

STATE OF NEW YORK

2641--B

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. FAHY -- read once and referred to the Committee on Economic Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Subdivision 4 of section 63 of the alcoholic beverage control law, as amended by section 3 of part H of chapter 58 of the laws of 2019, is amended to read as follows:

4. No licensee under this section shall be engaged in any other business on the licensed premises. The sale of any of the following shall not constitute engaging in another business within the meaning of this subdivision:

(a) lottery tickets, when duly authorized and lawfully conducted~~[, the sale of]~~;

(b) reusable bags as defined in section 27-2801 of the environmental conservation law~~[, the sale of]~~;

(c) corkscrews ~~[or the sale of]~~;

(d) ice ~~[or the sale of]~~;

(e) publications, including prerecorded video and/or audio cassette tapes, or educational seminars, designed to help educate consumers in their knowledge and appreciation of alcoholic beverages, as defined in section three of this chapter and allowed pursuant to their license~~[, or the sale of non-carbonated]~~;

(f) non-flavored mineral waters, spring waters and drinking waters ~~[or the sale of]~~;

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

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1 (g) glasses designed for the consumption of wine or spirits, racks
2 designed for the storage of wine, and devices designed to minimize
3 oxidation in bottles of wine which have been uncorked[~~, or the sale of~~];

4 (h) gift bags, gift boxes, associated promotional items or wrapping,
5 for alcoholic beverages purchased at the licensed premises [~~shall not~~
6 ~~constitute engaging in another business within the meaning of this~~
7 ~~subdivision~~];

8 (i) tonic water;

9 (j) bitters; and

10 (k) maraschino cherries.

11 Any fee obtained from the sale of an educational seminar shall not be
12 considered as a fee for any tasting that may be offered during an educa-
13 tional seminar, provided that such tastings are available to persons who
14 have not paid to attend the seminar and all tastings are conducted in
15 accordance with section sixty-three-a of this article.

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

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

1 single automated teller machine in the premises of a beer wholesaler who
2 is authorized to sell beer at retail; or (6) prohibit a liquor whole-
3 saler from transporting or selling gifts or promotional items associated
4 with wine or spirit products, tonic water, bitters and maraschino cher-
5 ries. For the purposes of this subdivision, "automated teller machine"
6 means a device which is linked to the accounts and records of a banking
7 institution and which enables consumers to carry out banking trans-
8 actions, including but not limited to, account transfers, deposits, cash
9 withdrawals, balance inquiries and loan payments.

10 § 3. Paragraph (a) of subdivision 3 of section 101-b of the alcoholic
11 beverage control law, as amended by section 1 of part E of chapter 56 of
12 the laws of 2006, is amended to read as follows:

13 (a) No brand of liquor or wine shall be sold to or purchased by a
14 wholesaler, irrespective of the place of sale or delivery, unless a
15 schedule, as provided by this section, is transmitted to and received by
16 the liquor authority, and is then in effect. Such schedule shall be
17 transmitted to the authority in such form, manner, medium and format as
18 the authority may direct; shall be deemed duly verified by the person
19 submitting such schedule upon its transmission to the authority; and
20 shall contain, with respect to each item, the exact brand or trade name,
21 capacity of package, nature of contents, age and proof where stated on
22 the label, the number of bottles contained in each case, the bottle and
23 case price to wholesalers, the net bottle and case price paid by the
24 seller, which prices, in each instance, shall be individual for each
25 item and not in "combination" with any other item, the discounts for
26 quantity, if any, and the discounts for time of payment, if any. Such
27 brand of liquor or wine shall not be sold to wholesalers except at the
28 price and discounts then in effect unless prior written permission of
29 the authority is granted for good cause shown and for reasons not incon-
30 sistent with the purpose of this chapter. Such schedule shall be trans-
31 mitted by (1) the owner of such brand, or (2) a wholesaler selling such
32 brand and who is designated as agent for the purpose of filing such
33 schedule if the owner of the brand is not licensed by the authority, or
34 (3) with the approval of the authority, by a wholesaler, in the event
35 that the owner of the brand is unable to transmit a schedule or design-
36 ate an agent for such purpose. As used in this subdivision the term
37 "item" shall be deemed to include a sealed, pre-wrapped package consist-
38 ing of a sealed container or containers of liquor, wine or wine product
39 and other merchandise reasonably used in connection with the prepara-
40 tion, storage, promotion, gifting or service of liquor, wine or wine
41 products provided that such other merchandise shall not be potable or
42 edible.

43 § 4. This act shall take effect on the sixtieth day after it shall
44 have become a law.