

STATE OF NEW YORK

1185

2019-2020 Regular Sessions

IN SENATE

January 11, 2019

Introduced by Sen. RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to more closely align the privileges of farm distilleries with other privileges enjoyed by farmers

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

1 Section 1. Subdivision 25 of section 3 of the alcoholic beverage
2 control law is amended to read as follows:

3 25. "Retail sale" or "sale at retail" means a sale to a consumer or to
4 any person for any purpose other than for resale. Such sale may occur
5 during a tasting or during any other activities where permitted by law.

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

9 (v) To conduct tastings of and sell at retail for consumption on or
10 off the premises New York state labelled beer manufactured by [~~a~~
11 ~~licensed brewer~~] either a brewer licensed in New York state or [~~licensed~~
12 ~~farm brewery~~] a farm brewery licensed in New York state;

13 (vii) To conduct tastings of and sell at retail for consumption on or
14 off the premises New York state labelled wine manufactured by either a
15 licensed winery licensed in New York state or a licensed farm winery
16 licensed in New York state.

17 § 3. Paragraph (e) of subdivision 2-c of section 61 of the alcoholic
18 beverage control law, as amended by chapter 431 of the laws of 2014, is
19 amended to read as follows:

20 (e) Notwithstanding any other provision of law to the contrary, the
21 holder of a farm distillery license may (i) sell at retail for consump-
22 tion on the licensed premises[~~r~~]; any liquor manufactured by the licen-
23 see or any New York state labeled liquor, or any alcoholic beverage for

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

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1 consumption on the licensed premises pursuant to this subdivision.

2 Provided, however, the licensee shall regularly keep food available for
3 sale or service to its retail customers for consumption on the premises.
4 A licensee providing the following shall be deemed in compliance with
5 this provision: sandwiches, soups or other such foods, whether fresh,
6 processed, pre-cooked or frozen; and/or food items intended to [~~compli-~~
7 ~~ment~~] complement the tasting of alcoholic beverages, which shall mean a
8 diversified selection of food that is ordinarily consumed without the
9 use of tableware and can be conveniently consumed while standing or
10 walking, including but not limited to: cheese, fruits, vegetables, choc-
11 olates, breads, mustards and crackers. All of the provisions of this
12 chapter relative to licenses to sell liquor at retail for consumption on
13 the premises shall apply so far as applicable to such licensee; and

14 (ii) operate a restaurant, hotel, catering establishment, or other
15 food and drinking establishment in or adjacent to the licensed premises
16 and sell at such place, in addition to any food items or other purchased
17 items, at retail for consumption on the premises, only liquor manufac-
18 tured by the licensee and any New York state labeled liquor. All of the
19 provisions of this chapter relative to licenses to sell liquor at retail
20 for consumption on [~~the~~] such premises shall apply so far as applicable
21 to such licensee. Notwithstanding any other provision of law, the licen-
22 see may apply to the authority for a license under this chapter to sell
23 other alcoholic beverages at retail for consumption on the premises at
24 such establishment. The privileges contained in this subdivision shall
25 not extend to the premises of a restaurant, hotel or catering establish-
26 ment.

27 § 4. Paragraphs (e) and (f) of subdivision 2 of section 76-a of the
28 alcoholic beverage control law, paragraph (e) as amended by chapter 328
29 of the laws of 2016 and paragraph (f) as amended by chapter 431 of the
30 laws of 2014, are amended to read as follows:

31 (e) sell at the licensed premises at retail for consumption on or off
32 the licensed premises: cider and wine manufactured by the licensee or
33 any other licensed farm winery[~~, and beer and spirits manufactured by~~
34 ~~any licensed farm brewery or farm distillery, at retail for consumption~~
35 ~~on or off the licensed premises~~]; New York state labeled cider manufac-
36 tured by any of the following so long as it is licensed in New York
37 state by a brewer, farm brewer, winery, cider producer, or a farm
38 cider; New York state labeled beer manufactured by either a brewer
39 licensed in New York state or a farm brewery licensed in New York state;
40 and New York state labeled liquor manufactured by either a distillery
41 licensed in New York state or a farm distillery licensed in New York
42 state;

43 (f) operate a restaurant, hotel, catering establishment, or other food
44 and drinking establishment in or adjacent to the licensed premises and
45 sell at such place, in addition to any food items or other permitted
46 items, at retail for consumption on the premises, wine, cider and wine
47 products manufactured by the licensee and any New York state labeled
48 wine, New York state labeled cider or New York state labeled wine prod-
49 uct. All of the provisions of this chapter relative to licenses to sell
50 wine at retail for consumption on the premises shall apply so far as
51 applicable to such licensee. Notwithstanding any other provision of law,
52 the licensed winery may apply to the authority for a license under arti-
53 cle four of this chapter to sell other alcoholic beverages at retail for
54 consumption on the premises at such establishment. The privileges
55 contained in paragraphs (e), (f), (g) and (h) of subdivision six of this

1 section shall not extend to the premises of a restaurant, hotel or
2 catering establishment.

3 § 5. Paragraphs (e), (f), (g) and (h) of subdivision 6 of section 76-a
4 of the alcoholic beverage control law, paragraphs (e) and (f) as amended
5 by chapter 571 of the laws of 2008, paragraph (g) as added by chapter
6 108 of the laws of 2012 and paragraph (h) as amended by chapter 384 of
7 the laws of 2013, are amended to read as follows:

8 (e) Sell for consumption on or off the licensed premises New York
9 state labelled liquors manufactured by the holder of a class A-1, B-1,
10 or C distiller's license.

11 (f) Conduct tastings on the licensed premises of New York state
12 labelled liquors manufactured by the holder of a class A-1, B-1, or C
13 distiller's license or by a farm distillery licensed in New York state.
14 All liquor tastings conducted pursuant to this paragraph shall be
15 conducted in the same manner as tastings of brandy pursuant to section
16 seventy-six-e of this article.

17 (g) Conduct tastings of and sell at retail for consumption on or off
18 the licensed premises New York state labelled beer manufactured by
19 either a [~~licensed~~] brewer licensed in New York state or a farm brewery
20 licensed in New York state.

21 (h) Conduct tastings of and sell at retail for consumption on or off
22 the licensed premises New York state labelled cider manufactured by [~~a~~]
23 any of the following so long as it is licensed in New York state: a
24 brewer licensed in New York state, [~~licensed~~] a farm brewery licensed in
25 New York state, a winery, [~~licensed~~] farm winery, [~~licensed~~] cider
26 producer or [~~licensed~~] farm cidery.

27 § 6. Paragraphs (f), (h), (i) and (j) of subdivision 2 of section 58-c
28 of the alcoholic beverage control law, paragraph (f) as amended by chap-
29 ter 431 of the laws of 2014 and paragraphs (h), (i) and (j) as amended
30 by chapter 327 of the laws of 2016, are amended to read as follows:

31 (f) (i) if at the licensed premises, [~~conduct~~] the licensee conducts
32 tastings of, [~~and-sell~~] or sells at retail for consumption on or off the
33 licensed premises, any cider manufactured by the licensee or any New
34 York state labeled cider, or any alcoholic beverage for consumption on
35 the licensed premises pursuant to paragraph (g), (h), (i), or (j) of
36 this subdivision the licensee shall regularly keep food available for
37 sale or service to its retail customers for consumption on the premises.

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

50 (ii) operate a restaurant, hotel, catering establishment, or other
51 food and drinking establishment in or adjacent to the licensed premises
52 and sell at such place, in addition to any food items or other permitted
53 items, at retail for consumption on the premises, only cider manufac-
54 tured by the licensee and any New York state labeled cider. All of the
55 provisions of this chapter relative to licensees to selling cider at
56 retail shall apply. Notwithstanding any other provision of law, the

1 licensed farm cidery may apply to the authority for a license under this
2 chapter to sell other alcoholic beverages at retail for consumption on
3 the premises at such establishment, but the privileges contained in
4 paragraph (g), (h), (i), or (j) of this subdivision shall not extend to
5 the premises of the restaurant, hotel, or catering establishment;

6 (h) conduct tastings of and sell at retail for consumption on or off
7 the premises New York state labeled beer manufactured by [~~a licensed~~]
8 either a brewery licensed in New York state or [~~licensed~~] a farm brewery
9 licensed in New York state;

10 (i) conduct tastings of and sell at retail for consumption on or off
11 the licensed premises New York state labelled wine manufactured by
12 either a [~~licensed~~] winery licensed in New York state or [~~licensed~~] a
13 farm winery licensed in New York state;

14 (j) conduct tastings of and sell at retail for consumption on or off
15 the premises New York state labelled liquor manufactured by [~~a licensed~~]
16 either a distiller licensed in New York state or [~~licensed~~] a farm
17 distiller licensed in New York state; provided, however, that no consum-
18 er may be provided, directly or indirectly: (i) with more than three
19 samples of liquor for tasting in one calendar day; or (ii) with a sample
20 of liquor for tasting equal to more than one-quarter fluid ounce; and

21 § 7. Paragraphs (e), (f), (g), (h), (i), (j), (k) and (l) of subdivi-
22 sion 2 of section 51-a of the alcoholic beverage control law, paragraph
23 (e) as amended by chapter 328 of the laws of 2016, paragraphs (f), (h),
24 (i), (k) and (l) as added by chapter 108 of the laws of 2012, paragraph
25 (g) as amended by chapter 431 of the laws of 2014 and paragraph (j) as
26 added and paragraphs (k) and (l) as relettered by chapter 384 of the
27 laws of 2013, are amended to read as follows:

28 (e) [~~sell at the licensed premises beer and cider manufactured by the~~
29 ~~licensee or any other licensed farm brewery, and wine and spirits manu-~~
30 ~~factured by any licensed farm winery or farm distillery, at retail for~~
31 ~~consumption on or off the licensed premises~~] (i) sell at retail for
32 consumption on or off the licensed premises beer manufactured by the
33 licensee, or New York state labelled beer manufactured by either a brew-
34 er licensed in New York state or a farm brewery licensed in New York
35 state;

36 (ii) to conduct tastings of, and sell at retail for consumption on or
37 off the licensed premises cider manufactured by the licensee, or New
38 York state labelled cider manufactured by either a cidery licensed in
39 New York state or a farm cidery licensed in New York state;

40 (iii) to conduct tastings of, and sell at retail for consumption on or
41 off the licensed premises New York state labelled wine manufactured by
42 either a winery licensed in New York state or a farm winery licensed in
43 New York state; and

44 (iv) to conduct tastings of, and sell at retail for consumption on or
45 off the licensed premises New York state labelled spirits manufactured
46 by either a distillery licensed in New York state or a farm distillery
47 licensed in New York state; provided, however, that no consumer may be
48 provided, directly or indirectly: (A) with more than three samples of
49 liquor for tasting in one calendar day; or (B) with a sample of liquor
50 for tasting equal to more than one-quarter fluid ounce;

51 (f) [~~conduct tastings at the licensed premises of beer and cider manu-~~
52 ~~factured by the licensee or any other licensed farm brewery;~~

53 (g) ~~operate a restaurant, hotel, catering establishment, or other food~~
54 ~~and drinking establishment in or adjacent to the licensed premises and~~
55 ~~sell at such place, at retail for consumption on the premises, beer and~~
56 ~~cider manufactured by the licensee and any New York state labeled beer~~

~~or New York state labeled cider. 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. Notwithstanding any other provision of law, the licensed farm brewery may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment]~~ at the licensed premises, conduct tastings of any beer manufactured by the licensee or any New York state labeled beer, or any alcoholic beverage for consumption licensed pursuant to paragraph (e) of this subdivision. Provided however, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. 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 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; and (iii) operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, in addition to any food items or other permitted items, at retail for consumption on the premises, only cider manufactured by the licensee and any New York state labeled cider. All of the provisions of this chapter relative to licensees to selling cider at retail shall apply. Notwithstanding any other provision of law, the licensed farm brewery may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment, but the privileges contained in paragraph (e) of this subdivision shall not extend to the premises of the restaurant, hotel, or catering establishment;

~~(h)]~~ (g) sell beer and cider manufactured by the licensee or any other [licensed] farm brewery licensed in New York state at retail for consumption off the premises, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis; and

~~(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;~~

~~(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;~~

~~(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; and~~

~~(l)]~~ (h) engage in any other business on the licensed premises subject to such rules and regulations as the authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of

1 particular businesses on the community and area in the vicinity of the
2 farm brewery licensee.

3 § 8. This act shall take effect on the ninetieth day after it shall
4 have become a law. Effective immediately, the addition, amendment and/or
5 repeal of any rule or regulation necessary for the implementation of
6 this act on its effective date are authorized to be made and completed
7 on or before such effective date.