

# STATE OF NEW YORK

8997

## IN ASSEMBLY

January 10, 2018

Introduced by M. of A. FAHY -- 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 section 1 of chapter 360 of the laws of 2017,  
3 is amended 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, or educational seminars, designed to help educate consumers in  
14 their knowledge and appreciation of alcoholic beverages, as defined in  
15 section three of this chapter and allowed pursuant to their license[~~, or~~  
16 ~~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[~~, or the sale of~~];

22 (g) gift bags, gift boxes, or wrapping, for alcoholic beverages  
23 purchased at the licensed premises [~~shall not constitute engaging in~~  
24 ~~another business within the meaning of this subdivision~~];

25 (h) tonic water;

26 (i) bitters; and

27 (j) maraschino cherries.

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

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1 Any fee obtained from the sale of an educational seminar shall not be  
2 considered as a fee for any tasting that may be offered during an educa-  
3 tional seminar, provided that such tastings are available to persons who  
4 have not paid to attend the seminar and all tastings are conducted in  
5 accordance with section sixty-three-a of this article.

6 § 2. Subdivision 4 of section 63 of the alcoholic beverage control  
7 law, as amended by section 2 of chapter 360 of the laws of 2017, is  
8 amended to read as follows:

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

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

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

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

17 (d) publications, including prerecorded video and/or audio cassette  
18 tapes, or educational seminars, designed to help educate consumers in  
19 their knowledge and appreciation of alcoholic beverages, as defined in  
20 section three of this chapter and allowed pursuant to their license[~~, or~~  
21 ~~the sale of~~];

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

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

28 (g) tonic water;

29 (h) bitters; and

30 (i) maraschino cherries.

31 Any fee obtained from the sale of an educational seminar shall not be  
32 considered as a fee for any tasting that may be offered during an educa-  
33 tional seminar, provided that such tastings are available to persons who  
34 have not paid to attend the seminar and all tastings are conducted in  
35 accordance with section sixty-three-a of this article.

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

39 (a) No wholesaler shall be engaged in any other business on the prem-  
40 ises to be licensed; except that nothing contained in this chapter  
41 shall: (1) prohibit a beer wholesaler from (i) acquiring, storing or  
42 selling non-alcoholic snack foods, as defined in paragraph (b) of this  
43 subdivision, (ii) manufacturing, bottling, storing, or selling non-alco-  
44 holic carbonated beverages, (iii) manufacturing, storing or selling  
45 non-alcoholic non-carbonated soft drinks, mineral waters, spring waters,  
46 drinking water, non-taxable malt or cereal beverages, juice drinks,  
47 fruit or vegetable juices, ice, liquid beverage mixes and dry or frozen  
48 beverage mixes, (iv) acquiring, storing or selling wine products, (v)  
49 the sale of promotional items on such premises, or (vi) the sale of  
50 tobacco products at retail by wholesalers who are licensed to sell beer  
51 and other products at retail; (2) prohibit a wholesaler authorized to  
52 sell wine from manufacturing, acquiring or selling wine merchandise, as  
53 defined in paragraph (d) of this subdivision; (3) prohibit a licensed  
54 winery or licensed farm winery from engaging in the business of a wine  
55 wholesaler for New York state labeled wines produced by any licensed  
56 winery or licensed farm winery or prohibit such wine wholesaler from

1 exercising any of its rights pursuant to sections seventy-six and seven-  
2 ty-six-a of this chapter provided that the operation of such beer and  
3 wine wholesalers business shall be subject to such rules and regulations  
4 as the liquor authority may prescribe; (4) prohibit a beer wholesaler  
5 who is authorized to sell beer at retail from selling at retail: (i)  
6 candy, chewing gum and cough drops; (ii) non-refrigerated salsa; (iii)  
7 cigarette lighters, lighter fluid, matches and ashtrays; (iv) barbecue  
8 and picnic-related products and supplies, which shall include, but not  
9 be limited to, charcoal, grills, propane gas, plastic and paper cups,  
10 paper or plastic tablecloths and coolers; (v) beer making and brewing  
11 supplies and publications, which shall include, but not be limited to,  
12 books, magazines, equipment and ingredients; (vi) steins, mugs and other  
13 glassware appropriate for the consumption of beer, malt beverages and  
14 wine products; (vii) items typically used to serve beer and malt beverages  
15 including, but not limited to, taps, kegerators, koozies and beer  
16 socks; (viii) lemons, limes and oranges, provided that no more than two  
17 dozen of each shall be displayed at any one time; (ix) rock salt, ice  
18 and snow melting compounds, snow shovels; windshield washer solvent;  
19 firewood; beach umbrellas; sunglasses and sun block; and (x) prepaid  
20 telephone cards; ~~(5)~~ (5) prohibit the installation and operation of a  
21 single automated teller machine in the premises of a beer wholesaler who  
22 is authorized to sell beer at retail; or (6) prohibit a liquor wholesaler from transporting or selling tonic water, bitters and maraschino  
23 cherries. For the purposes of this subdivision, "automated teller  
24 machine" means a device which is linked to the accounts and records of a  
25 banking institution and which enables consumers to carry out banking  
26 transactions, including but not limited to, account transfers, deposits,  
27 cash withdrawals, balance inquiries and loan payments.

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