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

6293

I N S E N A T E

(PREFILED)

January 6, 2016

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to the registration of kegs

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

Section 1. The alcoholic beverage control law is amended by adding a new section 105-c to read as follows:

S 105-C. REGISTRATION OF BULK RETAIL SALES OF BEER FOR OFF-PREMISES CONSUMPTION. 1. DEFINITION. AS USED IN THIS SECTION, THE TERM "KEG" SHALL MEAN A VESSEL CONTAINING FOUR OR MORE GALLONS OF BEER.

2. NO PERSON LICENSED TO SELL BEER AT RETAIL FOR OFF-PREMISES CONSUMPTION PURSUANT TO THIS CHAPTER SHALL SELL SUCH BEER BY THE KEG UNLESS SUCH KEG SHALL HAVE AN IDENTIFICATION LABEL OR TAG ATTACHED THERETO. AN IDENTIFICATION LABEL OR TAG SHALL CONSIST OF PAPER WITHIN A CLEAR PROTECTIVE COATING, PLASTIC, METAL OR ANOTHER DURABLE MATERIAL THAT IS NOT EASILY DAMAGED OR DESTROYED. IDENTIFICATION LABELS USED MAY CONTAIN A NONPERMANENT ADHESIVE MATERIAL IN ORDER TO APPLY THE LABEL DIRECTLY TO AN OUTSIDE SURFACE OF A KEG AT THE TIME OF SALE. IDENTIFICATION TAGS SHALL BE ATTACHED TO THE KEG AT THE TIME OF SALE WITH NYLON TIES OR CORDING, WIRE TIES OR OTHER METAL ATTACHMENT DEVICES, OR ANOTHER DURABLE MEANS OF TYING OR ATTACHING THE TAG TO THE KEG. SUCH IDENTIFICATION LABEL OR TAG SHALL BE DESIGNED SO THAT WHEN AFFIXED TO A KEG, SUCH LABELS OR TAGS WILL NOT MAR OR OTHERWISE PHYSICALLY DAMAGE THE KEG. SUCH IDENTIFICATION LABEL OR TAG SHALL INCLUDE THE NAME AND ADDRESS OF THE RETAIL LICENSEE, THE NAME OF THE PURCHASER, AND AN INDIVIDUAL IDENTIFICATION NUMBER ASSIGNED BY THE RETAILER THAT UNIQUELY IDENTIFIES SUCH KEG. THE IDENTIFICATION LABEL OR TAG SHALL BE KEPT ON FILE WITH THE LICENSEE FOR NOT LESS THAN NINETY DAYS FROM THE DATE OF RETURN.

3. PRIOR TO THE RETAIL SALE OF BEER IN BULK BY THE KEG FOR OFF-PREMISES CONSUMPTION, THE RETAIL LICENSEE SHALL CAUSE THE PURCHASER THEREOF TO SIGN A STATEMENT PROMULGATED BY THE AUTHORITY ATTESTING UNDER THE PENAL-

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

LBD13035-01-5

TY OF PERJURY THE ACCURACY OF THE PURCHASER'S NAME AS SHOWN ON THE IDENTIFICATION LABEL OR TAG, AND THAT THE PURCHASER WILL NOT ALLOW CONSUMPTION OF ANY OF THE BEER IN THE KEG IN VIOLATION OF THE PROVISIONS OF SECTIONS SIXTY-FIVE-A, SIXTY-FIVE-B AND SIXTY-FIVE-C OF THIS CHAPTER, AND SECTION 260.20 OF THE PENAL LAW. THE LICENSEE SHALL ALSO RECORD:

(A) THE NAME AND ADDRESS OF THE PURCHASER;

(B) THE IDENTIFICATION CARD NUMBER FROM THE PURCHASER'S ACCEPTABLE DOCUMENTATION OF AGE AS PROVIDED IN PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION SIXTY-FIVE-B OF THIS CHAPTER;

(C) THE AMOUNT OF THE CONTAINER DEPOSIT AND THE REGISTRATION DEPOSIT;

(D) THE DATE AND TIME OF THE PURCHASE; AND

(E) THE KEG IDENTIFICATION NUMBER REQUIRED UNDER SUBDIVISION TWO OF THIS SECTION.

4. ALL SUCH RECORDS AND STATEMENTS SHALL BE MAINTAINED BY THE LICENSEE FOR A PERIOD OF NINETY DAYS FROM THE DATE OF RETURN. SUCH RECORD AND STATEMENTS SHALL REMAIN OPEN TO INSPECTION BY AUTHORIZED AGENTS OF THE AUTHORITY AND LAW ENFORCEMENT OFFICERS DURING THE LICENSEE'S NORMAL BUSINESS HOURS.

5. UPON THE RETAIL SALE OF BEER BY THE KEG FOR OFF-PREMISES CONSUMPTION, THE RETAIL LICENSEE SHALL COLLECT A FIFTY DOLLAR REGISTRATION DEPOSIT ON EACH KEG OF BEER PURCHASED. THE REGISTRATION DEPOSIT SHALL BE COLLECTED IN ADDITION TO THE PURCHASE PRICE OF THE BEER, TAXES THEREON AND ANY OTHER DEPOSIT COLLECTED BY THE LICENSEE. UPON THE RETURN OF A KEG TO SUCH LICENSEE WITH THE IDENTIFICATION LABEL OR TAG INTACT, THE REGISTRATION DEPOSIT SHALL BE RETURNED TO THE PURCHASER AND THE RETAIL LICENSEE SHALL REMOVE SUCH LABEL OR TAG FROM EACH SUCH KEG. THE REGISTRATION DEPOSIT ON EACH KEG RETURNED WITHOUT THE IDENTIFICATION LABEL OR TAG REQUIRED BY THIS SECTION SHALL BE FORFEITED. THE REGISTRATION DEPOSIT UPON ANY KEG NOT RETURNED TO THE RETAIL LICENSEE WITHIN THIRTY DAYS OF THE DATE OF PURCHASE SHALL BE FORFEITED.

6. IN ADDITION TO THE DEPOSIT COLLECTED PURSUANT TO SUBDIVISION FIVE OF THIS SECTION, THE RETAIL LICENSEE SHALL COLLECT A TWENTY-FIVE DOLLAR DEPOSIT ON EACH TAP PROVIDED TO A CUSTOMER. THE DEPOSIT SHALL BE COLLECTED IN ADDITION TO THE PURCHASE PRICE OF THE BEER, TAXES THEREON, AND ANY OTHER DEPOSIT COLLECTED BY THE LICENSEE. UPON THE RETURN OF SUCH TAP, THE DEPOSIT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL BE IMMEDIATELY RETURNED TO THE CUSTOMER. THE DEPOSIT FOR ANY TAP NOT RETURNED WITHIN THIRTY DAYS FROM THE DATE OF PURCHASE SHALL BE FORFEITED.

7. NO PERSON OTHER THAN THE LICENSEE, A LICENSED WHOLESALER, A PEACE OFFICER, OR AN AGENT OF THE AUTHORITY MAY INTENTIONALLY REMOVE AN IDENTIFICATION LABEL OR TAG PLACED ON A KEG. THE POSSESSION OF A BEER KEG WITHOUT AN IDENTIFICATION LABEL OR TAG OR WITH A DAMAGED LABEL OR TAG IN VIOLATION OF THIS SECTION, OR THE REMOVAL OR DAMAGE OF AN IDENTIFICATION LABEL OR TAG IN VIOLATION OF THIS SECTION SHALL BE SUBJECT TO A FINE OF NO LESS THAN TWO HUNDRED FIFTY DOLLARS NOR MORE THAN FOUR HUNDRED FIFTY DOLLARS.

8. THE AUTHORITY IS AUTHORIZED TO PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION. THE AUTHORITY SHALL MAKE READILY AVAILABLE TO LICENSEES ANY KEG IDENTIFICATION LABELS OR TAGS REQUIRED BY SUBDIVISION ONE OF THIS SECTION FOR THE COST OF MANUFACTURING SUCH TAGS OR LABELS.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.