

3430

2015-2016 Regular Sessions

I N S E N A T E

February 9, 2015

Introduced by Sens. KRUEGER, DILAN, HASSELL-THOMPSON, PARKER, PERKINS, SAMPSON -- 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, in relation to enacting the wine industry and liquor store revitalization act; and to repeal certain provisions of such law relating thereto

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

1 Section 1. This act shall be known and may be cited as the "wine
2 industry and liquor store revitalization act".
3 S 2. Subdivisions 4 and 5 of section 63 of the alcoholic beverage
4 control law, subdivision 4 as amended by chapter 603 of the laws of
5 1992, are amended and five new subdivisions 7, 8, 9, 10, and 11 are
6 added to read as follows:
7 4. (A) No licensee under this section shall be engaged in any other
8 business on the licensed premises. The SALE OF PRODUCTS COMPLEMENTARY TO
9 THE BUSINESS OF THE LICENSED PREMISES SHALL NOT CONSTITUTE ENGAGING IN
10 ANOTHER BUSINESS WITHIN THE MEANING OF THIS SUBDIVISION. SUCH PRODUCTS
11 SHALL INCLUDE BUT NOT BE LIMITED TO THE sale of lottery tickets, when
12 duly authorized and lawfully conducted, the sale of corkscrews or the
13 sale of ice or the sale of publications, including prerecorded video
14 and/or audio cassette tapes, designed to help educate consumers in their
15 knowledge and appreciation of wine and wine products, as defined in
16 section three of this chapter, or the sale of [non-carbonated, non-fla-
17 vored mineral waters, spring waters and drinking waters] NON-ALCOHOLIC
18 BEVERAGES FOR CONSUMPTION ON OR OFF PREMISES, INCLUDING BUT NOT LIMITED
19 TO BOTTLED WATER, JUICE AND SODA BEVERAGES, OR THE SALE OF TOBACCO
20 PRODUCTS OR HERBAL CIGARETTES, PROVIDED THE LICENSEE COMPLIES WITH
21 SECTION THIRTEEN HUNDRED NINETY-NINE-CC OF THE PUBLIC HEALTH LAW, OR THE
22 SALE AT RETAIL OF CIGARS WHICH HAVE BEEN PREPACKAGED BY THE MANUFACTURER

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

LBD03360-01-5

1 IN BOXES OF TEN OR MORE, OR THE SALE OF PUBLICATIONS DESIGNED TO HELP
2 EDUCATE CONSUMERS IN THEIR KNOWLEDGE AND APPRECIATION OF CIGAR PRODUCTS,
3 OR FOOD ITEMS, WHICH SHALL INCLUDE LOCALLY PRODUCED FARM PRODUCTS AND
4 ANY FOOD OR FOOD PRODUCT NOT SPECIFICALLY PREPARED FOR IMMEDIATE
5 CONSUMPTION UPON THE PREMISES, OR THE SALE OF GIFT BAGS AND GIFT BASKETS
6 INCLUDING, BUT NOT LIMITED TO, SHOT GLASSES, SINGLE MALT SCOTCH GLASSES,
7 GRAPPA GLASSES, DECANTERS, OTHER GLASSWARE, FOOD OR FARM PRODUCTS NOT
8 SPECIFICALLY PREPARED FOR IMMEDIATE CONSUMPTION UPON THE PREMISES, ALL
9 OF WHICH IS RELATED TO THE CONSUMPTION AND ENJOYMENT OF WINE AND SPIRITS
10 or the sale of glasses designed for the consumption of wine, racks
11 designed for the storage of wine, and devices designed to minimize
12 oxidation in bottles of wine which have been uncorked[, shall not
13 constitute engaging in another business within the meaning of this
14 subdivision].

15 (B) THE INSTALLATION AND OPERATION OF AUTOMATED TELLER MACHINES SHALL
16 NOT CONSTITUTE ENGAGING IN ANOTHER BUSINESS WITHIN THE MEANING OF THIS
17 SUBDIVISION. FOR PURPOSES OF THIS SUBDIVISION, "AUTOMATED TELLER
18 MACHINE" MEANS A DEVICE WHICH IS LINKED TO THE ACCOUNTS AND RECORDS OF A
19 BANKING INSTITUTION AND WHICH ENABLES CONSUMERS TO CARRY OUT BANKING
20 TRANSACTIONS, INCLUDING, BUT NOT LIMITED TO, ACCOUNT TRANSFERS, DEPOS-
21 ITS, CASH WITHDRAWALS, BALANCE INQUIRIES, AND LOAN PAYMENTS.

22 5. [Not more than one license shall be] NOTHING IN THIS SECTION SHALL
23 BE CONSTRUED TO PROHIBIT MULTIPLE LICENSES FROM BEING granted to any
24 person under this section.

25 7. ANY LICENSE OBTAINED UNDER THIS SECTION INCLUDES AUTHORIZATION TO
26 SELL ALCOHOLIC BEVERAGES FOR RESALE TO LICENSED PREMISES FOR ON-PREMISES
27 CONSUMPTION AS LICENSED BY SECTIONS FIFTY-FIVE, SIXTY-FOUR,
28 SIXTY-FOUR-A, SEVENTY-NINE-B, AND EIGHTY-ONE OF THIS CHAPTER AS PROVIDED
29 IN SUBDIVISIONS THREE-A AND THREE-B OF SECTION ONE HUNDRED TWO OF THIS
30 CHAPTER.

31 8. COMMENCING ON THE EFFECTIVE DATE OF THIS SUBDIVISION, NO ADDITIONAL
32 LICENSES SHALL BE ISSUED PURSUANT TO THIS SECTION EXCEPT AS OUTLINED IN
33 SUBDIVISION NINE OF THIS SECTION. THE PROVISIONS OF THIS SUBDIVISION
34 SHALL NOT APPLY TO (A) THE RENEWAL, TRANSFER OR CONTINUANCE OF A LICENSE
35 PURSUANT TO THIS CHAPTER, (B) AN APPLICATION FOR A LICENSE FILED BEFORE
36 THE EFFECTIVE DATE OF THIS SUBDIVISION, (C) THE ISSUANCE OF A LICENSE IN
37 ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, TO A PERSON WHO
38 PURCHASED THE BUSINESS OPERATIONS OF A LICENSEE, PROVIDED, HOWEVER, THAT
39 ANY PERSON LICENSED UNDER THIS SECTION SHALL MAKE AN APPLICATION TO THE
40 LIQUOR AUTHORITY PRIOR TO SELLING ITS LICENSE TO ANOTHER PERSON.

41 9. ANY EXISTING LICENSE ISSUED UNDER THIS SECTION WHICH IS CANCELED OR
42 REVOKED BY THE LIQUOR AUTHORITY MAY BE AUCTIONED OFF TO THE HIGHEST
43 BIDDER, PROVIDED THAT THE PERSON MEETS ALL THE APPLICABLE REQUIREMENTS.
44 THE AMOUNT OF THE SALE OF THE EXISTING LICENSE AS AUTHORIZED IN THIS
45 SUBDIVISION SHALL BE SUBJECT TO SALES AND COMPENSATING USE TAX AS
46 IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF THE TAX LAW.

47 10. EACH EXISTING LICENSEE SHALL BE AUTHORIZED TO APPLY FOR ONE ADDI-
48 TIONAL LICENSE FOR RETAIL SALE OF LIQUOR FOR CONSUMPTION OFF THE PREM-
49 ISES FOR USE IN THE ESTABLISHMENT OF ANOTHER LICENSED PREMISES, PROVIDED
50 HOWEVER, THE ADDITIONAL PREMISES COMPLIES WITH ALL APPLICABLE
51 RESTRICTIONS AND REQUIREMENTS. THE ADDITIONAL LICENSE ISSUED BY THE
52 AUTHORITY UNDER THIS SUBDIVISION MAY BE SOLD PROVIDED THE PURCHASER
53 MEETS ALL APPLICABLE REQUIREMENTS, WHICH SALE SHALL BE SUBJECT TO SALES
54 AND COMPENSATING USE TAX AS IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF
55 THE TAX LAW. THE AUTHORIZATION FOR THE ESTABLISHMENT OF A NEW PREMISES

OR SALE OF THE ADDITIONAL LICENSE UNDER THIS SUBDIVISION SHALL EXPIRE THREE YEARS FROM THE EFFECTIVE DATE OF THIS SUBDIVISION.

11. THE AUTHORITY IS AUTHORIZED TO AUCTION OFF TO THE HIGHEST BIDDER, PROVIDED THAT THE PERSON MEETS ALL THE APPLICABLE REQUIREMENTS, ADDITIONAL LICENSES FOR THE SALE OF LIQUOR OR WINE OR BOTH AT RETAIL FOR CONSUMPTION OFF THE PREMISES. THE REVENUE FROM THIS SALE SHALL BE ALLOCATED FOR THE INCREASED LICENSURE AND ENFORCEMENT EFFORTS OF THE AUTHORITY. THE AUTHORITY SHALL BE AUTHORIZED TO SELL NO MORE THAN FIFTEEN ADDITIONAL LICENSES EVERY TWO YEARS, BEGINNING ON APRIL FIRST, TWO THOUSAND NINETEEN.

S 3. Section 79 of the alcoholic beverage control law is amended by adding four new subdivisions 5, 6, 7, and 8 to read as follows:

5. ANY LICENSE OBTAINED UNDER THIS SECTION INCLUDES AUTHORIZATION TO SELL ALCOHOLIC BEVERAGES FOR RESALE TO LICENSED PREMISES FOR ON-PREMISES CONSUMPTION AS LICENSED BY SECTIONS FIFTY-FIVE, SIXTY-FOUR, SIXTY-FOUR-A, SEVENTY-NINE-B, AND EIGHTY-ONE OF THIS CHAPTER AS PROVIDED IN SUBDIVISIONS THREE-A AND THREE-B OF SECTION ONE HUNDRED TWO OF THIS CHAPTER.

6. COMMENCING ON THE EFFECTIVE DATE OF THIS SUBDIVISION, NO ADDITIONAL LICENSES SHALL BE ISSUED PURSUANT TO THIS SECTION EXCEPT AS OUTLINED IN SUBDIVISION SEVEN OF THIS SECTION. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO (A) THE RENEWAL, TRANSFER OR CONTINUANCE OF A LICENSE PURSUANT TO THIS CHAPTER, (B) AN APPLICATION FOR A LICENSE FILED BEFORE THE EFFECTIVE DATE OF THIS SUBDIVISION, (C) THE ISSUANCE OF A LICENSE IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, TO A PERSON WHO PURCHASED THE BUSINESS OPERATIONS OF A LICENSEE, PROVIDED, HOWEVER, THAT ANY PERSON LICENSED UNDER THIS SECTION SHALL MAKE AN APPLICATION TO THE LIQUOR AUTHORITY PRIOR TO SELLING ITS LICENSE TO ANOTHER PERSON.

7. ANY EXISTING LICENSE ISSUED UNDER THIS SECTION WHICH IS CANCELED OR REVOKED BY THE LIQUOR AUTHORITY MAY BE AUCTIONED OFF TO THE HIGHEST BIDDER, PROVIDED THAT THE PERSON MEETS ALL THE APPLICABLE REQUIREMENTS. THE AMOUNT OF THE SALE OF THE EXISTING LICENSE AS AUTHORIZED IN THIS SUBDIVISION SHALL BE SUBJECT TO SALES AND COMPENSATING USE TAX AS IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF THE TAX LAW.

8. EACH EXISTING LICENSEE SHALL BE AUTHORIZED TO APPLY FOR ONE ADDITIONAL LICENSE FOR RETAIL SALE OF LIQUOR FOR CONSUMPTION OFF THE PREMISES FOR USE IN THE ESTABLISHMENT OF ANOTHER LICENSED PREMISES, PROVIDED HOWEVER, THE ADDITIONAL PREMISES COMPLIES WITH ALL APPLICABLE RESTRICTIONS AND REQUIREMENTS. THE ADDITIONAL LICENSE ISSUED BY THE AUTHORITY UNDER THIS SUBDIVISION AS WELL AS ANY EXISTING LICENSE ISSUED UNDER THIS SECTION MAY BE SOLD PROVIDED THE PURCHASER MEETS ALL APPLICABLE REQUIREMENTS, WHICH SALE SHALL BE SUBJECT TO SALES AND COMPENSATING USE TAX AS IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF THE TAX LAW. THE AUTHORIZATION FOR THE ESTABLISHMENT OF A NEW PREMISES OR SALE OF THE ADDITIONAL LICENSE UNDER THIS SUBDIVISION SHALL EXPIRE THREE YEARS FROM THE EFFECTIVE DATE OF THIS SUBDIVISION.

S 4. Section 83 of the alcoholic beverage control law is amended by adding a new subdivision 9 to read as follows:

9. THE ANNUAL FEE FOR A GROCERY OR DRUG STORE WINE LICENSE PURSUANT TO SECTION SEVENTY-NINE-E OF THIS ARTICLE SHALL BE ONE HUNDRED TEN DOLLARS. WHERE, HOWEVER, THE APPLICANT IS THE HOLDER OF TWO OR MORE SUCH LICENSES, THE ANNUAL FEE FOR EACH ADDITIONAL LICENSE SHALL BE DOUBLE THE AMOUNT HEREINABOVE SET FORTH.

S 5. Subdivision 2-a of section 100 of the alcoholic beverage control law, as amended by chapter 249 of the laws of 2002, is amended to read as follows:

1 2-a. No retailer shall employ, or permit to be employed, or shall
2 suffer to work, on any premises licensed for retail sale hereunder, any
3 person under the age of eighteen years, as a hostess, waitress, waiter,
4 or in any other capacity where the duties of such person require or
5 permit such person to sell, dispense or handle alcoholic beverages;
6 except that: (1) any person under the age of eighteen years and employed
7 by any person holding a grocery or drug store beer license shall be
8 permitted to handle and deliver beer and wine products for such licen-
9 see, (2) any person under the age of eighteen employed as a cashier by a
10 person holding a grocery or drug store beer license shall be permitted
11 to record and receive payment for beer and wine product sales when in
12 the presence of and under the direct supervision of a person eighteen
13 years of age or over, (2-a) any person under the age of eighteen years
14 and employed by a person holding a grocery store or drug store beer
15 license as either a cashier or in any other position to which handling
16 of containers which may have held alcoholic beverages is necessary,
17 shall be permitted to handle the containers if such have been presented
18 for redemption in accordance with the provisions of title ten of article
19 twenty-seven of the environmental conservation law, [and] (3) any person
20 under the age of eighteen years employed as a dishwasher, busboy, or
21 other such position as to which handling of containers which may have
22 held alcoholic beverages is necessary shall be permitted to do so under
23 the direct supervision of a person of legal age to purchase alcoholic
24 beverages in the state, (4) ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS
25 AND EMPLOYED BY ANY PERSON HOLDING A GROCERY OR DRUG STORE WINE LICENSE
26 SHALL BE PERMITTED TO HANDLE AND DELIVER WINE FOR SUCH LICENSEE, AND (5)
27 ANY PERSON UNDER THE AGE OF EIGHTEEN EMPLOYED AS A CASHIER BY A PERSON
28 HOLDING A GROCERY OR DRUG STORE WINE LICENSE SHALL BE PERMITTED TO
29 RECORD AND RECEIVE PAYMENT FOR WINE WHEN IN THE PRESENCE OF AND UNDER
30 THE DIRECT SUPERVISION OF A PERSON EIGHTEEN YEARS OF AGE OR OVER.

31 S 6. Section 100 of the alcoholic beverage control law is amended by
32 adding a new subdivision 2-c to read as follows:

33 2-C. NO PERSON SHALL SELL, DELIVER OR GIVE AWAY OR CAUSE OR PERMIT OR
34 PROCURE TO BE SOLD, DELIVERED OR GIVEN AWAY ANY ALCOHOLIC BEVERAGES TO
35 ANY PERSON, ACTUALLY OR APPARENTLY, UNDER THE AGE OF TWENTY-ONE YEARS.
36 AS A PRECONDITION TO THE SALE OF ANY ALCOHOLIC BEVERAGE, THE PURCHASER
37 OF ANY ALCOHOLIC BEVERAGE MUST PROVIDE WRITTEN EVIDENCE OF AGE. NO
38 LICENSEE, OR AGENT OR EMPLOYEE OF A LICENSEE UNDER THIS CHAPTER, SHALL
39 ACCEPT AS WRITTEN EVIDENCE OF AGE BY ANY SUCH PERSON FOR THE PURCHASE OF
40 ANY ALCOHOLIC BEVERAGE, ANY DOCUMENTATION OTHER THAN: (A) A VALID DRIV-
41 ER'S LICENSE OR NON-DRIVER IDENTIFICATION CARD ISSUED BY THE COMMISSION-
42 ER OF MOTOR VEHICLES, THE FEDERAL GOVERNMENT, ANY UNITED STATES TERRITO-
43 RY, COMMONWEALTH OR POSSESSION, THE DISTRICT OF COLUMBIA, A STATE
44 GOVERNMENT WITHIN THE UNITED STATES OR A PROVINCIAL GOVERNMENT OF THE
45 DOMINION OF CANADA, OR (B) A VALID PASSPORT ISSUED BY THE UNITED STATES
46 GOVERNMENT OR ANY OTHER COUNTRY, OR (C) AN IDENTIFICATION CARD ISSUED BY
47 THE ARMED FORCES OF THE UNITED STATES.

48 S 7. Paragraph (a) of subdivision 14 of section 105 of the alcoholic
49 beverage control law, as amended by section 1 of part U of chapter 63 of
50 the laws of 2003, is amended to read as follows:

51 (a) No premises licensed to sell liquor and/or wine for off-premises
52 consumption shall be permitted to remain open:

53 (i) On Sunday before [twelve o'clock post meridian] EIGHT O'CLOCK
54 ANTEMERIDIAN and after nine o'clock post meridian.

55 (ii) On any day between [midnight and] THREE O'CLOCK ANTEMERIDIAN AND
56 eight o'clock antemeridian.

1 [(iii) On the twenty-fifth day of December, known as Christmas day.]
2 In any community where daylight saving time is in effect, such time
3 shall be deemed the standard time for the purpose of this subdivision.

4 S 8. Section 105 of the alcoholic beverage control law is amended by
5 adding a new subdivision 24 to read as follows:

6 24. COOPERATIVE AGREEMENTS BY LICENSEES TO SELL AT RETAIL FOR CONSUMP-
7 TION ON THE PREMISES. ANY TWO OR MORE RETAIL LICENSEES FOR OFF-PREMISES
8 CONSUMPTION MAY JOIN IN A COOPERATIVE AGREEMENT TO MAKE JOINT PURCHASES
9 OF ALCOHOLIC BEVERAGES IN LARGER QUANTITIES THAN MIGHT OTHERWISE BE
10 PURCHASED; PROVIDED, HOWEVER, THAT ALL ALCOHOLIC BEVERAGES PURCHASED
11 PURSUANT TO ANY SUCH AGREEMENT SHALL BE DISTRIBUTED TO NONE OTHER THAN A
12 LICENSEE WHO IS A PARTY TO SUCH AGREEMENT.

13 S 9. Subdivisions 3-a and 3-b of section 102 of the alcoholic beverage
14 control law, as amended by chapter 458 of the laws of 1993, are amended
15 to read as follows:

16 3-a. No licensee or permittee shall purchase or agree to purchase any
17 alcoholic beverages from any person within the state who is not duly
18 licensed to sell such alcoholic beverage as the case may be, at the time
19 of such agreement and sale nor give any order for any alcoholic beverage
20 to any individual who is not the holder of a solicitor's permit, except
21 as provided for in section eighty-five [or], ninety-nine-g, OR SEVENTY-
22 NINE-E, OR SUBDIVISION TEN OF SECTION SIXTY-THREE of this chapter.

23 3-b. No retail licensee shall purchase, agree to purchase or receive
24 any alcoholic beverage except from a person duly licensed within the
25 state by the liquor authority to sell such alcoholic beverage at the
26 time of such agreement and sale to such retail licensee, except as
27 provided for in section eighty-five [or], ninety-nine-g, OR
28 SEVENTY-NINE-E, OR SUBDIVISION TEN OF SECTION SIXTY-THREE of this chap-
29 ter.

30 S 10. Subdivision 2 of section 79 of the alcoholic beverage control
31 law is amended to read as follows:

32 2. [Not more than one license shall be] NOTHING IN THIS SECTION SHALL
33 BE CONSTRUED TO PROHIBIT MULTIPLE LICENSES FROM BEING granted to any
34 person under this section.

35 S 11. Subdivision 2 of section 105 of the alcoholic beverage control
36 law is REPEALED.

37 S 12. Subdivision 7 of section 105 of the alcoholic beverage control
38 law is REPEALED.

39 S 13. The alcoholic beverage control law is amended by adding a new
40 section 79-e to read as follows:

41 S 79-E. GROCERY OR DRUG STORE WINE LICENSE. 1. ANY PERSON MAY APPLY TO
42 THE AUTHORITY FOR A LICENSE TO SELL FROM THE LICENSED PREMISES WINE IN
43 SEALED CONTAINERS FOR CONSUMPTION OFF SUCH PREMISES.

44 2. NO SUCH LICENSE SHALL BE ISSUED, HOWEVER, TO ANY PERSON FOR ANY
45 PREMISES OTHER THAN A GROCERY STORE, AS DEFINED IN SUBDIVISION THIRTEEN
46 OF SECTION THREE OF THIS CHAPTER, OR A DRUG STORE, AS DEFINED IN SUBDI-
47 VISION TWELVE OF SECTION THREE OF THIS CHAPTER.

48 3. (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, EXCEPT FOR
49 GOOD CAUSE SHOWN, THE AUTHORITY SHALL ISSUE A GROCERY OR DRUG STORE WINE
50 LICENSE TO THE HOLDER OF A LICENSE TO SELL BEER AT RETAIL FOR CONSUMP-
51 TION OFF THE PREMISES PURSUANT TO SECTION FIFTY-FOUR OF THIS CHAPTER, OR
52 BEER AND WINE PRODUCTS AT RETAIL FOR CONSUMPTION OFF THE PREMISES PURSU-
53 ANT TO SECTION FIFTY-FOUR-A OF THIS CHAPTER, AT THE REQUEST OF SUCH
54 LICENSEE, OR TO THE HOLDER OF A WHOLESALE'S LICENSE ISSUED OR RENEWED
55 PRIOR TO JULY FIRST, NINETEEN HUNDRED SIXTY, AND THEREAFTER RENEWED OR

TRANSFERRED, WHICH AUTHORIZES THE HOLDER THEREOF TO SELL BEER AT RETAIL TO A PERSON FOR CONSUMPTION IN HIS OR HER HOME.

(B) FOR THE PURPOSES OF THIS SUBDIVISION, THE PREMISES OF THE GROCERY OR DRUG STORE WINE LICENSEE SHALL BE THE SAME AS THE PREMISES LICENSED UNDER SECTION FIFTY-FOUR OR FIFTY-FOUR-A OF THIS CHAPTER.

(C) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY LICENSE ISSUED PURSUANT TO THIS SECTION SHALL RUN CONCURRENTLY WITH THE UNDERLYING LICENSE UNDER SECTION FIFTY-FOUR OR FIFTY-FOUR-A OF THIS CHAPTER, AND SHALL BE DEEMED EXPIRED AT SUCH TIME AS THE UNDERLYING LICENSE EXPIRES.

(D) WINE TASTING. ANY PERSON LICENSED TO SELL WINE PURSUANT TO THIS ARTICLE SHALL BE PERMITTED TO CONDUCT WINE TASTINGS. WINE TASTINGS WHICH ARE CONDUCTED UNDER THE AUSPICES OF AN OFFICIAL AGENT OF A FARM WINERY, WINERY, WHOLESALER, OR IMPORTER AND WHERE SUCH AGENT IS PHYSICALLY PRESENT AT ALL TIMES DURING THE CONDUCT OF THE TASTING, THEN, IN THAT EVENT, ANY LIABILITY STEMMING FROM A RIGHT OF ACTION RESULTING FROM A WINE TASTING AS AUTHORIZED PURSUANT TO THIS SECTION, AND IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 11-100 AND 11-101 OF THE GENERAL OBLIGATIONS LAW, SHALL ACCRUE TO THE FARM WINERY, WINERY, WHOLESALER, OR IMPORTER.

4. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE AUTHORITY MAY ISSUE A LICENSE UNDER THIS SECTION TO THE HOLDER OF A LICENSE TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE PREMISES PURSUANT TO SECTION SEVENTY-NINE OF THIS ARTICLE, PROVIDED THAT: (A) THE LICENSEE MEETS THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION; AND (B) UPON ISSUANCE OF A LICENSE, THE LICENSEE UNDER THIS SECTION SURRENDERS THE LICENSE CERTIFICATE ISSUED PURSUANT TO SUCH SECTION SEVENTY-NINE.

5. SUCH APPLICATION SHALL BE IN SUCH FORM AND SHALL CONTAIN SUCH INFORMATION AS SHALL BE REQUIRED BY THE RULES OF THE AUTHORITY AND SHALL BE ACCOMPANIED BY A CHECK OR DRAFT IN THE AMOUNT REQUIRED BY THIS ARTICLE FOR SUCH LICENSE.

6. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY PERSON RECEIVING A LICENSE PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO THE PROVISIONS OF SUBDIVISION TWO, THREE OR FOUR OF SECTION SEVENTY-NINE OF THIS ARTICLE.

7. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, ANY PERSON RECEIVING A LICENSE PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO THE PROVISIONS OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER.

8. (A) A ONE-TIME FRANCHISE FEE SHALL BE PAID FOR BY EACH RETAIL OUTLET TO THE STATE LIQUOR AUTHORITY. THIS FRANCHISE FEE IS HEREBY IMPOSED AT A RATE OF 0.46 OF ONE PERCENT OF THE TOTAL GROSS SALES AT THE INDIVIDUAL LICENSED PREMISES OF THE LICENSEE IN THE PREVIOUS YEAR.

(B) IN THE EVENT AN APPLICANT HAS BEEN IN BUSINESS FOR LESS THAN TWELVE MONTHS PRIOR TO THE FILING OF THE APPLICATION FOR THIS LICENSE, SUCH APPLICANT SHALL, IN ACCORDANCE WITH THE RULES OF THE AUTHORITY, REMIT AN ESTIMATE OF ITS FRANCHISE FEE BASED ON SQUARE FOOTAGE AT A LICENSEE'S LOCATION PURSUANT TO THE FOLLOWING SCHEDULE:

SQUARE FOOTAGE AT LICENSEE'S LOCATION	FRANCHISE FEE PER LOCATION
0-999	\$825
1,000-1,999	\$1,650
2,000-3,999	\$3,300
4,000-9,999	\$8,250
10,000-19,999	\$16,500
20,000-24,999	\$33,000
25,000-29,999	\$82,500

1 30,000-39,999 \$132,000
2 40,000 AND GREATER \$495,000

3 WITHIN SIXTY DAYS AFTER SUCH LICENSEE SHALL HAVE BEEN IN BUSINESS FOR
4 TWELVE MONTHS, SUCH LICENSEE SHALL SUBMIT TO THE AUTHORITY, IN ACCORD-
5 ANCE WITH THE RULES OF THE AUTHORITY, A STATEMENT SHOWING ITS ACTUAL
6 TOTAL GROSS SALES FOR THE FIRST TWELVE MONTHS OF OPERATION AND THE FRAN-
7 CHISE FEE DUE PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION. IN THE
8 EVENT THE FRANCHISE FEE DETERMINED PURSUANT TO SUCH PARAGRAPH EXCEEDS
9 THE AMOUNT PAID PURSUANT TO THIS PARAGRAPH, THE LICENSEE SHALL REMIT
10 PAYMENT FOR THE BALANCE OF THE REQUIRED FRANCHISE FEE WITHIN SUCH
11 SIXTY-DAY PERIOD. FAILURE TO REMIT PAYMENT WITHIN SUCH SIXTY-DAY PERIOD
12 SHALL BE GROUNDS FOR CANCELLATION OR REVOCATION OF SUCH LICENSE. IN THE
13 EVENT THAT THE FRANCHISE FEE DUE PURSUANT TO PARAGRAPH (A) OF THIS
14 SUBDIVISION IS LESS THAN THE AMOUNT PAID PURSUANT TO THIS PARAGRAPH, THE
15 LICENSEE SHALL BE ENTITLED TO A REFUND EQUAL TO THE DIFFERENCE BETWEEN
16 THE FRANCHISE FEE PAID PURSUANT TO THIS PARAGRAPH AND THE AMOUNT DUE
17 PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION.

18 (C) NO LICENSE SHALL BE ISSUED PURSUANT TO THIS SECTION UNTIL THE
19 FRANCHISE FEE OR ESTIMATED FRANCHISE FEE UNDER THIS SUBDIVISION REQUIRED
20 BY EITHER PARAGRAPH (A) OR (B) OF THIS SUBDIVISION HAS BEEN PAID IN
21 FULL.

22 (D) THE FRANCHISE FEE SHALL BE DEPOSITED AND DISPOSED OF IN THE SAME
23 MANNER AS ANY LICENSE FEE AS PROVIDED IN SECTION ONE HUNDRED TWENTY-FIVE
24 OF THIS CHAPTER.

25 9. (A) ANY PERSON LICENSED TO SELL WINE PURSUANT TO THIS ARTICLE THAT
26 OPERATES THE PREMISES OF THE GROCERY OR DRUG STORE WINE LICENSEE THAT
27 OCCUPIES LESS THAN ONE THOUSAND SQUARE FEET MAY PURCHASE, AGREE TO
28 PURCHASE OR RECEIVE ANY ALCOHOLIC BEVERAGE FROM A PERSON LICENSED UNDER
29 SECTION SIXTY-THREE OF THIS CHAPTER TO SELL LIQUOR AT RETAIL FOR
30 CONSUMPTION OFF THE PREMISES.

31 (B) ANY PERSON LICENSED TO SELL WINE AT RETAIL FOR CONSUMPTION OFF THE
32 PREMISES UNDER SECTION SEVENTY-NINE OF THIS ARTICLE IS AUTHORIZED TO
33 SELL WINE TO PERSONS LICENSED TO SELL WINE UNDER THIS ARTICLE AND THIS
34 SECTION WHO OPERATE THE PREMISES OF THE GROCERY OR DRUG STORE WINE
35 LICENSEE THAT OCCUPIES LESS THAN ONE THOUSAND SQUARE FEET.

36 10. THE STATE LIQUOR AUTHORITY MAY MAKE SUCH RULES AS IT DEEMS NECES-
37 SARY TO CARRY OUT THE PROVISIONS OF THIS SECTION, HOWEVER, SUCH RULES
38 SHALL NOT BE CONSTRUED TO PLACE ADDITIONAL LIMITATIONS UPON THE HOLDERS
39 OF LICENSES ISSUED PURSUANT TO SECTION SEVENTY-NINE OF THIS ARTICLE
40 UNRELATED TO THE SALE OF WINE.

41 S 14. Subdivision 10 of section 105 of the alcoholic beverage control
42 law, paragraph (a) as amended by chapter 679 of the laws of 1950, is
43 amended to read as follows:

44 10. [(a)] Each retail licensee of liquor and/or wine for off-premises
45 consumption shall have conspicuously displayed within the interior of
46 the licensed premises where sales are made and where it can be readily
47 inspected by consumers a printed price list of the liquors and/or wines
48 offered for sale therein; and no liquor and/or wine shall be sold except
49 at the price set forth in such list[;

50 (b) No screen, blind, curtain, partition, article or thing shall be
51 permitted in the windows or upon the doors of such licensed premises,
52 which shall prevent a clear view into the interior of such licensed
53 premises from the sidewalk, at all times; and

54 (c) No booth, screen, partition or other obstruction shall be permit-
55 ted in the interior of said licensed premises].

1 S 15. The alcoholic beverage control law is amended by adding a new
2 section 97-b to read as follows:

3 S 97-B. TEMPORARY RETAIL PERMIT FOR NEW APPLICANTS. 1. THE AUTHORITY
4 IS HEREBY AUTHORIZED TO ISSUE A TEMPORARY RETAIL PERMIT TO AN APPLICANT
5 OF A PREMISES THAT IS NOT LICENSED WHEN THE APPLICANT HAS FILED WITH THE
6 AUTHORITY AN APPLICATION FOR A RETAIL LICENSE AT SUCH PREMISES OR HAS
7 FILED RENEWAL OF SUCH LICENSE. SUCH APPLICATION SHALL BE IN WRITING AND
8 VERIFIED AND SHALL CONTAIN INFORMATION AS THE AUTHORITY SHALL REQUIRE.
9 SUCH APPLICATION SHALL BE ACCOMPANIED BY A FILING FEE OF SEVENTY-FIVE
10 DOLLARS.

11 2. UPON APPLICATION, THE AUTHORITY SHALL ISSUE A TEMPORARY RETAIL
12 PERMIT WHEN THE APPLICANT HAS FILED WITH THE AUTHORITY AN APPLICATION
13 FOR A RETAIL LICENSE AT SUCH PREMISES OR A RENEWAL THEREOF, TOGETHER
14 WITH ALL REQUIRED FILING AND LICENSE FEES. A TEMPORARY PERMIT ISSUED BY
15 THE AUTHORITY PURSUANT TO THIS SECTION SHALL BE FOR A PERIOD NOT TO
16 EXCEED NINETY DAYS. A TEMPORARY PERMIT MAY BE EXTENDED AT THE DISCRETION
17 OF THE AUTHORITY, FOR AN ADDITIONAL THIRTY DAYS.

18 3. PURSUANT TO THIS SECTION A TEMPORARY RETAIL PERMIT MAY NOT BE
19 ISSUED FOR ANY PREMISES THAT IS IN VIOLATION OF THE PROVISIONS OF SUBDI-
20 VISION SEVEN OF SECTION SIXTY-FOUR, SUBDIVISION SEVEN OF SECTION SIXTY-
21 FOUR-A, SUBDIVISION FIVE OF SECTION SIXTY-FOUR-B, SUBDIVISION ELEVEN OF
22 SECTION SIXTY-FOUR-C, SUBDIVISION EIGHT OF SECTION SIXTY-FOUR-D OR
23 SUBDIVISION THREE OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER.

24 4. A TEMPORARY RETAIL PERMIT IS A CONDITIONAL PERMIT AND SHALL AUTHOR-
25 IZE THE HOLDER THEREOF TO, IN THE CASE OF ALL OTHER RETAIL APPLICATIONS,
26 PURCHASE AND SELL SUCH ALCOHOLIC BEVERAGES AS WOULD BE PERMITTED TO BE
27 PURCHASED AND SOLD UNDER THE PRIVILEGES OF THE LICENSE APPLIED FOR; TO
28 SELL ALCOHOLIC BEVERAGES TO CONSUMERS ONLY AND NOT FOR RESALE; AND TO
29 PURCHASE ALCOHOLIC BEVERAGES ONLY BY PAYMENT IN CURRENCY OR CHECK FOR
30 SUCH ALCOHOLIC BEVERAGES ON OR BEFORE THEY ARE DELIVERED TO SUCH PREM-
31 ISES.

32 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A TEMPORARY PERMIT MAY
33 BE SUMMARILY CANCELLED OR SUSPENDED AT ANY TIME IF THE AUTHORITY DETER-
34 MINES THAT GOOD CAUSE FOR SUCH CANCELLATION OR SUSPENSION EXISTS. THE
35 AUTHORITY SHALL PROMPTLY NOTIFY THE HOLDER OF A TEMPORARY PERMIT IN
36 WRITING OF SUCH CANCELLATION OR SUSPENSION AND SHALL SET FORTH THE
37 REASONS FOR SUCH ACTION.

38 6. APPROVAL OF, OR EXTENSION OF, A TEMPORARY RETAIL LICENSE SHALL NOT
39 BE DEEMED AS AN APPROVAL OF THE RETAIL APPLICATION.

40 7. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY,
41 THE AUTHORITY MAY PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECES-
42 SARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

43 S 16. Paragraph (b) of subdivision 3 of section 101-b of the alcoholic
44 beverage control law, as amended by section 1 of part E of chapter 56 of
45 the laws of 2006, is amended to read as follows:

46 (b) No brand of liquor or wine shall be sold to or purchased by a
47 retailer unless a schedule, as provided by this section, is transmitted
48 to and received by the liquor authority, and is then in effect. Such
49 schedule shall be transmitted to the authority in such form, manner,
50 medium and format as the authority may direct; shall be deemed duly
51 verified by the person submitting such schedule upon its transmission to
52 the authority; and shall contain, with respect to each item, the exact
53 brand or trade name, capacity of package, nature of contents, age and
54 proof where stated on the label, the number of bottles contained in each
55 case, the bottle and case price to retailers, the net bottle and case
56 price paid by the seller, which prices, in each instance, shall be indi-

1 vidual for each item and not in "combination" with any other item, the
2 discounts for quantity, if any, and the discounts for time of payment,
3 if any. FOR PURPOSES OF THIS PARAGRAPH, IN REGARDS TO PREMISES LICENSED
4 UNDER SECTION SIXTY-THREE OF THIS CHAPTER, "COMBINATION" SHALL NOT
5 INCLUDE WINES PROVIDED BY THE SAME VINEYARD OR DISTRIBUTOR TO A RETAILER
6 AND WHERE SUCH WINES MAY BE DIFFERENT. Such brand of liquor or wine
7 shall not be sold to retailers except at the price and discounts then in
8 effect unless prior written permission of the authority is granted for
9 good cause shown and for reasons not inconsistent with the purpose of
10 this chapter. Such schedule shall be transmitted by each manufacturer
11 selling such brand to retailers and by each wholesaler selling such
12 brand to retailers.

13 S 17. This act shall take effect on the one hundred eightieth day
14 after it shall have become a law.