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

S. 7727 A. 10694

S E N A T E - A S S E M B L Y

June 15, 2012

IN SENATE -- Introduced by Sens. RITCHIE, VALESKY, BONACIC, NOZZOLIO, LAVALLE, O'MARA, DeFRANCISCO -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Magee, Schimminger, Barrett, Brindisi, Bronson, Gabryszak, Gunther, Lupardo, McEneny, Reilly, Roberts, Russell, Skartados, Zebrowski, P. Lopez, Montesano, Sayward) -- (at request of the Governor) -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law and the agriculture and markets law, in relation to the creation of a farm brewery license and to amend the tax law, in relation to farm winery, farm distillery and farm brewery sales tax information return filing requirements

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

Section 1. Section 3 of the alcoholic beverage control law is amended by adding a new subdivision 12-aaa to read as follows:

12-AAA. "FARM BREWERY" MEANS AND INCLUDES ANY PLACE OR PREMISES, LOCATED ON A FARM IN NEW YORK STATE, IN WHICH NEW YORK STATE LABELLED BEER IS MANUFACTURED, STORED AND SOLD, OR ANY OTHER PLACE OR PREMISES IN NEW YORK STATE IN WHICH NEW YORK STATE LABELLED BEER IS MANUFACTURED, STORED AND SOLD.

S 2. Section 3 of the alcoholic beverage control law is amended by adding two new subdivisions 20-d and 20-e to read as follows:

20-D. "NEW YORK STATE LABELLED BEER" MEANS:

(A) FROM THE EFFECTIVE DATE OF THIS SUBDIVISION UNTIL DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHTEEN, BEER MADE WITH NO LESS THAN TWENTY PERCENT, BY WEIGHT, OF ITS HOPS GROWN IN NEW YORK STATE AND NO LESS THAN TWENTY PERCENT, BY WEIGHT, OF ALL OF ITS OTHER INGREDIENTS, EXCLUDING WATER, GROWN IN NEW YORK STATE;

(B) FROM JANUARY FIRST, TWO THOUSAND NINETEEN UNTIL DECEMBER THIRTY-FIRST, TWO THOUSAND TWENTY-THREE, BEER MADE WITH NO LESS THAN SIXTY PERCENT, BY WEIGHT, OF ITS HOPS GROWN IN NEW YORK STATE AND NO

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

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LESS THAN SIXTY PERCENT, BY WEIGHT, OF ALL OF ITS OTHER INGREDIENTS, EXCLUDING WATER, GROWN IN NEW YORK STATE; AND

(C) FROM JANUARY FIRST, TWO THOUSAND TWENTY-FOUR AND THEREAFTER, BEER MADE WITH NO LESS THAN NINETY PERCENT, BY WEIGHT, OF ITS HOPS GROWN IN NEW YORK STATE AND NO LESS THAN NINETY PERCENT, BY WEIGHT, OF ALL OF ITS OTHER INGREDIENTS, EXCLUDING WATER, GROWN IN NEW YORK STATE.

20-E. "NEW YORK STATE LABELLED CIDER" MEANS CIDER MADE EXCLUSIVELY FROM APPLES GROWN IN NEW YORK STATE.

S 3. Subdivision 6 of section 51 of the alcoholic beverage control law, as amended by chapter 258 of the laws of 2009, is renumbered subdivision 5-a and amended to read as follows:

5-a. Except as otherwise provided in subdivisions three, four [and], five AND SIX-A of this section and except as provided in section fifty-two of this article no brewer shall sell any beer, wine or liquor at retail.

S 4. Section 51 of the alcoholic beverage control law is amended by adding a new subdivision 6-a to read a follows:

6-A. A LICENSED BREWER PRODUCING NEW YORK STATE LABELLED BEER MAY:

(A) SELL SUCH BEER TO LICENSED FARM DISTILLERS, FARM WINERIES AND FARM BREWERIES. ALL SUCH BEER SOLD BY THE LICENSEE SHALL BE SECURELY SEALED AND HAVE ATTACHED THERETO A LABEL AS SHALL BE REQUIRED BY SECTION ONE HUNDRED SEVEN-A OF THIS CHAPTER;

(B) CONDUCT TASTINGS AT THE LICENSED PREMISES OF SUCH BEER;

(C) SELL SUCH BEER AT RETAIL FOR CONSUMPTION OFF THE PREMISES AT THE STATE FAIR, AT RECOGNIZED COUNTY FAIRS AND AT FARMERS MARKETS OPERATED ON A NOT-FOR-PROFIT BASIS;

(D) SELL AND CONDUCT TASTINGS OF SUCH BEER 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 ITS FARM BREWERY. 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 BEER AT RETAIL FOR CONSUMPTION ON THE PREMISES;

(E) APPLY FOR A PERMIT TO CONDUCT TASTINGS AWAY FROM THE LICENSED PREMISES OF SUCH BEER. SUCH PERMIT SHALL BE VALID THROUGHOUT THE STATE AND MAY BE ISSUED ON AN ANNUAL BASIS OR FOR INDIVIDUAL EVENTS. EACH SUCH PERMIT AND THE EXERCISE OF THE PRIVILEGE GRANTED THEREBY SHALL BE SUBJECT TO SUCH RULES AND CONDITIONS OF THE AUTHORITY AS IT DEEMS NECESSARY. TASTINGS SHALL BE CONDUCTED SUBJECT TO THE FOLLOWING CONDITIONS:

(I) TASTINGS SHALL BE CONDUCTED BY AN OFFICIAL AGENT, REPRESENTATIVE OR SOLICITOR OF THE LICENSEE. 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 TASTING OF BEER OR CIDER 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 LICENSEE.

(F) IF IT HOLDS A TASTING PERMIT ISSUED PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION, APPLY TO THE AUTHORITY FOR A PERMIT TO SELL SUCH BEER, FOR CONSUMPTION OFF THE PREMISES, DURING SUCH TASTINGS IN PREMISES LICENSED UNDER SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, EIGHTY-ONE AND EIGHTY-ONE-A OF THIS CHAPTER. EACH SUCH PERMIT AND THE EXERCISE OF THE PRIVILEGE GRANTED THEREBY SHALL BE SUBJECT TO SUCH RULES AND CONDITIONS OF THE AUTHORITY AS IT DEEMS NECESSARY.

S 5. The alcoholic beverage control law is amended by adding a new section 51-a to read as follows:

S 51-A. FARM BREWERY LICENSE. 1. ANY PERSON MAY APPLY TO THE AUTHORITY FOR A FARM BREWERY LICENSE AS PROVIDED FOR IN THIS SECTION TO BREW BEER WITHIN THIS STATE FOR SALE. SUCH APPLICATION SHALL BE IN WRITING AND VERIFIED AND SHALL CONTAIN SUCH INFORMATION AS THE 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 AUTHORITY GRANTS THE APPLICATION, IT SHALL ISSUE A LICENSE IN SUCH FORM AS SHALL BE DETERMINED BY ITS RULES. 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 BREW BEER IN THE PREMISES THEREIN SPECIFICALLY LICENSED.

2. A FARM BREWERY LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO OPERATE A BREWERY FOR THE MANUFACTURE OF NEW YORK STATE LABELLED BEER. SUCH A LICENSE SHALL ALSO AUTHORIZE THE LICENSEE TO:

(A) MANUFACTURE NEW YORK STATE LABELLED CIDER;

(B) SELL IN BULK BEER AND CIDER MANUFACTURED BY THE LICENSEE TO ANY PERSON LICENSED TO MANUFACTURE ALCOHOLIC BEVERAGES IN THIS STATE OR TO A PERMITTEE ENGAGED IN THE MANUFACTURE OF PRODUCTS WHICH ARE UNFIT FOR BEVERAGE USE;

(C) SELL OR DELIVER BEER AND CIDER MANUFACTURED BY THE LICENSEE TO PERSONS OUTSIDE THE STATE PURSUANT TO THE LAWS OF THE PLACE OF SUCH DELIVERY;

(D) SELL BEER AND CIDER MANUFACTURED BY THE LICENSEE TO WHOLESALERS AND RETAILERS LICENSED IN THIS STATE TO SELL SUCH BEER AND CIDER, LICENSED FARM DISTILLERS, LICENSED FARM WINERIES AND ANY OTHER LICENSED FARM BREWERY. ALL SUCH BEER AND CIDER SOLD BY THE LICENSEE SHALL BE SECURELY SEALED AND HAVE ATTACHED THERETO A LABEL AS SHALL BE REQUIRED BY SECTION ONE HUNDRED SEVEN-A OF THIS CHAPTER;

(E) SELL AT THE LICENSED PREMISES BEER AND CIDER MANUFACTURED BY THE LICENSEE OR ANY OTHER LICENSED FARM BREWERY AT RETAIL FOR CONSUMPTION ON OR OFF THE LICENSED PREMISES;

(F) CONDUCT TASTINGS AT THE LICENSED PREMISES OF BEER AND CIDER MANUFACTURED BY THE LICENSEE OR ANY OTHER LICENSED FARM BREWERY;

(G) SELL AND CONDUCT TASTINGS OF BEER AND CIDER MANUFACTURED BY THE LICENSEE OR ANY OTHER LICENSED FARM BREWERY 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 ITS FARM BREWERY. 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 BEER AT RETAIL FOR CONSUMPTION ON THE PREMISES;

(H) SELL BEER AND CIDER MANUFACTURED BY THE LICENSEE OR ANY OTHER LICENSED FARM BREWERY AT RETAIL FOR CONSUMPTION OFF THE PREMISES, AT THE STATE FAIR, AT RECOGNIZED COUNTY FAIRS AND AT FARMERS MARKETS OPERATED ON A NOT-FOR-PROFIT BASIS;

(I) CONDUCT TASTINGS OF AND SELL AT RETAIL FOR CONSUMPTION OFF THE PREMISES NEW YORK STATE LABELLED WINE MANUFACTURED BY A LICENSED WINERY OR LICENSED FARM WINERY;

(J) CONDUCT TASTINGS OF AND SELL AT RETAIL FOR CONSUMPTION OFF THE PREMISES NEW YORK STATE LABELLED LIQUOR MANUFACTURED BY A LICENSED DISTILLER OR LICENSED FARM DISTILLER; PROVIDED, HOWEVER, THAT NO CONSUMER MAY BE PROVIDED, DIRECTLY OR INDIRECTLY: (I) WITH MORE THAN THREE SAMPLES OF LIQUOR FOR TASTING IN ONE CALENDAR DAY; OR (II) WITH A SAMPLE OF LIQUOR FOR TASTING EQUAL TO MORE THAN ONE-QUARTER FLUID OUNCE; AND

(K) ENGAGE IN ANY OTHER BUSINESS ON THE LICENSED PREMISES SUBJECT TO SUCH RULES AND REGULATIONS AS THE AUTHORITY MAY PRESCRIBE. 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 AREA IN THE VICINITY OF THE FARM BREWERY LICENSEE.

3. (A) A FARM BREWERY LICENSEE MAY APPLY FOR A PERMIT TO CONDUCT TASTINGS AWAY FROM THE LICENSED PREMISES OF BEER AND CIDER PRODUCED BY THE LICENSEE. SUCH PERMIT SHALL BE VALID THROUGHOUT THE STATE AND MAY BE ISSUED ON AN ANNUAL BASIS OR FOR INDIVIDUAL EVENTS. EACH SUCH PERMIT AND THE EXERCISE OF THE PRIVILEGE GRANTED THEREBY SHALL BE SUBJECT TO SUCH RULES AND CONDITIONS OF THE AUTHORITY AS IT DEEMS NECESSARY.

(B) TASTINGS SHALL BE CONDUCTED SUBJECT TO THE FOLLOWING LIMITATIONS:

(I) TASTINGS SHALL BE CONDUCTED BY AN OFFICIAL AGENT, REPRESENTATIVE OR SOLICITOR OF ONE OR MORE FARM BREWERIES. 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 TASTING OF BEER OR CIDER 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 BREWERY.

4. A LICENSED FARM BREWERY HOLDING A TASTING PERMIT ISSUED PURSUANT TO SUBDIVISION THREE OF THIS SECTION MAY APPLY TO THE AUTHORITY FOR A PERMIT TO SELL BEER AND CIDER PRODUCED BY SUCH FARM BREWERY, BY THE BOTTLE, DURING SUCH TASTINGS IN PREMISES LICENSED UNDER SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, EIGHTY-ONE AND EIGHTY-ONE-A OF THIS CHAPTER. EACH SUCH PERMIT AND THE EXERCISE OF THE PRIVILEGE GRANTED THEREBY SHALL BE SUBJECT TO SUCH RULES AND CONDITIONS OF THE AUTHORITY AS IT DEEMS NECESSARY.

5. A LICENSED FARM BREWERY MAY, UNDER SUCH RULES AS MAY BE ADOPTED BY THE AUTHORITY, SELL BEER OR CIDER MANUFACTURED BY THE LICENSEE OR ANY OTHER LICENSED FARM BREWERY AT RETAIL IN BULK BY THE KEG, CASK OR BARREL FOR CONSUMPTION AND NOT FOR RESALE AT A CLAM-BAKE, BARBEQUE, PICNIC, OUTING OR OTHER SIMILAR OUTDOOR GATHERING AT WHICH MORE THAN FIFTY PERSONS ARE ASSEMBLED.

6. A LICENSED FARM BREWERY MAY APPLY TO THE AUTHORITY FOR A LICENSE TO SELL LIQUOR AND/OR WINE AT RETAIL FOR CONSUMPTION ON THE PREMISES IN A RESTAURANT OWNED BY HIM AND CONDUCTED AND OPERATED BY THE LICENSEE IN OR ADJACENT TO ITS FARM BREWERY. ALL OF THE PROVISIONS OF THIS CHAPTER RELATIVE TO LICENSES TO SELL LIQUOR OR WINE AT RETAIL OR CONSUMPTION ON THE PREMISES SHALL APPLY SO FAR AS APPLICABLE.

7. A FARM BREWERY LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO MANUFACTURE, BOTTLE AND SELL FOOD CONDIMENTS AND PRODUCTS SUCH AS MUSTARDS, SAUCES, HOP SEASONINGS, BEER NUTS, AND OTHER HOPS AND BEER RELATED FOODS IN ADDITION TO BEER AND HOP SOAPS, HOP PILLOWS, HOP WREATHS AND OTHER SUCH FOOD AND CRAFTS ON AND FROM THE LICENSED PREMISES. 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 BEER. THESE GIFT ITEMS SHALL BE LIMITED TO THE FOLLOWING CATEGORIES:

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

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

(C) 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 CIDER, BEER AND/OR HOP RELATED PRODUCTS;

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

(E) BEER-MAKING EQUIPMENT AND SUPPLIES INCLUDING, BUT NOT LIMITED TO, HOME BEER-MAKING OR HOMEBREWING KITS, FILTERS, BOTTLING EQUIPMENT, HOPS, BARLEY, YEASTS, CHEMICALS AND OTHER BEER ADDITIVES, AND BOOKS OR OTHER WRITTEN MATERIAL TO ASSIST BEER-MAKERS AND HOME BEER-MAKERS OR HOMEBREWERS TO PRODUCE AND BOTTLE BEER;

(F) 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.

8. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, ANY FARM BREWERY LICENSEE MAY CHARGE FOR TOURS OF ITS PREMISES.

9. THE HOLDER OF A LICENSE ISSUED UNDER THIS SECTION MAY OPERATE UP TO FIVE BRANCH OFFICES LOCATED AWAY FROM THE LICENSED FARM BREWERY. SUCH LOCATIONS SHALL BE CONSIDERED PART OF THE LICENSED PREMISES AND ALL ACTIVITIES ALLOWED AT AND LIMITED TO THE FARM BREWERY MAY BE CONDUCTED AT THE BRANCH OFFICES. SUCH BRANCH OFFICES SHALL NOT BE LOCATED WITHIN, SHARE A COMMON ENTRANCE AND EXIT WITH, OR HAVE ANY INTERIOR ACCESS TO ANY OTHER BUSINESS, INCLUDING PREMISES LICENSED TO SELL ALCOHOLIC BEVERAGES AT RETAIL. PRIOR TO COMMENCING OPERATION OF ANY SUCH BRANCH OFFICE, THE LICENSEE SHALL NOTIFY THE AUTHORITY OF THE LOCATION OF SUCH BRANCH OFFICE AND THE AUTHORITY MAY ISSUE A PERMIT FOR THE OPERATION OF SAME.

10. NO FARM BREWERY SHALL MANUFACTURE IN EXCESS OF SIXTY THOUSAND FINISHED BARRELS OF BEER ANNUALLY.

11. (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, NO LICENSED FARM BREWERY SHALL MANUFACTURE OR SELL ANY BEER OTHER THAN NEW YORK STATE LABELLED BEER.

(B) IN THE EVENT THAT THE COMMISSIONER OF AGRICULTURE AND MARKETS, AFTER INVESTIGATING AND COMPILING INFORMATION PURSUANT TO SUBDIVISION FORTY-TWO OF SECTION SIXTEEN OF THE AGRICULTURE AND MARKETS LAW, DETERMINES THAT A NATURAL DISASTER, ACT OF GOD, OR CONTINUED ADVERSE WEATHER CONDITION HAS DESTROYED MUCH OF THE NECESSARY INGREDIENTS FOR BREWING BEER, SUCH COMMISSIONER, IN CONSULTATION WITH THE CHAIRMAN OF THE AUTHORITY, MAY GIVE AUTHORIZATION TO A DULY LICENSED FARM BREWERY TO MANUFACTURE OR SELL BEER PRODUCED FROM INGREDIENTS GROWN OR PRODUCED OUTSIDE THIS STATE. NO SUCH AUTHORIZATION SHALL BE GRANTED TO A FARM BREWERY LICENSEE UNLESS SUCH LICENSEE CERTIFIES TO SUCH COMMISSIONER THE QUANTITY OF NEW YORK GROWN INGREDIENTS UNAVAILABLE TO SUCH LICENSEE DUE TO SUCH NATURAL DISASTER, ACT OF GOD OR CONTINUING ADVERSE WEATHER CONDITION AND SATISFIES SUCH COMMISSIONER THAT REASONABLE EFFORTS WERE MADE TO OBTAIN BREWING INGREDIENTS FROM A NEW YORK STATE SOURCE FOR SUCH BEER MAKING PURPOSE. NO FARM BREWERY SHALL UTILIZE AN AMOUNT OF OUT-OF-STATE GROWN OR PRODUCED INGREDIENTS EXCEEDING THE AMOUNT OF NEW YORK GROWN INGREDIENTS THAT SUCH BREWERY IS UNABLE TO OBTAIN DUE TO THE DESTRUCTION OF NEW YORK GROWN OR PRODUCED INGREDIENTS BY A NATURAL DISASTER, ACT OF GOD OR CONTINUING ADVERSE WEATHER CONDITION AS DETERMINED BY THE COMMISSIONER OF AGRICULTURE AND MARKETS PURSUANT TO THIS SUBDIVISION. FOR PURPOSES OF THIS SUBDIVISION, THE DEPARTMENT OF AGRICULTURE AND MARKETS AND THE AUTHORITY ARE AUTHORIZED TO ADOPT RULES AND REGULATIONS AS THEY MAY DEEM NECESSARY TO CARRY OUT THE PROVISIONS OF

THIS SUBDIVISION WHICH SHALL INCLUDE ENSURING THAT IN MANUFACTURING BEER FARM BREWERIES UTILIZE INGREDIENTS GROWN OR PRODUCED IN NEW YORK STATE TO THE EXTENT THEY ARE REASONABLY AVAILABLE, PRIOR TO UTILIZING INGREDIENTS FROM AN OUT-OF-STATE SOURCE FOR SUCH PURPOSE.

(C) THE COMMISSIONER OF AGRICULTURE AND MARKETS SHALL MAKE AVAILABLE TO FARM BREWERIES AND TO THE PUBLIC EACH SPECIFIC INGREDIENT 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 EACH YEAR RESULTS IN ANY INGREDIENT LOSS WHICH MEETS THE STANDARDS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, THE COMMISSIONER OF AGRICULTURE AND MARKETS, IN CONSULTATION WITH THE CHAIRMAN OF THE AUTHORITY, MAY ISSUE ADDITIONAL INGREDIENT LOSS DETERMINATIONS AND SHALL EXPEDITIOUSLY MAKE AVAILABLE TO FARM BREWERIES AND TO THE PUBLIC EACH SPECIFIC INGREDIENT LOSS DETERMINATION ISSUED PURSUANT TO THIS PARAGRAPH PRIOR TO OCTOBER TENTH OF EACH YEAR.

12. (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, NO LICENSED FARM BREWERY SHALL MANUFACTURE OR SELL ANY CIDER OTHER THAN NEW YORK STATE LABELLED CIDER.

(B) IN THE EVENT THAT THE COMMISSIONER OF AGRICULTURE AND MARKETS, AFTER INVESTIGATING AND COMPILING INFORMATION PURSUANT TO SUBDIVISION FORTY-TWO OF SECTION SIXTEEN OF THE AGRICULTURE AND MARKETS LAW, DETERMINES THAT A NATURAL DISASTER, ACT OF GOD, OR CONTINUED ADVERSE WEATHER CONDITION HAS DESTROYED MUCH OF THE APPLE CROP NECESSARY FOR PRODUCING CIDER, SUCH COMMISSIONER, IN CONSULTATION WITH THE CHAIRMAN OF THE AUTHORITY, MAY GIVE AUTHORIZATION TO A DULY LICENSED FARM BREWERY TO MANUFACTURE OR SELL CIDER PRODUCED FROM APPLES GROWN OUTSIDE THIS STATE. NO SUCH AUTHORIZATION SHALL BE GRANTED TO A FARM BREWERY LICENSEE UNLESS SUCH LICENSEE CERTIFIES TO SUCH COMMISSIONER THE QUANTITY OF NEW YORK GROWN APPLES UNAVAILABLE TO SUCH LICENSEE DUE TO SUCH NATURAL DISASTER, ACT OF GOD OR CONTINUING ADVERSE WEATHER CONDITION AND SATISFIES SUCH COMMISSIONER THAT REASONABLE EFFORTS WERE MADE TO OBTAIN APPLES FROM A NEW YORK STATE SOURCE FOR SUCH CIDER MAKING PURPOSE. NO FARM BREWERY SHALL UTILIZE AN AMOUNT OF OUT-OF-STATE GROWN APPLES EXCEEDING THE AMOUNT OF NEW YORK GROWN APPLES THAT SUCH BREWERY IS UNABLE TO OBTAIN DUE TO THE DESTRUCTION OF NEW YORK GROWN APPLES BY A NATURAL DISASTER, ACT OF GOD OR CONTINUING ADVERSE WEATHER CONDITION AS DETERMINED BY THE COMMISSIONER OF AGRICULTURE AND MARKETS PURSUANT TO THIS SUBDIVISION. FOR PURPOSES OF THIS SUBDIVISION, THE DEPARTMENT OF AGRICULTURE AND MARKETS AND THE AUTHORITY ARE AUTHORIZED TO ADOPT RULES AND REGULATIONS AS THEY MAY DEEM NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBDIVISION WHICH SHALL INCLUDE ENSURING THAT IN MANUFACTURING CIDER FARM BREWERIES UTILIZE APPLES GROWN IN NEW YORK STATE TO THE EXTENT THEY ARE REASONABLY AVAILABLE, PRIOR TO UTILIZING APPLES FROM AN OUT-OF-STATE SOURCE FOR SUCH PURPOSE.

(C) THE COMMISSIONER OF AGRICULTURE AND MARKETS SHALL MAKE AVAILABLE TO FARM BREWERIES AND TO THE PUBLIC EACH SPECIFIC APPLE LOSS DETERMINATION ISSUED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION ON OR AFTER 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 APPLE CROP LOSS WHICH MEETS THE STANDARDS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, THE COMMISSIONER OF AGRICULTURE AND MARKETS, IN CONSULTATION WITH THE CHAIRMAN OF THE AUTHORITY, MAY ISSUE ADDITIONAL APPLE CROP LOSS DETERMINATIONS AND SHALL EXPEDITIOUSLY MAKE AVAILABLE TO FARM BREWERIES AND TO THE PUBLIC THE LOSS DETERMINATION ISSUED PURSUANT TO THIS PARAGRAPH PRIOR TO OCTOBER TENTH OF EACH YEAR.

13. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW OR OF ANY RULE OR REGULATION PROMULGATED PURSUANT THERETO, AND IN ADDITION TO THE ACTIVITIES WHICH MAY OTHERWISE BE CARRIED OUT BY ANY PERSON LICENSED UNDER THIS SECTION, SUCH PERSON MAY, ON THE PREMISES DESIGNATED IN SUCH LICENSE:

(A) PRODUCE, PACKAGE, BOTTLE, SELL AND DELIVER SOFT DRINKS AND OTHER NON-ALCOHOLIC BEVERAGES, VITAMINS, MALT, MALT SYRUP, AND OTHER BY-PRODUCTS;

(B) DRY SPENT GRAIN FROM THE BREWERY;

(C) RECOVER CARBON DIOXIDE AND YEAST;

(D) STORE BOTTLES, PACKAGES AND SUPPLIES NECESSARY OR INCIDENTAL TO ALL SUCH OPERATIONS;

(E) PACKAGE, BOTTLE, SELL AND DELIVER WINE PRODUCTS;

(F) ALLOW FOR THE PREMISES INCLUDING SPACE AND EQUIPMENT TO BE RENTED BY A LICENSED TENANT BREWER FOR THE PURPOSES OF ALTERNATION.

14. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE AUTHORITY MAY ISSUE A FARM BREWERY LICENSE TO THE HOLDER OF A FARM WINERY OR FARM DISTILLER'S LICENSE FOR USE AT SUCH LICENSEE'S EXISTING LICENSED PREMISES. THE HOLDER OF A FARM WINERY OR FARM DISTILLER'S LICENSE THAT SIMULTANEOUSLY HOLDS A FARM BREWERY LICENSE ON AN ADJACENT PREMISES MAY SHARE AND USE THE SAME TASTING ROOM FACILITIES TO CONDUCT ANY TASTINGS THAT SUCH LICENSEE IS OTHERWISE AUTHORIZED TO CONDUCT.

15. THE AUTHORITY IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS SECTION. IN PRESCRIBING SUCH RULES AND REGULATIONS, THE AUTHORITY SHALL PROMOTE THE EXPANSION AND PROFITABILITY OF BEER AND CIDER PRODUCTION AND OF TOURISM IN NEW YORK, THEREBY PROMOTING THE CONSERVATION, PRODUCTION AND ENHANCEMENT OF NEW YORK STATE AGRICULTURAL LANDS.

S 6. Subdivision 1 of section 56 of the alcoholic beverage control law, as amended by section 1 of part Z of chapter 85 of the laws of 2002, is amended to read as follows:

1. The annual fee for a [brewer's] license TO MANUFACTURE BEER shall be:

(A) four thousand dollars FOR A BREWER'S LICENSE, unless the annual production of the brewer is less than sixty thousand barrels per year, in which case the annual fee shall be three hundred twenty dollars;

(B) THREE HUNDRED TWENTY DOLLARS FOR A FARM BREWERY LICENSE.

S 7. Subdivision 1 of section 56-a of the alcoholic beverage control law, as amended by section 1 of part B of chapter 56 of the laws of 2004, is amended to read as follows:

1. In addition to the annual fees provided for in this chapter, there shall be paid to the [division] AUTHORITY with each initial application for a license filed pursuant to section fifty-one, FIFTY-ONE-A, fifty-three, fifty-eight, sixty-one, sixty-two, seventy-six or seventy-eight of this chapter, a filing fee of four hundred dollars; with each initial application for a license filed pursuant to section sixty-three, sixty-four, sixty-four-a or sixty-four-b of this chapter, a filing fee of two hundred dollars; with each initial application for a license filed pursuant to section fifty-three-a, fifty-four, fifty-five, fifty-five-a,

seventy-nine, eighty-one or eighty-one-a of this chapter, a filing fee of one hundred dollars; with each initial application for a permit filed pursuant to section [seventy-seven,] ninety-one, ninety-one-a, ninety-two, ninety-two-a, ninety-three, ninety-three-a, if such permit is to be issued on a calendar year basis, ninety-four, ninety-five, ninety-six or ninety-six-a, or pursuant to paragraph b, c, e or j of subdivision one of section ninety-nine-b of this chapter if such permit is to be issued on a calendar year basis, or for an additional bar pursuant to subdivision four of section one hundred of this chapter, a filing fee of twenty dollars; and with each application for a permit under section ninety-three-a of this chapter, other than a permit to be issued on a calendar year basis, section ninety-seven, ninety-eight, ninety-nine, or ninety-nine-b of this chapter, other than a permit to be issued pursuant to paragraph b, c, e or j of subdivision one of section ninety-nine-b of this chapter on a calendar year basis, a filing fee of ten dollars.

S 8. Subdivision 2 of section 56-a of the alcoholic beverage control law, as amended by chapter 55 of the laws of 1992, is amended to read as follows:

2. In addition to the annual fees provided for in this chapter, there shall be paid to the authority with each renewal application for a license filed pursuant to section fifty-one, FIFTY-ONE-A, fifty-three, fifty-eight, sixty-one, sixty-two, seventy-six or seventy-eight of this chapter, a filing fee of one hundred dollars; with each renewal application for a license filed pursuant to section sixty-three, sixty-four, sixty-four-a or sixty-four-b of this chapter, a filing fee of ninety dollars; with each renewal application for a license filed pursuant to section seventy-nine, eighty-one or eighty-one-a of this chapter, a filing fee of twenty-five dollars; and with each renewal application for a license or permit filed pursuant to section fifty-three-a, fifty-four, fifty-five, fifty-five-a, [seventy-seven,] ninety-one, ninety-one-a, ninety-two, ninety-two-a, ninety-three, ninety-three-a, if such permit is issued on a calendar year basis, ninety-four, ninety-five, ninety-six or ninety-six-a of this chapter or pursuant to subdivisions b, c, e or j of section ninety-nine-b, if such permit is issued on a calendar year basis, or with each renewal application for an additional bar pursuant to subdivision four of section one hundred of this chapter, a filing fee of thirty dollars.

S 9. Subdivision 1 of section 61 of the alcoholic beverage control law, as amended by chapter 581 of the laws of 1951, is amended to read as follows:

1. A class A distiller's license shall authorize the holder thereof to operate a distillery 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 distiller's class A 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 any liquor whether or not manufactured by such licensee to a wholesale or retail liquor licensee or permittee in sealed containers of not more than one quart each. SUCH LICENSE SHALL ALSO AUTHORIZE THE SALE OF NEW YORK STATE LABELLED LIQUOR TO LICENSED FARM WINERIES AND FARM BREWERIES IN SEALED CONTAINERS OF NOT MORE THAN ONE QUART EACH. 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 distiller's license without the payment of any additional fee.

S 10. Paragraph (a) of subdivision 2-c of section 61 of the alcoholic beverage control law, as amended by chapter 454 of the laws of 2008, is amended to read as follows:

(a) A class D distiller's license, otherwise known as a farm distillery license, shall authorize the holder of such a license to operate a farm distillery at the premises specifically designated in the license:

(i) To manufacture liquor primarily from farm and food products, as defined in subdivision two of section two hundred eighty-two of the agriculture and markets law;

(ii) To put such liquor into containers of not more than one quart each, which containers shall then be sealed and to sell such liquor at wholesale, for resale, and to LICENSED FARM WINERIES AND FARM BREWERIES, wholesale and retail licensees, and permittees;

(iii) To sell at retail, for personal use, in such sealed containers; [and]

(iv) To sell in bulk, liquor manufactured by the licensee to a winery or farm winery licensee, or to the holder of a class A, A-1, B, B-1 or C distiller's license, or to the holder of a permit issued pursuant to paragraph c of subdivision one of section ninety-nine-b of this chapter[.];

(V) TO CONDUCT TASTINGS OF AND SELL AT RETAIL FOR CONSUMPTION OFF THE PREMISES NEW YORK STATE LABELLED BEER MANUFACTURED BY A LICENSED BREWER OR LICENSED FARM BREWERY;

(VI) TO CONDUCT TASTINGS OF AND SELL AT RETAIL FOR CONSUMPTION OFF THE PREMISES NEW YORK STATE LABELLED CIDER MANUFACTURED BY A LICENSED BREWER, LICENSED FARM BREWERY, LICENSED FARM WINERY OR LICENSED CIDER PRODUCER; AND

(VII) TO CONDUCT TASTINGS OF AND SELL AT RETAIL FOR CONSUMPTION OFF THE PREMISES NEW YORK STATE LABELLED WINE MANUFACTURED BY A LICENSED WINERY OR LICENSED FARM WINERY.

S 11. Subdivision 2 of section 76 of the alcoholic beverage control law, as amended by chapter 221 of the laws of 2011, is amended to read as follows:

2. A winery license shall authorize the holder thereof:

(a) to operate a winery for the manufacture of wine at the premises specifically designated in the license;

(b) to receive and possess wine from other states consigned to a United States government bonded winery, warehouse or storeroom located within the state;

(c) to sell in bulk from the licensed premises the products manufactured under such license and wine received by such licensee from any other state to any 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;

(d) 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 chapter; [and]

(e) TO SELL FROM THE LICENSED PREMISES TO LICENSED FARM WINERIES AND FARM BREWERIES NEW YORK STATE LABELLED WINE MANUFACTURED BY THE LICENSEE IN THE ORIGINAL SEALED CONTAINERS OF NOT MORE THAN FIFTEEN GALLONS EACH; AND

(F) to operate, or use the services of, a custom crush facility as defined in subdivision nine-a of section three of this chapter.

S 12. Paragraph (c) of subdivision 2 of section 76-a of the alcoholic beverage control law, as added by chapter 221 of the laws of 2011, is amended to read as follows:

(c) sell from the licensed premises to a licensed WINERY, FARM DISTILLER, FARM BREWERY, 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 or cider manufactured by the licensee as above set forth and to sell or deliver such wine or cider to persons outside the state pursuant to the laws of the place of such sale or delivery. All wine or cider 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 chapter;

S 13. Subparagraph 6 of paragraph (b) of subdivision 4 of section 76-a of the alcoholic beverage control law, as amended by chapter 571 of the laws of 2008, is amended to read as follows:

(6) New York state labelled wine or liquors produced or manufactured by any other New York state winery or farm winery licensee or by the holder of [a class A-1, B-1, or C] ANY distiller's license. Such wine or liquors may be purchased outright by the licensee from a New York winery or farm winery licensee or the holder of [a class A-1, B-1, or C] ANY distiller's license or obtained on a consignment basis pursuant to a written agreement between the selling and purchasing licensee.

S 14. Subdivision 6 of section 76-a of the alcoholic beverage control law is amended by adding two new paragraphs (g) and (h) to read as follows:

(G) CONDUCT TASTINGS OF AND SELL AT RETAIL FOR CONSUMPTION OFF THE PREMISES NEW YORK STATE LABELLED BEER MANUFACTURED BY A LICENSED BREWER OR FARM BREWERY.

(H) CONDUCT TASTINGS OF AND SELL AT RETAIL FOR CONSUMPTION OFF THE PREMISES NEW YORK STATE LABELLED CIDER MANUFACTURED BY A LICENSED BREWER, LICENSED FARM BREWERY, LICENSED FARM WINERY OR LICENSED CIDER PRODUCER.

S 15. Subdivision 42 of section 16 of the agriculture and markets law, as amended by chapter 227 of the laws of 2006, is amended to read as follows:

42. (A) For purposes of making timely determinations and consulting with the chairman of the state liquor authority pursuant to subdivision five of section seventy-six-a of the alcoholic beverage control law, investigate and compile information relative to natural disasters, acts of God, or continued adverse weather conditions which shall affect the crop of grapes or other fruit products used in the production of wine.

(B) FOR PURPOSES OF MAKING TIMELY DETERMINATIONS AND CONSULTING WITH THE CHAIRMAN OF THE STATE LIQUOR AUTHORITY PURSUANT TO SUBDIVISION ELEVEN OF SECTION FIFTY-ONE-A OF THE ALCOHOLIC BEVERAGE CONTROL LAW, INVESTIGATE AND COMPILE INFORMATION RELATIVE TO NATURAL DISASTERS, ACTS OF GOD, OR CONTINUED ADVERSE WEATHER CONDITIONS WHICH SHALL AFFECT THE NECESSARY INGREDIENTS FOR BREWING BEER.

(C) FOR PURPOSES OF MAKING TIMELY DETERMINATIONS AND CONSULTING WITH THE CHAIRMAN OF THE STATE LIQUOR AUTHORITY PURSUANT TO SUBDIVISION TWELVE OF SECTION FIFTY-ONE-A OF THE ALCOHOLIC BEVERAGE CONTROL LAW,

INVESTIGATE AND COMPILE INFORMATION RELATIVE TO NATURAL DISASTERS, ACTS OF GOD, OR CONTINUED ADVERSE WEATHER CONDITIONS WHICH SHALL AFFECT THE CROP OF APPLES USED IN THE PRODUCTION OF CIDER.

S 16. Subparagraph (C) of paragraph 1 of subdivision (i) of section 1136 of the tax law, as amended by a chapter of the laws of 2012 amending the tax law relating to farm winery and farm distillery sales tax information return filing requirements, as proposed in legislative bills numbers S. 7019 and A. 9523, is amended to read as follows:

(C) Every wholesaler, as defined by section three of the alcoholic beverage control law, if it has made a sale of an alcoholic beverage, as defined by section four hundred twenty of this chapter, without collecting sales or use tax during the period covered by the return, except (i) a sale to a person that has furnished an exempt organization certificate to the wholesaler for that sale; or (ii) a sale to another wholesaler whose license under the alcoholic beverage control law does not allow it to make retail sales of the alcoholic beverage. For each vendor, operator, or recipient to whom the wholesaler has made a sale without collecting sales or compensating use tax, the return must include the total value of those sales made during the period covered by the return (excepting the sales described in clauses (i) and (ii) of this subparagraph) and the vendor's, operator's or recipient's state liquor authority license number, along with the information required by paragraph two of this subdivision. A person operating pursuant to a farm winery license as provided in section seventy-six-a of the alcoholic beverage control law, or a person operating pursuant to a farm distillery license as provided in subdivision two-c of section sixty-one of such law, OR A PERSON OPERATING PURSUANT TO A FARM BREWERY LICENSE AS PROVIDED IN SECTION FIFTY-ONE-A OF THE ALCOHOLIC BEVERAGE CONTROL LAW, or a person operating pursuant to [both] ANY COMBINATION OF such licenses, shall not be subject to any of the requirements of this subdivision.

S 17. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that the amendment to subparagraph (C) of paragraph 1 of subdivision (i) of section 1136 of the tax law, as amended by section sixteen of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2012 amending the tax law relating to farm winery and farm distillery sales tax information return filing requirements, as proposed in legislative bills numbers S. 7019 and A. 9523, takes effect.