STATE OF NEW YORK

4241

2019-2020 Regular Sessions

IN SENATE

March 5, 2019

Introduced by Sens. KAMINSKY, LANZA -- 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 authorizing retail licenses to purchase beer, wine or liquor with a business credit card

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

Section 1. Subdivision 1 of section 101-aa of the alcoholic beverage control law is amended by adding new paragraph g to read as follows:

g. "Business credit card" means any card issued pursuant to an agreement that allows the holder thereof to obtain goods and services on the credit of the issuer, and such card was provided to a retail licensee for business or commercial use.

§ 2. Subdivision 2 of section 101-aa of the alcoholic beverage control law, as amended by chapter 242 of the laws of 2012, is amended and a new subdivision 3-a is added to read as follows:

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

(a) for cash to be paid at the time of delivery; [~~or~~]

(b) on terms requiring payment by such retail licensee for such alcoholic beverages on or before the final payment date of the credit period for which delivery is made**; or**

(c) by business credit card; provided that a manufacturer or wholesaler shall exercise reasonable diligence to ensure the sale comports with the requirements of this section; and, upon exercising such diligence, shall not be found to have violated this paragraph where a retail licensee uses a credit card other than a business credit card.

3-a. Where a retail licensee uses a business credit card pursuant to this section, such retail licensee shall reimburse the wholesaler or

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

LBD10011-01-9

manufacturer for credit card surcharges and fees incurred as a result of the transaction. This rate shall be determined on an annual basis by the authority based on an assessment of surcharges and fees imposed by credit card issuers, and reimbursed in a manner established by regulations.

§ 3. Subdivision 1 of section 101-aaa of the alcoholic beverage control law is amended by adding a new paragraph h to read follows:

h. "Business credit card" means any card issued pursuant to an agreement that allows the holder thereof to obtain goods and services on the credit of the issuer, and such card was provided to a retail licensee for business or commercial use.

§ 4. Subdivision 2 of section 101-aaa of the alcoholic beverage control law, as amended by chapter 522 of the laws of 2018, is amended and a new subdivision 3-a is added to read as follows:

2. No manufacturer or wholesaler licensed under this chapter shall sell or deliver any beer, mead, cider or wine products to any retail licensee except as provided for in this section:

(a) for cash to be paid at the time of delivery; [~~or~~]

(b) on terms requiring payment by such retail licensee for such beer, mead, cider, or wine products on or before the final payment date of any credit period within which delivery is made; or

(c) by business credit card; provided that a manufacturer or wholesaler shall exercise reasonable diligence to ensure the sale comports with the requirements of this section; and, upon exercising such diligence, shall not be found to have violated this paragraph where a retail licensee uses a credit card other than a business credit card.

Provided, however, that the sale of wine products, mead, or cider to a retail licensee by a wholesaler licensed under section fifty-eight, sixty-two, or seventy-eight of this chapter, or a licensed manufacturer of liquor, mead or wine or a cider producer's license, shall be governed by the provisions of section one hundred-one-aa of this article.

3-a. Where a retail licensee uses a business credit card pursuant to this section, such retail licensee shall reimburse the wholesaler or manufacturer for credit card surcharges and fees incurred as a result of the transaction. This rate shall be determined on an annual basis by the authority based on an assessment of surcharges and fees imposed by credit card issuers, and reimbursed in a manner established by regulations.

§ 5. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that if chapter 522 of the laws of 2018 shall not have taken effect on or before such date then section four of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2018 takes effect. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.