

STATE OF NEW YORK

10737

IN ASSEMBLY

May 16, 2018

Introduced by M. of A. WOERNER -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to establishing a primary American source of supply for liquor and wine sold in this state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 35 of section 3 of the alcoholic beverage
2 control law is amended, and two new subdivisions 23-a and 23-b are added
3 to read as follows:

4 23-a. "Primary American source of supply" means (a) a manufacturer of
5 liquor or wine if such liquor or wine can be secured directly from the
6 manufacturer by a distributor in the United States; or (b) if the liquor
7 or wine cannot be secured directly from the liquor or wine's manufactur-
8 er by a distributor in the United States, another manufacturer or bott-
9 ler, or its legally authorized exclusive agent, from whom the liquor or
10 wine can be secured by a wholesaler or distributor in the United States
11 and is the source closest to the liquor or wine's manufacturer in the
12 channel of commerce.

13 23-b. "Private collection" as applied to wine or privately held wines
14 means bottled wine that (a) was purchased at retail or auction, (b) was
15 owned by a non-licensed person for at least two years with proof of
16 purchase, and (c) is at least five years old if it is white or rose
17 wine, and at least ten years old if it is red wine, port or sparkling
18 wine.

19 35. "Wholesaler" means any person who sells at wholesale any beverage
20 for the sale of which a license is required under the provisions of this
21 chapter. An "authorized wholesaler" is a wholesaler authorized by a
22 primary American source of supply to carry a specific brand of liquor or
23 wine in this state.

24 § 2. The alcoholic beverage control law is amended by adding a new
25 section 116-a to read as follows:

26 § 116-a. Primary American source of supply. 1. The manufacturer of a
27 liquor or wine at the time the same became suitable for wholesale or

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

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1 retail sale shall designate the primary American source of supply there-
2 of and such primary American source of supply shall file a registration
3 application with the authority on forms provided by the authority. Each
4 brand of such liquor or wine shall be individually listed on such regis-
5 tration. A wholesaler shall designate one primary American source of
6 supply for each brand of liquor or wine the wholesaler sells in this
7 state.

8 2. The authority shall register only one primary American source of
9 supply for any single brand of liquor or wine. The manufacturer or bott-
10 ler may register a new primary American source of supply and cancel the
11 registration of the former primary American source of supply by filing a
12 new authorization with the authority not less than forty days before the
13 new authorization becomes effective.

14 3. A primary American source of supply shall file with the authority
15 the names of authorized wholesalers for each brand of liquor or wine
16 sold in this state. If the primary American source of supply is a whole-
17 saler, it may list itself and other wholesalers as an authorized whole-
18 saler of the brand. The filing of a wholesale price posting, in accord-
19 ance with section one hundred one-b of this article, listing the names
20 of the authorized wholesalers shall be deemed compliance with this
21 requirement. The authorized wholesalers may be changed at any time at or
22 prior to the time a wholesale price posting is to be filed pursuant to
23 such section. If the primary American source of supply does not list any
24 authorized wholesalers, any licensed wholesaler may purchase the liquor
25 or wine from the primary American source of supply and sell the brand in
26 this state.

27 4. Except as set forth in subdivisions seven and eight of this section
28 or shipments made directly to a resident of New York for personal use
29 pursuant to sections seventy-nine-c and seventy-nine-d of this chapter,
30 no one shall ship or cause to be shipped into this state, nor shall any
31 wholesaler or retailer in this state receive, any liquor or wine unless
32 the primary American source of supply for such liquor or wine has filed
33 an application for registration as the primary American source of
34 supply, that application has been approved by the authority, and the
35 brand is purchased from the primary American source of supply or an
36 authorized wholesaler.

37 5. Except as set forth in subdivisions seven and eight of this
38 section, a wholesaler in this state shall not purchase, receive or be in
39 possession of any liquor or wine unless the wholesaler obtained the
40 liquor or wine directly from a registered primary American source of
41 supply, a designated representative of the primary American source of
42 supply if the primary American source of supply is outside this state,
43 or an authorized wholesaler.

44 6. Nothing in this section shall be deemed to prohibit subsequent
45 intrastate sales, transfer, and invoicing of a brand of liquor or wine
46 between authorized wholesalers of that brand.

47 7. The authority shall allow a wholesaler to bring liquor or wine into
48 this state if the wholesaler certifies to the satisfaction of the
49 authority that the brand of liquor or wine comes from a manufacturer or
50 bottler that cannot, or has not and will not appoint a primary American
51 source of supply.

52 8. This section shall not apply to (a) a brand of liquor or wine owned
53 exclusively by one retailer and sold at retail within this state exclu-
54 sively by such retailer; or (b) a product purchased by a wholesaler or
55 retailer in accordance with sections eighty-five and ninety-nine-g of

1 this chapter consistent with the rules, regulations, orders and advi-
2 sories established by the authority.

3 9. The authority is authorized to perform such acts, prescribe forms,
4 and make rules, regulations, orders and advisories as it may deem neces-
5 sary or proper to fully effectuate the provisions of this section
6 including, but not limited to, establishing a format for recording the
7 primary American source of supply and its designees.

8 § 3. This act shall take effect on the ninetieth day after it shall
9 have become a law; provided, however, that effective immediately, the
10 addition, amendment and/or repeal of any rule or regulation necessary
11 for the implementation of this act on its effective date are authorized
12 and directed to be made and completed on or before such effective date.