

# STATE OF NEW YORK

4317

2017-2018 Regular Sessions

## IN ASSEMBLY

February 2, 2017

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

AN ACT to amend the alcoholic beverage control law, in relation to the sale of tonic water, bitters and maraschino cherries at liquor stores

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

- 1 Section 1. Subdivision 4 of section 63 of the alcoholic beverage  
2 control law, as amended by chapter 297 of the laws of 2016, is amended  
3 to read as follows:  
4 4. No licensee under this section shall be engaged in any other busi-  
5 ness on the licensed premises. The sale of any of the following shall  
6 not constitute engaging in another business within the meaning of this  
7 subdivision:  
8 (a) lottery tickets, when duly authorized and lawfully conducted[~~, the~~  
9 ~~sale of~~];  
10 (b) corkscrews [~~or the sale of~~];  
11 (c) ice [~~or the sale of~~];  
12 (d) publications, including prerecorded video and/or audio cassette  
13 tapes, designed to help educate consumers in their knowledge and appre-  
14 ciation of wine and wine products, as defined in section three of this  
15 chapter[~~, or the sale of~~];  
16 (e) non-carbonated, non-flavored mineral waters, spring waters and  
17 drinking waters [~~or the sale of~~];  
18 (f) glasses designed for the consumption of wine, racks designed for  
19 the storage of wine, and devices designed to minimize oxidation in  
20 bottles of wine which have been uncorked[~~, or the sale of~~];  
21 (g) gift bags, gift boxes, or wrapping, for alcoholic beverages  
22 purchased at the licensed premises [~~shall not constitute engaging in~~  
23 ~~another business within the meaning of this subdivision~~];  
24 (h) tonic water;  
25 (i) biters; and

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

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1 (j) maraschino cherries.

2 § 2. Subdivision 4 of section 63 of the alcoholic beverage control  
3 law, as amended by chapter 603 of the laws of 1992, is amended to read  
4 as follows:

5 4. No licensee under this section shall be engaged in any other busi-  
6 ness on the licensed premises. The sale of any of the following shall  
7 not constitute engaging in another business within the meaning of this  
8 subdivision:

9 (a) lottery tickets, when duly authorized and lawfully conducted[~~, the~~  
10 sale of];

11 (b) corkscrews [~~or the sale of~~];

12 (c) ice [~~or the sale of~~];

13 (d) publications, including prerecorded video and/or audio cassette  
14 tapes, designed to help educate consumers in their knowledge and appre-  
15 ciation of wine and wine products, as defined in section three of this  
16 chapter[~~, or the sale of~~];

17 (e) non-carbonated, non-flavored mineral waters, spring waters and  
18 drinking waters [~~or the sale of~~];

19 (f) glasses designed for the consumption of wine, racks designed for  
20 the storage of wine, and devices designed to minimize oxidation in  
21 bottles of wine which have been uncorked[~~, shall not constitute engaging~~  
22 in another business within the meaning of this subdivision];

23 (g) tonic water;

24 (h) bitters; and

25 (i) maraschino cherries.

26 § 3. Paragraph (a) of subdivision 1 of section 104 of the alcoholic  
27 beverage control law, as amended by chapter 2 of the laws of 2013, is  
28 amended to read as follows:

29 (a) No wholesaler shall be engaged in any other business on the prem-  
30 ises to be licensed; except that nothing contained in this chapter  
31 shall: (1) prohibit a beer wholesaler from (i) acquiring, storing or  
32 selling non-alcoholic snack foods, as defined in paragraph (b) of this  
33 subdivision, (ii) manufacturing, bottling, storing, or selling non-alco-  
34 holic carbonated beverages, (iii) manufacturing, storing or selling  
35 non-alcoholic non-carbonated soft drinks, mineral waters, spring waters,  
36 drinking water, non-taxable malt or cereal beverages, juice drinks,  
37 fruit or vegetable juices, ice, liquid beverage mixes and dry or frozen  
38 beverage mixes, (iv) acquiring, storing or selling wine products, (v)  
39 the sale of promotional items on such premises, or (vi) the sale of  
40 tobacco products at retail by wholesalers who are licensed to sell beer  
41 and other products at retail; (2) prohibit a wholesaler authorized to  
42 sell wine from manufacturing, acquiring or selling wine merchandise, as  
43 defined in paragraph (d) of this subdivision; (3) prohibit a licensed  
44 winery or licensed farm winery from engaging in the business of a wine  
45 wholesaler for New York state labeled wines produced by any licensed  
46 winery or licensed farm winery or prohibit such wine wholesaler from  
47 exercising any of its rights pursuant to sections seventy-six and seven-  
48 ty-six-a of this chapter provided that the operation of such beer and  
49 wine wholesalers business shall be subject to such rules and regulations  
50 as the liquor authority may prescribe; (4) prohibit a beer wholesaler  
51 who is authorized to sell beer at retail from selling at retail: (i)  
52 candy, chewing gum and cough drops; (ii) non-refrigerated salsa; (iii)  
53 cigarette lighters, lighter fluid, matches and ashtrays; (iv) barbecue  
54 and picnic-related products and supplies, which shall include, but not  
55 be limited to, charcoal, grills, propane gas, plastic and paper cups,  
56 paper or plastic tablecloths and coolers; (v) beer making and brewing

1 supplies and publications, which shall include, but not be limited to,  
2 books, magazines, equipment and ingredients; (vi) steins, mugs and other  
3 glassware appropriate for the consumption of beer, malt beverages and  
4 wine products; (vii) items typically used to serve beer and malt beverages  
5 including, but not limited to, taps, kegerators, koozies and beer  
6 socks; (viii) lemons, limes and oranges, provided that no more than two  
7 dozen of each shall be displayed at any one time; (ix) rock salt, ice  
8 and snow melting compounds, snow shovels; windshield washer solvent;  
9 firewood; beach umbrellas; sunglasses and sun block; and (x) prepaid  
10 telephone cards; ~~[(5)]~~ (5) prohibit the installation and operation of a  
11 single automated teller machine in the premises of a beer wholesaler who  
12 is authorized to sell beer at retail; or (6) prohibit a liquor wholesaler  
13 from transporting or selling tonic water, bitters and maraschino  
14 cherries. For the purposes of this subdivision, "automated teller  
15 machine" means a device which is linked to the accounts and records of a  
16 banking institution and which enables consumers to carry out banking  
17 transactions, including but not limited to, account transfers, deposits,  
18 cash withdrawals, balance inquiries and loan payments.

19 § 4. This act shall take effect immediately; provided, however, that  
20 the amendments to subdivision 4 of section 63 of the alcoholic beverage  
21 control law made by section one of this act shall be subject to the  
22 expiration and reversion of such subdivision pursuant to section 18 of  
23 chapter 297 of the laws of 2016, as amended, when upon such date the  
24 provisions of section two of this act shall take effect.