

# STATE OF NEW YORK

6957

## IN SENATE

January 6, 2020

Introduced by Sen. KAMINSKY -- 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 authorizing retail licensees to purchase beer with a business payment card; 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. Paragraphs h and j of subdivision 1 of section 101-aaa of  
2 the alcoholic beverage control law, as added by a chapter of the laws of  
3 2019, amending the alcoholic beverage control law relating to authoriz-  
4 ing retail licenses to purchase beer, wine or liquor with a business  
5 payment card, as proposed in legislative bills numbers S. 4241-A and A.  
6 6701-A, are amended to read as follows:

7 h. "Business payment card" means: (1) any credit card issued to a  
8 retail licensee for business or commercial use pursuant to an agreement  
9 that allows the holder thereof to obtain goods and services on the cred-  
10 it of the issuer or a debit card that provides access to a bank account  
11 of a retail licensee; (2) a credit or debit card from an issuer accepted  
12 by the manufacturer or wholesaler as permitted by the authority in regu-  
13 lation; and (3) such credit card shall not include cards in which a  
14 manufacturer or wholesaler has a financial interest or cards by which  
15 their use benefits a manufacturer or wholesaler. Such card must be  
16 issued in the same name as a retail licensee and registered to the same  
17 address as the address on the retail license, or as otherwise permitted  
18 by the authority in regulation.

19 j. "Final business payment card invoice amount" means the amount  
20 charged by a manufacturer or wholesaler to a retail licensee pursuant to  
21 paragraph (c) of subdivision two of this section; and shall equal the  
22 final cash invoice amount plus [~~remuneration for surcharges and fees~~  
23 ~~incurred by a manufacturer or wholesaler as a result of such a trans-~~  
24 ~~action, which shall be calculated by multiplying the final cash invoice~~  
25 ~~amount by a rate determined annually by the authority] three percent of  
26 the final cash invoice amount. The three percent represents the  
27 surcharges and fees that are charged to the manufacturer or wholesaler~~

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

1 by the business payment card issuer or a person or entity associated  
2 with the issuer.

3 § 2. Subdivision 2-a of section 101-aaa of the alcoholic beverage  
4 control law, as added by a chapter of the laws of 2019, amending the  
5 alcoholic beverage control law relating to authorizing retail licenses  
6 to purchase beer, wine or liquor with a business payment card, as  
7 proposed in legislative bills numbers S. 4241-A and A. 6701-A, is  
8 amended and a new subdivision 2-b is added to read as follows:

9 2-a. A manufacturer or wholesaler that accepts business payment cards  
10 shall clearly state the final cash invoice amount and the final business  
11 payment card invoice amount on an invoice provided to a retail licensee.  
12 Nothing in this section shall preclude, or permit a manufacturer or  
13 wholesaler to [~~preclude~~] prevent, a retail licensee that receives such  
14 an invoice from electing to use any other form of payment method permit-  
15 ted pursuant to subdivision two of this section following receipt of  
16 such invoice.

17 2-b. Nothing herein contained shall be construed to require any  
18 manufacturer or wholesaler to accept business payment cards as a method  
19 of payment by any retail licensee, provided that if such payment method  
20 is made available it shall be available on equal terms to all retail  
21 licensees.

22 § 3. Subdivision 2 of section 55-b of the alcoholic beverage control  
23 law, as amended by a chapter of the laws of 2019, amending the alcoholic  
24 beverage control law relating to authorizing retail licenses to purchase  
25 beer, wine or liquor with a business payment card, as proposed in legis-  
26 lative bills numbers S. 4241-A and A. 6701-A, is amended to read as  
27 follows:

28 2. No brewer or beer wholesaler may increase the price per case, draft  
29 package or special package of beer sold to beer wholesalers or retail  
30 licensees until at least one hundred eighty days have elapsed since his  
31 last price decrease on such case, draft package or special package,  
32 provided, however, that the brewer or beer wholesaler may increase any  
33 price established by him at any time in the amount of any direct tax  
34 increase on beer or [~~in the amount necessary~~] three percent of the final  
35 cash invoice amount to reasonably remunerate such wholesaler for  
36 surcharges and fees incurred for business payment card payments, as  
37 [~~determined by the authority pursuant to~~] provided for by paragraph j of  
38 subdivision one of section one hundred one-aaa of this chapter, or on  
39 containers thereof, actually paid by such brewer or beer wholesaler, and  
40 provided further, however, that if a brewer or beer wholesaler has  
41 increased his price to beer wholesalers at any time pursuant to the  
42 provisions hereof, the beer wholesaler may increase the price estab-  
43 lished by him on such package in an amount equal to the direct price  
44 increase to the beer wholesaler. The price per case, draft package or  
45 special package of beer sold to beer wholesalers or retail licensees on  
46 the first day of the month following the effective date of this act  
47 shall be deemed the base price, to or from which price increases or  
48 decreases may be made in accordance with the provisions of this section.

49 § 4. Paragraphs g, h, and i of subdivision 1 of section 101-aa of the  
50 alcoholic beverage control law, as added by a chapter of the laws of  
51 2019 amending the alcoholic beverage control law relating to authorizing  
52 retail licenses to purchase beer, wine or liquor with a business payment  
53 card, as proposed in legislative bills numbers S.4241-A and A.6701-A,  
54 are REPEALED.

55 § 5. Subdivision 2 of section 101-aa of the alcoholic beverage control  
56 law, as amended by a chapter of the laws of 2019 amending the alcoholic

1 beverage control law relating to authorizing retail licenses to purchase  
2 beer, wine or liquor with a business payment card, as proposed in legis-  
3 lative bills numbers S.4241-A and A.6701-A, is amended to read as  
4 follows:

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

8 (a) for cash to be paid at the time of delivery; or

9 (b) on terms requiring payment by such retail licensee for such alco-  
10 holic beverages on or before the final payment date of the credit period  
11 for which delivery is made[~~, or~~

12 ~~(c) by business payment card, provided that a manufacturer or whole-~~  
13 ~~saler that exercises reasonable diligence to ensure the sale comports~~  
14 ~~with the requirements of this section shall not be found to have~~  
15 ~~violated this subdivision where a retail licensee uses a credit card~~  
16 ~~other than a business payment card].~~

17 § 6. Subdivision 2-a of section 101-aa of the alcoholic beverage  
18 control law, as added by a chapter of the laws of 2019 amending the  
19 alcoholic beverage control law relating to authorizing retail licenses  
20 to purchase beer, wine or liquor with a business payment card, as  
21 proposed in legislative bills numbers S.4241-A and A.6701-A, is  
22 REPEALED.

23 § 7. This act shall take effect on the same date and in the same  
24 manner as a chapter of the laws of 2019, amending the alcoholic beverage  
25 control law relating to authorizing retail licenses to purchase beer,  
26 wine or liquor with a business payment card, as proposed in legislative  
27 bills numbers S. 4241-A and A. 6701-A, takes effect.