

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

897--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KRUEGER, DILAN, DUANE, HUNTLEY, PARKER, PERKINS, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business -- 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 enacting the wine industry and liquor store revitalization act; and to repeal certain provisions of such law relating thereto

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

1 Section 1. This act shall be known and may be cited as the "wine
2 industry and liquor store revitalization act".
3 S 2. Subdivisions 4 and 5 of section 63 of the alcoholic beverage
4 control law, subdivision 4 as amended by chapter 603 of the laws of
5 1992, are amended and five new subdivisions 7, 8, 9, 10, and 11 are
6 added to read as follows:
7 4. (A) No licensee under this section shall be engaged in any other
8 business on the licensed premises. The SALE OF PRODUCTS COMPLEMENTARY TO
9 THE BUSINESS OF THE LICENSED PREMISES SHALL NOT CONSTITUTE ENGAGING IN
10 ANOTHER BUSINESS WITHIN THE MEANING OF THIS SUBDIVISION. SUCH PRODUCTS
11 SHALL INCLUDE BUT NOT BE LIMITED TO THE sale of lottery tickets, when
12 duly authorized and lawfully conducted, the sale of corkscrews or the
13 sale of ice or the sale of publications, including prerecorded video
14 and/or audio cassette tapes, designed to help educate consumers in their
15 knowledge and appreciation of wine and wine products, as defined in
16 section three of this chapter, or the sale of [non-carbonated, non-fla-
17 vored mineral waters, spring waters and drinking waters] NON-ALCOHOLIC
18 BEVERAGES FOR CONSUMPTION ON OR OFF PREMISES, INCLUDING BUT NOT LIMITED
19 TO BOTTLED WATER, JUICE AND SODA BEVERAGES, OR THE SALE OF TOBACCO
20 PRODUCTS OR HERBAL CIGARETTES, PROVIDED THE LICENSEE COMPLIES WITH

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

LBD04079-02-1

1 SECTION THIRTEEN HUNDRED NINETY-NINE-CC OF THE PUBLIC HEALTH LAW, OR THE
2 SALE AT RETAIL OF CIGARS WHICH HAVE BEEN PREPACKAGED BY THE MANUFACTURER
3 IN BOXES OF TEN OR MORE, OR THE SALE OF PUBLICATIONS DESIGNED TO HELP
4 EDUCATE CONSUMERS IN THEIR KNOWLEDGE AND APPRECIATION OF CIGAR PRODUCTS,
5 OR FOOD ITEMS, WHICH SHALL INCLUDE LOCALLY PRODUCED FARM PRODUCTS AND
6 ANY FOOD OR FOOD PRODUCT NOT SPECIFICALLY PREPARED FOR IMMEDIATE
7 CONSUMPTION UPON THE PREMISES, OR THE SALE OF GIFT BAGS AND GIFT BASKETS
8 INCLUDING, BUT NOT LIMITED TO, SHOT GLASSES, SINGLE MALT SCOTCH GLASSES,
9 GRAPPA GLASSES, DECANTERS, OTHER GLASSWARE, FOOD OR FARM PRODUCTS NOT
10 SPECIFICALLY PREPARED FOR IMMEDIATE CONSUMPTION UPON THE PREMISES, ALL
11 OF WHICH IS RELATED TO THE CONSUMPTION AND ENJOYMENT OF WINE AND SPIRITS
12 or the sale of glasses designed for the consumption of wine, racks
13 designed for the storage of wine, and devices designed to minimize
14 oxidation in bottles of wine which have been uncorked[, shall not
15 constitute engaging in another business within the meaning of this
16 subdivision].

17 (B) THE INSTALLATION AND OPERATION OF AUTOMATED TELLER MACHINES SHALL
18 NOT CONSTITUTE ENGAGING IN ANOTHER BUSINESS WITHIN THE MEANING OF THIS
19 SUBDIVISION. FOR PURPOSES OF THIS SUBDIVISION, "AUTOMATED TELLER
20 MACHINE" MEANS A DEVICE WHICH IS LINKED TO THE ACCOUNTS AND RECORDS OF A
21 BANKING INSTITUTION AND WHICH ENABLES CONSUMERS TO CARRY OUT BANKING
22 TRANSACTIONS, INCLUDING, BUT NOT LIMITED TO, ACCOUNT TRANSFERS, DEPOS-
23 ITS, CASH WITHDRAWALS, BALANCE INQUIRIES, AND LOAN PAYMENTS.

24 5. [Not more than one license shall be] NOTHING IN THIS SECTION SHALL
25 BE CONSTRUED TO PROHIBIT MULTIPLE LICENSES FROM BEING granted to any
26 person under this section.

27 7. ANY LICENSE OBTAINED UNDER THIS SECTION INCLUDES AUTHORIZATION TO
28 SELL ALCOHOLIC BEVERAGES FOR RESALE TO LICENSED PREMISES FOR ON-PREMISES
29 CONSUMPTION AS LICENSED BY SECTIONS FIFTY-FIVE, SIXTY-FOUR,
30 SIXTY-FOUR-A, SEVENTY-NINE-B, AND EIGHTY-ONE OF THIS CHAPTER AS PROVIDED
31 IN SUBDIVISIONS THREE-A AND THREE-B OF SECTION ONE HUNDRED TWO OF THIS
32 CHAPTER.

33 8. COMMENCING ON THE EFFECTIVE DATE OF THIS SUBDIVISION, NO ADDITIONAL
34 LICENSES SHALL BE ISSUED PURSUANT TO THIS SECTION EXCEPT AS OUTLINED IN
35 SUBDIVISION NINE OF THIS SECTION. THE PROVISIONS OF THIS SUBDIVISION
36 SHALL NOT APPLY TO (A) THE RENEWAL, TRANSFER OR CONTINUANCE OF A LICENSE
37 PURSUANT TO THIS CHAPTER, (B) AN APPLICATION FOR A LICENSE FILED BEFORE
38 THE EFFECTIVE DATE OF THIS SUBDIVISION, (C) THE ISSUANCE OF A LICENSE IN
39 ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, TO A PERSON WHO
40 PURCHASED THE BUSINESS OPERATIONS OF A LICENSEE, PROVIDED, HOWEVER, THAT
41 ANY PERSON LICENSED UNDER THIS SECTION SHALL MAKE AN APPLICATION TO THE
42 LIQUOR AUTHORITY PRIOR TO SELLING ITS LICENSE TO ANOTHER PERSON.

43 9. ANY EXISTING LICENSE ISSUED UNDER THIS SECTION WHICH IS CANCELED OR
44 REVOKED BY THE LIQUOR AUTHORITY MAY BE AUCTIONED OFF TO THE HIGHEST
45 BIDDER, PROVIDED THAT THE PERSON MEETS ALL THE APPLICABLE REQUIREMENTS.
46 THE AMOUNT OF THE SALE OF THE EXISTING LICENSE AS AUTHORIZED IN THIS
47 SUBDIVISION SHALL BE SUBJECT TO SALES AND COMPENSATING USE TAX AS
48 IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF THE TAX LAW.

49 10. EACH EXISTING LICENSEE SHALL BE AUTHORIZED TO APPLY FOR ONE ADDI-
50 TIONAL LICENSE FOR RETAIL SALE OF LIQUOR FOR CONSUMPTION OFF THE PREM-
51 ISES FOR USE IN THE ESTABLISHMENT OF ANOTHER LICENSED PREMISES, PROVIDED
52 HOWEVER, THE ADDITIONAL PREMISES COMPLIES WITH ALL APPLICABLE
53 RESTRICTIONS AND REQUIREMENTS. THE ADDITIONAL LICENSE ISSUED BY THE
54 AUTHORITY UNDER THIS SUBDIVISION MAY BE SOLD PROVIDED THE PURCHASER
55 MEETS ALL APPLICABLE REQUIREMENTS, WHICH SALE SHALL BE SUBJECT TO SALES
56 AND COMPENSATING USE TAX AS IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF

1 THE TAX LAW. THE AUTHORIZATION FOR THE ESTABLISHMENT OF A NEW PREMISES
2 OR SALE OF THE ADDITIONAL LICENSE UNDER THIS SUBDIVISION SHALL EXPIRE
3 THREE YEARS FROM THE EFFECTIVE DATE OF THIS SUBDIVISION.

4 11. THE AUTHORITY IS AUTHORIZED TO AUCTION OFF TO THE HIGHEST BIDDER,
5 PROVIDED THAT THE PERSON MEETS ALL THE APPLICABLE REQUIREMENTS, ADDI-
6 TIONAL LICENSES FOR THE SALE OF LIQUOR OR WINE OR BOTH AT RETAIL FOR
7 CONSUMPTION OFF THE PREMISES. THE REVENUE FROM THIS SALE SHALL BE ALLO-
8 CATED FOR THE INCREASED LICENSURE AND ENFORCEMENT EFFORTS OF THE AUTHOR-
9 ITY. THE AUTHORITY SHALL BE AUTHORIZED TO SELL NO MORE THAN FIFTEEN
10 ADDITIONAL LICENSES EVERY TWO YEARS, BEGINNING ON APRIL FIRST, TWO THOU-
11 SAND FOURTEEN.

12 S 3. Subdivision 2 of section 79 of the alcoholic beverage control law
13 is amended and four new subdivisions 5, 6, 7, and 8 are added to read as
14 follows:

15 2. [Not more than one license shall be] NOTHING IN THIS SECTION SHALL
16 BE CONSTRUED TO PROHIBIT MULTIPLE LICENSES FROM BEING granted to any
17 person under this section.

18 5. ANY LICENSE OBTAINED UNDER THIS SECTION INCLUDES AUTHORIZATION TO
19 SELL ALCOHOLIC BEVERAGES FOR RESALE TO LICENSED PREMISES FOR ON-PREMISES
20 CONSUMPTION AS LICENSED BY SECTIONS FIFTY-FIVE, SIXTY-FOUR,
21 SIXTY-FOUR-A, SEVENTY-NINE-B, AND EIGHTY-ONE OF THIS CHAPTER AS PROVIDED
22 IN SUBDIVISIONS THREE-A AND THREE-B OF SECTION ONE HUNDRED TWO OF THIS
23 CHAPTER.

24 6. COMMENCING ON THE EFFECTIVE DATE OF THIS SUBDIVISION, NO ADDITIONAL
25 LICENSES SHALL BE ISSUED PURSUANT TO THIS SECTION EXCEPT AS OUTLINED IN
26 SUBDIVISION SEVEN OF THIS SECTION. THE PROVISIONS OF THIS SUBDIVISION
27 SHALL NOT APPLY TO (A) THE RENEWAL, TRANSFER OR CONTINUANCE OF A LICENSE
28 PURSUANT TO THIS CHAPTER, (B) AN APPLICATION FOR A LICENSE FILED BEFORE
29 THE EFFECTIVE DATE OF THIS SUBDIVISION, (C) THE ISSUANCE OF A LICENSE IN
30 ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, TO A PERSON WHO
31 PURCHASED THE BUSINESS OPERATIONS OF A LICENSEE, PROVIDED, HOWEVER, THAT
32 ANY PERSON LICENSED UNDER THIS SECTION SHALL MAKE AN APPLICATION TO THE
33 LIQUOR AUTHORITY PRIOR TO SELLING ITS LICENSE TO ANOTHER PERSON.

34 7. ANY EXISTING LICENSE ISSUED UNDER THIS SECTION WHICH IS CANCELED OR
35 REVOKED BY THE LIQUOR AUTHORITY MAY BE AUCTIONED OFF TO THE HIGHEST
36 BIDDER, PROVIDED THAT THE PERSON MEETS ALL THE APPLICABLE REQUIREMENTS.
37 THE AMOUNT OF THE SALE OF THE EXISTING LICENSE AS AUTHORIZED IN THIS
38 SUBDIVISION SHALL BE SUBJECT TO SALES AND COMPENSATING USE TAX AS
39 IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF THE TAX LAW.

40 8. EACH EXISTING LICENSEE SHALL BE AUTHORIZED TO APPLY FOR ONE ADDI-
41 TIONAL LICENSE FOR RETAIL SALE OF LIQUOR FOR CONSUMPTION OFF THE PREM-
42 ISES FOR USE IN THE ESTABLISHMENT OF ANOTHER LICENSED PREMISES, PROVIDED
43 HOWEVER, THE ADDITIONAL PREMISES COMPLIES WITH ALL APPLICABLE
44 RESTRICTIONS AND REQUIREMENTS. THE ADDITIONAL LICENSE ISSUED BY THE
45 AUTHORITY UNDER THIS SUBDIVISION AS WELL AS ANY EXISTING LICENSE ISSUED
46 UNDER THIS SECTION MAY BE SOLD PROVIDED THE PURCHASER MEETS ALL APPLICA-
47 BLE REQUIREMENTS, WHICH SALE SHALL BE SUBJECT TO SALES AND COMPENSATING
48 USE TAX AS IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF THE TAX LAW. THE
49 AUTHORIZATION FOR THE ESTABLISHMENT OF A NEW PREMISES OR SALE OF THE
50 ADDITIONAL LICENSE UNDER THIS SUBDIVISION SHALL EXPIRE THREE YEARS FROM
51 THE EFFECTIVE DATE OF THIS SUBDIVISION.

52 S 4. Section 83 of the alcoholic beverage control law is amended by
53 adding a new subdivision 8 to read as follows:

54 8. THE ANNUAL FEE FOR A GROCERY OR DRUG STORE WINE LICENSE PURSUANT TO
55 SECTION SEVENTY-NINE-E OF THIS ARTICLE SHALL BE ONE HUNDRED TEN DOLLARS.
56 WHERE, HOWEVER, THE APPLICANT IS THE HOLDER OF TWO OR MORE SUCH

1 LICENSES, THE ANNUAL FEE FOR EACH ADDITIONAL LICENSE SHALL BE DOUBLE THE
2 AMOUNT HEREINABOVE SET FORTH.

3 S 5. Subdivision 2-a of section 100 of the alcoholic beverage control
4 law, as amended by chapter 249 of the laws of 2002, is amended to read
5 as follows:

6 2-a. No retailer shall employ, or permit to be employed, or shall
7 suffer to work, on any premises licensed for retail sale hereunder, any
8 person under the age of eighteen years, as a hostess, waitress, waiter,
9 or in any other capacity where the duties of such person require or
10 permit such person to sell, dispense or handle alcoholic beverages;
11 except that: (1) any person under the age of eighteen years and employed
12 by any person holding a grocery or drug store beer license shall be
13 permitted to handle and deliver beer and wine products for such licen-
14 see, (2) any person under the age of eighteen employed as a cashier by a
15 person holding a grocery or drug store beer license shall be permitted
16 to record and receive payment for beer and wine product sales when in
17 the presence of and under the direct supervision of a person eighteen
18 years of age or over, (2-a) any person under the age of eighteen years
19 and employed by a person holding a grocery store or drug store beer
20 license as either a cashier or in any other position to which handling
21 of containers which may have held alcoholic beverages is necessary,
22 shall be permitted to handle the containers if such have been presented
23 for redemption in accordance with the provisions of title ten of article
24 twenty-seven of the environmental conservation law, [and] (3) any person
25 under the age of eighteen years employed as a dishwasher, busboy, or
26 other such position as to which handling of containers which may have
27 held alcoholic beverages is necessary shall be permitted to do so under
28 the direct supervision of a person of legal age to purchase alcoholic
29 beverages in the state, (4) ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS
30 AND EMPLOYED BY ANY PERSON HOLDING A GROCERY OR DRUG STORE WINE LICENSE
31 SHALL BE PERMITTED TO HANDLE AND DELIVER WINE FOR SUCH LICENSEE, AND (5)
32 ANY PERSON UNDER THE AGE OF EIGHTEEN EMPLOYED AS A CASHIER BY A PERSON
33 HOLDING A GROCERY OR DRUG STORE WINE LICENSE SHALL BE PERMITTED TO
34 RECORD AND RECEIVE PAYMENT FOR WINE WHEN IN THE PRESENCE OF AND UNDER
35 THE DIRECT SUPERVISION OF A PERSON EIGHTEEN YEARS OF AGE OR OVER.

36 S 6. Section 100 of the alcoholic beverage control law is amended by
37 adding a new subdivision 2-c to read as follows:

38 2-C. NO PERSON SHALL SELL, DELIVER OR GIVE AWAY OR CAUSE OR PERMIT OR
39 PROCURE TO BE SOLD, DELIVERED OR GIVEN AWAY ANY ALCOHOLIC BEVERAGES TO
40 ANY PERSON, ACTUALLY OR APPARENTLY, UNDER THE AGE OF TWENTY-ONE YEARS.
41 AS A PRECONDITION TO THE SALE OF ANY ALCOHOLIC BEVERAGE, THE PURCHASER
42 OF ANY ALCOHOLIC BEVERAGE MUST PROVIDE WRITTEN EVIDENCE OF AGE. NO
43 LICENSEE, OR AGENT OR EMPLOYEE OF A LICENSEE UNDER THIS CHAPTER, SHALL
44 ACCEPT AS WRITTEN EVIDENCE OF AGE BY ANY SUCH PERSON FOR THE PURCHASE OF
45 ANY ALCOHOLIC BEVERAGE, ANY DOCUMENTATION OTHER THAN: (A) A VALID DRIV-
46 ER'S LICENSE OR NON-DRIVER IDENTIFICATION CARD ISSUED BY THE COMMISSION-
47 ER OF MOTOR VEHICLES, THE FEDERAL GOVERNMENT, ANY UNITED STATES TERRITO-
48 RY, COMMONWEALTH OR POSSESSION, THE DISTRICT OF COLUMBIA, A STATE
49 GOVERNMENT WITHIN THE UNITED STATES OR A PROVINCIAL GOVERNMENT OF THE
50 DOMINION OF CANADA, OR (B) A VALID PASSPORT ISSUED BY THE UNITED STATES
51 GOVERNMENT OR ANY OTHER COUNTRY, OR (C) AN IDENTIFICATION CARD ISSUED BY
52 THE ARMED FORCES OF THE UNITED STATES.

53 S 7. Paragraph (a) of subdivision 14 of section 105 of the alcoholic
54 beverage control law, as amended by section 1 of part U of chapter 63 of
55 the laws of 2003, is amended to read as follows:

(a) No premises licensed to sell liquor and/or wine for off-premises consumption shall be permitted to remain open:

(i) On Sunday before [twelve o'clock post meridian] EIGHT O'CLOCK ANTEMERIDIAN and after nine o'clock post meridian.

(ii) On any day between [midnight and] THREE O'CLOCK ANTEMERIDIAN AND eight o'clock antemeridian.

[(iii) On the twenty-fifth day of December, known as Christmas day.]

In any community where daylight saving time is in effect, such time shall be deemed the standard time for the purpose of this subdivision.

S 8. Section 105 of the alcoholic beverage control law is amended by adding a new subdivision 24 to read as follows:

24. COOPERATIVE AGREEMENTS BY LICENSEES TO SELL AT RETAIL FOR CONSUMPTION ON THE PREMISES. ANY TWO OR MORE RETAIL LICENSEES FOR OFF-PREMISES CONSUMPTION MAY JOIN IN A COOPERATIVE AGREEMENT TO MAKE JOINT PURCHASES OF ALCOHOLIC BEVERAGES IN LARGER QUANTITIES THAN MIGHT OTHERWISE BE PURCHASED; PROVIDED, HOWEVER, THAT ALL ALCOHOLIC BEVERAGES PURCHASED PURSUANT TO ANY SUCH AGREEMENT SHALL BE DISTRIBUTED TO NONE OTHER THAN A LICENSEE WHO IS A PARTY TO SUCH AGREEMENT.

S 9. Subdivisions 3-a and 3-b of section 102 of the alcoholic beverage control law, as amended by chapter 458 of the laws of 1993, are amended to read as follows:

3-a. No licensee or permittee shall purchase or agree to purchase any alcoholic beverages from any person within the state who is not duly licensed to sell such alcoholic beverage as the case may be, at the time of such agreement and sale nor give any order for any alcoholic beverage to any individual who is not the holder of a solicitor's permit, except as provided for in section eighty-five [or], ninety-nine-g, OR SEVENTY-NINE-E, OR SUBDIVISION TEN OF SECTION SIXTY-THREE of this chapter.

3-b. No retail licensee shall purchase, agree to purchase or receive any alcoholic beverage except from a person duly licensed within the state by the liquor authority to sell such alcoholic beverage at the time of such agreement and sale to such retail licensee, except as provided for in section eighty-five [or], ninety-nine-g, OR SEVENTY-NINE-E, OR SUBDIVISION TEN OF SECTION SIXTY-THREE of this chapter.

S 10. Subdivision 2 of section 79 of the alcoholic beverage control law is amended to read as follows:

2. [Not more than one license shall be] NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT MULTIPLE LICENSES FROM BEING granted to any person under this section.

S 11. Subdivision 2 of section 105 of the alcoholic beverage control law is REPEALED.

S 12. Subdivision 7 of section 105 of the alcoholic beverage control law is REPEALED.

S 13. The alcoholic beverage control law is amended by adding a new section 79-e to read as follows:

S 79-E. GROCERY OR DRUG STORE WINE LICENSE. 1. ANY PERSON MAY APPLY TO THE AUTHORITY FOR A LICENSE TO SELL FROM THE LICENSED PREMISES WINE IN SEALED CONTAINERS FOR CONSUMPTION OFF SUCH PREMISES.

2. NO SUCH LICENSE SHALL BE ISSUED, HOWEVER, TO ANY PERSON FOR ANY PREMISES OTHER THAN A GROCERY STORE, AS DEFINED IN SUBDIVISION THIRTEEN OF SECTION THREE OF THIS CHAPTER, OR A DRUG STORE, AS DEFINED IN SUBDIVISION TWELVE OF SECTION THREE OF THIS CHAPTER.

3. (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, EXCEPT FOR GOOD CAUSE SHOWN, THE AUTHORITY SHALL ISSUE A GROCERY OR DRUG STORE WINE LICENSE TO THE HOLDER OF A LICENSE TO SELL BEER AT RETAIL FOR CONSUMP-

1 TION OFF THE PREMISES PURSUANT TO SECTION FIFTY-FOUR OF THIS CHAPTER, OR
2 BEER AND WINE PRODUCTS AT RETAIL FOR CONSUMPTION OFF THE PREMISES PURSU-
3 ANT TO SECTION FIFTY-FOUR-A OF THIS CHAPTER, AT THE REQUEST OF SUCH
4 LICENSEE.

5 (B) FOR THE PURPOSES OF THIS SUBDIVISION, THE PREMISES OF THE GROCERY
6 OR DRUG STORE WINE LICENSEE SHALL BE THE SAME AS THE PREMISES LICENSED
7 UNDER SECTION FIFTY-FOUR OR FIFTY-FOUR-A OF THIS CHAPTER.

8 (C) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY LICENSE
9 ISSUED PURSUANT TO THIS SECTION SHALL RUN CONCURRENTLY WITH THE UNDERLY-
10 ING LICENSE UNDER SECTION FIFTY-FOUR OR FIFTY-FOUR-A OF THIS CHAPTER,
11 AND SHALL BE DEEMED EXPIRED AT SUCH TIME AS THE UNDERLYING LICENSE
12 EXPIRES.

13 (D) WINE TASTING. ANY PERSON LICENSED TO SELL WINE PURSUANT TO THIS
14 ARTICLE SHALL BE PERMITTED TO CONDUCT WINE TASTINGS. WINE TASTINGS WHICH
15 ARE CONDUCTED UNDER THE AUSPICES OF AN OFFICIAL AGENT OF A FARM WINERY,
16 WINERY, WHOLESALER, OR IMPORTER AND WHERE SUCH AGENT IS PHYSICALLY PRES-
17 ENT AT ALL TIMES DURING THE CONDUCT OF THE TASTING, THEN, IN THAT EVENT,
18 ANY LIABILITY STEMMING FROM A RIGHT OF ACTION RESULTING FROM A WINE
19 TASTING AS AUTHORIZED PURSUANT TO THIS SECTION, AND IN ACCORDANCE WITH
20 THE PROVISIONS OF SECTIONS 11-100 AND 11-101 OF THE GENERAL OBLIGATIONS
21 LAW, SHALL ACCRUE TO THE FARM WINERY, WINERY, WHOLESALER, OR IMPORTER.

22 4. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE AUTHORITY
23 MAY ISSUE A LICENSE UNDER THIS SECTION TO THE HOLDER OF A LICENSE TO
24 SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES PURSUANT TO SECTION
25 SEVENTY-NINE OF THIS ARTICLE, PROVIDED THAT: (A) THE LICENSEE MEETS THE
26 REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION; AND (B) UPON ISSUANCE
27 OF A LICENSE, THE LICENSEE UNDER THIS SECTION SURRENDERS THE LICENSE
28 CERTIFICATE ISSUED PURSUANT TO SUCH SECTION SEVENTY-NINE.

29 5. SUCH APPLICATION SHALL BE IN SUCH FORM AND SHALL CONTAIN SUCH
30 INFORMATION AS SHALL BE REQUIRED BY THE RULES OF THE AUTHORITY AND SHALL
31 BE ACCOMPANIED BY A CHECK OR DRAFT IN THE AMOUNT REQUIRED BY THIS ARTI-
32 CLE FOR SUCH LICENSE.

33 6. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY PERSON
34 RECEIVING A LICENSE PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO THE
35 PROVISIONS OF SUBDIVISION TWO, THREE OR FOUR OF SECTION SEVENTY-NINE OF
36 THIS ARTICLE.

37 7. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY PERSON
38 RECEIVING A LICENSE PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO THE
39 PROVISIONS OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION ONE HUNDRED
40 FIVE OF THIS CHAPTER.

41 8. (A) A ONE-TIME FRANCHISE FEE SHALL BE PAID FOR BY EACH RETAIL
42 OUTLET TO THE STATE LIQUOR AUTHORITY. THIS FRANCHISE FEE IS HEREBY
43 IMPOSED AT A RATE OF 0.46 OF ONE PERCENT OF THE TOTAL GROSS SALES AT THE
44 INDIVIDUAL LICENSED PREMISES OF THE LICENSEE IN THE PREVIOUS YEAR.

45 (B) IN THE EVENT AN APPLICANT HAS BEEN IN BUSINESS FOR LESS THAN
46 TWELVE MONTHS PRIOR TO THE FILING OF THE APPLICATION FOR THIS LICENSE,
47 SUCH APPLICANT SHALL, IN ACCORDANCE WITH THE RULES OF THE AUTHORITY,
48 REMIT AN ESTIMATE OF ITS FRANCHISE FEE BASED ON SQUARE FOOTAGE AT A
49 LICENSEE'S LOCATION PURSUANT TO THE FOLLOWING SCHEDULE:

50 SQUARE FOOTAGE AT	FRANCHISE FEE
51 LICENSEE'S LOCATION	PER LOCATION
52 0-999	\$825
53 1,000-1,999	\$1,650
54 2,000-3,999	\$3,300
55 4,000-9,999	\$8,250
56 10,000-19,999	\$16,500

1	20,000-24,999	\$33,000
2	25,000-29,999	\$82,500
3	30,000-39,999	\$132,000
4	40,000 AND GREATER	\$495,000

5 WITHIN SIXTY DAYS AFTER SUCH LICENSEE SHALL HAVE BEEN IN BUSINESS FOR
6 TWELVE MONTHS, SUCH LICENSEE SHALL SUBMIT TO THE AUTHORITY, IN ACCORD-
7 ANCE WITH THE RULES OF THE AUTHORITY, A STATEMENT SHOWING ITS ACTUAL
8 TOTAL GROSS SALES FOR THE FIRST TWELVE MONTHS OF OPERATION AND THE FRAN-
9 CHISE FEE DUE PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION. IN THE
10 EVENT THE FRANCHISE FEE DETERMINED PURSUANT TO SUCH PARAGRAPH EXCEEDS
11 THE AMOUNT PAID PURSUANT TO THIS PARAGRAPH, THE LICENSEE SHALL REMIT
12 PAYMENT FOR THE BALANCE OF THE REQUIRED FRANCHISE FEE WITHIN SUCH
13 SIXTY-DAY PERIOD. FAILURE TO REMIT PAYMENT WITHIN SUCH SIXTY-DAY PERIOD
14 SHALL BE GROUNDS FOR CANCELLATION OR REVOCATION OF SUCH LICENSE. IN THE
15 EVENT THAT THE FRANCHISE FEE DUE PURSUANT TO PARAGRAPH (A) OF THIS
16 SUBDIVISION IS LESS THAN THE AMOUNT PAID PURSUANT TO THIS PARAGRAPH, THE
17 LICENSEE SHALL BE ENTITLED TO A REFUND EQUAL TO THE DIFFERENCE BETWEEN
18 THE FRANCHISE FEE PAID PURSUANT TO THIS PARAGRAPH AND THE AMOUNT DUE
19 PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION.

20 (C) NO LICENSE SHALL BE ISSUED PURSUANT TO THIS SECTION UNTIL THE
21 FRANCHISE FEE OR ESTIMATED FRANCHISE FEE UNDER THIS SUBDIVISION REQUIRED
22 BY EITHER PARAGRAPH (A) OR (B) OF THIS SUBDIVISION HAS BEEN PAID IN
23 FULL.

24 (D) THE FRANCHISE FEE SHALL BE DEPOSITED AND DISPOSED OF IN THE SAME
25 MANNER AS ANY LICENSE FEE AS PROVIDED IN SECTION ONE HUNDRED TWENTY-FIVE
26 OF THIS CHAPTER.

27 9. (A) ANY PERSON LICENSED TO SELL WINE PURSUANT TO THIS ARTICLE THAT
28 OPERATES THE PREMISES OF THE GROCERY OR DRUG STORE WINE LICENSEE THAT
29 OCCUPIES LESS THAN ONE THOUSAND SQUARE FEET MAY PURCHASE, AGREE TO
30 PURCHASE OR RECEIVE ANY ALCOHOLIC BEVERAGE FROM A PERSON LICENSED UNDER
31 SECTION SIXTY-THREE OF THIS CHAPTER TO SELL LIQUOR AT RETAIL FOR
32 CONSUMPTION OFF THE PREMISES.

33 (B) ANY PERSON LICENSED TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE
34 PREMISES UNDER SECTION SEVENTY-NINE OF THIS ARTICLE IS AUTHORIZED TO
35 SELL WINE TO PERSONS LICENSED TO SELL WINE UNDER THIS ARTICLE AND THIS
36 SECTION WHO OPERATE THE PREMISES OF THE GROCERY OR DRUG STORE WINE
37 LICENSEE THAT OCCUPIES LESS THAN ONE THOUSAND SQUARE FEET.

38 10. THE STATE LIQUOR AUTHORITY MAY MAKE SUCH RULES AS IT DEEMS NECES-
39 SARY TO CARRY OUT THE PROVISIONS OF THIS SECTION, HOWEVER, SUCH RULES
40 SHALL NOT BE CONSTRUED TO PLACE ADDITIONAL LIMITATIONS UPON THE HOLDERS
41 OF LICENSES ISSUED PURSUANT TO SECTION SEVENTY-NINE OF THIS ARTICLE
42 UNRELATED TO THE SALE OF WINE.

43 S 14. Subdivision 10 of section 105 of the alcoholic beverage control
44 law, paragraph (a) as amended by chapter 679 of the laws of 1950, is
45 amended to read as follows:

46 10. [(a)] Each retail licensee of liquor and/or wine for off-premises
47 consumption shall have conspicuously displayed within the interior of
48 the licensed premises where sales are made and where it can be readily
49 inspected by consumers a printed price list of the liquors and/or wines
50 offered for sale therein; and no liquor and/or wine shall be sold except
51 at the price set forth in such list[;

52 (b) No screen, blind, curtain, partition, article or thing shall be
53 permitted in the windows or upon the doors of such licensed premises,
54 which shall prevent a clear view into the interior of such licensed
55 premises from the sidewalk, at all times; and

1 (c) No booth, screen, partition or other obstruction shall be permit-
2 ted in the interior of said licensed premises].

3 S 15. The alcoholic beverage control law is amended by adding a new
4 section 97-b to read as follows:

5 S 97-B. TEMPORARY RETAIL PERMIT FOR NEW APPLICANTS. 1. THE AUTHORITY
6 IS HEREBY AUTHORIZED TO ISSUE A TEMPORARY RETAIL PERMIT TO AN APPLICANT
7 OF A PREMISES THAT IS NOT LICENSED WHEN THE APPLICANT HAS FILED WITH THE
8 AUTHORITY AN APPLICATION FOR A RETAIL LICENSE AT SUCH PREMISES OR HAS
9 FILED RENEWAL OF SUCH LICENSE. SUCH APPLICATION SHALL BE IN WRITING AND
10 VERIFIED AND SHALL CONTAIN INFORMATION AS THE AUTHORITY SHALL REQUIRE.
11 SUCH APPLICATION SHALL BE ACCOMPANIED BY A FILING FEE OF SEVENTY-FIVE
12 DOLLARS.

13 2. UPON APPLICATION, THE AUTHORITY SHALL ISSUE A TEMPORARY RETAIL
14 PERMIT WHEN THE APPLICANT HAS FILED WITH THE AUTHORITY AN APPLICATION
15 FOR A RETAIL LICENSE AT SUCH PREMISES OR A RENEWAL THEREOF, TOGETHER
16 WITH ALL REQUIRED FILING AND LICENSE FEES. A TEMPORARY PERMIT ISSUED BY
17 THE AUTHORITY PURSUANT TO THIS SECTION SHALL BE FOR A PERIOD NOT TO
18 EXCEED NINETY DAYS. A TEMPORARY PERMIT MAY BE EXTENDED AT THE DISCRETION
19 OF THE AUTHORITY, FOR AN ADDITIONAL THIRTY DAYS.

20 3. PURSUANT TO THIS SECTION A TEMPORARY RETAIL PERMIT MAY NOT BE
21 ISSUED FOR ANY PREMISES THAT IS IN VIOLATION OF THE PROVISIONS OF SUBDI-
22 VISION SEVEN OF SECTION SIXTY-FOUR, SUBDIVISION SEVEN OF SECTION SIXTY-
23 FOUR-A, SUBDIVISION FIVE OF SECTION SIXTY-FOUR-B, SUBDIVISION ELEVEN OF
24 SECTION SIXTY-FOUR-C, SUBDIVISION EIGHT OF SECTION SIXTY-FOUR-D OR
25 SUBDIVISION THREE OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER.

26 4. A TEMPORARY RETAIL PERMIT IS A CONDITIONAL PERMIT AND SHALL AUTHOR-
27 IZE THE HOLDER THEREOF TO, IN THE CASE OF ALL OTHER RETAIL APPLICATIONS,
28 PURCHASE AND SELL SUCH ALCOHOLIC BEVERAGES AS WOULD BE PERMITTED TO BE
29 PURCHASED AND SOLD UNDER THE PRIVILEGES OF THE LICENSE APPLIED FOR; TO
30 SELL ALCOHOLIC BEVERAGES TO CONSUMERS ONLY AND NOT FOR RESALE; AND TO
31 PURCHASE ALCOHOLIC BEVERAGES ONLY BY PAYMENT IN CURRENCY OR CHECK FOR
32 SUCH ALCOHOLIC BEVERAGES ON OR BEFORE THEY ARE DELIVERED TO SUCH PREM-
33 ISES.

34 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A TEMPORARY PERMIT MAY
35 BE SUMMARILY CANCELLED OR SUSPENDED AT ANY TIME IF THE AUTHORITY DETER-
36 MINES THAT GOOD CAUSE FOR SUCH CANCELLATION OR SUSPENSION EXISTS. THE
37 AUTHORITY SHALL PROMPTLY NOTIFY THE HOLDER OF A TEMPORARY PERMIT IN
38 WRITING OF SUCH CANCELLATION OR SUSPENSION AND SHALL SET FORTH THE
39 REASONS FOR SUCH ACTION.

40 6. APPROVAL OF, OR EXTENSION OF, A TEMPORARY RETAIL LICENSE SHALL NOT
41 BE DEEMED AS AN APPROVAL OF THE RETAIL APPLICATION.

42 7. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY,
43 THE AUTHORITY MAY PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECES-
44 SARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

45 S 16. Paragraph (b) of subdivision 3 of section 101-b of the alcoholic
46 beverage control law, as amended by section 1 of part E of chapter 56 of
47 the laws of 2006, is amended to read as follows:

48 (b) No brand of liquor or wine shall be sold to or purchased by a
49 retailer unless a schedule, as provided by this section, is transmitted
50 to and received by the liquor authority, and is then in effect. Such
51 schedule shall be transmitted to the authority in such form, manner,
52 medium and format as the authority may direct; shall be deemed duly
53 verified by the person submitting such schedule upon its transmission to
54 the authority; and shall contain, with respect to each item, the exact
55 brand or trade name, capacity of package, nature of contents, age and
56 proof where stated on the label, the number of bottles contained in each

1 case, the bottle and case price to retailers, the net bottle and case
2 price paid by the seller, which prices, in each instance, shall be indi-
3 vidual for each item and not in "combination" with any other item, the
4 discounts for quantity, if any, and the discounts for time of payment,
5 if any. FOR PURPOSES OF THIS PARAGRAPH, IN REGARDS TO PREMISES LICENSED
6 UNDER SECTION SIXTY-THREE OF THIS CHAPTER, "COMBINATION" SHALL NOT
7 INCLUDE WINES PROVIDED BY THE SAME VINEYARD OR DISTRIBUTOR TO A RETAILER
8 AND WHERE SUCH WINES MAY BE DIFFERENT. Such brand of liquor or wine
9 shall not be sold to retailers except at the price and discounts then in
10 effect unless prior written permission of the authority is granted for
11 good cause shown and for reasons not inconsistent with the purpose of
12 this chapter. Such schedule shall be transmitted by each manufacturer
13 selling such brand to retailers and by each wholesaler selling such
14 brand to retailers.

15 S 17. This act shall take effect on the one hundred eightieth day
16 after it shall have become a law.