

5565--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 23, 2011

Introduced by M. of A. HEASTIE, MONTESANO, J. MILLER, McDONOUGH, MURRAY, FITZPATRICK, JAFFEE, CASTRO, BENEDETTO, CRESPO -- Multi-Sponsored by -- M. of A. ARROYO, CROUCH, GOLDFEDER, V. LOPEZ, MORELLE, MOYA, RAMOS, P. RIVERA, RUSSELL, SIMANOWITZ, SMARDZ, SWEENEY -- read once and referred to the Committee on Economic Development -- reported and referred to the Committee on Codes -- 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 permitting the holder of a wholesaler's license to sell certain food and seasonal specialty items and to install and operate automated teller machines

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

1 Section 1. Paragraph (a) of subdivision 1 of section 104 of the alco-
2 holic beverage control law, as amended by chapter 223 of the laws of
3 2002, is amended to read as follows:
4 (a) No wholesaler shall be engaged in any other business on the prem-
5 ises to be licensed; except that nothing contained in this chapter shall
6 (1) prohibit a beer wholesaler from (i) acquiring, storing or selling
7 non-alcoholic snack foods, as defined in paragraph (b) of this subdivi-
8 sion, (ii) manufacturing, bottling, storing, or selling non-alcoholic
9 carbonated beverages, (iii) manufacturing, storing or selling non-alco-
10 holic non-carbonated soft drinks, mineral waters, spring waters, drink-
11 ing water, non-taxable malt or cereal beverages, juice drinks, fruit or
12 vegetable juices, ice, liquid beverage mixes and dry or frozen beverage
13 mixes, (iv) acquiring, storing or selling wine products, (v) the sale of
14 promotional items on such premises, or (vi) the sale of tobacco products
15 at retail by wholesalers who are licensed to sell beer and other
16 products at retail, (2) prohibit a wholesaler authorized to sell wine
17 from manufacturing, acquiring or selling wine merchandise, as defined in

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

LBD03357-02-2

1 paragraph (d) of this subdivision, or (3) prohibit a licensed winery or
2 licensed farm winery from engaging in the business of a wine wholesaler
3 for New York state labeled wines produced by any licensed winery or
4 licensed farm winery or prohibit such wine wholesaler from exercising
5 any of its rights pursuant to sections seventy-six and seventy-six-a of
6 this chapter provided that the operation of such beer and wine whole-
7 salers business shall be subject to such rules and regulations as the
8 liquor authority may prescribe. (4) THE SALE OF THE FOLLOWING PRODUCTS
9 AT RETAIL SHALL NOT CONSTITUTE ENGAGING IN ANOTHER BUSINESS WITHIN THE
10 MEANING OF THIS SUBDIVISION: (I) CANDY, CHEWING GUM AND COUGH DROPS;
11 (II) NON-REFRIGERATED SALSA; (III) CIGARETTE LIGHTERS, LIGHTER FLUID,
12 MATCHES AND ASHTRAYS; (IV) BARBECUE AND PICNIC-RELATED PRODUCTS AND
13 SUPPLIES, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, CHARCOAL, GRILLS,
14 PROPANE GAS, PLASTIC AND PAPER CUPS; PAPER OR PLASTIC TABLECLOTHS AND
15 COOLERS; (V) BEER MAKING AND BREWING SUPPLIES AND PUBLICATIONS, WHICH
16 SHALL INCLUDE, BUT NOT BE LIMITED TO, BOOKS, MAGAZINES, EQUIPMENT AND
17 INGREDIENTS; (VI) STEINS, MUGS AND OTHER GLASSWARE APPROPRIATE FOR THE
18 CONSUMPTION OF BEER, MALT BEVERAGES AND WINE PRODUCTS; (VII) ITEMS TYPI-
19 CALLY USED TO SERVE BEER AND MALT BEVERAGES INCLUDING, BUT NOT LIMITED
20 TO, TAPS, KEGERATORS, COZIES AND BEER SOCKS; (VIII) LEMONS, LIMES AND
21 ORANGES, PROVIDED THAT NO MORE THAN TWO DOZEN OF EACH SHALL BE DISPLAYED
22 AT ANY ONE TIME; (IX) ROCK SALT, ICE AND SNOW MELTING COMPOUNDS, SNOW
23 SHOVELS; WINDSHIELD WASHER SOLVENT; FIREWOOD; BEACH UMBRELLAS; SUNGLASS-
24 ES AND SUN BLOCK; AND (X) PREPAID TELEPHONE CARDS. (5) THE INSTALLATION
25 AND OPERATION OF A SINGLE AUTOMATED TELLER MACHINE IN EACH LICENSED
26 PREMISES SHALL NOT CONSTITUTE ENGAGING IN ANOTHER BUSINESS WITHIN THE
27 MEANING OF THIS SUBDIVISION. FOR THE PURPOSES OF THIS SUBDIVISION,
28 "AUTOMATED TELLER MACHINE" MEANS A DEVICE WHICH IS LINKED TO THE
29 ACCOUNTS AND RECORDS OF A BANKING INSTITUTION AND WHICH ENABLES CONSUM-
30 ERS TO CARRY OUT BANKING TRANSACTIONS, INCLUDING BUT NOT LIMITED TO,
31 ACCOUNT TRANSFERS, DEPOSITS, CASH WITHDRAWALS, BALANCE INQUIRIES AND
32 LOAN PAYMENTS.

33 S 2. This act shall take effect immediately.