

STATE OF NEW YORK

8969

IN SENATE

June 8, 2018

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the alcoholic beverage control law, in relation to tastings of alcoholic beverages by manufacturers and wholesalers; 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. Section 54-b of the alcoholic beverage control law, as
2 added by chapter 232 of the laws of 2015, is amended to read as follows:

3 § 54-b. Beer tasting. 1. Any person holding a retail license to sell
4 beer under this chapter shall be permitted to conduct consumer tastings
5 of beer upon such person's licensed premises. All such tastings shall be
6 subject to the following limitations:

7 (a) Tastings of beer shall be conducted by the licensee or an author-
8 ized agent of the licensee. Provided, however, a licensed beer or cider
9 wholesaler shall not serve as the authorized agent for another entity,
10 nor shall a licensed beer or cider wholesaler be involved in any manner
11 with a beer tasting conducted by another entity.

12 (b) No more than three samples of beer may be provided to a person in
13 one calendar day.

14 (c) No sample may exceed three fluid ounces.

15 (d) No tasting shall be held during the hours prohibited by the
16 provisions of [~~sections one hundred five and one hundred five-a~~] subdi-
17 vision five of section one hundred six of this chapter.

18 (e) The licensee may not charge the consumer for any such sample.

19 [~~(e)~~] (f) Any liability stemming from a right of action resulting from
20 a tasting authorized by this section and in accordance with the
21 provisions of sections 11-100 and 11-101 of the general obligations law
22 shall accrue to the licensee.

23 [~~(f)~~] (g) No person under the age of twenty-one shall be permitted to
24 serve a sample or handle an open container of beer.

25 2. Any consumer tasting of beer authorized by this chapter by a
26 licensed manufacturer at such manufacturer's licensed premises shall be
27 subject to the following limitations:

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

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(a) Tastings of beer shall be conducted by the licensee or an authorized agent of the licensee. Provided, however, a licensed beer or cider wholesaler shall not serve as the authorized agent for another entity, nor shall a licensed beer or cider wholesaler be involved in any manner with a beer tasting conducted by another entity.

(b) No more than six samples of beer may be provided to a person in one calendar day; each sample in the tasting shall be of a different beer.

(c) No sample may exceed five fluid ounces.

(d) No tasting shall be held during the hours prohibited by the provisions of subdivision five of section one hundred six of this chapter.

(e) The licensee may charge the consumer for any such sample.

(f) Any liability stemming from a right of action resulting from a tasting authorized by this section and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law shall accrue to the licensee.

(g) No person under the age of twenty-one shall be permitted to serve a sample or handle an open container of beer.

3. Any other consumer tasting of beer authorized by this chapter shall be subject to the provisions of subdivision one of this section.

§ 2. Section 59-a of the alcoholic beverage control law, as added by chapter 232 of the laws of 2015, is amended to read as follows:

§ 59-a. Cider tasting. 1. Any person holding a retail license under this chapter shall be permitted to conduct consumer tastings of cider upon such person's licensed premises. All such tastings shall be subject to the following limitations:

(a) Tastings of cider shall be conducted by the licensee or an authorized agent of the licensee. Provided, however, a licensed beer or cider wholesaler shall not serve as the authorized agent for another entity, nor shall a licensed beer or cider wholesaler be involved in any manner with a cider tasting conducted by another entity.

(b) No more than three samples of cider may be provided to a person in one calendar day.

(c) No sample may exceed three fluid ounces.

(d) No tasting shall be held during the hours prohibited by the provisions of subdivision five of section one hundred [~~five and one hundred five-a~~] six of this chapter.

(e) The licensee may not charge the consumer for any such sample.

~~[(e)]~~ (f) Any liability stemming from a right of action resulting from a tasting authorized by this section and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law shall accrue to the licensee.

~~[(f)]~~ (g) No person under the age of twenty-one shall be permitted to serve a sample or handle an open container of cider.

2. Any consumer tasting of cider authorized by this chapter by a licensed manufacturer at such manufacturer's licensed premises shall be subject to the following limitations:

(a) Tastings of cider shall be conducted by the licensee or an authorized agent of the licensee. Provided, however, a licensed beer or cider wholesaler shall not serve as the authorized agent for another entity, nor shall a licensed beer or cider wholesaler be involved in any manner with a beer tasting conducted by another entity.

(b) No more than six samples of cider may be provided to a person in one calendar day; each sample in the tasting shall be of a different cider.

1 (c) No sample may exceed five fluid ounces.

2 (d) No tasting shall be held during the hours prohibited by the
3 provisions of subdivision five of section one hundred six of this chap-
4 ter.

5 (e) The licensee may charge the consumer for any such sample.

6 (f) Any liability stemming from a right of action resulting from a
7 tasting authorized by this section and in accordance with the provisions
8 of sections 11-100 and 11-101 of the general obligations law shall
9 accrue to the licensee.

10 (g) No person under the age of twenty-one shall be permitted to
11 service a sample or handle an open container of cider.

12 3. Any other consumer tasting of cider authorized by this chapter
13 shall be subject to the provisions of subdivision one of this section.

14 § 3. Section 63-a of the alcoholic beverage control law, as amended by
15 chapter 232 of the laws of 2015, is amended to read as follows:

16 § 63-a. Liquor tasting. 1. (a) Any person licensed pursuant to section
17 sixty-one or sixty-two of this article shall be permitted to conduct
18 consumer tastings of liquor in establishments licensed under section
19 sixty-three of this article to sell alcoholic beverages for off-premises
20 consumption.

21 (b) Any person holding a retail license to sell liquor under this
22 chapter shall be permitted to conduct consumer tastings of liquor upon
23 such person's licensed premises.

24 2. All consumer tastings of liquor conducted pursuant to subdivision
25 one of this section shall be [~~conducted~~] subject to the following limi-
26 tations:

27 (a) tastings of liquor shall be conducted by the licensee or an
28 authorized agent of the licensee. Such licensee or agent shall be phys-
29 ically present upon the premises at all times during the conducting of
30 the consumer tasting of liquor.

31 (b) no more than a total of three samples of liquor may be provided
32 for tasting to a person in one calendar day.

33 (c) no sample of liquor for tasting may exceed one-quarter fluid ounce
34 provided, that the liquor may be mixed with non-alcoholic beverages.

35 (d) the licensee may not charge the consumer for any such sample.

36 (e) no tasting shall be held during the hours prohibited by the
37 provisions of subdivision five of section one hundred six of this chap-
38 ter.

39 (f) no person under the age of twenty-one shall be permitted to serve
40 a sample or handle an open container or liquor.

41 [~~(d)~~] (g) any liability stemming from a right of action resulting from
42 a consumer tasting of liquor authorized by this section and in accord-
43 ance with the provisions of sections 11-100 and 11-101 of the general
44 obligations law, shall accrue to the licensee, who conducted such tast-
45 ing.

46 3. Any consumer tasting of liquor authorized by this chapter by a
47 licensed manufacturer at such manufacturer's licensed premises shall be
48 subject to the following limitations:

49 (a) Tastings of liquor shall be conducted by the licensee or an
50 authorized agent of the licensee. Provided, however, a licensed beer or
51 cider wholesaler shall not serve as the authorized agent for another
52 entity, nor shall a licensed beer or cider wholesaler be involved in any
53 manner with a liquor tasting conducted by another entity.

54 (b) No more than six samples of liquor may be provided to a person in
55 one calendar day; each sample in the tasting shall be of a different
56 liquor.

1 (c) No sample may exceed one-quarter fluid ounce, provided, that the
2 liquor may be mixed with non-alcoholic beverages.

3 (d) No tasting shall be held during the hours prohibited by the
4 provisions of subdivision five of section one hundred six of this chap-
5 ter.

6 (e) The licensee may charge the consumer for any such sample.

7 (f) Any liability stemming from a right of action resulting from a
8 tasting authorized by this section and in accordance with the provisions
9 of sections 11-100 and 11-101 of the general obligations law shall
10 accrue to the licensee.

11 (g) No person under the age of twenty-one shall be permitted to serve
12 a sample or handle an open container of liquor.

13 4. Any other consumer tasting of liquor authorized by this chapter
14 shall be subject to the provisions of subdivision one of this section.

15 ~~[3-]~~ 5. The state liquor authority shall promulgate rules and regu-
16 lations regarding liquor tastings as provided for in this section.

17 § 4. Section 80 of the alcoholic beverage control law, as amended by
18 chapter 221 of the laws of 2011, is amended to read as follows:

19 § 80. Wine tasting. 1. ~~[Except as otherwise provided for in this chap-~~
20 ~~ter, any]~~ Any person ~~[licensed to sell wine pursuant to this article, or~~
21 ~~section sixty-three or section seventy-nine of this chapter,]~~ holding a
22 retail or wholesale license to sell wine under this chapter shall be
23 permitted to conduct wine tastings only upon ~~[the]~~ such person's
24 licensed premises. ~~[Wine tastings which are conducted under the auspices~~
25 ~~of an official agent of a farm winery, winery, wholesaler, or importer~~
26 ~~and where such agent is physically present at all times during the~~
27 ~~conduct of the tasting, then, in that event, any liability stemming from~~
28 ~~a right of action resulting from a wine tasting as authorized herein,~~
29 ~~and in accordance with the provisions of sections 11-100 and 11-101 of~~
30 ~~the general obligations law, shall accrue to the farm winery, winery,~~
31 ~~wholesaler, or importer.]~~

32 2. All consumer tastings of wine conducted pursuant to subdivision one
33 of this section shall be subject to the following limitations:

34 (a) Tastings of wine shall be conducted by the licensee or an author-
35 ized agent of the licensee. Such licensee or agent shall be physically
36 present upon the premises at all times during the conducting of the
37 consumer tasting of wine.

38 (b) No more than a total of eighteen fluid ounces of wine may be
39 provided for tasting to a person in one calendar day.

40 (c) No sample of wine for tasting may exceed three fluid ounces.

41 (d) The licensee may not charge the consumer for any such sample.

42 (e) No tasting shall be held during the hours prohibited by the
43 provisions of subdivision five of section one hundred six of this chap-
44 ter.

45 (f) No person under the age of twenty-one shall be permitted to serve
46 a sample or handle an open container of wine.

47 (g) Any liability stemming from a right of action resulting from a
48 consumer tasting of liquor authorized by this section and in accordance
49 with the provisions of sections 11-100 and 11-101 of the general obli-
50 gations law, shall accrue to the licensee, who conducted such tasting.

51 3. Any consumer tasting of wine authorized by this chapter by a
52 licensed manufacturer at such manufacturer's licensed premises shall be
53 subject to the following limitations:

54 (a) Tastings of wine shall be conducted by the licensee or an author-
55 ized agent of the licensee. Provided, however, a licensed beer or cider
56 wholesaler shall not serve as the authorized agent for another entity,

1 nor shall a licensed beer or cider wholesaler be involved in any manner
2 with a wine tasting conducted by another entity.

3 (b) No more than eighteen fluid ounces of wine may be provided to a
4 person in one calendar day; each sample in the tasting shall be of a
5 different wine.

6 (c) No sample may exceed three fluid ounces.

7 (d) No tasting shall be held during the hours prohibited by the
8 provisions of subdivision five of section one hundred six of this chap-
9 ter.

10 (e) The licensee may charge the consumer for any such sample.

11 (f) Any liability stemming from a right of action resulting from a
12 tasting authorized by this section and in accordance with the provisions
13 of sections 11-100 and 11-101 of the general obligations law shall
14 accrue to the licensee.

15 (g) No person under the age of twenty-one shall be permitted to serve
16 a sample or handle an open container of wine.

17 4. Any other consumer tasting of wine authorized by this chapter shall
18 be subject to the provisions of subdivision two of this section.

19 ~~[2-]~~ 5. In addition to such other wine tastings permitted under this
20 chapter, licensed farm wineries, wineries, and wine wholesalers may
21 apply for a permit, pursuant to paragraph k of subdivision one of
22 section ninety-nine-b of this chapter, to conduct wine tastings. Such
23 permits shall be valid throughout the state and may be issued on an
24 annual basis or for individual events. Each such permit and the exercise
25 of the privilege granted thereby shall be subject to such rules of the
26 liquor authority as it deems necessary. Such tastings shall be subject
27 to the provisions of subdivision two of this section.

28 § 5. Subdivision 3-a of section 51 of the alcoholic beverage control
29 law, as added by chapter 431 of the laws of 2014, is amended to read as
30 follows:

31 3-a. (a) A licensed brewer may at the licensed premises conduct tast-
32 ings of, and sell at retail for consumption on or off the licensed prem-
33 ises, any beer manufactured by the licensee or any New York state
34 labeled beer.

35 (b) Provided, however, that for tastings and sales for on-premises
36 consumption, the licensee shall regularly keep food available for sale
37 or service to its retail customers for consumption on the premises. A
38 licensee providing the following shall be deemed in compliance with this
39 provision: (i) sandwiches, soups or other such foods, whether fresh,
40 processed, pre-cooked or frozen; and/or (ii) food items intended to
41 complement the tasting of alcoholic beverages, which shall mean a diver-
42 sified selection of food that is ordinarily consumed without the use of
43 tableware and can be conveniently consumed while standing or walking,
44 including but not limited to: cheeses, fruits, vegetables, chocolates,
45 breads, mustards and crackers.

46 (c) All of the provisions of this chapter relative to licenses to sell
47 beer at retail for consumption on and off the premises shall apply so
48 far as applicable to such licensee.

49 (d) The provisions of subdivision two of section fifty-four-b of this
50 chapter shall apply to any such tasting.

51 § 6. Paragraph (d) of subdivision 8 of section 51 of the alcoholic
52 beverage control law is REPEALED.

53 § 7. Paragraphs (f) and (i) of subdivision 2 of section 51-a of the
54 alcoholic beverage control law, as added by chapter 108 of the laws of
55 2012, are amended to read as follows:

(f) conduct tastings at the licensed premises of beer and cider manufactured by the licensee or any other licensed farm brewery. The provisions of subdivision two of section fifty-four-b and subdivision two of section fifty-nine-a of this chapter shall apply to any such tasting of beer or cider;

(i) conduct tastings of and sell at retail for consumption off the premises New York state labelled wine manufactured by a licensed winery or licensed farm winery. The provisions of subdivision three of section eighty of this chapter shall apply to any such tasting of wine;

§ 8. Paragraph (j) of subdivision 2 of section 51-a of the alcoholic beverage control law, as added by chapter 384 of the laws of 2013, is amended to read as follows:

(j) conduct tastings of and sell at retail for consumption off the premises New York state labelled cider manufactured by a licensed cider producer or licensed farm cidery. The provisions of subdivision two of section fifty-nine-a of this chapter shall apply to any such tasting of cider;

§ 9. Paragraph (k) of subdivision 2 of section 51-a of the alcoholic beverage control law, as added by chapter 108 of the laws of 2012 and as relettered by chapter 384 of the laws of 2013, is amended to read as follows:

(k) conduct tastings of and sell at retail for consumption off the premises New York state labelled liquor manufactured by a licensed distiller or licensed farm distiller~~[, provided, however, that no consumer may be provided, directly or indirectly: (i) with more than three samples of liquor for tasting in one calendar day; or (ii) with a sample of liquor for tasting equal to more than one quarter fluid ounce]~~. The provisions of subdivision three of section sixty-three-a of this chapter shall apply to any such tasting of liquor; and

§ 10. Paragraph (b) of subdivision 3 of section 52 of the alcoholic beverage control law, as added by chapter 422 of the laws of 2016, is amended to read as follows:

(b) conduct beer tastings for those individuals taking such classes and/or using such facility for brewing purposes at the licensed facility provided that the tastings shall be subject to ~~[the following limitations:~~

~~(i) tastings shall be conducted by the licensee or by an official agent of the licensee. Such licensee or agent shall be physically present at all times during the conduct of the tastings; and~~

~~(ii) any liability stemming from a right of action resulting from a tasting of beer as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the custom beermakers' center]~~ the provisions of subdivision one of section fifty-four-b of this article.

§ 11. Subdivision 2 of section 58 of the alcoholic beverage control law, as added by chapter 347 of the laws of 1999, is amended to read as follows:

2. (a) Any person licensed pursuant to subdivision one of this section may conduct cider tastings of New York state labelled ciders in establishments licensed pursuant to section sixty-three of this chapter to sell alcoholic beverages for off-premises consumption. Such tastings shall be subject to the provisions of subdivision one of section fifty-nine-a of this article, provided, that the cider producer or wholesaler may charge a fee of not more than twenty-five cents for each cider sample tasted. The liquor authority shall promulgate rules and regulations relating to the conduct of such tastings.

(b) Any person licensed pursuant to subdivision one of this section may conduct cider tastings of New York state labelled ciders and apply to the liquor authority for a permit to sell cider produced by such cider producer or wholesaler, by the bottle, during such tastings in establishments licensed pursuant to section sixty-four of this chapter to sell alcoholic beverages for consumption on the premises. Such tastings shall be subject to the provisions of subdivision one of section fifty-nine-a of this article, provided, that the cider producer or wholesaler may charge a fee of not more than twenty-five cents for each cider sample tasted. The liquor authority shall promulgate rules and regulations relating to the conduct of tastings.

~~[(c) Cider tastings shall be conducted subject to the following limitations:~~

~~(i) cider tastings shall be conducted by an official agent, representative or solicitor of one or more cider producers or wholesalers. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings, and~~

~~(ii) any liability stemming from a right of action resulting from a cider tasting as authorized pursuant to this subdivision and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the cider producer or wholesaler licensee.]~~

§ 12. Paragraphs (b), (d) and (e) of subdivision 3-a of section 58 of the alcoholic beverage control law, paragraph (b) as amended by chapter 171 of the laws of 2017, paragraphs (d) and (e) as amended by chapter 384 of the laws of 2013, are amended to read as follows:

(b) conduct tastings at the licensed premises of such cider or any other New York state labeled cider. The provisions of subdivision two of section fifty-nine-a of this article shall apply to any such tasting of cider;

(d) sell and conduct tastings of such cider at retail for consumption on the premises of a restaurant, conference center, inn, bed and breakfast or hotel business owned and operated by the licensee in or adjacent to its farm cidery. A licensee who operates a restaurant, conference center, inn, bed and breakfast or hotel pursuant to such authority shall comply with all applicable provisions of this chapter which relate to licenses to sell cider at retail for consumption on the premises. The provisions of subdivision two of section fifty-nine-a of this article shall apply to any such tasting of cider;

(e) apply for a permit to conduct tastings away from the licensed premises of such cider. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. Tastings shall be conducted subject to the ~~[following conditions:~~

~~(i) tastings shall be conducted by an official agent, representative or solicitor of the licensee. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings, and~~

~~(ii) any liability stemming from a right of action resulting from a tasting of cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee]~~ provisions of subdivision one of section fifty-nine-a of this article.

§ 13. Subparagraph (i) of paragraph (f) of subdivision 2 of section 58-c of the alcoholic beverage control law, as amended by chapter 431 of the laws of 2014, is amended to read as follows:

(i) at the licensed premises, conduct tastings of, and sell at retail for consumption on or off the licensed premises, any cider manufactured by the licensee or any New York state labeled cider. Provided, however, for tastings and sales for on-premises consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: (A) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (B) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licensees selling cider at retail shall apply. The provisions of subdivision two of section fifty-nine-a of this article shall apply to any such tasting of cider; and

§ 14. Paragraphs (h), (i) and (j) of subdivision 2 of section 58-c of the alcoholic beverage control law, as amended by chapter 327 of the laws of 2016, are amended to read as follows:

(h) conduct tastings of and sell at retail for consumption on or off the premises New York state labeled beer manufactured by a licensed brewery or licensed farm brewery. The provisions of subdivision two of section fifty-four-b of this chapter shall apply to any such tasting of beer;

(i) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled wine manufactured by a licensed winery or licensed farm winery. The provisions of subdivision three of section eighty of this chapter shall apply to any such tasting of wine;

(j) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled liquor manufactured by a licensed distiller or licensed farm distiller~~[, provided, however, that no consumer may be provided, directly or indirectly: (i) with more than three samples of liquor for tasting in one calendar day; or (ii) with a sample of liquor for tasting equal to more than one quarter fluid ounce]~~. The provisions of subdivision three of section sixty-three-a of this chapter shall apply to any such tasting of liquor; and

§ 15. Subdivision 3 of section 58-c of the alcoholic beverage control law, as added by chapter 384 of the laws of 2013, is amended to read as follows:

3. (a) A farm cidery licensee may apply for a permit to conduct tastings away from the licensed premises of cider produced by the licensee. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary.

(b) Tastings shall be conducted subject to the ~~[following limitations: (i) tastings shall be conducted by an official agent, representative or solicitor of one or more farm cideries. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and~~

~~(ii) any liability stemming from a right of action resulting from a tasting of cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law,~~

~~shall accrue to the farm cidery]~~ provisions of subdivision one of section fifty-nine-a of this article.

§ 16. Paragraph (b) of subdivision 3 of section 58-d of the alcoholic beverage control law, as added by chapter 422 of the laws of 2016, is amended to read as follows:

(b) conduct cider tastings for those individuals taking such classes and/or using such facility for the production of cider at the licensed facility provided that the tastings shall be subject to the ~~[following limitations]~~

~~(i) tastings shall be conducted by the licensee or by an official agent of the licensee. Such licensee or agent shall be physically present at all times during the conduct of the tastings; and~~

~~(ii) any liability stemming from a right of action resulting from a tasting of cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to such center]~~ provisions of subdivision one of section fifty-nine-a of this article.

§ 17. Subparagraphs (v), (vi) and (vii) of paragraph (a) of subdivision 2-c of section 61 of the alcoholic beverage control law, as amended by chapter 103 of the laws of 2017, are amended to read as follows:

(v) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled beer manufactured by a licensed brewer or licensed farm brewery. The provisions of subdivision two of section fifty-four-b of this chapter shall apply to any such tasting of beer;

(vi) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled cider manufactured by a licensed brewer, licensed farm brewery, licensed farm winery, licensed cider producer or licensed farm cidery. The provisions of subdivision two of section fifty-nine-a of this chapter shall apply to any such tasting of cider; and

(vii) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled wine manufactured by a licensed winery or licensed farm winery. The provisions of subdivision three of section eighty of this chapter shall apply to any such tasting of wine.

§ 18. Paragraph (c) of subdivision 2-c of section 61 of the alcoholic beverage control law, as amended by chapter 454 of the laws of 2008, the opening paragraph as amended by chapter 484 of the laws of 2012, is amended to read as follows:

(c) A licensed farm distillery may conduct upon the licensed premises, or at approved locations as permitted in subdivision six of this section, consumer tastings of liquor manufactured by the licensee and from no more than three other class A, A-1, B, B-1, C or D distilleries, subject to the following limitations:

(i) Only liquor manufactured primarily from farm and food products, as defined in subdivision two of section two hundred eighty-two of the agriculture and markets law, shall be used in the tastings;

~~(ii) [An official agent, servant or employee of the licensee shall be physically present at all times during the conduct of the consumer tasting of liquor;~~

~~(iii) No consumer may be provided, directly or indirectly: (A) more than three samples of liquor for tasting in one calendar day; or (B) with a sample of liquor for tasting equal to more than one-quarter fluid ounce;~~

~~(iv) Any liability stemming from a right of action resulting from a consumer tasting of liquor authorized by this paragraph and in accord-~~

~~ance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee]~~ The provisions of subdivision three of section sixty-three-a of this article shall apply to any such tasting of liquor at the licensed premises.

§ 19. Subdivision 6 of section 61 of the alcoholic beverage control law, as added by chapter 484 of the laws of 2012, is amended to read as follows:

6. Any person having applied for and received a license as a farm distillery under this section may conduct consumer tastings of liquor pursuant to rules or regulations promulgated by the liquor authority, and subject to the ~~[limitations set forth in paragraph c of subdivision two-c of this section]~~ provisions of subdivision two of section sixty-three-a of this article at the state fair, at recognized county fairs and at farmers' markets operated on a not-for-profit basis.

§ 20. Subdivision 3 of section 76 of the alcoholic beverage control law, as amended by chapter 221 of the laws of 2011, is amended to read as follows:

3. (a) Any person having applied for and received a license as a winery under this section may conduct wine tastings of New York state labelled wines in establishments licensed under sections sixty-three and seventy-nine of this chapter to sell wine for off-premises consumption. Such tastings shall be subject to the provisions of subdivision two of section eighty of this article, provided, that the winery may charge a fee for each wine sample tasted. The state liquor authority shall promulgate rules and regulations regarding such tastings as provided for in this subdivision.

~~[(a-1)]~~ (b) Any person having applied for and received a license as a winery under this section may conduct wine tastings of New York state labelled wines and apply to the liquor authority for a permit to sell wine produced by such winery by the bottle, during such tastings in establishments licensed under section sixty-four, section sixty-four-a, section eighty-one or section eighty-one-a of this chapter to sell wine for consumption on the premises. Such tastings shall be subject to the provisions of subdivision two of section eighty of this article, provided, that the winery may charge a fee of no more than twenty-five cents for each wine sample tasted. The state liquor authority shall promulgate rules and regulations regarding such tastings as provided for in this subdivision.

~~[(b) Tastings shall be conducted subject to the following limitations: (i) wine tastings shall be conducted by an official agent, representative or solicitor of one or more wineries. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a wine tasting as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the winery licensee.]~~

(c)(i) Any person having applied for and received a license as a winery under this section may conduct wine tastings of New York state labelled wines and sell such wine by the bottle, during such tasting, for off-premises consumption at outdoor or indoor gatherings, functions, occasions or events, within the hours fixed by or pursuant to subdivision fourteen of section one hundred five of this chapter, sponsored by a bona fide charitable organization. Such tastings shall be subject to the provisions of subdivision two of section eighty of this article. For the purposes of this paragraph, a bona fide charitable organization

shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firefighters, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in subdivision five of section one hundred eighty-six of the general municipal law.

(ii) Upon application, the liquor authority shall issue an annual permit authorizing such winery to participate in outdoor or indoor gatherings, functions, occasions or events sponsored by a charitable organization. The winery must give the authority written or electronic notice of the date, time and specific location of each tasting at least fifteen days prior to the tasting. A winery that obtains a permit to conduct such wine tastings does not need to apply for or obtain a temporary beer or wine permit pursuant to section ninety-seven of this chapter or any other permit to conduct such a tasting or to sell wine by the bottle for off-premises consumption at such tastings.

(iii) Such winery may charge a fee for each wine sample tasted. Tastings shall be conducted by an official agent, representative or solicitor of such winery. The state liquor authority may promulgate rules and regulations regarding such tastings as provided for in this subdivision.

§ 21. Subdivision 4 of section 76 of the alcoholic beverage control law, as amended by chapter 171 of the laws of 2017, is amended to read as follows:

4. A licensed winery may at the licensed premises, conduct tastings of, and sell at retail for consumption on or off the licensed premises, any wine or wine product manufactured by the licensee or any New York state labeled wine or New York state labeled wine product or any New York state labeled cider. Provided, however, for tastings and sales for on-premises consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: (i) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (ii) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licenses to sell wine at retail for consumption on or off the premises shall apply so far as applicable to such licensee. The provisions of subdivision three of section eighty of this article shall apply to any such tasting of wine.

§ 22. Paragraph (c) of subdivision 11 of section 76 of the alcoholic beverage control law, as added by chapter 221 of the laws of 2011, is amended to read as follows:

(c) Notwithstanding any provision of this chapter to the contrary, any winery licensee may charge[+

~~(i) For~~ for tours of its premises[~~+~~ and ~~(ii) For any wine tastings~~].

§ 23. Subdivision 3 of section 76-a of the alcoholic beverage control law, as added by chapter 221 of the laws of 2011, is amended to read as follows:

3. (a) Any person having applied for and received a license as a farm winery under this section may conduct wine tastings of New York state labelled wines in establishments licensed under section sixty-three of

1 this chapter and section seventy-nine of this article to sell wine for
2 off-premises consumption. Such tastings shall be subject to the
3 provisions of subdivision two of section eighty of this article,
4 provided, that the farm winery may charge a fee for each wine sample
5 tasted. The state liquor authority shall promulgate rules and regu-
6 lations regarding such tastings as provided for in this subdivision.

7 (b) Any person having applied for and received a license as a farm
8 winery under this section may conduct wine tastings of New York state
9 labelled wines and apply to the liquor authority for a permit to sell
10 wine produced by such farm winery, by the bottle, during such tastings
11 in establishments licensed under sections sixty-four and sixty-four-a of
12 this chapter and section eighty-one or section eighty-one-a of this
13 article to sell wine for consumption on the premises. Such tastings
14 shall be subject to the provisions of subdivision two of section eighty
15 of this article, provided, that the farm winery may charge a fee of no
16 more than twenty-five cents for each wine sample tasted. The state
17 liquor authority shall promulgate rules and regulations regarding such
18 tastings as provided for in this subdivision.

19 ~~[(c) Tastings shall be conducted subject to the following limitations:~~
20 ~~(i) wine tastings shall be conducted by an official agent, represen-~~
21 ~~tative or solicitor of one or more farm wineries. Such agent, represen-~~
22 ~~tative or solicitor shall be physically present at all times during the~~
23 ~~conduct of the tastings; and~~
24 ~~(ii) any liability stemming from a right of action resulting from a~~
25 ~~wine tasting as authorized herein and in accordance with the provisions~~
26 ~~of sections 11-100 and 11-101 of the general obligations law, shall~~
27 ~~accrue to the farm winery.~~

28 ~~(d)]~~ (c) (i) Any person having applied for and received a license as a
29 farm winery under this section may conduct wine tastings of New York
30 state labelled wines and sell such wine by the bottle, during such tast-
31 ing, for off-premises consumption at outdoor or indoor gatherings, func-
32 tions, occasions or events, within the hours fixed by or pursuant to
33 subdivision fourteen of section one hundred five of this chapter, spon-
34 sored by a bona fide charitable organization. Such tastings shall be
35 subject to the provisions of subdivision two of section eighty of this
36 article. For the purposes of this paragraph, a bona fide charitable
37 organization shall mean and include any bona fide religious or charita-
38 ble organization or bona fide educational, fraternal or service organ-
39 ization or bona fide organization of veterans or volunteer firefighters,
40 which by its charter, certificate of incorporation, constitution, or act
41 of the legislature, shall have among its dominant purposes one or more
42 of the lawful purposes as defined in subdivision five of section one
43 hundred eighty-six of the general municipal law.

44 (ii) Upon application, the liquor authority shall issue an annual
45 permit authorizing such farm winery to participate in such outdoor or
46 indoor gatherings, functions, occasions or events sponsored by a chari-
47 table organization. The farm winery must give the authority written or
48 electronic notice of the date, time and specific location of each tast-
49 ing at least fifteen days prior to the tasting. A farm winery that
50 obtains a permit to conduct such wine tastings does not need to apply
51 for or obtain a temporary beer or wine permit pursuant to section nine-
52 ty-seven of this chapter or any other permit to conduct such a tasting
53 or to sell wine by the bottle for off-premises consumption at such tast-
54 ings.

55 (iii) ~~[Such farm winery may charge a fee for each wine sample tasted.~~
56 ~~Tastings shall be conducted by an official agent, representative or~~

~~solicitor of such farm winery.~~] The state liquor authority may adopt rules and regulations regarding such tastings as provided in this subdivision.

§ 24. Paragraph (e) of subdivision 4 of section 76-a of the alcoholic beverage control law, as added by chapter 221 of the laws of 2011, is amended to read as follows:

(e) Notwithstanding any provision of this chapter to the contrary, any farm winery licensee may charge[+

~~(i) For~~ for tours of its premises[~~+~~ and

~~(ii) For any wine tastings~~].

§ 25. Paragraph (f) of subdivision 6 of section 76-a of the alcoholic beverage control law, as amended by chapter 571 of the laws of 2008, is amended to read as follows:

(f) Conduct tastings of New York state labelled liquors manufactured by the holder of a class A-1, B-1, or C distiller's license. ~~[All liquor tastings conducted pursuant to this paragraph shall be conducted in the same manner as tastings of brandy pursuant to section seventy-six-e of this article.]~~ The provisions of subdivision three of section sixty-three-a of this chapter shall apply to any such tasting of liquor.

§ 26. Paragraph (g) of subdivision 6 of section 76-a of the alcoholic beverage control law, as added by chapter 108 of the laws of 2012, is amended to read as follows:

(g) Conduct tastings of and sell at retail for consumption off the premises New York state labelled beer manufactured by a licensed brewer or farm brewery. The provisions of subdivision two of section fifty-four-b of this chapter shall apply to any such tasting of beer.

§ 27. Paragraph (h) of subdivision 6 of section 76-a of the alcoholic beverage control law, as amended by chapter 384 of the laws of 2013, is amended to read as follows:

(h) Conduct tastings of and sell at retail for consumption off the premises New York state labelled cider manufactured by a licensed brewer, licensed farm brewery, licensed farm winery, licensed cider producer or licensed farm cidery. The provisions of subdivision two of section fifty-nine-a of this chapter shall apply to any such tasting of cider.

§ 28. Paragraph (b) of subdivision 3 of section 77 of the alcoholic beverage control law, as added by chapter 422 of the laws of 2016, is amended to read as follows:

(b) conduct wine tastings for those individuals taking such classes and/or using such facilities for the production of wine at the licensed facility provided that the tastings shall be subject to the ~~[following limitations:~~

~~(i) tastings shall be conducted by the licensee or by an official agent of the licensee. Such licensee or agent shall be physically present at all times during the conduct of the tastings; and~~

~~(ii) any liability stemming from a right of action resulting from a tasting of wine as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to such center]~~ provisions of subdivision two of section eighty of this article.

§ 29. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 1, 2018.