO SUCH APPLICATION.

4. (A) A FARM WINERY LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO MANUFACTURE, BOTTLE AND SELL FRUIT JUICE, FRUIT JELLIES AND FRUIT PRESERVES, TONICS, SALAD DRESSINGS AND UNPOTABLE WINE SAUCES ON AND FROM THE LICENSED PREMISES.

(B) SUCH LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO STORE AND SELL GIFT ITEMS IN A TAX-PAID ROOM UPON THE LICENSED PREMISES INCIDENTAL TO THE SALE OF WINE. THESE GIFT ITEMS SHALL BE LIMITED TO THE FOLLOWING CATEGORIES:

(I) NON-ALCOHOLIC BEVERAGES FOR CONSUMPTION ON OR OFF PREMISES, INCLUDING BUT NOT LIMITED TO BOTTLED WATER, JUICE AND SODA BEVERAGES.

(II) FOOD ITEMS FOR THE PURPOSE OF COMPLEMENTING WINE TASTINGS, SHALL MEAN A DIVERSIFIED SELECTION OF FOOD WHICH IS ORDINARILY CONSUMED WITHOUT THE USE OF TABLEWARE AND CAN CONVENIENTLY BE CONSUMED WHILE STANDING OR WALKING. SUCH FOOD ITEMS SHALL INCLUDE BUT NOT BE LIMITED TO: CHEESES, FRUITS, VEGETABLES, CHOCOLATES, BREADS AND CRACKERS.

(III) FOOD ITEMS, WHICH SHALL INCLUDE LOCALLY PRODUCED FARM PRODUCTS AND ANY FOOD OR FOOD PRODUCT NOT SPECIFICALLY PREPARED FOR IMMEDIATE CONSUMPTION UPON THE PREMISES. SUCH FOOD ITEMS MAY BE COMBINED INTO A PACKAGE CONTAINING WINE OR A WINE PRODUCT.

(IV) WINE SUPPLIES AND ACCESSORIES, WHICH SHALL INCLUDE ANY ITEM UTILIZED FOR THE STORAGE, SERVING OR CONSUMPTION OF WINE OR FOR DECORA-

TIVE PURPOSES. THESE SUPPLIES MAY BE SOLD AS SINGLE ITEMS OR MAY BE COMBINED INTO A PACKAGE CONTAINING WINE OR A WINE PRODUCT.

(V) SOUVENIR ITEMS, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO ARTWORK, CRAFTS, CLOTHING, AGRICULTURAL PRODUCTS AND ANY OTHER ARTICLES WHICH CAN BE CONSTRUED TO PROPAGATE TOURISM WITHIN THE REGION.

(VI) NEW YORK STATE LABELLED WINE PRODUCED OR MANUFACTURED BY ANY OTHER NEW YORK STATE WINERY OR FARM WINERY LICENSEE. SUCH WINE MAY BE PURCHASED OUTRIGHT BY THE LICENSEE FROM A NEW YORK WINERY OR FARM WINERY LICENSEE OR OBTAINED ON A CONSIGNMENT BASIS PURSUANT TO A WRITTEN AGREEMENT BETWEEN THE SELLING AND PURCHASING LICENSEE.

(C) THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS SUBDIVISION.

(D) A LICENSED FARM WINERY MAY ENGAGE IN ANY OTHER BUSINESS ON THE LICENSED PREMISES SUBJECT TO SUCH RULES AND REGULATIONS AS THE COMMISSIONER MAY PRESCRIBE. IN PRESCRIBING SUCH RULES AND REGULATIONS, THE COMMISSIONER SHALL PROMOTE THE EXPANSION AND PROFITABILITY OF WINE PRODUCTION AND OF TOURISM IN NEW YORK STATE, THEREBY PROMOTING THE CONSERVATION, PRODUCTION AND ENHANCEMENT OF NEW YORK STATE AGRICULTURAL LANDS. FURTHER, SUCH RULES AND REGULATIONS SHALL DETERMINE WHICH BUSINESSES WILL BE COMPATIBLE WITH THE POLICY AND PURPOSES OF THIS ARTICLE AND SHALL CONSIDER THE EFFECT OF PARTICULAR BUSINESSES ON THE COMMUNITY AND AREA IN THE VICINITY OF THE FARM WINERY LICENSEE.

5. (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, NO LICENSED FARM WINERY SHALL MANUFACTURE OR SELL ANY WINE NOT PRODUCED EXCLUSIVELY FROM GRAPES OR OTHER FRUITS OR AGRICULTURAL PRODUCTS GROWN OR PRODUCED IN NEW YORK STATE.

(B) IN THE EVENT THAT THE COMMISSIONER, AFTER INVESTIGATING AND COMPILING INFORMATION PURSUANT TO SUBDIVISION FORTY-TWO OF SECTION SIXTEEN OF THIS CHAPTER, DETERMINES THAT A NATURAL DISASTER, ACT OF GOD, OR CONTINUED ADVERSE WEATHER CONDITION HAS DESTROYED NO LESS THAN FORTY PERCENT OF A SPECIFIC GRAPE VARIETAL GROWN OR PRODUCED IN NEW YORK STATE AND USED FOR WINEMAKING, THE COMMISSIONER MAY GIVE AUTHORIZATION TO A DULY LICENSED FARM WINERY TO MANUFACTURE OR SELL WINE PRODUCED FROM GRAPES GROWN OUTSIDE THIS STATE. NO SUCH AUTHORIZATION SHALL BE GRANTED TO A FARM WINERY LICENSEE UNLESS SUCH LICENSEE CERTIFIES TO THE COMMISSIONER THE QUANTITY OF NEW YORK GROWN GRAPES UNAVAILABLE TO SUCH LICENSEE DUE TO SUCH NATURAL DISASTER, ACT OF GOD OR CONTINUING ADVERSE WEATHER CONDITION AND SATISFIES THE COMMISSIONER THAT REASONABLE EFFORTS WERE MADE TO OBTAIN GRAPES FROM A NEW YORK STATE SOURCE FOR SUCH WINEMAKING PURPOSE. NO FARM WINERY SHALL UTILIZE AN AMOUNT OF OUT-OF-STATE GROWN GRAPES OR JUICE EXCEEDING THE AMOUNT OF NEW YORK GROWN GRAPES THAT SUCH WINERY IS UNABLE TO OBTAIN DUE TO THE DESTRUCTION OF NEW YORK GROWN GRAPES BY A NATURAL DISASTER, ACT OF GOD OR CONTINUING ADVERSE WEATHER CONDITION AS DETERMINED BY THE COMMISSIONER PURSUANT TO THIS SUBDIVISION. FOR PURPOSES OF THIS SUBDIVISION, THE COMMISSIONER IS AUTHORIZED TO ADOPT RULES AND REGULATIONS AS HE OR SHE MAY DEEM NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBDIVISION WHICH SHALL INCLUDE ENSURING THAT IN MANUFACTURING WINE FARM WINERIES UTILIZE GRAPES GROWN OR PRODUCED IN NEW YORK STATE TO THE EXTENT THEY ARE REASONABLY AVAILABLE, PRIOR TO UTILIZING GRAPES OR JUICE FROM AN OUT-OF-STATE SOURCE FOR SUCH PURPOSE.

(C) THE COMMISSIONER SHALL MAKE AVAILABLE TO FARM WINERIES AND TO THE PUBLIC EACH SPECIFIC GRAPE VARIETAL LOSS DETERMINATION ISSUED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION ON OR BEFORE AUGUST TWENTIETH OF EACH YEAR.

(D) IN THE EVENT THAT THE CONTINUING EFFECTS OF A NATURAL DISASTER, ACT OF GOD, OR ADVERSE WEATHER CONDITION WHICH OCCURRED PRIOR TO AUGUST

TWENTIETH OF EACH YEAR OR THE EFFECTS OF A NATURAL DISASTER, ACT OF GOD, OR ADVERSE WEATHER CONDITION WHICH OCCURS SUBSEQUENT TO AUGUST TWENTIETH OF EACH YEAR RESULTS IN ANY GRAPE VARIETAL LOSS WHICH MEETS THE STANDARDS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, THE COMMISSIONER MAY ISSUE ADDITIONAL GRAPE VARIETAL LOSS DETERMINATIONS AND SHALL EXPEDITIOUSLY MAKE AVAILABLE TO FARM WINERIES AND TO THE PUBLIC EACH SPECIFIC GRAPE VARIETAL LOSS DETERMINATION ISSUED PURSUANT TO THIS PARAGRAPH PRIOR TO OCTOBER TENTH OF EACH YEAR.

6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A FARM WINERY LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO:

(A) OFFER FOR SALE OR SOLICIT ANY ORDER IN THE STATE FOR THE SALE OF ANY NEW YORK STATE LABELLED WINE MANUFACTURED BY THE LICENSEE OR ANY OTHER WINERY OR FARM WINERY LICENSED PURSUANT TO THIS ARTICLE.

(B) ENGAGE AS A BROKER IN THE PURCHASE AND SALE OF NEW YORK STATE LABELLED WINES FOR A FEE OR COMMISSION FOR OR ON BEHALF OF ANY WINERY OR FARM WINERY LICENSED PURSUANT TO THIS ARTICLE.

(C) MAINTAIN A WAREHOUSE ON THE PREMISES PURSUANT TO SECTION NINETY-SIX OF THE ALCOHOLIC BEVERAGE CONTROL LAW FOR THE WAREHOUSING OF ANY NEW YORK STATE LABELLED WINES MANUFACTURED BY ANY WINERY OR FARM WINERY LICENSED PURSUANT TO THIS ARTICLE. ANY WINERY OR FARM WINERY THAT MAINTAINS SUCH A WAREHOUSE MUST COMPLY WITH THE PROVISIONS OF SECTION NINETY-SIX OF THE ALCOHOLIC BEVERAGE CONTROL LAW.

(D) DELIVER OR TRANSPORT ANY NEW YORK STATE LABELLED WINE MANUFACTURED OR PRODUCED BY THE LICENSEE OR ANY OTHER WINERY OR FARM WINERY LICENSED PURSUANT TO THIS ARTICLE IN ANY VEHICLE OWNED, LEASED OR HIRED BY THE LICENSEE. THE NEW YORK STATE LABELLED WINE CAN BE DELIVERED, TRANSPORTED OR SOLD BY THE LICENSEE TO ANY HOLDER OF: (I) A WINERY OR FARM WINERY LICENSE, (II) A LICENSE TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES, (III) A LICENSE TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE PREMISES, OR (IV) ANY PERSON THAT CAN RECEIVE OR PURCHASE WINE FROM A FARM WINERY. THE LICENSEE IS NOT REQUIRED TO OBTAIN FROM THE LIQUOR AUTHORITY A TRUCKING PERMIT OR PAY ANY FEES PURSUANT TO SECTION NINETY-FOUR OF THE ALCOHOLIC BEVERAGE CONTROL LAW.

7. NO LICENSED FARM WINERY SHALL MANUFACTURE IN EXCESS OF ONE HUNDRED FIFTY THOUSAND FINISHED GALLONS OF WINE ANNUALLY.

S 224-C. TEMPORARY WINERY OR FARM WINERY PERMIT. 1. ANY PERSON MAY APPLY TO THE COMMISSIONER FOR A TEMPORARY WINERY OR FARM WINERY PERMIT. SUCH APPLICATIONS SHALL BE IN WRITING AND VERIFIED AND SHALL CONTAIN INFORMATION AS THE COMMISSIONER SHALL REQUIRE. SUCH APPLICATION SHALL BE ACCOMPANIED BY A CHECK OR DRAFT FOR THE AMOUNT REQUIRED BY THIS ARTICLE FOR SUCH PERMIT. SUCH APPLICATION FEE SHALL OFFSET ANY SUBSEQUENTLY ASSESSED FEES REQUIRED BY THIS ARTICLE FOR THE ISSUANCE OF A WINERY OR FARM WINERY LICENSE TO SUCH APPLICANT.

2. UPON APPLICATION, THE COMMISSIONER SHALL ISSUE A TEMPORARY WINERY OR FARM WINERY PERMIT WHEN THE APPLICANT:

(A) EITHER REQUIRES A LICENSE TO ESTABLISH A WINERY TO PRODUCE OR MANUFACTURE WINE OR HAS A WINERY OR FARM WINERY LICENSE APPLICATION PENDING BEFORE THE COMMISSIONER, AND THE BEGINNING OF THE HARVEST SEASON FOR GRAPES OR ANY OTHER FRUIT OR PRODUCT NECESSARY FOR THE PRODUCTION OR MANUFACTURE OF WINE AT THAT FACILITY WILL OCCUR WITHIN THIRTY DAYS; OR

(B) IS IN GOOD FAITH NEGOTIATING WITH OR HAS ENTERED INTO AN AGREEMENT WITH A WINERY OR FARM WINERY LICENSEE TO PURCHASE, OBTAIN OR ACQUIRE PART OR FULL OWNERSHIP RIGHTS IN THE ASSETS OR STOCK OF AN EXISTING AND OPERATING WINERY FACILITY; OR

(C) DUE TO UNFORESEEN CIRCUMSTANCES OR AN EMERGENCY SITUATION IS IN NEED OF A PERMIT TO ENSURE THE CONTINUED OR FUTURE OPERATION OF AN EXISTING WINERY FACILITY.

3. THE COMMISSIONER IN GRANTING SUCH PERMIT SHALL ENSURE THAT:

(A) ISSUANCE OF THE PERMIT WILL NOT INORDINATELY HINDER THE OPERATION OR EFFECTIVE ADMINISTRATION OF THIS ARTICLE.

(B) THE APPLICANT WOULD IN ALL LIKELIHOOD BE ABLE TO ULTIMATELY OBTAIN A PERMANENT WINERY OR FARM WINERY LICENSE.

(C) THE APPLICANT HAS SUBSTANTIALLY COMPLIED WITH THE REQUIREMENTS NECESSARY TO OBTAIN A WINERY OR FARM WINERY LICENSE.

(D) UPON ISSUANCE OF THE TEMPORARY PERMIT, THE WINERY OR FARM WINERY LICENSE FOR SAID PREMISES SHALL HAVE BEEN SURRENDERED INTO SAFEKEEPING PURSUANT TO RULES OF THE COMMISSIONER.

(E) THE APPLICANT FOR THE TEMPORARY PERMIT SHALL HAVE FILED CONCURRENTLY WITH THE COMMISSIONER AN APPLICATION FOR A PERMANENT WINERY OR FARM WINERY LICENSE AT SUCH PREMISES.

4. THE APPLICATION FOR A PERMIT SHALL BE APPROVED OR DENIED BY THE COMMISSIONER WITHIN FORTY-FIVE DAYS AFTER THE RECEIPT OF SUCH APPLICATION.

5. A TEMPORARY WINERY OR FARM WINERY PERMIT SHALL AUTHORIZE THE HOLDER THEREOF TO OPERATE A WINERY OR FARM WINERY, AS THE CASE MAY BE, FOR THE MANUFACTURE AND SALE OF WINE AT THE PREMISES SPECIFICALLY DESIGNATED IN THE PERMIT. FURTHER, IT SHALL AUTHORIZE THE HOLDER OF A TEMPORARY WINERY PERMIT OR A TEMPORARY FARM WINERY PERMIT TO CONDUCT ANY OF THE ACTIVITIES PERMITTED, RESPECTIVELY, BY SECTION TWO HUNDRED TWENTY-FOUR-A, TWO HUNDRED TWENTY-FOUR-B OR TWO HUNDRED TWENTY-FOUR-F OF THIS ARTICLE.

6. SUCH TEMPORARY PERMIT SHALL REMAIN IN EFFECT FOR SIX MONTHS OR UNTIL THE PERMITTEE IS ISSUED A PERMANENT WINERY OR FARM WINERY LICENSE, WHICHEVER IS SHORTER. SUCH PERMIT MAY BE EXTENDED AT THE DISCRETION OF THE COMMISSIONER FOR AN ADDITIONAL THREE MONTH PERIOD OF TIME UPON PAYMENT OF AN ADDITIONAL FEE OF FIFTY DOLLARS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A TEMPORARY PERMIT MAY BE SUMMARILY CANCELLED OR SUSPENDED AT ANY TIME IF THE COMMISSIONER DETERMINES THAT GOOD CAUSE FOR SUCH CANCELLATION OR SUSPENSION EXISTS. THE COMMISSIONER SHALL PROMPTLY NOTIFY THE HOLDER OF SUCH PERMIT IN WRITING OF SUCH CANCELLATION OR SUSPENSION AND SHALL SET FORTH THE REASONS FOR SUCH ACTION.

7. THE COMMISSIONER IN REVIEWING SUCH APPLICATION SHALL REVIEW THE ENTIRE RECORD AND GRANT IT UNLESS GOOD CAUSE IS OTHERWISE SHOWN. A DECISION ON AN APPLICATION SHALL BE BASED ON SUBSTANTIAL EVIDENCE IN THE RECORD AND SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE IN FAVOR OF THE APPLICANT.

S 224-D. SPECIAL WINERY LICENSE. 1. ANY PERSON MAY APPLY TO THE COMMISSIONER FOR A LICENSE TO OPERATE A WINERY ON THE PREMISES OF A WINERY LICENSEE. SUCH APPLICATION SHALL BE IN WRITING AND VERIFIED AND SHALL CONTAIN SUCH INFORMATION AS THE COMMISSIONER SHALL REQUIRE. SUCH APPLICATION SHALL BE ACCOMPANIED BY A CHECK OR DRAFT FOR THE AMOUNT REQUIRED BY THIS ARTICLE FOR SUCH LICENSE. IF THE COMMISSIONER SHALL GRANT THE APPLICATION THE DEPARTMENT SHALL ISSUE A LICENSE IN SUCH FORM AS SHALL BE DETERMINED BY ITS RULES.

2. (A) ANY PERSON HAVING APPLIED FOR AND RECEIVED A LICENSE UNDER THIS SECTION OR SECTION TWO HUNDRED TWENTY-FOUR-E OF THIS ARTICLE MAY CONDUCT WINE TASTINGS OF NEW YORK STATE LABELLED WINES IN ESTABLISHMENTS LICENSED UNDER SECTION SIXTY-THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW TO SELL ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS REGARDING SUCH TASTINGS AS PROVIDED FOR IN THIS SUBDIVISION.

(B) TASTINGS SHALL BE CONDUCTED SUBJECT TO THE FOLLOWING LIMITATIONS: (I) WINE TASTINGS SHALL BE CONDUCTED BY AN OFFICIAL AGENT OF ONE OR MORE WINERIES OR FARM WINERIES. SUCH AGENT SHALL BE PHYSICALLY PRESENT AT ALL TIMES DURING THE CONDUCT OF THE TASTINGS; AND

(II) ANY LIABILITY STEMMING FROM A RIGHT OF ACTION RESULTING FROM A WINE TASTING AS AUTHORIZED HEREIN AND IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 11-100 AND 11-101 OF THE GENERAL OBLIGATIONS LAW, SHALL ACCRUE TO THE FARM WINERY OPERATOR OR WINERY LICENSEE OPERATOR.

3. SPECIAL WINERY LICENSEES LICENSED UNDER THE PROVISIONS OF THIS SECTION MAY APPLY TO THE COMMISSIONER FOR A LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES IN A RESTAURANT OWNED BY THE LICENSEE AND CONDUCTED AND OPERATED BY THE LICENSEE IN OR ADJACENT TO THE WINERY FOR WHICH THE LICENSEE IS LICENSED. ALL THE PROVISIONS OF THIS ARTICLE RELATIVE TO LICENSURE TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES SHALL APPLY SO FAR AS APPLICABLE TO SUCH APPLICATION.

4. NOTWITHSTANDING ANY PROVISION OF THE LAW TO THE CONTRARY, ANY ONE OR MORE SPECIAL WINERY LICENSEES LICENSED UNDER THE PROVISIONS OF THIS SECTION OR A SPECIAL FARM WINERY LICENSEE LICENSED PURSUANT TO SECTION TWO HUNDRED TWENTY-FOUR-E OF THIS ARTICLE, SINGLY OR JOINTLY, MAY APPLY TO THE COMMISSIONER FOR A LICENSE OR LICENSES TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES. THE DURATION OF SUCH LICENSE SHALL BE COEXTENSIVE WITH THE DURATION OF SUCH LICENSEE'S WINERY LICENSE OR FARM WINERY LICENSE UNDER THE PROVISIONS OF THIS SECTION. SUCH LICENSE SHALL ALSO ENTITLE THE HOLDER THEREOF TO CONDUCT WINE TASTINGS AND ENGAGE IN ANY OF THE ACTIVITIES AUTHORIZED BY PARAGRAPHS (A), (B) AND (C) OF SUBDIVISION THREE OF SECTION TWO HUNDRED TWENTY-FOUR-F OF THIS ARTICLE ON SUCH LICENSED PREMISES. SUCH LICENSE SHALL ALSO AUTHORIZE THE SALE BY THE HOLDER THEREOF OF NEW YORK STATE LABELLED WINE, IN SEALED CONTAINERS FOR OFF-PREMISES CONSUMPTION, FROM THE SPECIALLY LICENSED PREMISES OF ANY PERSON LICENSED PURSUANT TO SECTION TWO HUNDRED TWENTY-SIX-A OF THIS ARTICLE TO SELL WINE AT RETAIL FOR CONSUMPTION ON PREMISES IN WHICH THE PRINCIPAL BUSINESS IS THE OPERATION OF A LEGITIMATE THEATER OR SUCH OTHER LAWFUL ADULT ENTERTAINMENT OR RECREATIONAL FACILITY AS THE COMMISSIONER MAY CLASSIFY FOR ELIGIBILITY PURSUANT TO SUBDIVISION SIX OF SECTION SIXTY-FOUR-A OF THE ALCOHOLIC BEVERAGE CONTROL LAW. NOT MORE THAN FIVE SUCH LICENSES SHALL BE ISSUED TO ANY SPECIAL WINERY LICENSEE OR SPECIAL FARM WINERY LICENSEE LICENSED UNDER THE PROVISIONS OF THIS SECTION. ALL OTHER PROVISIONS OF THIS ARTICLE RELATIVE TO LICENSES TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES SHALL APPLY SO FAR AS APPLICABLE TO SUCH APPLICATION. THE COMMISSIONER IS HEREBY AUTHORIZED TO ADOPT SUCH RULES AS IT MAY DEEM NECESSARY TO CARRY OUT THE PURPOSE OF THIS SUBDIVISION, PROVIDED THAT ALL LICENSES ISSUED PURSUANT TO THIS SUBDIVISION SHALL BE SUBJECT TO THE SAME RULES AND REGULATIONS AS ARE APPLICABLE TO THE SALE OF WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES OF A WINERY LICENSEE OR A FARM WINERY LICENSEE.

FOR PURPOSES OF THIS SUBDIVISION, NEW YORK STATE LABELLED WINE SHALL MEAN WINE MADE FROM GRAPES, AT LEAST SEVENTY-FIVE PERCENT THE VOLUME OF WHICH WERE GROWN IN NEW YORK STATE.

5. NOTWITHSTANDING ANY PROVISION OF THE LAW TO THE CONTRARY, A SPECIAL WINERY LICENSEE OR A SPECIAL FARM WINERY LICENSEE MAY APPLY TO THE LIQUOR AUTHORITY FOR A PERMIT TO SELL NEW YORK STATE LABELLED WINE, BY THE BOTTLE, AT THE STATE FAIR, AT RECOGNIZED COUNTY FAIRS AND AT FARMERS' MARKETS OPERATED ON A NOT-FOR-PROFIT BASIS. AS A CONDITION OF THE PERMIT, A REPRESENTATIVE FROM THE WINERY MUST BE PRESENT AT THE TIME OF SALE.

6. ANY SPECIAL FARM WINERY LICENSEE LICENSED PURSUANT TO THIS SECTION IS AUTHORIZED TO ENGAGE IN WHAT IS COMMONLY KNOWN AS WINE BY WIRE SERVICES WHEREBY A SPECIAL FARM WINERY LICENSEE WITHIN THE STATE MAY MAKE DELIVERIES ON BEHALF OF OTHER WINERIES WITHIN THE STATE.

7. THE PROVISIONS OF SECTION TWO HUNDRED TWENTY-FOUR-F OF THIS ARTICLE RELATING TO THE MANUFACTURE AND SALE OF WINE IN BULK SHALL ALSO APPLY AS FAR AS PRACTICABLE TO THE HOLDER OF A LICENSE UNDER THIS SECTION.

S 224-E. SPECIAL FARM WINERY LICENSE. 1. ANY PERSON MAY APPLY TO THE COMMISSIONER FOR A SPECIAL FARM WINERY LICENSE TO OPERATE ON THE PREMISES OF AN EXISTING LICENSEE AS PROVIDED FOR IN THIS ARTICLE. SUCH APPLICATION SHALL BE IN WRITING AND VERIFIED AND SHALL CONTAIN SUCH INFORMATION AS THE COMMISSIONER SHALL REQUIRE. SUCH APPLICATION SHALL BE ACCOMPANIED BY A CHECK OR DRAFT FOR THE AMOUNT REQUIRED BY THIS ARTICLE FOR SUCH LICENSE. IF THE COMMISSIONER SHALL GRANT THE APPLICATION, THE COMMISSIONER SHALL ISSUE A LICENSE IN SUCH FORM AS SHALL BE DETERMINED BY THE COMMISSIONER'S RULES.

2. A SPECIAL FARM WINERY LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO OPERATE A FARM WINERY UPON THE PREEXISTING LICENSED PREMISES OF ANOTHER FARM WINERY OR WINERY LICENSEE. SUCH LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO ALL THE OPERATING PRIVILEGES PROVIDED IN SECTIONS TWO HUNDRED TWENTY-FOUR-B AND TWO HUNDRED TWENTY-FOUR-D OF THIS ARTICLE SO FAR AS APPLICABLE TO SUCH LICENSEE.

S 224-F. SALE OF WINE IN BULK. 1. A WINERY LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO OPERATE A WINERY FOR THE MANUFACTURE OF WINE AT THE PREMISES SPECIFICALLY DESIGNATED IN THE LICENSE AND TO RECEIVE AND POSSESS WINE FROM OTHER STATES CONSIGNED TO A UNITED STATES GOVERNMENT BONDED WINERY, WAREHOUSE OR STOREROOM LOCATED WITHIN THE STATE. SUCH A LICENSE SHALL ALSO AUTHORIZE THE SALE IN BULK BY SUCH LICENSEE FROM THE LICENSED PREMISES OF THE PRODUCTS MANUFACTURED UNDER SUCH LICENSE AND WINE RECEIVED BY SUCH LICENSEE FROM ANY OTHER STATE TO ANY WINERY LICENSEE OR TO A PERMITTEE ENGAGED IN THE MANUFACTURER OF PRODUCTS WHICH ARE UNFIT FOR BEVERAGE USE AND TO SELL OR DELIVER SUCH WINE TO PERSONS OUTSIDE THE STATE PURSUANT TO THE LAWS OF THE PLACE OF SUCH SALE OR DELIVERY. IT SHALL ALSO AUTHORIZE THE HOLDERS THEREOF TO SELL FROM THE LICENSED PREMISES TO A LICENSED WHOLESALER OR RETAILER, OR TO A CORPORATION OPERATING RAILROAD CARS OR AIRCRAFT FOR CONSUMPTION ON SUCH CARRIERS, WINE MANUFACTURED OR RECEIVED BY THE LICENSEE AS ABOVE SET FORTH IN THE ORIGINAL SEALED CONTAINERS OF NOT MORE THAN FIFTEEN GALLONS EACH AND TO SELL OR DELIVER SUCH WINE TO PERSONS OUTSIDE THE STATE PURSUANT TO THE LAWS OF THE PLACE OF SUCH SALE OR DELIVERY. ALL WINE SOLD BY SUCH LICENSEE SHALL BE SECURELY SEALED AND HAVE ATTACHED THERETO A LABEL SETTING FORTH SUCH INFORMATION AS SHALL BE REQUIRED BY THIS ARTICLE.

2. NOTWITHSTANDING ANY PROVISION OF THE LAW TO THE CONTRARY, AND UPON PAYMENT TO THE COMMISSIONER OF AN ADDITIONAL ANNUAL FEE OF ONE HUNDRED TWENTY-FIVE DOLLARS, THE COMMISSIONER MAY IN HIS OR HER DISCRETION AND UPON SUCH TERMS AND CONDITIONS AS HE OR SHE MAY PRESCRIBE, ISSUE TO A LICENSED WINERY UPON APPLICATION THEREFOR A CERTIFICATE AUTHORIZING SUCH WINERY TO SELL WINE AT RETAIL IN SEALED CONTAINERS TO A REGULARLY ORGANIZED CHURCH, SYNAGOGUE OR RELIGIOUS ORGANIZATION FOR SACRAMENTAL PURPOSES, AND TO A HOUSEHOLDER FOR CONSUMPTION IN HIS OR HER HOME.

3. (A) A LICENSED WINERY MAY MANUFACTURE, BOTTLE AND SELL FRUIT JUICE, FRUIT JELLIES AND FRUIT PRESERVES, TONICS, SALAD DRESSINGS AND UNPOTABLE WINE SAUCES ON AND FROM LICENSED PREMISES.

(B) SUCH LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO STORE AND SELL GIFT ITEMS IN A TAX-PAID ROOM UPON THE LICENSED PREMISES. THESE GIFT ITEMS SHALL BE LIMITED TO THE FOLLOWING CATEGORIES:

(I) NON-ALCOHOLIC BEVERAGES FOR CONSUMPTION ON OR OFF PREMISES, INCLUDING BUT NOT LIMITED TO BOTTLED WATER, JUICE AND SODA BEVERAGES.

(II) FOOD ITEMS FOR THE PURPOSE OF COMPLEMENTING WINE TASTINGS, SHALL MEAN A DIVERSIFIED SELECTION OF FOOD WHICH IS ORDINARILY CONSUMED WITHOUT THE USE OF TABLEWARE AND CAN CONVENIENTLY BE CONSUMED WHILE STANDING OR WALKING. SUCH FOOD ITEMS SHALL INCLUDE BUT NOT BE LIMITED TO: CHEESES, FRUITS, VEGETABLES, CHOCOLATES, BREADS AND CRACKERS.

(III) FOOD ITEMS, WHICH SHALL INCLUDE LOCALLY PRODUCT FARM PRODUCTS AND ANY FOOD OR FOOD PRODUCT NOT SPECIFICALLY PREPARED FOR IMMEDIATE CONSUMPTION UPON THE PREMISES. SUCH FOOD ITEMS MAY BE COMBINED INTO A PACKAGE CONTAINING WINE OR A WINE PRODUCT.

(IV) WINE SUPPLIES AND ACCESSORIES, WHICH SHALL INCLUDE ANY ITEM UTILIZED FOR THE STORAGE, SERVING OR CONSUMPTION OF WINE OR FOR DECORATIVE PURPOSES. THESE SUPPLIES MAY BE SOLD AS SINGLE ITEMS OR MAY BE COMBINED INTO A PACKAGE CONTAINING WINE OR A WINE PRODUCT.

(V) SOUVENIR ITEMS, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO ARTWORK, CRAFTS, CLOTHING, AGRICULTURAL PRODUCTS AND ANY OTHER ARTICLES WHICH CAN BE CONSTRUED TO PROPAGATE TOURISM WITHIN THE REGION.

(VI) NEW YORK STATE LABELED WINE PRODUCED OR MANUFACTURED BY ANY OTHER NEW YORK WINERY OR FARM WINERY LICENSEE. SUCH WINE MAY BE PURCHASED OUTRIGHT BY THE LICENSEE FROM A NEW YORK WINERY OR FARM WINERY LICENSEE OR OBTAINED ON A CONSIGNMENT BASIS PURSUANT TO A WRITTEN AGREEMENT BETWEEN THE SELLING AND PURCHASING LICENSEE.

(C) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, ANY WINERY LICENSEE OR FARM WINERY LICENSEE MAY CHARGE:

(I) FOR TOURS OF THEIR PREMISES; AND

(II) FOR ANY WINE TASTING.

(D) WINE GRAPE GROWERS OR WINE PRODUCER ORGANIZATIONS OR ASSOCIATIONS, INCORPORATED WITHIN THE STATE FOR THE PURPOSE OF WINE OR WINE GRAPE PROMOTION MAY HOLD WINE TASTINGS FOR PURPOSES OF EDUCATION IN THE PRODUCTION AND PROPER USE OF WINE PRODUCTS UNDER THE SAME RULES APPLYING TO WINERY LICENSEES.

(E) THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS SUBDIVISION.

(F) A LICENSED WINERY MAY ENGAGE IN ANY OTHER BUSINESS ON THE LICENSED PREMISES SUBJECT TO SUCH RULES AND REGULATIONS AS THE COMMISSIONER MAY PRESCRIBE. IN PRESCRIBING SUCH RULES AND REGULATIONS, THE COMMISSIONER SHALL PROMOTE THE EXPANSION AND PROFITABILITY OF WINE PRODUCTION AND OF TOURISM IN NEW YORK, THEREBY PROMOTING THE CONSERVATION, PRODUCTION AND ENHANCEMENT OF NEW YORK STATE AGRICULTURAL LANDS. FURTHER, SUCH RULES AND REGULATIONS SHALL DETERMINE WHICH BUSINESSES WILL BE COMPATIBLE WITH THE POLICY AND PURPOSES OF THIS CHAPTER AND SHALL CONSIDER THE EFFECT OF PARTICULAR BUSINESSES ON THE COMMUNITY AND AREAS IN THE VICINITY OF THE WINERY LICENSEE.

4. A LICENSED WINERY SHALL BE PERMITTED TO REMAIN OPEN FOR THE PURPOSES OF SELLING ITS PRODUCTS, IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISIONS TWO AND THREE OF THIS SECTION, AND/OR OF CONDUCTING PUBLIC TOURS OF ITS WINERY AND/OR TO SELL NEW YORK STATE LABELLED WINE, BY THE BOTTLE, AT THE STATE FAIR, AT RECOGNIZED COUNTY FAIRS AND AT FARMERS' MARKETS OPERATED ON A NOT-FOR-PROFIT BASIS IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED TWENTY-FOUR-A OF THIS ARTICLE ON SUNDAY BETWEEN THE HOURS OF TEN O'CLOCK IN THE MORNING AND MIDNIGHT.

THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS SUBDIVISION.

S 224-G. WHOLESALER'S WINE LICENSE. 1. THE PROCEDURE CONTAINED IN SECTION SIXTY-TWO OF THE ALCOHOLIC BEVERAGE CONTROL LAW SHALL APPLY SO FAR AS APPLICABLE TO APPLICATIONS FOR A WHOLESALER'S WINE LICENSE. SUCH LICENSE SHALL CONTAIN A DESCRIPTION OF THE LICENSED PREMISES AND IN FORM AND IN SUBSTANCE SHALL BE A LICENSE TO THE PERSON THEREIN SPECIFICALLY DESIGNATED TO SELL WINE AT WHOLESALE IN THE PREMISES THEREIN SPECIFICALLY LICENSED IN THE ORIGINAL SEALED CONTAINERS OF NOT MORE THAN FIFTEEN GALLONS EACH TO DULY LICENSED MANUFACTURERS, WHOLESALERS, RETAILERS AND PERMITTEES IN THIS STATE, AND TO SELL OR DELIVER SUCH WINE TO PERSONS OUTSIDE THE STATE PURSUANT TO THE LAWS OF THE PLACE OF SUCH SALE OR DELIVERY.

2. UPON PAYMENT TO THE COMMISSIONER OF AN ADDITIONAL ANNUAL FEE OF ONE HUNDRED TWENTY-FIVE DOLLARS, THE COMMISSIONER MAY IN HIS OR HER DISCRETION AND UPON SUCH TERMS AND CONDITIONS AS THE COMMISSIONER MAY PRESCRIBE, ISSUE TO A WHOLESALE WINE LICENSEE UPON APPLICATION THEREFOR A CERTIFICATE AUTHORIZING SUCH WHOLESALER TO SELL WINE AT RETAIL IN SEALED CONTAINERS TO A REGULARLY ORGANIZED CHURCH, SYNAGOGUE OR RELIGIOUS ORGANIZATION FOR SACRAMENTAL PURPOSES.

S 224-H. SEVEN DAY LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES. 1. THE PROCEDURE SET FORTH IN SECTION SIXTY-THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW SHALL APPLY SO FAR AS APPLICABLE TO APPLICATIONS FOR SEVEN DAY LICENSES TO SELL WINE AT RETAIL FOR OFF-PREMISE CONSUMPTION. SUCH SEVEN DAY LICENSE SHALL IN FORM AND IN SUBSTANCE BE A LICENSE TO THE PERSON SPECIFICALLY LICENSED TO SELL WINE AT RETAIL FOR OFF-PREMISE CONSUMPTION.

2. THE LIQUOR AUTHORITY SHALL CONVERT ALL CURRENT LICENSES TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES TO SEVEN DAY LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES PURSUANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED TWENTY-FOUR OF THIS ARTICLE. HOWEVER, THE CONVERSION OF THE LICENSE TO THE SEVEN DAY LICENSE SHALL NOT AFFECT LICENSES OTHER THAN LICENSES ISSUED PURSUANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED TWENTY-FOUR OF THIS ARTICLE PRIOR TO THE EFFECTIVE DATE OF PART W3 OF CHAPTER SIXTY-TWO OF THE LAWS OF TWO THOUSAND THREE.

3. NOT MORE THAN ONE LICENSE SHALL BE GRANTED TO ANY PERSON UNDER THIS SECTION.

4. NO LICENSEE UNDER THIS SECTION SHALL BE ENGAGED IN ANY OTHER BUSINESS IN THE PREMISES LICENSED. THE SALE OF THOSE ITEMS SPECIFICALLY ENUMERATED IN SUBDIVISION FOUR OF SECTION SIXTY-THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW SHALL NOT CONSTITUTE ENGAGING IN ANOTHER BUSINESS WITHIN THE MEANING OF THIS SUBDIVISION.

5. DETERMINATIONS UNDER THIS SECTION WITH RESPECT TO THE ISSUANCE OF A NEW LICENSE OR UNDER SECTION ONE HUNDRED ELEVEN OF THE ALCOHOLIC BEVERAGE CONTROL LAW WITH RESPECT OF THE TRANSFER TO ANY OTHER PREMISES OF A LICENSE ISSUED HEREUNDER SHALL BE MADE IN ACCORDANCE WITH PUBLIC CONVENIENCE AND ADVANTAGE.

S 225. AUTHORIZATION TO SELL WINE PRODUCTS BY CERTAIN LICENSEES FOR CONSUMPTION OFF THE PREMISES. 1. ANY PERSON LICENSED TO SELL BEER AT RETAIL FOR CONSUMPTION OFF THE PREMISES, PURSUANT TO SECTION FIFTY-FOUR OF THE ALCOHOLIC BEVERAGE CONTROL LAW, SHALL, BY VIRTUE OF SUCH LICENSE AND UPON PAYMENT TO THE COMMISSIONER OF AN ADDITIONAL FEE IN THE SUM OF ONE HUNDRED SIXTY-FIVE DOLLARS IN CITIES HAVING A POPULATION OF ONE HUNDRED THOUSAND OR OVER AND EIGHTY-THREE DOLLARS ELSEWHERE, BE GRANTED AUTHORIZATION TO SELL FROM THE LICENSED PREMISES WINE PRODUCTS IN SEALED

CONTAINERS FOR CONSUMPTION OFF SUCH PREMISES. UPON RECEIPT OF SUCH ADDITIONAL FEE, THE COMMISSIONER SHALL PROMPTLY ISSUE A PERMIT AUTHORIZING SUCH SALES BY THE LICENSEE.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY PERSON RECEIVING A PERMIT PURSUANT TO THIS SECTION SHALL BE SUBJECT TO SUCH PROVISIONS OF THE ALCOHOLIC BEVERAGE CONTROL LAW AS ARE APPLICABLE TO PERSONS LICENSED PURSUANT TO SECTION FIFTY-FOUR OF SUCH LAW, AND NOT TO THOSE PROVISIONS WHICH ARE APPLICABLE ONLY TO PERSONS LICENSED PURSUANT TO SECTION SIXTY-THREE OF SUCH LAW AND SECTION TWO HUNDRED TWENTY-FOUR-H OF THIS ARTICLE.

S 225-A. AUTHORIZATION TO SELL WINE PRODUCTS BY CERTAIN LICENSEES FOR CONSUMPTION ON THE PREMISES. 1. ANY PERSON LICENSED TO SELL BEER AT RETAIL FOR CONSUMPTION ON THE PREMISES, PURSUANT TO SECTION FIFTY-FIVE OF THE ALCOHOLIC BEVERAGE CONTROL LAW, SHALL, BUT VIRTUE OF SUCH LICENSE AND UPON PAYMENT TO THE COMMISSIONER OF AN ADDITIONAL FEE IN THE SUM OF ONE HUNDRED NINETY-TWO DOLLARS IN CITIES HAVING A POPULATION OF ONE HUNDRED THOUSAND OR OVER AND NINETY-SIX DOLLARS ELSEWHERE, BE GRANTED AUTHORIZATION TO SELL FROM THE LICENSED PREMISES WINE PRODUCTS IN SEALED CONTAINERS AT RETAIL FOR CONSUMPTION ON OR OFF SUCH PREMISES. UPON RECEIPT OF SUCH ADDITIONAL FEE, THE COMMISSIONER SHALL PROMPTLY ISSUE A PERMIT AUTHORIZING SUCH SALES BY THE LICENSEE.

2. ANY PERSON LICENSED TO SELL BEER AT RETAIL FOR CONSUMPTION ON THE PREMISES, PURSUANT TO SECTION FIFTY-FIVE-A OF THE ALCOHOLIC BEVERAGE CONTROL LAW, SHALL, BY VIRTUE OF SUCH LICENSE AND UPON PAYMENT TO THE COMMISSIONER OF AN ADDITIONAL FEE IN THE SUM OF ONE HUNDRED NINETY-TWO DOLLARS IN CITIES HAVING A POPULATION OF ONE HUNDRED THOUSAND OR OVER AND NINETY-SIX DOLLARS ELSEWHERE, BE GRANTED AUTHORIZATION TO SELL FROM THE LICENSED PREMISES WINE PRODUCTS IN SEALED CONTAINERS AT RETAIL FOR CONSUMPTION ON SUCH PREMISES. UPON RECEIPT OF SUCH ADDITIONAL FEE, THE COMMISSIONER SHALL PROMPTLY ISSUE A PERMIT AUTHORIZING SUCH SALES BY THE LICENSEE.

3. NOTWITHSTANDING ANY OTHER PROVISION OF THE LAW, ANY PERSON RECEIVING A PERMIT PURSUANT TO THIS SECTION SHALL BE SUBJECT TO SUCH PROVISIONS OF THE ALCOHOLIC BEVERAGE CONTROL LAW AS ARE APPLICABLE TO PERSONS LICENSED PURSUANT TO SECTION FIFTY-FIVE OF SUCH LAW, AND NOT TO THOSE PROVISIONS WHICH ARE APPLICABLE ONLY TO PERSONS LICENSED PURSUANT TO SECTION SIXTY-FOUR OF SUCH LAW AND SECTION TWO HUNDRED TWENTY-SIX OF THIS ARTICLE.

S 226. WINE TASTING. ANY PERSON LICENSED TO SELL WINE PURSUANT TO THIS ARTICLE OR SECTION SIXTY-THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW SHALL BE PERMITTED TO CONDUCT WINE TASTINGS. WINE TASTINGS WHICH ARE CONDUCTED UNDER THE AUSPICES OF AN OFFICIAL AGENT OF A FARM WINERY, WINERY, WHOLESALER, OR IMPORTER AND WHERE SUCH AGENT IS PHYSICALLY PRESENT AT ALL TIMES DURING THE CONDUCT OF THE TASTING, THEN, IN THAT EVENT, ANY LIABILITY STEMMING FROM A RIGHT OF ACTION RESULTING FROM A WINE TASTING AS AUTHORIZED PURSUANT TO THIS SECTION, AND IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 11-100 AND 11-101 OF THE GENERAL OBLIGATIONS LAW, SHALL ACCRUE TO THE FARM WINERY, WINERY, WHOLESALER, OR IMPORTER.

S 226-A. LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES. 1. THE PROCEDURE SET FORTH IN SECTION SIXTY-FOUR OF THE ALCOHOLIC BEVERAGE CONTROL LAW SHALL APPLY SO FAR AS APPLICABLE TO APPLICATIONS FOR LICENSES TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES, EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, UPON RECEIPT IN THE CITY OF NEW YORK OF AN APPLICATION FOR A LICENSE UNDER THIS SECTION, AN APPLICATION FOR RENEWAL UNDER SECTION ONE HUNDRED NINE OF THE ALCOHOLIC

BEVERAGE CONTROL LAW, OR AN APPLICATION FOR AN ALTERATION TO THE PREMISES LICENSED FOR CONSUMPTION ON THE PREMISES UNDER SECTION NINETY-NINE-D OF THE ALCOHOLIC BEVERAGE CONTROL LAW, THE APPLICANT SHALL NOTIFY THE COMMUNITY BOARD ESTABLISHED PURSUANT TO SECTION TWENTY-EIGHT HUNDRED OF THE NEW YORK CITY CHARTER WITH JURISDICTION OVER THE AREA IN WHICH SUCH LICENSED PREMISES IS TO BE LOCATED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, WHEREIN THE PROSPECTIVE LICENSED PREMISES IS TO BE LOCATED OR, IN THE CASE OF AN APPLICATION FOR RENEWAL, OR ALTERATION WHERE IT IS PRESENTLY LOCATED NOT LESS THAN THIRTY DAYS PRIOR TO THE SUBMISSION OF ITS APPLICATION FOR A LICENSE UNDER THIS SECTION OR FOR A RENEWAL THEREOF PURSUANT TO SECTION ONE HUNDRED NINE OF THE ALCOHOLIC BEVERAGE CONTROL LAW. SUCH COMMUNITY BOARD MAY EXPRESS AN OPINION FOR OR AGAINST THE GRANTING OF SUCH LICENSE. ANY SUCH OPINION SHALL BE DEEMED PART OF THE RECORD UPON WHICH THE LIQUOR BOARD MAKES ITS DETERMINATION TO GRANT OR DENY SUCH LICENSE.

3. NO SUCH LICENSE SHALL BE ISSUED TO ANY PERSON FOR ANY PREMISES OTHER THAN PREMISES FOR WHICH A LICENSE MAY BE ISSUED UNDER SECTION SIXTY-FOUR OF THE ALCOHOLIC BEVERAGE CONTROL LAW OR A HOTEL OR PREMISES WHICH ARE KEPT, USED, MAINTAINED, ADVERTISED OR HELD OUT TO THE PUBLIC TO BE A PLACE WHERE FOOD IS PREPARED AND SERVED FOR CONSUMPTION ON THE PREMISES IN SUCH QUANTITIES AS TO SATISFY THE LIQUOR AUTHORITY THAT THE SALE OF WINE INTENDED IS INCIDENTAL TO AND NOT THE PRIME SOURCE OF REVENUE FROM THE OPERATION OF SUCH PREMISES. SUCH LICENSE MAY ALSO INCLUDE SUCH SUITABLE SPACE OUTSIDE THE LICENSED PREMISES AND ADJOINING IT AS MAY BE APPROVED BY THE COMMISSIONER.

4. SUCH LICENSE SHALL IN FORM AND IN SUBSTANCE BE A LICENSE TO THE PERSON SPECIFICALLY LICENSED TO SELL WINE AT RETAIL, TO BE CONSUMED UPON THE PREMISES.

5. A RESTAURANT LICENSED TO SELL WINE UNDER THIS SECTION MAY PERMIT A PATRON TO REMOVE ONE UNSEALED BOTTLE OF WINE FOR OFF-PREMISES CONSUMPTION PROVIDED THAT THE PATRON HAS PURCHASED A FULL COURSE MEAL AND CONSUMED A PORTION OF THE BOTTLE OF WINE WITH SUCH MEAL ON THE RESTAURANT PREMISES. FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "FULL COURSE MEAL" SHALL MEAN A DIVERSIFIED SELECTION OF FOOD WHICH IS ORDINARILY CONSUMED WITH THE USE OF TABLEWARE AND CANNOT CONVENIENTLY BE CONSUMED WHILE STANDING OR WALKING. A PARTIALLY CONSUMED BOTTLE OF WINE THAT IS TO BE REMOVED FROM THE PREMISES PURSUANT TO THIS SUBDIVISION SHALL BE SECURELY SEALED BY THE LICENSEE OR AN AGENT OF THE LICENSEE PRIOR TO REMOVAL FROM THE PREMISES, IN A BAG SUCH THAT IT IS VISIBLY APPARENT THAT SUCH RESEALED BOTTLE OF WINE HAS NOT BEEN TAMPERED WITH. SUCH LICENSEE OR AGENT OF THE LICENSEE SHALL PROVIDE A DATED RECEIPT FOR THE BOTTLE OF WINE TO THE PATRON.

S 226-B. SPECIAL LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES. 1. ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, ANY PERSON MAY MAKE AN APPLICATION TO THE APPROPRIATE BOARD FOR A SPECIAL LICENSE TO SELL WINE AT RETAIL TO BE CONSUMED ON THE PREMISES WHERE SOLD.

2. SUCH SPECIAL LICENSE SHALL IN FORM AND IN SUBSTANCE BE A LICENSE TO THE PERSON SPECIFICALLY LICENSED TO SELL WINE AT RETAIL TO BE CONSUMED ON THE PREMISES SPECIFICALLY LICENSED.

3. THE PROVISIONS CONTAINED IN SUBDIVISIONS THREE, FOUR, SIX, EIGHT AND NINE OF SECTION SIXTY-FOUR-A OF THE ALCOHOLIC BEVERAGE CONTROL LAW SHALL APPLY TO APPLICANTS FOR LICENSES UNDER THIS SECTION.

4. (A) NO SUCH LICENSE SHALL BE ISSUED TO ANY PERSON FOR ANY PREMISES OTHER THAN PREMISES FOR WHICH A LICENSE MAY BE ISSUED UNDER SECTION SIXTY-FOUR OF THE ALCOHOLIC BEVERAGE CONTROL LAW OR A HOTEL OR PREMISES WHICH ARE KEPT, USED, MAINTAINED, ADVERTISED OR HELD OUT TO THE PUBLIC

TO BE A PLACE WHERE FOOD IS PREPARED AND SERVED FOR CONSUMPTION ON THE PREMISES IN SUCH QUANTITIES AS TO SATISFY THE COMMISSIONER THAT THE SALE OF WINE INTENDED IS INCIDENTAL TO AND NOT THE PRIME SOURCE OF REVENUE FROM THE OPERATION OF SUCH PREMISES. SUCH LICENSE MAY ALSO INCLUDE SUCH SUITABLE SPACE OUTSIDE THE LICENSED PREMISES AND ADJOINING IT AS MAY BE APPROVED BY THE COMMISSIONER.

(B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, A SPECIAL ON-PREMISES LICENSE FOR A PREMISES IN WHICH THE PRINCIPAL BUSINESS SHALL BE THE OPERATION OF A LEGITIMATE THEATER BY A CORPORATION ORGANIZED PURSUANT TO THE NOT-FOR-PROFIT CORPORATION LAW MAY BE GRANTED NOTWITHSTANDING THE PROXIMITY OF SUCH PREMISES TO ANY SCHOOL, PROVIDED THAT THE AVAILABILITY OF ALCOHOLIC BEVERAGES ON SUCH PREMISES SHALL NOT BE ADVERTISED IN ANY WAY AT SUCH PREMISES IN ANY MANNER VISIBLE FROM SUCH STREET OR AVENUE.

S 226-C. PROHIBITED SALES. THE RESTRICTIONS CONTAINED IN SECTION SIXTY-FIVE OF THE ALCOHOLIC BEVERAGE CONTROL LAW SHALL APPLY TO PERSONS LICENSED TO SELL WINE AT RETAIL.

S 227. LICENSE FEES. 1. THE ANNUAL FEE FOR A WINERY LICENSE SHALL BE SIX HUNDRED TWENTY-FIVE DOLLARS.

2. THE ANNUAL FEE FOR A FARM WINERY LICENSE SHALL BE ONE HUNDRED TWENTY-FIVE DOLLARS.

3. THE FEE FOR A TEMPORARY WINERY OR FARM WINERY PERMIT SHALL BE ONE HUNDRED TWENTY-FIVE DOLLARS.

4. THE ANNUAL FEE FOR A WINERY OR FARM WINERY LICENSEE'S AUTHORITY TO CONDUCT WINE TASTINGS AND THE SALE OF NEW YORK STATE LABELLED WINES FOR OFF-PREMISES CONSUMPTION PURSUANT TO PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION TWO HUNDRED TWENTY-FOUR-A OF THIS ARTICLE SHALL BE FORTY DOLLARS.

5. THE ANNUAL FEE FOR A LICENSE TO SELL WINE AT WHOLESALE SHALL BE EIGHT HUNDRED DOLLARS.

6. THE ANNUAL FEE FOR A LICENSE TO SELL WINE AT RETAIL, NOT TO BE CONSUMED ON THE PREMISES, SHALL BE SIX HUNDRED FORTY DOLLARS FOR EACH SUCH PLACE WHERE SUCH BUSINESS IS CARRIED ON IN CITIES HAVING A POPULATION OF ONE MILLION OR MORE; IN CITIES HAVING LESS THAN ONE MILLION POPULATION AND MORE THAN ONE HUNDRED THOUSAND, THREE HUNDRED TWENTY DOLLARS; AND ELSEWHERE, THE SUM OF ONE HUNDRED FORTY-FIVE DOLLARS.

7. THE ANNUAL FEE FOR SELLING WINE AT RETAIL, TO BE CONSUMED ON THE PREMISES WHERE SOLD, SHALL BE AS FOLLOWS:

(A) IN CITIES HAVING A POPULATION OF ONE HUNDRED THOUSAND OR OVER THE SUM OF FOUR HUNDRED EIGHTY DOLLARS PER YEAR; AND

(B) ELSEWHERE, THE SUM OF TWO HUNDRED FORTY DOLLARS PER YEAR.

8. THE ANNUAL FEE FOR A LICENSE TO SELL WINE AT RETAIL TO BE CONSUMED ON THE PREMISES WHERE SOLD WHERE THE PREMISES TO BE LICENSED REMAIN OPEN ONLY WITHIN THE PERIOD COMMENCING APRIL FIRST AND ENDING OCTOBER THIRTY-FIRST OF ANY ONE YEAR OR ONLY WITHIN THE PERIOD COMMENCING OCTOBER FIRST AND ENDING THE FOLLOWING APRIL THIRTIETH, THE LIQUOR AUTHORITY, IN ITS DISCRETION, MAY GRANT A SUMMER OR WINTER LICENSE EFFECTIVE ONLY FOR SUCH APPROPRIATE PERIOD OF TIME, FOR WHICH AN ANNUAL FEE OF ONE HUNDRED TWELVE DOLLARS SHALL BE PAID.

9. THE ANNUAL FEE FOR A SPECIAL LICENSE TO SELL WINE AT RETAIL, TO BE CONSUMED ON THE PREMISES WHERE SOLD, SHALL BE AS FOLLOWS:

(A) IN CITIES HAVING A POPULATION OF ONE HUNDRED THOUSAND OR OVER, THE SUM OF FIVE HUNDRED SEVENTY-SIX DOLLARS PER YEAR; AND

(B) ELSEWHERE, THE SUM OF TWO HUNDRED SEVENTY DOLLARS PER YEAR.

10. THE ANNUAL FEE FOR A SPECIAL WINERY LICENSE SHALL BE SIX HUNDRED TWENTY-FIVE DOLLARS.

11. THE ANNUAL FEE FOR A SPECIAL FARM WINERY LICENSE SHALL BE ONE HUNDRED TWENTY-FIVE DOLLARS.

S 227-A. LICENSE FEES; WHEN DUE AND PAYABLE; FEE FOR PART OF YEAR. THE PROVISIONS CONTAINED IN SECTION SIXTY-SEVEN OF THE ALCOHOLIC BEVERAGE CONTROL LAW SHALL APPLY TO ALL LICENSES ISSUED PURSUANT TO THIS ARTICLE.

S 228. PURCHASE FROM PRIVATE COLLECTION. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER ANY NONLICENSED PERSON OWNING BOTTLED WINE IS AUTHORIZED TO SELL THAT WINE TO A WHOLESALE OR RETAIL LICENSEE AUTHORIZED TO SELL WINE. THE LICENSEE INVOLVED IN SUCH SALE SHALL ENSURE THAT EACH BOTTLE OF WINE SOLD FROM A PRIVATE COLLECTION HAS A PERMANENTLY AFFIXED LABEL STATING THAT THE WINE WAS ACQUIRED FROM A PRIVATE COLLECTION.

S 229. RULES AND REGULATIONS. THE COMMISSIONER IS HEREBY AUTHORIZED TO ENACT, AMEND AND REPEAL RULES AND REGULATIONS NECESSARY TO CARRY OUT AND GIVE FULL FORCE AND EFFECT TO THE PROVISIONS OF THIS ARTICLE. THE COMMISSIONER IS HEREBY AUTHORIZED TO ESTABLISH A UNIT, PURSUANT TO SECTION NINE OF THIS CHAPTER, AS NECESSARY.

THE COMMISSIONER IS HEREBY AUTHORIZED TO ADOPT, INSOFAR AS APPROPRIATE, THE REGULATIONS, FROM TIME TO TIME PROMULGATED UNDER SUCH FEDERAL ACT OR ACTS, AND TO CHANGE OR AMEND THE REGULATIONS PROMULGATED UNDER THIS CHAPTER SO AS TO CONFORM, INSOFAR AS APPROPRIATE, TO THOSE PROMULGATED UNDER FEDERAL ACT OR ACTS AND ALL ACTS AMENDATORY THEREOF AND SUPPLEMENTARY THERETO.

THE COMMISSIONER SHALL HOLD A PUBLIC HEARING UPON A PROPOSAL TO PROMULGATE ANY NEW OR AMENDED REGULATIONS UNDER THIS ARTICLE, EXCEPT IN THE CASE OF A PROPOSAL TO ADOPT APPLICABLE REGULATIONS PROMULGATED UNDER THE FEDERAL ACT OR ACTS.

S 229-A. SEVERABILITY. IF ANY PROVISIONS OF THIS ARTICLE OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISIONS OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE ARE DECLARED TO BE SEVERABLE.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.