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I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. CARLUCCI, GALLIVAN, GIPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- recommitted to the Committee on Agriculture in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the alcoholic beverage control law, in relation to the operation of home wine makers centers

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

1 Section 1. Section 76 of the alcoholic beverage control law is amended
2 by adding a new subdivision 14 to read as follows:
3 14. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, A LICENSED WINERY
4 SHALL BE AUTHORIZED TO OPERATE A HOME WINE MAKERS CENTER PURSUANT TO
5 SECTION NINETY-SEVEN-B OF THIS CHAPTER. PROVIDED, FURTHER, THAT A
6 WINERY MAY OPERATE SUCH A CENTER UPON THE SAME OR ADJACENT PREMISES AS
7 THE WINERY IS OPERATED SUBJECT TO THE PROVISIONS OF SECTION NINETY-SEV-
8 EN-B OF THIS CHAPTER AND FEDERAL LAW.
9 S 2. Section 76-a of the alcoholic beverage control law is amended by
10 adding a new subdivision 11 to read as follows:
11 11. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, A LICENSED FARM
12 WINERY SHALL BE AUTHORIZED TO OPERATE A HOME WINE MAKERS CENTER PURSUANT
13 TO SECTION NINETY-SEVEN-B OF THIS CHAPTER. PROVIDED, FURTHER, THAT A
14 FARM WINERY MAY OPERATE SUCH A CENTER UPON THE SAME OR ADJACENT PREMISES
15 AS THE FARM WINERY IS OPERATED SUBJECT TO THE PROVISIONS OF SECTION
16 NINETY-SEVEN-B OF THIS CHAPTER AND FEDERAL LAW.

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

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1 S 3. Section 83 of the alcoholic beverage control law is amended by
2 adding a new subdivision 9 to read as follows:

3 9. THE FEE FOR A WRITTEN CONSENT LETTER AUTHORIZING A WINERY OR FARM
4 WINERY TO OPERATE A HOME WINE MAKERS CENTER PURSUANT TO SECTION NINETY-
5 SEVEN-B OF THIS CHAPTER SHALL BE ONE HUNDRED TWENTY-FIVE DOLLARS.

6 S 4. Section 90 of the alcoholic beverage control law is amended by
7 adding a new subdivision 7-a to read as follows:

8 7-A. HOME WINE MAKERS CENTER PERMIT.

9 S 5. The alcoholic beverage control law is amended by adding a new
10 section 97-b to read as follows:

11 S 97-B. HOME WINE MAKERS CENTERS. 1. THE PROVISIONS OF THIS SECTION
12 SHALL APPLY TO HOME WINE MAKERS CENTERS. THE OPERATION OF HOME WINE
13 MAKERS CENTERS SHALL BE SUBJECT TO THE SUPERVISION OF THE LIQUOR AUTHOR-
14 ITY TO ENSURE COMPLIANCE WITH THE PROVISIONS OF FEDERAL LAW AND THE
15 RULES AND REGULATIONS OF THE FEDERAL ALCOHOL AND TOBACCO TAX AND TRADE
16 BUREAU RELATING TO SUCH CENTERS.

17 2. EVERY HOME WINE MAKERS CENTER SHALL HOLD A PERMIT ISSUED BY THE
18 LIQUOR AUTHORITY TO PROVIDE, FOR A FEE, FRUIT, AND EQUIPMENT AND STORAGE
19 FACILITIES FOR THE PRODUCTION OF WINE BY INDIVIDUALS FOR PERSONAL HOUSE-
20 HOLD USE AND NOT FOR RESALE IN ACCORDANCE WITH FEDERAL LAW, RULES AND
21 REGULATIONS AUTHORIZING THE PRODUCTION OF WINE FOR HOUSEHOLD PERSONAL OR
22 FAMILY USE. THE FEE FOR SUCH PERMIT SHALL BE ONE HUNDRED TWENTY-FIVE
23 DOLLARS A YEAR.

24 3. EVERY PERSON ENGAGING IN THE PRODUCTION OF WINE AT A HOME WINE
25 MAKERS CENTER:

26 (A) SHALL BE TWENTY-ONE YEARS OF AGE OR OLDER;

27 (B) SHALL BE LIMITED TO PRODUCING NOT MORE THAN ONE HUNDRED GALLONS OF
28 WINE DURING ANY CALENDAR YEAR; PROVIDED THAT IF THERE ARE ONE OR MORE
29 OTHER PERSONS WHO ARE TWENTY-ONE YEARS OF AGE RESIDING IN THE SAME
30 HOUSEHOLD AS SUCH PERSON, AND ALL OTHER SUCH PERSONS IN THE SAME HOUSE-
31 HOLD MAY PRODUCE AN AGGREGATE OF NOT MORE THAN TWO HUNDRED GALLONS OF
32 WINE FOR THE HOUSEHOLD DURING ANY CALENDAR YEAR;

33 (C) MAY REMOVE THE WINE HE OR SHE PRODUCES AT THE HOME WINE MAKERS
34 CENTER FOR THE PURPOSE OF PERSONAL USE, INCLUDING USE IN CONTESTS OR
35 TASTINGS;

36 (D) SHALL NOT PRODUCE WINE FOR SALE OR OFFER SUCH WINE FOR SALE;

37 (E) SHALL PRODUCE NOT LESS THAN FIVE GALLONS OF WINE IN EACH CALENDAR
38 YEAR;

39 (F) MAY JOINTLY PRODUCE WINE WITH PERSONS RESIDING IN A DIFFERENT
40 HOUSEHOLD OR HOUSEHOLDS AS LONG AS THE QUANTITY OF WINE MADE IS WITHIN
41 THE QUANTITY LIMITS SPECIFIED PURSUANT TO FEDERAL LAW, RULES AND REGU-
42 LATIONS;

43 (G) SHALL ACTIVELY PARTICIPATE IN THE PRODUCTION OF THE WINE;

44 (H) SHALL USE FRUIT GROWN OR PRODUCED IN THE STATE OF NEW YORK TO
45 PRODUCE THE WINE;

46 (I) SHALL ADD YEAST AND/OR OTHER INGREDIENTS TO THE GRAPE OR OTHER
47 FRUIT JUICE OR WINE;

48 (J) SHALL CAUSE THE FRUIT TO FERMENT;

49 (K) SHALL RACK, FILTER AND BOTTLE THE WINE;

50 (L) SHALL NOT ACCEPT ANY UNAUTHORIZED ASSISTANCE FROM THE HOME WINE
51 MAKERS CENTER, OR FROM ANY EMPLOYEE OR AGENT THEREOF; AND

52 (M) SHALL READ AND SIGN A STATEMENT THAT HE OR SHE UNDERSTANDS AND
53 AGREES TO COMPLY WITH THE PROVISIONS OF THIS SUBDIVISION.

54 4. NO HOME WINE MAKERS CENTER, NOR ANY EMPLOYEE OR AGENT THEREOF,
55 SHALL ASSIST ANY CUSTOMER IN THE PRODUCTION OF WINE, EXCEPT AS FOLLOWS:

1 (A) THE FURNISHING, SELLING OR RENTING OF SPACE, SUPPLIES AND EQUIP-
2 MENT, INGREDIENTS, FRUIT, AND BOTTLING SUPPLIES;

3 (B) THE PROVISION OF ADVICE AND TECHNICAL SERVICES TO CUSTOMERS AS
4 PROVIDED PURSUANT TO FEDERAL LAW, RULES AND REGULATIONS;

5 (C) THE MOVING OF CONTAINERS OF WINE BETWEEN STORAGE AREAS;

6 (D) THE PROVISION, MAINTENANCE, CLEANING AND REPAIR OF WINE MAKING
7 EQUIPMENT, SUCH AS PRESSES, PUMPS, FILTERS, BOTTLING EQUIPMENT AND OTHER
8 EQUIPMENT;

9 (E) THE PROVISION, RENTAL OR SALE OF STORAGE VESSELS, INCLUDING, BUT
10 NOT LIMITED TO, GLASS CARBOYS, WOODEN BARRELS OR OTHER STORAGE CONTAIN-
11 ERS FOR WINE FERMENTATION AND STORAGE;

12 (F) THE PROVISION OF A CLIMATE AND TEMPERATURE CONTROLLED SPACE FOR
13 WINE FERMENTATION AND STORAGE;

14 (G) THE DISPOSAL OF GRAPE PRESSINGS AND OTHER WASTES; AND

15 (H) THE PROVISION OF QUALITY CONTROL SERVICES, SUCH AS LABORATORY
16 ANALYSIS AND TASTING OF WINE FOR QUALITY CONTROL PURPOSES IN THE PRES-
17 ENCE OF THE HOME WINE MAKER.

18 5. NO HOME WINE MAKERS CENTER SHALL ALLOW, MAINTAIN OR STORE ANY
19 CONTAINER OF WINE IN EXCESS OF ONE HUNDRED GALLONS.

20 6. THE AGGREGATE PRODUCTION OF ALL INDIVIDUALS OR HOUSEHOLDS MAKING
21 WINE AT A HOME WINE MAKERS CENTER PURSUANT TO A HOME WINE MAKERS LICENSE
22 SHALL NOT EXCEED TEN THOUSAND GALLONS PER YEAR. PROVIDED, THAT SUCH
23 AGGREGATE PRODUCTION LIMIT SHALL NOT BE OFFSET BY WINES PRODUCED AT SUCH
24 FACILITY UNDER A WINERY OR FARM WINERY LICENSE.

25 7. THE LOCATION OF A FREE STANDING HOME WINE MAKERS CENTER MAY BE ON A
26 FARM OR OTHER PREMISES THAT IS NOT ASSOCIATED WITH A WINERY OR FARM
27 WINERY.

28 8. (A) A PERSON OR ENTITY LICENSED PURSUANT TO THIS CHAPTER MAY ALSO
29 BE AUTHORIZED AND HOLD A PERMIT TO OPERATE A HOME WINE MAKERS CENTER ON
30 THE SAME OR ADJACENT PREMISES OF A WINERY OR FARM WINERY, IF SUCH PERSON
31 OR ENTITY IS THE HOLDER OF:

32 (I) A WINERY LICENSE, PURSUANT TO SECTION SEVENTY-SIX OF THIS CHAPTER;
33 OR

34 (II) A FARM WINERY LICENSE, PURSUANT TO SECTION SEVENTY-SIX-A OF THIS
35 CHAPTER.

36 (B) NO WINERY OR FARM WINERY AUTHORIZED TO OPERATE A HOME WINE MAKERS
37 CENTER PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE ISSUED A
38 PERMIT PURSUANT TO THIS SECTION, UNLESS THE LIQUOR AUTHORITY GRANTS A
39 WRITTEN CONSENT LETTER THERETO. THE LIQUOR AUTHORITY, IN GRANTING ITS
40 CONSENT, SHALL DETERMINE WHETHER THE APPLICANT COMPLIES OR WILL COMPLY
41 WITH THE PROVISIONS OF FEDERAL LAW AND THE RULES AND REGULATIONS OF THE
42 FEDERAL ALCOHOL AND TOBACCO TAX AND TRADE BUREAU RELATING TO HOME WINE
43 MAKERS CENTERS. IF THE WINERY OR FARM WINERY APPLYING FOR CONSENT
44 COMPLIES WITH SUCH FEDERAL LAW, RULES AND REGULATIONS THE LIQUOR AUTHOR-
45 ITY SHALL GRANT ITS WRITTEN CONSENT FOR THE OPERATION OF A HOME WINE
46 MAKERS CENTER. SUCH AUTHORITY SHALL NOT ESTABLISH ANY ADDITIONAL
47 REQUIREMENT FOR THE GRANTING OF ITS WRITTEN CONSENT.

48 (C) THE OPERATIONS OF A HOME WINE MAKERS CENTER OPERATED BY ANY WINERY
49 OR FARM WINERY SHALL BE SEGREGATED FROM THE PORTION OF SUCH WINERY OR
50 FARM WINERY IN WHICH WINE SUBJECT TO THE PROVISIONS OF THIS CHAPTER IS
51 FERMENTED, PROCESSED, BOTTLED, STORED, SHIPPED AND SOLD. PROVIDED,
52 HOWEVER, THAT A WINERY OR FARM WINERY MAY SHARE ITS WINE MAKING EQUIP-
53 MENT WITH A LICENSED HOME WINE MAKERS CENTER AS LONG AS ALL HOME MADE
54 WINES PRODUCED BY SUCH EQUIPMENT IS SEGREGATED FROM SUCH PORTION OF THE
55 PREMISES IN WHICH A WINERY OR FARM WINERY IS LOCATED.

1 9. FOR THE PURPOSES OF THIS SECTION, "FRUIT" SHALL MEAN GRAPES, OTHER
2 FRUITS, FRUIT JUICES AND OTHER AGRICULTURAL PRODUCTS INCLUDING, BUT NOT
3 LIMITED TO, HONEY, FLOWERS AND VEGETABLES.

4 S 6. This act shall take effect on the first of January next succeed-
5 ing the date on which it shall have become a law; provided, that, effec-
6 tive immediately any rules, regulations or other actions necessary to
7 implement the provisions of this act on its effective date are author-
8 ized and directed to be completed on or before such date.