

# STATE OF NEW YORK

7591

## IN SENATE

January 29, 2018

Introduced by Sen. LANZA -- 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 authorizing retail licenses to purchase beer, wine or liquor with a business credit card

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

1 Section 1. Subdivision 1 of section 101-aa of the alcoholic beverage  
2 control law is amended to add new paragraph g to read as follows:

3 g. "Business credit card" means any card issued pursuant to an agree-  
4 ment that allows the holder thereof to obtain goods and services on the  
5 credit of the issuer, and such card was provided to a retail licensee  
6 for business or commercial use.

7 § 2. Subdivision 2 of section 101-aa of the alcoholic beverage control  
8 law, as amended by chapter 242 of the laws of 2012, is amended and a new  
9 subdivision 3-a is added to read as follows:

10 2. No manufacturer or wholesaler licensed under this chapter shall  
11 sell or deliver any liquor or wine to any retail licensee except as  
12 provided for in this section:

13 (a) for cash to be paid at the time of delivery; [~~or~~]

14 (b) on terms requiring payment by such retail licensee for such alco-  
15 holic beverages on or before the final payment date of the credit period  
16 for which delivery is made; or

17 (c) by business credit card; provided that a manufacturer or whole-  
18 saler shall exercise reasonable diligence to ensure the sale comports  
19 with the requirements of this section; and, upon exercising such dili-  
20 gence, shall not be found to have violated this paragraph where a retail  
21 licensee uses a credit card other than a business credit card.

22 3-a. Where a retail licensee uses a business credit card pursuant to  
23 this section, such retail licensee shall reimburse the wholesaler or  
24 manufacturer for credit card surcharges and fees incurred as a result of  
25 the transaction. This rate shall be determined on an annual basis by the

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

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1 authority based on an assessment of surcharges and fees imposed by cred-  
2 it card issuers, and reimbursed in a manner established by regulations.

3 § 3. Subdivision 1 of section 101-aaa of the alcoholic beverage  
4 control law is amended by adding a new paragraph h to read follows:

5 h. "Business credit card" means any card issued pursuant to an agree-  
6 ment that allows the holder thereof to obtain goods and services on the  
7 credit of the issuer, and such card was provided to a retail licensee  
8 for business or commercial use.

9 § 4. Subdivision 2 of section 101-aaa of the alcoholic beverage  
10 control law, as amended by chapter 242 of the laws of 2012, is amended  
11 and a new subdivision 3-a is added to read as follows:

12 2. No manufacturer or wholesaler licensed under this chapter shall  
13 sell or deliver any beer, cider or wine products to any retail licensee  
14 except as provided for in this section:

15 (a) for cash to be paid at the time of delivery; [or]

16 (b) on terms requiring payment by such retail licensee for such beer,  
17 cider, or wine products on or before the final payment date of any cred-  
18 it period within which delivery is made; or

19 (c) by business credit card; provided that a manufacturer or whole-  
20 saler shall exercise reasonable diligence to ensure the sale comports  
21 with the requirements of this section; and, upon exercising such dili-  
22 gence, shall not be found to have violated this paragraph where a retail  
23 licensee uses a credit card other than a business credit card.

24 Provided, however, that the sale of wine products or cider to a retail  
25 licensee by a wholesaler licensed under section fifty-eight, sixty-two,  
26 or seventy-eight of this chapter, or a licensed manufacturer of liquor  
27 or wine or a cider producer's license, shall be governed by the  
28 provisions of section one hundred-one-aa of this article.

29 3-a. Where a retail licensee uses a business credit card pursuant to  
30 this section, such retail licensee shall reimburse the wholesaler or  
31 manufacturer for credit card surcharges and fees incurred as a result of  
32 the transaction. This rate shall be determined on an annual basis by the  
33 authority based on an assessment of surcharges and fees imposed by cred-  
34 it card issuers, and reimbursed in a manner established by regulations.

35 § 5. This act shall take effect on the one hundred twentieth day after  
36 it shall have become a law; provided, however, that effective immediate-  
37 ly, the addition, amendment and/or repeal of any rule or regulation  
38 necessary for the implementation of this act on its effective date are  
39 authorized and directed to be made and completed on or before such  
40 effective date.