

# STATE OF NEW YORK

2340

2019-2020 Regular Sessions

## IN ASSEMBLY

January 22, 2019

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 chapter 360 of the laws of 2017, 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, 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~~[, 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.

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

9 (a) No wholesaler shall be engaged in any other business on the prem-  
10 ises to be licensed; except that nothing contained in this chapter  
11 shall: (1) prohibit a beer wholesaler from (i) acquiring, storing or  
12 selling non-alcoholic snack foods, as defined in paragraph (b) of this  
13 subdivision, (ii) manufacturing, bottling, storing, or selling non-alco-  
14 holic carbonated beverages, (iii) manufacturing, storing or selling  
15 non-alcoholic non-carbonated soft drinks, mineral waters, spring waters,  
16 drinking water, non-taxable malt or cereal beverages, juice drinks,  
17 fruit or vegetable juices, ice, liquid beverage mixes and dry or frozen  
18 beverage mixes, (iv) acquiring, storing or selling wine products, (v)  
19 the sale of promotional items on such premises, or (vi) the sale of  
20 tobacco products at retail by wholesalers who are licensed to sell beer  
21 and other products at retail; (2) prohibit a wholesaler authorized to  
22 sell wine from manufacturing, acquiring or selling wine merchandise, as  
23 defined in paragraph (d) of this subdivision; (3) prohibit a licensed  
24 winery or licensed farm winery from engaging in the business of a wine  
25 wholesaler for New York state labeled wines produced by any licensed  
26 winery or licensed farm winery or prohibit such wine wholesaler from  
27 exercising any of its rights pursuant to sections seventy-six and seven-  
28 ty-six-a of this chapter provided that the operation of such beer and  
29 wine wholesalers business shall be subject to such rules and regulations  
30 as the liquor authority may prescribe; (4) prohibit a beer wholesaler  
31 who is authorized to sell beer at retail from selling at retail: (i)  
32 candy, chewing gum and cough drops; (ii) non-refrigerated salsa; (iii)  
33 cigarette lighters, lighter fluid, matches and ashtrays; (iv) barbecue  
34 and picnic-related products and supplies, which shall include, but not  
35 be limited to, charcoal, grills, propane gas, plastic and paper cups,  
36 paper or plastic tablecloths and coolers; (v) beer making and brewing  
37 supplies and publications, which shall include, but not be limited to,  
38 books, magazines, equipment and ingredients; (vi) steins, mugs and other  
39 glassware appropriate for the consumption of beer, malt beverages and  
40 wine products; (vii) items typically used to serve beer and malt bever-  
41 ages including, but not limited to, taps, kegerators, koozies and beer  
42 socks; (viii) lemons, limes and oranges, provided that no more than two  
43 dozen of each shall be displayed at any one time; (ix) rock salt, ice  
44 and snow melting compounds, snow shovels; windshield washer solvent;  
45 firewood; beach umbrellas; sunglasses and sun block; and (x) prepaid  
46 telephone cards; ~~(5)~~ (5) prohibit the installation and operation of a  
47 single automated teller machine in the premises of a beer wholesaler who  
48 is authorized to sell beer at retail; or (6) prohibit a liquor whole-  
49 saler from transporting or selling tonic water, bitters and maraschino  
50 cherries. For the purposes of this subdivision, "automated teller  
51 machine" means a device which is linked to the accounts and records of a  
52 banking institution and which enables consumers to carry out banking  
53 transactions, including but not limited to, account transfers, deposits,  
54 cash withdrawals, balance inquiries and loan payments.

55 § 3. This act shall take effect immediately.