

5078

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the alcoholic beverage control law and the agriculture and markets law, in relation to farm breweries

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

1 Section 1. The alcoholic beverage control law is amended by adding a
2 new section 51-a to read as follows:
3 S 51-A. FARM BREWERY LICENSE. 1. ANY PERSON MAY APPLY TO THE LIQUOR
4 AUTHORITY FOR A FARM BREWERY LICENSE AS PROVIDED FOR IN THIS SECTION.
5 SUCH APPLICATION SHALL BE IN WRITING AND VERIFIED AND SHALL CONTAIN SUCH
6 INFORMATION AS THE LIQUOR AUTHORITY SHALL REQUIRE. SUCH APPLICATION
7 SHALL BE ACCOMPANIED BY A CHECK OR DRAFT FOR THE AMOUNT REQUIRED BY THIS
8 SECTION FOR SUCH LICENSE. IF THE LIQUOR AUTHORITY SHALL GRANT THE APPLI-
9 CATION IT SHALL ISSUE A LICENSE IN SUCH FORM AS SHALL BE DETERMINED BY
10 ITS RULES.
11 2. (A) A FARM BREWERY LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO
12 OPERATE A FARM BREWERY FOR THE MANUFACTURE OF BEER AT THE PREMISES
13 SPECIFICALLY DESIGNATED IN THE LICENSE. SUCH A LICENSE SHALL ALSO
14 AUTHORIZE THE SALE IN BULK BY SUCH LICENSEE FROM THE LICENSED PREMISES
15 OF THE PRODUCTS MANUFACTURED UNDER SUCH LICENSE TO ANY BREWERY LICENSEE,
16 ANY OTHER FARM BREWERY LICENSEE, ANY DISTILLER LICENSEE OR TO A PERMIT-
17 TEE ENGAGED IN THE MANUFACTURE OF PRODUCTS WHICH ARE UNFIT FOR BEVERAGE
18 USE AND TO SELL OR DELIVER SUCH BEER TO PERSONS OUTSIDE THE STATE PURSU-
19 ANT TO THE LAWS OF THE PLACE OF SUCH SALE OR DELIVERY. IT SHALL ALSO
20 AUTHORIZE THE HOLDER THEREOF TO SELL FROM THE LICENSED PREMISES TO A
21 LICENSED WHOLESALER OR RETAILER, OR TO A CORPORATION OPERATING RAILROAD
22 CARS OR AIRCRAFT FOR CONSUMPTION ON SUCH CARRIERS, OR AT RETAIL FOR
23 CONSUMPTION OFF THE PREMISES, BEER MANUFACTURED BY THE LICENSEE AS ABOVE
24 SET FORTH AND TO SELL OR DELIVER SUCH BEER TO PERSONS OUTSIDE THE STATE

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

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1 PURSUANT TO THE LAWS OF THE PLACE OF SUCH SALE OR DELIVERY. ALL BEER
2 SOLD BY SUCH LICENSEE FOR CONSUMPTION OFF THE PREMISES SHALL BE SECURELY
3 SEALED AND HAVE ATTACHED THERETO A LABEL SETTING FORTH SUCH INFORMATION
4 AS SHALL BE REQUIRED BY THIS CHAPTER. SUCH LICENSE SHALL ALSO BE DEEMED
5 TO INCLUDE AUTHORIZATION TO SELL CIDER AND BEER AT RETAIL FOR CONSUMP-
6 TION ON OR OFF THE PREMISES; AND TO SELL BEER AT RETAIL FOR CONSUMPTION
7 ON THE PREMISES OF A RESTAURANT, CONFERENCE CENTER, INN, BED AND BREAK-
8 FAST OR HOTEL BUSINESS OWNED AND OPERATED BY THE LICENSEE IN OR ADJACENT
9 TO THE FARM BREWERY FOR WHICH THE LICENSEE IS LICENSED. A LICENSEE WHO
10 OPERATES A RESTAURANT, CONFERENCE CENTER, INN, BED AND BREAKFAST OR
11 HOTEL PURSUANT TO SUCH AUTHORITY SHALL COMPLY WITH ALL APPLICABLE
12 PROVISIONS OF THIS CHAPTER WHICH RELATE TO LICENSES TO SELL BEER AT
13 RETAIL FOR CONSUMPTION ON THE PREMISES.

14 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY FARM BREWERY,
15 LICENSED PURSUANT TO SUBDIVISION THREE OF THIS SECTION TO SELL BEER AT
16 RETAIL FOR CONSUMPTION ON THE PREMISES IN A RESTAURANT, CONFERENCE
17 CENTER, INN, BED AND BREAKFAST OR HOTEL BUSINESS OWNED AND OPERATED BY
18 THE LICENSEE IN OR ADJACENT TO SUCH FARM BREWERY, MAY APPLY TO THE
19 LIQUOR AUTHORITY FOR A LICENSE TO SELL WINE AND/OR LIQUOR AT RETAIL FOR
20 CONSUMPTION ON THE PREMISES OF SUCH FACILITY. ALL OF THE PROVISIONS OF
21 THIS CHAPTER RELATIVE TO LICENSES TO SELL BEER, WINE OR LIQUOR AT RETAIL
22 FOR CONSUMPTION ON THE PREMISES SHALL APPLY SO FAR AS APPLICABLE TO SUCH
23 APPLICATION.

24 3. (A) A FARM BREWERY LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO
25 MANUFACTURE, BOTTLE AND SELL, INCLUDING BUT NOT LIMITED TO, FOOD CONDI-
26 MENTS AND PRODUCTS SUCH AS MUSTARDS, SAUCES, HOP SEASONINGS, BEER NUTS,
27 AND OTHER HOPS AND BEER RELATED FOODS IN ADDITION TO BEER AND HOP SOAPS,
28 HOP PILLOWS, HOP WREATHS AND OTHER SUCH FOOD AND CRAFTS ON AND FROM THE
29 LICENSED PREMISES.

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

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

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

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

46 (IV) BEER SUPPLIES AND ACCESSORIES, WHICH SHALL INCLUDE ANY ITEM
47 UTILIZED FOR THE STORAGE, SERVING OR CONSUMPTION OF BEER OR FOR DECORA-
48 TIVE PURPOSES. THESE SUPPLIES MAY BE SOLD AS SINGLE ITEMS OR MAY BE
49 COMBINED INTO A PACKAGE CONTAINING BEER OR A BEER PRODUCT.

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

53 (VI) NEW YORK STATE LABELED BEER OR LIQUORS PRODUCED OR MANUFACTURED
54 BY ANY OTHER NEW YORK STATE BREWERY OR FARM BREWERY LICENSEE OR BY THE
55 HOLDER OF A CLASS A-1, B-1, OR C DISTILLER'S LICENSE. SUCH BEER OR
56 LIQUORS MAY BE PURCHASED OUTRIGHT BY THE LICENSEE FROM A NEW YORK BREW-

ERY OR FARM BREWERY LICENSEE OR THE HOLDER OF A CLASS A-1, B-1, OR C DISTILLER'S LICENSE OR OBTAINED ON A CONSIGNMENT BASIS PURSUANT TO A WRITTEN AGREEMENT BETWEEN THE SELLING AND PURCHASING LICENSEE.

(VII) 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.

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

(D) A LICENSED FARM BREWERY MAY ENGAGE IN ANY OTHER BUSINESS ON THE LICENSED PREMISES SUBJECT TO SUCH RULES AND REGULATIONS AS THE LIQUOR AUTHORITY MAY PRESCRIBE. IN PRESCRIBING SUCH RULES AND REGULATIONS, THE LIQUOR AUTHORITY SHALL PROMOTE THE EXPANSION AND PROFITABILITY OF BEER 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 AREA IN THE VICINITY OF THE FARM BREWERY LICENSEE.

4. (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, NO LICENSED FARM BREWERY SHALL MANUFACTURE OR SELL ANY BEER PRODUCED WITH LESS THAN THE FOLLOWING STATED AMOUNT OF INGREDIENTS GROWN OR PRODUCED IN NEW YORK STATE TO BE DESIGNATED "NEW YORK STATE LABELED BEER":

(I) FOR THE FIRST FIVE YEARS THAT A LICENSED FARM BREWERY MANUFACTURES OR SELLS BEER, SUCH BEER SOLD BY A LICENSED FARM BREWERY SHALL BE MANUFACTURED WITH NO LESS THAN TWENTY-FIVE PERCENT OF ITS HOPS GROWN OR PRODUCED IN NEW YORK STATE AND NO LESS THAN FORTY PERCENT OF ALL OF ITS OTHER INGREDIENTS GROWN OR PRODUCED IN NEW YORK STATE;

(II) FOR THE NEXT SUCCEEDING FIVE YEARS THAT A LICENSED FARM BREWERY MANUFACTURES OR SELLS BEER, SUCH BEER SOLD BY A LICENSED FARM BREWERY SHALL BE MANUFACTURED WITH NO LESS THAN SIXTY PERCENT OF ITS HOPS GROWN OR PRODUCED IN NEW YORK STATE AND NO LESS THAN SEVENTY-FIVE PERCENT OF ALL OF ITS OTHER INGREDIENTS GROWN OR PRODUCED IN NEW YORK STATE; AND

(III) FOR ANY FURTHER YEARS THAT A LICENSED FARM BREWERY MANUFACTURES OR SELLS BEER, SUCH BEER SOLD BY A LICENSED FARM BREWERY SHALL BE MANUFACTURED WITH NO LESS THAN NINETY PERCENT OF ITS HOPS GROWN OR PRODUCED IN NEW YORK STATE AND NO LESS THAN NINETY PERCENT OF ALL OF ITS OTHER INGREDIENTS GROWN OR PRODUCED IN NEW YORK STATE.

(B) IN THE EVENT THAT THE COMMISSIONER OF AGRICULTURE AND MARKETS, AFTER INVESTIGATING AND COMPILING INFORMATION PURSUANT TO SUBDIVISION FORTY-FIVE 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, THE COMMISSIONER, IN CONSULTATION WITH THE CHAIRMAN OF THE STATE LIQUOR 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 THE 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 THE 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

1 DESTRUCTION OF NEW YORK GROWN OR PRODUCED INGREDIENTS BY A NATURAL
2 DISASTER, ACT OF GOD OR CONTINUING ADVERSE WEATHER CONDITION AS DETER-
3 MINED BY THE COMMISSIONER OF AGRICULTURE AND MARKETS PURSUANT TO THIS
4 SUBDIVISION. FOR PURPOSES OF THIS SUBDIVISION, THE DEPARTMENT OF AGRI-
5 CULTURE AND MARKETS AND THE STATE LIQUOR AUTHORITY ARE AUTHORIZED TO
6 ADOPT RULES AND REGULATIONS AS THEY MAY DEEM NECESSARY TO CARRY OUT THE
7 PROVISIONS OF THIS SUBDIVISION WHICH SHALL INCLUDE ENSURING THAT IN
8 MANUFACTURING BEER FARM BREWERIES UTILIZE INGREDIENTS GROWN OR PRODUCED
9 IN NEW YORK STATE TO THE EXTENT THEY ARE REASONABLY AVAILABLE, PRIOR TO
10 UTILIZING INGREDIENTS FROM AN OUT-OF-STATE SOURCE FOR SUCH PURPOSE.

11 (C) THE COMMISSIONER OF AGRICULTURE AND MARKETS SHALL MAKE AVAILABLE
12 TO FARM BREWERIES AND TO THE PUBLIC EACH SPECIFIC INGREDIENT LOSS DETER-
13 MINATION ISSUED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION ON OR
14 BEFORE AUGUST TWENTIETH OF EACH YEAR.

15 (D) IN THE EVENT THAT THE CONTINUING EFFECTS OF A NATURAL DISASTER,
16 ACT OF GOD, OR ADVERSE WEATHER CONDITION WHICH OCCURRED PRIOR TO AUGUST
17 TWENTIETH OF EACH YEAR OR THE EFFECTS OF A NATURAL DISASTER, ACT OF GOD,
18 OR ADVERSE WEATHER CONDITION WHICH OCCURS SUBSEQUENT TO AUGUST TWENTIETH
19 EACH YEAR RESULTS IN ANY INGREDIENT LOSS WHICH MEETS THE STANDARDS
20 PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, THE COMMISSIONER OF AGRI-
21 CULTURE AND MARKETS, IN CONSULTATION WITH THE CHAIRMAN OF THE STATE
22 LIQUOR AUTHORITY, MAY ISSUE ADDITIONAL INGREDIENT LOSS DETERMINATIONS
23 AND SHALL EXPEDITIOUSLY MAKE AVAILABLE TO FARM BREWERIES AND TO THE
24 PUBLIC EACH SPECIFIC INGREDIENT LOSS DETERMINATION ISSUED PURSUANT TO
25 THIS PARAGRAPH PRIOR TO OCTOBER TENTH OF EACH YEAR.

26 5. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, A FARM BREWERY
27 LICENSE SHALL AUTHORIZE THE HOLDER THEREOF TO:

28 (A) OFFER FOR SALE OR SOLICIT ANY ORDER IN THE STATE FOR THE SALE OF
29 ANY NEW YORK STATE LABELED BEER MANUFACTURED BY THE LICENSEE OR ANY
30 OTHER BREWERY OR FARM BREWERY LICENSED PURSUANT TO THIS ARTICLE.

31 (B) ENGAGE AS A BROKER IN THE PURCHASE AND SALE OF NEW YORK STATE
32 LABELED BEERS FOR A FEE OR COMMISSION FOR OR ON BEHALF OF ANY BREWERY OR
33 FARM BREWERY LICENSED PURSUANT TO THIS ARTICLE.

34 (C) MAINTAIN A WAREHOUSE ON THE PREMISES PURSUANT TO SECTION
35 NINETY-SIX OF THIS CHAPTER FOR THE WAREHOUSING OF ANY NEW YORK STATE
36 LABELED BEERS MANUFACTURED BY ANY BREWERY OR FARM BREWERY LICENSED
37 PURSUANT TO THIS ARTICLE. ANY BREWERY OR FARM BREWERY THAT MAINTAINS
38 SUCH A WAREHOUSE MUST COMPLY WITH THE PROVISIONS OF SECTION NINETY-SIX
39 OF THIS CHAPTER.

40 (D) DELIVER OR TRANSPORT ANY NEW YORK STATE LABELED BEER MANUFACTURED
41 OR PRODUCED BY THE LICENSEE OR ANY OTHER BREWERY OR FARM BREWERY
42 LICENSED PURSUANT TO THIS ARTICLE IN ANY VEHICLE OWNED, LEASED OR HIRED
43 BY THE LICENSEE. THE NEW YORK STATE LABELED BEER CAN BE DELIVERED,
44 TRANSPORTED OR SOLD BY THE LICENSEE TO ANY HOLDER OF: (I) A BREWERY OR
45 FARM BREWERY LICENSE, (II) A LICENSE TO SELL ALCOHOLIC BEVERAGES FOR
46 CONSUMPTION ON THE PREMISES, (III) A LICENSE TO SELL ALCOHOLIC BEVERAGES
47 FOR CONSUMPTION OFF THE PREMISES, (IV) OR ANY PERSON THAT CAN RECEIVE OR
48 PURCHASE BEER FROM A FARM BREWERY. THE LICENSEE IS NOT REQUIRED TO
49 OBTAIN FROM THE LIQUOR AUTHORITY A TRUCKING PERMIT OR PAY ANY FEES
50 PURSUANT TO SECTION NINETY-FOUR OF THIS CHAPTER.

51 (E) SELL FOR CONSUMPTION OFF THE PREMISES NEW YORK STATE LABELED
52 LIQUORS MANUFACTURED BY THE HOLDER OF A CLASS A-1, B-1, OR C DISTILLER'S
53 LICENSE.

54 (F) CONDUCT TASTINGS OF NEW YORK STATE LABELED LIQUORS MANUFACTURED BY
55 THE HOLDER OF A CLASS A-1, B-1, OR C DISTILLER'S LICENSE. ALL LIQUOR
56 TASTINGS CONDUCTED PURSUANT TO THIS PARAGRAPH SHALL BE CONDUCTED IN THE

1 SAME MANNER AS TASTINGS OF BRANDY PURSUANT TO SECTION FIFTY-ONE-B OF
2 THIS ARTICLE.

3 6. NO LICENSED FARM BREWERY SHALL MANUFACTURE IN EXCESS OF FIFTEEN
4 THOUSAND FINISHED BARRELS OF BEER ANNUALLY.

5 S 2. Section 3 of the alcoholic beverage control law is amended by
6 adding a new subdivision 4-a to read as follows:

7 4-A. "FARM BREWERY" OR "FARM BREWER" MEANS AND INCLUDES ANY PLACE OR
8 PREMISES, LOCATED ON A FARM IN NEW YORK STATE, IN WHICH BEER IS MANUFAC-
9 TURED AND SOLD.

10 S 3. Section 16 of the agriculture and markets law is amended by
11 adding a new subdivision 45 to read as follows:

12 45. FOR PURPOSES OF MAKING TIMELY DETERMINATIONS AND CONSULTING WITH
13 THE CHAIRMAN OF THE STATE LIQUOR AUTHORITY PURSUANT TO SUBDIVISION FOUR
14 OF SECTION FIFTY-ONE-A OF THE ALCOHOLIC BEVERAGE CONTROL LAW, INVESTI-
15 GATE AND COMPILE INFORMATION RELATIVE TO NATURAL DISASTERS, ACTS OF GOD,
16 OR CONTINUED ADVERSE WEATHER CONDITIONS WHICH SHALL AFFECT THE CROP OF
17 PRODUCTS AND INGREDIENTS USED IN THE PRODUCTION OF BEER.

18 S 4. The alcoholic beverage control law is amended by adding a new
19 section 51-b to read as follows:

20 S 51-B. SPECIAL PROVISIONS RELATING TO BREWERIES AND FARM BREWERIES
21 HOLDING A DISTILLER'S LICENSE. 1. ANY PERSON WHO HOLDS A BREWERY LICENSE
22 PURSUANT TO SECTION FIFTY-ONE OF THIS ARTICLE OR A FARM BREWERY LICENSE
23 PURSUANT TO SECTION FIFTY-ONE-A OF THIS ARTICLE AND, IN ADDITION TO SUCH
24 LICENSE, HOLDS A DISTILLER'S LICENSE PURSUANT TO SECTION SIXTY-ONE OF
25 THIS CHAPTER, AND WHO CONDUCTS BEER TASTINGS PURSUANT TO THE PROVISIONS
26 OF SUCH SECTIONS FIFTY-ONE AND FIFTY-ONE-A OF THIS ARTICLE, SHALL BE
27 AUTHORIZED TO CONDUCT TASTINGS OF BRANDY MANUFACTURED BY SUCH LICENSED
28 BREWERY OR LICENSED FARM BREWERY, AT SUCH BEER TASTINGS.

29 2. ALL CONSUMER TASTINGS OF BRANDY SHALL BE CONDUCTED SUBJECT TO THE
30 FOLLOWING LIMITATIONS:

31 (A) TASTINGS OF BRANDY SHALL BE CONDUCTED BY AN OFFICIAL AGENT OF ONE
32 OR MORE PERSONS LICENSED PURSUANT TO SECTION SIXTY-ONE OF THIS CHAPTER.
33 SUCH AGENT SHALL BE PHYSICALLY PRESENT UPON THE PREMISES AT ALL TIMES
34 DURING THE CONDUCTING OF THE CONSUMER TASTING OF BRANDY.

35 (B) NO SUCH PERSON OR PERSONS LICENSED PURSUANT TO SECTION SIXTY-ONE
36 OF THIS CHAPTER, AND NO OFFICIAL AGENT THEREOF, MAY PROVIDE, DIRECTLY OR
37 INDIRECTLY: (I) MORE THAN A TOTAL OF THREE SAMPLES OF BRANDY FOR TASTING
38 TO A PERSON IN ONE CALENDAR DAY; OR (II) A SAMPLE OF BRANDY FOR TASTING
39 EQUAL TO MORE THAN ONE-QUARTER FLUID OUNCE.

40 (C) ANY LIABILITY STEMMING FROM A RIGHT OF ACTION RESULTING FROM A
41 CONSUMER TASTING OF BRANDY AUTHORIZED BY THIS SECTION AND IN ACCORDANCE
42 WITH THE PROVISIONS OF SECTIONS 11-100 AND 11-101 OF THE GENERAL OBLI-
43 GATIONS LAW, SHALL ACCRUE TO THE PERSONS LICENSED PURSUANT TO SECTION
44 SIXTY-ONE OF THIS CHAPTER, WHO CONDUCTED SUCH TASTING.

45 3. THE STATE LIQUOR AUTHORITY SHALL PROMULGATE RULES AND REGULATIONS
46 REGARDING BRANDY TASTINGS AS PROVIDED FOR IN THIS SECTION.

47 4. ANY PERSON WHO HOLDS A BREWERY LICENSE PURSUANT TO SECTION
48 FIFTY-ONE OF THIS ARTICLE OR A FARM BREWERY LICENSE PURSUANT TO SECTION
49 FIFTY-ONE-A OF THIS ARTICLE, AND WHO IS AUTHORIZED TO SELL BEER FOR
50 CONSUMPTION OFF THE PREMISES PURSUANT TO THE PROVISIONS OF SUCH SECTIONS
51 FIFTY-ONE AND FIFTY-ONE-A OF THIS ARTICLE, SHALL BE AUTHORIZED TO SELL
52 BRANDY MANUFACTURED BY SUCH LICENSED BREWERY OR LICENSED FARM BREWERY
53 FOR CONSUMPTION OFF THE PREMISES. SUCH SALE OF BRANDY FOR CONSUMPTION
54 OFF THE PREMISES SHALL ONLY OCCUR AT THE LICENSED BREWERY OR FARM BREW-
55 ERY AND NOT AT ANY OTHER OFF-PREMISES LOCATIONS LICENSED TO THE BREWERY
56 OR FARM BREWERY, PURSUANT TO SUBDIVISION NINE OF SECTION FIFTY-ONE OF

1 THIS ARTICLE. THE SALE OF BRANDY AT A BREWERY OR FARM BREWERY SHALL ALSO
2 BE SUBJECTED TO THE SAME HOURS OF OPERATION AS SET FORTH FOR THE SALE OF
3 BEER AT A BREWERY OR FARM BREWERY. THE AUTHORITY SHALL PROMULGATE RULES
4 AND REGULATIONS FOR THE SALE OF BRANDY AT BREWERIES OR FARM BREWERIES
5 FOR OFF-PREMISES CONSUMPTION.

6 S 5. Section 51 of the alcoholic beverage control law is amended by
7 adding a new subdivision 9 to read as follows:

8 9. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, ANY ONE OR
9 MORE FARM BREWERY LICENSEES, SINGLY OR JOINTLY, MAY APPLY TO THE LIQUOR
10 AUTHORITY FOR A LICENSE OR LICENSES TO SELL BEER AT RETAIL FOR CONSUMP-
11 TION OFF THE PREMISES. THE DURATION OF SUCH LICENSE SHALL BE COEXTENSIVE
12 WITH THE DURATION OF SUCH LICENSEE'S FARM BREWERY LICENSE, AND THE FEE
13 THEREFOR SHALL BE FIVE HUNDRED DOLLARS IF SUCH RETAIL PREMISES IS
14 LOCATED IN CITIES HAVING A POPULATION OF ONE MILLION OR MORE; IN CITIES
15 HAVING LESS THAN ONE MILLION POPULATION AND MORE THAN ONE HUNDRED THOU-
16 SAND, TWO HUNDRED FIFTY DOLLARS; AND ELSEWHERE, THE SUM OF ONE HUNDRED
17 TWENTY-FIVE DOLLARS. SUCH LICENSE SHALL ENTITLE THE HOLDER THEREOF TO
18 SELL AT RETAIL FOR CONSUMPTION OFF THE PREMISES ANY NEW YORK STATE
19 LABELED BEER. SUCH LICENSE SHALL ALSO ENTITLE THE HOLDER THEREOF TO
20 CONDUCT BEER TASTINGS AND ENGAGE IN ANY OF THE ACTIVITIES AUTHORIZED BY
21 PARAGRAPHS (A) AND (B) OF SUBDIVISION THREE OF SECTION FIFTY-ONE-A OF
22 THIS ARTICLE ON SUCH LICENSED PREMISES. SUCH LICENSE SHALL ALSO AUTHOR-
23 IZE THE SALE BY THE HOLDER THEREOF OF NEW YORK STATE LABELED BEER, IN
24 SEALED CONTAINERS FOR OFF-PREMISES CONSUMPTION, FROM THE SPECIALLY
25 LICENSED PREMISES OF ANY PERSON LICENSED PURSUANT TO SECTION FIFTY-ONE-A
26 OF THIS ARTICLE TO SELL BEER AT RETAIL FOR CONSUMPTION ON PREMISES IN
27 WHICH THE PRINCIPAL BUSINESS IS THE OPERATION OF A LEGITIMATE THEATER OR
28 SUCH OTHER LAWFUL ADULT ENTERTAINMENT OR RECREATIONAL FACILITY AS THE
29 LIQUOR AUTHORITY MAY CLASSIFY FOR ELIGIBILITY PURSUANT TO SUBDIVISION
30 SIX OF SECTION SIXTY-FOUR-A OF THIS CHAPTER. NOT MORE THAN FIVE SUCH
31 LICENSES SHALL BE ISSUED TO ANY LICENSED FARM BREWERY. ALL OTHER
32 PROVISIONS OF THIS CHAPTER RELATIVE TO LICENSES TO SELL BEER AT RETAIL
33 FOR CONSUMPTION OFF THE PREMISES SHALL APPLY SO FAR AS APPLICABLE TO
34 SUCH APPLICATION. THE LIQUOR AUTHORITY IS HEREBY AUTHORIZED TO ADOPT
35 SUCH RULES AS IT MAY DEEM NECESSARY TO CARRY OUT THE PURPOSE OF THIS
36 SUBDIVISION, PROVIDED THAT ALL LICENSES ISSUED PURSUANT TO THIS SUBDIVI-
37 SION SHALL BE SUBJECT TO THE SAME RULES AND REGULATIONS AS ARE APPLICA-
38 BLE TO THE SALE OF BEER AT RETAIL FOR CONSUMPTION OFF THE PREMISES OF
39 THE FARM BREWERY LICENSEE.

40 S 6. Section 56 of the alcoholic beverage control law is amended by
41 adding a new subdivision 1-a to read as follows:

42 1-A. THE ANNUAL FEE FOR A FARM BREWERY LICENSE SHALL BE THREE HUNDRED
43 TWENTY DOLLARS.

44 S 7. This act shall take effect on the one hundred eightieth day after
45 it shall have become a law, provided, however, that effective immediate-
46 ly, the addition, amendment and/or repeal of any rule or regulation
47 necessary for the implementation of this act on its effective date is
48 authorized to be made and completed on or before such date.