STATE OF NEW YORK

8956

IN ASSEMBLY

January 6, 2020

Introduced by M. of A. LUPARDO -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law and the alcoholic beverage control law, in relation to exempting certain beer tastings from retail sales and compensating use taxes

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

Section 1. Paragraph (ii) of subdivision (d) of section 1105 of the tax law is amended by adding a new subparagraph (C) to read as follows:

(C) Sales by a brewery licensed under section fifty-one of the alcoholic beverage control law, or a farm brewery licensed under section fifty-one-a of such law, of no more than four samples of beer not exceeding four fluid ounces each, and each sample shall be a different beer than the others. Only a customer's first purchase during each calendar day at each licensed entity shall be exempt under this subparagraph.

§ 2. Paragraph 33 of subdivision (a) of section 1115 of the tax law, as amended by a chapter of the laws of 2019 amending the tax law and the alcoholic beverage control law relating to exempting certain beer tastings from retail sales and compensating use taxes, as proposed in legislative bills numbers S.6289-A and A.7947-A, is amended to read as follows:

(33) Wine or wine product, beer or beer product, cider or cider product, liquor or liquor product, and the kegs, cans, bottles, growlers, corks, caps, and labels used to package such alcoholic product, furnished by the official agent of a farm winery, winery, brewery, farm brewery, cider producer, farm cidery, distillery, farm distillery, wholesaler, or importer at a wine, beer, cider or liquor tasting held in accordance with the alcoholic beverage control law to a customer or prospective customer who consumes such wine, beer, cider or liquor at such tasting. [~~For purposes of this paragraph, a beer tasting shall meet the definition set forth in subdivision three-a of section fifty-one of the alcoholic beverage control law or paragraph (f) of subdivision two of section fifty-one-a of such law.~~]

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

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§ 3. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 45 to read as follows:

(45) Sales by a brewery licensed under section fifty-one of the alcoholic beverage control law, or a farm brewery licensed under section fifty-one-a of such law, of no more than four samples of beer not exceeding four fluid ounces each, and each sample shall be a different beer than the others. Only a customer's first purchase during each calendar day at each licensed entity shall be exempt under this paragraph.

§ 4. Subdivision 3-a of section 51 of the alcoholic beverage control law, as amended by a chapter of the laws of 2019 amending the tax law and the alcoholic beverage control law relating to exempting certain beer tastings from retail sales and compensating use taxes, as proposed in legislative bills numbers S.6289-A and A.7947-A, is amended to read as follows:

3-a. A licensed brewer may at the licensed premises conduct tastings of, and sell at retail for consumption on or off the licensed premises, any beer manufactured by the licensee or any New York state labeled beer. [~~For purposes of the exemption on retail sales and compensating use taxes provided for in paragraph thirty-three of subdivision a of section eleven hundred fifteen of the tax law, a beer tasting shall mean no more than five samples of beer not exceeding five fluid ounces each, which may be provided or sold to a person in any calendar day, and each such sample shall be a different beer than the others.~~] Provided, however, that 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, precooked 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 beer at retail for consumption on and off the premises shall apply so far as applicable to such licensee.

§ 5. Paragraph (f) of subdivision 2 of section 51-a of the alcoholic beverage control law, as amended by a chapter of the laws of 2019 amending the tax law and the alcoholic beverage control law relating to exempting certain beer tastings from retail sales and compensating use taxes, as proposed in legislative bills numbers S.6289-A and A.7947-A, is amended to read as follows:

(f) conduct tastings at the licensed premises of beer, cider, and braggot manufactured by the licensee or any other licensed farm brewery[~~. For purposes of the exemption on retail sales and compensating use taxes provided for in paragraph thirty-three of subdivision a of section eleven hundred fifteen of the tax law, beer tasting shall mean no more than five samples of beer not exceeding five fluid ounces each, which may be provided or sold to a person in any calendar day, and each such sample shall be a different beer than the others~~];

§ 6. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2019 amending the tax law and the alcoholic beverage control law relating to exempting certain beer tastings from retail sales and compensating use taxes, as proposed in legislative bills numbers S.6289-A and A.7947-A, takes effect.