

9796--A

I N A S S E M B L Y

May 22, 2014

Introduced by M. of A. MAGEE -- read once and referred to the Committee on Economic Development -- 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 promoting economic development by expanding products sold by farm cideries and authorizing such cideries to sell cider to other licensees for resale

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

- 1 Section 1. Subdivision 3-a of section 58 of the alcoholic beverage  
2 control law, as added by chapter 384 of the laws of 2013, is amended to  
3 read as follows:  
4 3-a. A licensed cider producer producing New York state labelled cider  
5 may:  
6 (a) sell such cider OR ANY NEW YORK STATE LABELED CIDER to licensed  
7 farm distillers, farm wineries, WINERIES, farm cideries [and], CIDERIES  
8 AND farm breweries. All such cider sold by the licensee shall be  
9 securely sealed and have attached thereto a label as shall be required  
10 by section one hundred seven-a of this chapter;  
11 (b) conduct tastings at the licensed premises of such cider OR ANY NEW  
12 YORK STATE LABELED CIDER;  
13 (c) sell such cider OR ANY NEW YORK STATE LABELED CIDER at retail for  
14 consumption off the premises at the state fair, at recognized county  
15 fairs and at farmers markets operated on a not-for-profit basis;  
16 (d) sell and conduct tastings of such cider OR ANY NEW YORK STATE  
17 LABELED CIDER at retail for consumption on the premises of a restaurant,  
18 conference center, inn, bed and breakfast or hotel business owned and  
19 operated by the licensee in or adjacent to its farm cidery. A licensee  
20 who operates a restaurant, conference center, inn, bed and breakfast or  
21 hotel pursuant to such authority shall comply with all applicable  
22 provisions of this chapter which relate to licenses to sell cider at  
23 retail for consumption on the premises;  
24 (e) apply for a permit to conduct tastings away from the licensed  
25 premises of such cider OR ANY NEW YORK STATE LABELED CIDER. Such permit

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

1 shall be valid throughout the state and may be issued on an annual basis  
2 or for individual events. Each such permit and the exercise of the priv-  
3 ilege granted thereby shall be subject to such rules and conditions of  
4 the authority as it deems necessary. Tastings shall be conducted subject  
5 to the following conditions:

6 (i) tastings shall be conducted by an official agent, representative  
7 or solicitor of the licensee. Such agent, representative or solicitor  
8 shall be physically present at all times during the conduct of the tast-  
9 ings; and

10 (ii) any liability stemming from a right of action resulting from a  
11 tasting of cider as authorized [herein] IN THIS PARAGRAPH and in accord-  
12 ance with the provisions of sections 11-100 and 11-101 of the general  
13 obligations law, shall accrue to the licensee.

14 (f) if it holds a tasting permit issued pursuant to paragraph (e) of  
15 this subdivision, apply to the authority for a permit to sell such cider  
16 OR ANY NEW YORK STATE LABELED CIDER, for consumption off the premises,  
17 during such tastings in premises licensed under sections sixty-four,  
18 sixty-four-a, eighty-one and eighty-one-a of this chapter. Each such  
19 permit and the exercise of the privilege granted thereby shall be  
20 subject to such rules and conditions of the authority as it deems neces-  
21 sary.

22 S 2. Paragraphs (c), (d), (e), (f) and (g) of subdivision 2 of section  
23 58-c of the alcoholic beverage control law, as added by chapter 384 of  
24 the laws of 2013, are amended to read as follows:

25 (c) sell cider manufactured by the licensee OR ANY NEW YORK STATE  
26 LABELED CIDER to wholesalers and retailers licensed in this state to  
27 sell such cider, TO licensed farm distillers, licensed farm wineries,  
28 LICENSED WINERIES, licensed farm breweries, and any other licensed farm  
29 cidery OR LICENSED CIDERY. All such cider sold by the licensee shall be  
30 securely sealed and have attached thereto a label as shall be required  
31 by section one hundred seven-a of this chapter;

32 (d) sell at the licensed premises cider manufactured by the licensee  
33 or any other licensed farm cidery, OR ANY NEW YORK STATE LABELED CIDER  
34 at retail for consumption on or off the licensed premises;

35 (e) conduct tastings at the licensed premises of cider manufactured by  
36 the licensee or any other licensed farm cidery, OR ANY NEW YORK STATE  
37 LABELED CIDER;

38 (f) sell and conduct tastings of cider manufactured by the licensee or  
39 any other licensed farm cidery, OR ANY NEW YORK STATE LABELED CIDER at  
40 retail for consumption on the premises of a restaurant, conference  
41 center, inn, bed and breakfast or hotel business owned and operated by  
42 the licensee in or adjacent to its farm cidery. A licensee who operates  
43 a restaurant, conference center, inn, bed and breakfast or hotel pursu-  
44 ant to such authority shall comply with all applicable provisions of  
45 this chapter which relate to licenses to sell cider at retail for  
46 consumption on the premises;

47 (g) sell cider manufactured by the licensee or any other licensed farm  
48 cidery, OR ANY NEW YORK STATE LABELED CIDER at retail for consumption  
49 off the premises, at the state fair, at recognized county fairs and at  
50 farmers markets operated on a not-for-profit basis;

51 S 3. Subdivision 5 of section 58-c of the alcoholic beverage control  
52 law, as added by chapter 384 of the laws of 2013, is amended to read as  
53 follows:

54 5. A licensed farm cidery may, under such rules as may be adopted by  
55 the authority, sell cider manufactured by the licensee or any other  
56 licensed farm cidery, OR ANY NEW YORK STATE LABELED CIDER at retail in

1 bulk by the keg, cask or barrel for consumption and not for resale at a  
2 clam-bake, barbeque, picnic, outing or other similar outdoor gathering  
3 at which more than fifty persons are assembled.

4 S 4. Paragraphs (b) and (e) of subdivision 7 of section 58-c of the  
5 alcoholic beverage control law, as added by chapter 384 of the laws of  
6 2013, are amended to read as follows:

7 (b) food items for the purpose of complementing cider tastings, which  
8 shall mean a diversified selection of food that is ordinarily consumed  
9 without the use of tableware and can be conveniently consumed while  
10 standing or walking. Such food items shall include but not be limited  
11 to: cheeses, fruits, vegetables, chocolates, breads, BAKED GOODS,  
12 mustards and crackers;

13 (e) cider-making equipment and supplies including, but not limited to,  
14 APPLES, APPLE JUICE, OTHER POME FRUITS, OTHER POME FRUIT JUICES, home  
15 cider-making kits, PRESSES, PUMPS, filters, YEASTS, CHEMICALS AND OTHER  
16 CIDER ADDITIVES, bottling equipment, BOTTLES, CIDER STORAGE AND FERMENT-  
17 ING VESSELS, BARRELS, and books or other written material to assist  
18 cider-makers and home cider-makers to produce and bottle cider;

19 S 5. Subdivision 2 of section 76 of the alcoholic beverage control law  
20 is amended by adding a new paragraph (d-1) to read as follows:

21 (D-1) TO SELL FROM THE LICENSED PREMISES TO LICENSED FARM DISTILLERS,  
22 FARM WINERIES, WINERIES, FARM CIDERIES, CIDERIES AND FARM BREWERS ANY  
23 NEW YORK STATE LABELED CIDER. ALL SUCH CIDER SHALL BE SECURELY SEALED  
24 AND HAVE ATTACHED THERETO A LABEL AS SHALL BE REQUIRED BY SECTION ONE  
25 HUNDRED SEVEN-A OF THIS CHAPTER;

26 S 6. Subdivisions 3, 4 and 5 of section 76 of the alcoholic beverage  
27 control law, as amended by chapter 221 of the laws of 2011, are amended  
28 to read as follows:

29 3. (a) Any person having applied for and received a license as a  
30 winery under this section may conduct wine AND CIDER tastings of New  
31 York state labelled wines OR CIDERS in establishments licensed under  
32 sections sixty-three and seventy-nine of this chapter to sell wine for  
33 off-premises consumption. Such winery may charge a fee for each wine OR  
34 CIDER sample tasted. The state liquor authority shall promulgate rules  
35 and regulations regarding such tastings as provided for in this subdivi-  
36 sion.

37 (a-1) Any person having applied for and received a license as a winery  
38 under this section may conduct wine AND CIDER tastings of New York state  
39 labelled wines OR CIDERS and apply to the liquor authority for a permit  
40 to sell wine produced by such winery OR ANY NEW YORK STATE LABELED CIDER  
41 by the bottle, during such tastings in establishments licensed under  
42 section sixty-four, section sixty-four-a, section eighty-one or section  
43 eighty-one-a of this chapter to sell wine for consumption on the prem-  
44 ises. Such winery may charge a fee of no more than twenty-five cents for  
45 each wine OR CIDER sample tasted. The state liquor authority shall  
46 promulgate rules and regulations regarding such tastings as provided for  
47 in this subdivision.

48 (b) Tastings shall be conducted subject to the following limitations:

49 (i) wine AND CIDER tastings shall be conducted by an official agent,  
50 representative or solicitor of one or more wineries. Such agent, repre-  
51 sentative or solicitor shall be physically present at all times during  
52 the conduct of the tastings; and

53 (ii) any liability stemming from a right of action resulting from a  
54 wine OR CIDER tasting as authorized herein and in accordance with the  
55 provisions of sections 11-100 and 11-101 of the general obligations law,  
56 shall accrue to the winery licensee.

1 (c)(i) Any person having applied for and received a license as a  
2 winery under this section may conduct wine AND CIDER tastings of New  
3 York state labelled wines OR CIDERS and sell such wine OR CIDER by the  
4 bottle, during such tasting, for off-premises consumption at outdoor or  
5 indoor gatherings, functions, occasions or events, within the hours  
6 fixed by or pursuant to subdivision fourteen of section one hundred five  
7 of this chapter, sponsored by a bona fide charitable organization. For  
8 the purposes of this paragraph, a bona fide charitable organization  
9 shall mean and include any bona fide religious or charitable organiza-  
10 tion or bona fide educational, fraternal or service organization or bona  
11 fide organization of veterans or volunteer firefighters, which by its  
12 charter, certificate of incorporation, constitution, or act of the  
13 legislature, shall have among its dominant purposes one or more of the  
14 lawful purposes as defined in subdivision five of section one hundred  
15 eighty-six of the general municipal law.

16 (ii) Upon application, the liquor authority shall issue an annual  
17 permit authorizing such winery to participate in outdoor or indoor gath-  
18 erings, functions, occasions or events sponsored by a charitable organ-  
19 ization. The winery must give the authority written or electronic  
20 notice of the date, time and specific location of each tasting at least  
21 fifteen days prior to the tasting. A winery that obtains a permit to  
22 conduct such wine OR CIDER tastings does not need to apply for or obtain  
23 a temporary beer or wine permit pursuant to section ninety-seven of this  
24 chapter or any other permit to conduct such a tasting or to sell wine OR  
25 CIDER by the bottle for off-premises consumption at such tastings.

26 (iii) Such winery may charge a fee for each wine OR CIDER sample tast-  
27 ed. Tastings shall be conducted by an official agent, representative or  
28 solicitor of such winery. The state liquor authority may promulgate  
29 rules and regulations regarding such tastings as provided for in this  
30 subdivision.

31 4. A licensed winery may apply to the liquor authority for a license  
32 to sell wine OR ANY NEW YORK STATE LABELED CIDER at retail for consump-  
33 tion on the premises. All the provisions of this chapter relative to  
34 licenses to sell wine at retail for consumption on the premises shall  
35 apply so far as applicable to such application.

36 5. Notwithstanding any provision of this chapter to the contrary, any  
37 one or more winery licensees, singly or jointly, may apply to the liquor  
38 authority for a license or licenses to sell wine AND ANY NEW YORK STATE  
39 LABELED CIDER at retail for consumption off the premises. For licensees  
40 applying singly, the duration of such license shall be coextensive with  
41 the duration of such licensee's winery license, and the fee therefor  
42 shall be five hundred dollars if such retail premises is located in  
43 cities having a population of one million or more; in cities having less  
44 than one million population and more than one hundred thousand, two  
45 hundred fifty dollars; and elsewhere, the sum of one hundred twenty-five  
46 dollars. Such license shall entitle the holder thereof to sell at retail  
47 for consumption off the premises any New York state labelled wine OR  
48 CIDER. Such license shall also entitle the holder thereof to conduct  
49 wine AND CIDER tastings. Such license shall also authorize the sale by  
50 the holder thereof of New York state labelled wine OR CIDER, in sealed  
51 containers for off-premises consumption, from the specially licensed  
52 premises of any person licensed pursuant to section eighty-one-a of this  
53 article to sell wine at retail for consumption on premises in which the  
54 principal business is the operation of a legitimate theater or such  
55 other lawful adult entertainment or recreational facility as the liquor  
56 authority may classify for eligibility pursuant to subdivision six of

1 section sixty-four-a of this chapter. Not more than five such licenses  
2 shall be issued, either singly or jointly, to any licensed winery. All  
3 other provisions of this chapter relative to licenses to sell wine at  
4 retail for consumption off the premises shall apply so far as applicable  
5 to such application. The liquor authority is hereby authorized to adopt  
6 such rules as it may deem necessary to carry out the purpose of this  
7 subdivision, provided that all licenses issued pursuant to this subdivi-  
8 sion shall be subject to the same rules and regulations as are applica-  
9 ble to the sale of wine at retail for consumption off the premises of  
10 the winery licensee.

11 S 7. Subdivisions 2 and 3 of section 76-a of the alcoholic beverage  
12 control law, as added by chapter 221 of the laws of 2011, paragraph (c)  
13 of subdivision 2 as amended by chapter 384 of the laws of 2013, are  
14 amended to read as follows:

15 2. A farm winery license shall authorize the holder thereof to:

16 (a) operate a farm winery for the manufacture of wine or cider at the  
17 premises specifically designated in the license;

18 (b) sell in bulk from the licensed premises the products manufactured  
19 under such license OR ANY NEW YORK STATE LABELED CIDER to any winery  
20 licensee, any other farm winery licensee, any distiller licensee or to a  
21 permittee engaged in the manufacture of products which are unfit for  
22 beverage use and to sell or deliver such wine OR CIDER to persons  
23 outside the state pursuant to the laws of the place of such sale or  
24 delivery;

25 (c) sell from the licensed premises to a licensed winery, farm distil-  
26 ler, farm brewery, farm cidery, wholesaler or retailer, or to a corpo-  
27 ration operating railroad cars or aircraft for consumption on such  
28 carriers, or at retail for consumption off the premises, wine or cider  
29 manufactured by the licensee OR ANY NEW YORK STATE LABELED CIDER as  
30 above set forth and to sell or deliver such wine or cider to persons  
31 outside the state pursuant to the laws of the place of such sale or  
32 delivery. All wine or cider sold by such licensee for consumption off  
33 the premises shall be securely sealed and have attached thereto a label  
34 setting forth such information as shall be required by this chapter;

35 (d) operate, or use the services of, a custom crush facility as  
36 defined in subdivision nine-a of section three of this chapter;

37 (e) sell cider and wine at retail for consumption on or off the prem-  
38 ises;

39 (f) sell wine AND CIDER at retail for consumption on the premises of a  
40 restaurant, conference center, inn, bed and breakfast or hotel business  
41 owned and operated by the licensee in or adjacent to the farm winery for  
42 which the licensee is licensed. A licensee who operates a restaurant,  
43 conference center, inn, bed and breakfast or hotel pursuant to such  
44 authority shall comply with all applicable provisions of this chapter  
45 which relate to licenses to sell wine at retail for consumption on the  
46 premises.

47 3. (a) Any person having applied for and received a license as a farm  
48 winery under this section may conduct wine AND CIDER tastings of New  
49 York state labelled wines AND CIDERs in establishments licensed under  
50 section sixty-three of this chapter and section seventy-nine of this  
51 article to sell wine OR ANY NEW YORK STATE LABELED CIDER for off-premis-  
52 es consumption. Such farm winery may charge a fee for each wine OR CIDER  
53 sample tasted. The state liquor authority shall promulgate rules and  
54 regulations regarding such tastings as provided for in this subdivision.

55 (b) Any person having applied for and received a license as a farm  
56 winery under this section may conduct wine AND CIDER tastings of New

1 York state labelled wines AND CIDERS and apply to the liquor authority  
2 for a permit to sell wine produced by such farm winery OR ANY NEW YORK  
3 STATE LABELED CIDER, by the bottle, during such tastings in establish-  
4 ments licensed under sections sixty-four and sixty-four-a of this chap-  
5 ter and section eighty-one or section eighty-one-a of this article to  
6 sell wine for consumption on the premises. Such farm winery may charge a  
7 fee of no more than twenty-five cents for each wine OR CIDER sample  
8 tasted. The state liquor authority shall promulgate rules and regu-  
9 lations regarding such tastings as provided for in this subdivision.

10 (c) Tastings shall be conducted subject to the following limitations:

11 (i) wine OR CIDER tastings shall be conducted by an official agent,  
12 representative or solicitor of one or more farm wineries. Such agent,  
13 representative or solicitor shall be physically present at all times  
14 during the conduct of the tastings; and

15 (ii) any liability stemming from a right of action resulting from a  
16 wine tasting as authorized herein and in accordance with the provisions  
17 of sections 11-100 and 11-101 of the general obligations law, shall  
18 accrue to the farm winery.

19 (d) (i) Any person having applied for and received a license as a farm  
20 winery under this section may conduct wine AND CIDER tastings of New  
21 York state labelled wines AND CIDERS and sell such wine OR CIDER by the  
22 bottle, during such tasting, for off-premises consumption at outdoor or  
23 indoor gatherings, functions, occasions or events, within the hours  
24 fixed by or pursuant to subdivision fourteen of section one hundred five  
25 of this chapter, sponsored by a bona fide charitable organization. For  
26 the purposes of this paragraph, a bona fide charitable organization  
27 shall mean and include any bona fide religious or charitable organiza-  
28 tion or bona fide educational, fraternal or service organization or bona  
29 fide organization of veterans or volunteer firefighters, which by its  
30 charter, certificate of incorporation, constitution, or act of the  
31 legislature, shall have among its dominant purposes one or more of the  
32 lawful purposes as defined in subdivision five of section one hundred  
33 eighty-six of the general municipal law.

34 (ii) Upon application, the liquor authority shall issue an annual  
35 permit authorizing such farm winery to participate in such outdoor or  
36 indoor gatherings, functions, occasions or events sponsored by a chari-  
37 table organization. The farm winery must give the authority written or  
38 electronic notice of the date, time and specific location of each tast-  
39 ing at least fifteen days prior to the tasting. A farm winery that  
40 obtains a permit to conduct such wine OR CIDER tastings does not need to  
41 apply for or obtain a temporary beer or wine permit pursuant to section  
42 ninety-seven of this chapter or any other permit to conduct such a tast-  
43 ing or to sell wine OR CIDER by the bottle for off-premises consumption  
44 at such tastings.

45 (iii) Such farm winery may charge a fee for each wine OR CIDER sample  
46 tasted. Tastings shall be conducted by an official agent, represen-  
47 tative or solicitor of such farm winery. The state liquor authority may  
48 adopt rules and regulations regarding such tastings as provided in this  
49 subdivision.

50 S 8. Paragraph (a) of subdivision 7-b of section 3 of the alcoholic  
51 beverage control law, as amended by chapter 384 of the laws of 2013, is  
52 amended to read as follows:

53 (a) "Cider" means the partially or fully fermented juice of fresh,  
54 whole apples or other pome fruits, containing more than three and two-  
55 tenths per centum but not more than eight and one-half per centum alco-  
56 hol by volume: (i) to which nothing has been added to increase the alco-

1 holic content produced by natural fermentation; and (ii) with the usual  
2 cellar treatments and necessary additions to correct defects due to  
3 climate, [saccharine] SUGAR levels and seasonal conditions. Nothing  
4 contained in this subdivision shall be deemed to preclude the use of  
5 such methods or materials as may be necessary to encourage a normal  
6 alcoholic fermentation and to make a product that is free of microbi-  
7 ological activity at the time of sale. Cider may be sweetened or  
8 flavored after fermentation with fruit juice, fruit juice concentrate,  
9 sugar, maple syrup, honey, spices or other agricultural products, sepa-  
10 rately or in combination. Cider may contain retained or added carbon  
11 dioxide.

12 S 9. This act shall take effect on the one hundred eightieth day after  
13 it shall have become a law; provided, however, that effective immediate-  
14 ly, the addition, amendment and/or repeal of any rule or regulation  
15 necessary for the implementation of this act on its effective date are  
16 authorized and directed to be made and completed on or before such  
17 effective date.