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

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2015-2016 Regular Sessions

I N A S S E M B L Y

January 8, 2015

Introduced by M. of A. MAGEE, LUPARDO -- Multi-Sponsored by -- M. of A. CLARK -- read once and referred to the Committee on Agriculture

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:

Section 1. Section 76 of the alcoholic beverage control law is amended by adding a new subdivision 15 to read as follows:

15. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, A LICENSED WINERY SHALL BE AUTHORIZED TO OPERATE A HOME WINE MAKERS CENTER PURSUANT TO SECTION NINETY-SEVEN-B OF THIS CHAPTER. PROVIDED, FURTHER, THAT A WINERY MAY OPERATE SUCH A CENTER UPON THE SAME OR ADJACENT PREMISES AS THE WINERY IS OPERATED SUBJECT TO THE PROVISIONS OF SECTION NINETY-SEVEN-B OF THIS CHAPTER AND FEDERAL LAW.

S 2. Section 76-a of the alcoholic beverage control law is amended by adding a new subdivision 11 to read as follows:

11. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, A LICENSED FARM WINERY SHALL BE AUTHORIZED TO OPERATE A HOME WINE MAKERS CENTER PURSUANT TO SECTION NINETY-SEVEN-B OF THIS CHAPTER. PROVIDED, FURTHER, THAT A FARM WINERY MAY OPERATE SUCH A CENTER UPON THE SAME OR ADJACENT PREMISES AS THE FARM WINERY IS OPERATED SUBJECT TO THE PROVISIONS OF SECTION NINETY-SEVEN-B OF THIS CHAPTER AND FEDERAL LAW.

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

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

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

7-A. HOME WINE MAKERS CENTER PERMIT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(J) SHALL CAUSE THE FRUIT TO FERMENT;

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

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

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

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

(A) THE FURNISHING, SELLING OR RENTING OF SPACE, SUPPLIES AND EQUIPMENT, INGREDIENTS, FRUIT, AND BOTTLING SUPPLIES;

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

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

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

(E) THE PROVISION, RENTAL OR SALE OF STORAGE VESSELS, INCLUDING, BUT NOT LIMITED TO, GLASS CARBOYS, WOODEN BARRELS OR OTHER STORAGE CONTAINERS FOR WINE FERMENTATION AND STORAGE;

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

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

(H) THE PROVISION OF QUALITY CONTROL SERVICES, SUCH AS LABORATORY ANALYSIS AND TASTING OF WINE FOR QUALITY CONTROL PURPOSES IN THE PRESENCE OF THE HOME WINE MAKER.

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

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

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

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

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

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

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

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

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

S 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, that, effective immediately any rules, regulations or other actions necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.