

# STATE OF NEW YORK

3116

2021-2022 Regular Sessions

## IN ASSEMBLY

January 22, 2021

Introduced by M. of A. FAHY, WOERNER, LUPARDO -- read once and referred to the Committee on Economic Development

AN ACT in relation to permitting licensees under the alcoholic beverage control law to sell and deliver alcoholic beverages for off-premises consumption; and providing for the repeal of such provisions upon the expiration thereof

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

- 1 Section 1. a. Notwithstanding any other provision of law to the  
2 contrary, any on-premises licensee and any manufacturing licensee with  
3 on-premises retail privileges that is licensed pursuant to the alcoholic  
4 beverage control law may sell for off-premises consumption any alcoholic  
5 beverages that it is licensed to sell for on-premises consumption.  
6 b. Alcoholic beverages sold for off-premises consumption pursuant to  
7 this section:  
8 (i) may be sold in any closed or any sealed container of any size,  
9 provided that the sale of each container shall be accompanied by the  
10 purchase of food, and provided further that sales of such alcoholic  
11 beverages shall comply with any applicable municipal ordinances relating  
12 to open containers;  
13 (ii) may be sold for takeout from the licensed premises, or may be  
14 delivered to the residence of a customer over the age of twenty-one,  
15 provided that deliveries shall be made in a vehicle permitted by the  
16 liquor authority or in a vehicle owned and operated or hired and oper-  
17 ated by the licensee or its employee, and provided further that a copy  
18 of the permit or license must be present in such vehicle while making  
19 deliveries; and  
20 (iii) may only be sold for off-premises consumption during the  
21 on-premises hours of operation of the county in which the premises is  
22 located or, if different, the hours of operation set forth in the  
23 licensee's method of operation with the liquor authority.

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

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1 c. The provisions of this section shall not be construed to modify or  
2 limit any off-premises privileges afforded by a licensee's current  
3 license.

4 d. The liquor authority shall conduct regular outreach to municipi-  
5 palities and community boards to solicit comment regarding the implemen-  
6 tation of this act and the effects of this act on local communities. Not  
7 later than six months after the effective date of this act, the liquor  
8 authority shall report to the governor and the legislature on the imple-  
9 mentation of this act, including a summary of comments the authority has  
10 received from municipalities and community boards.

11 e. Not sooner than four months and not later than two months before  
12 this act shall expire and be deemed repealed, the liquor authority shall  
13 conduct at least three public hearings to solicit public comment on the  
14 implementation of this act and the effects of this act on local communi-  
15 ties, one of which shall take place in the City of New York, one of  
16 which shall take place in Western New York, and one of which shall take  
17 place in the Capital Region.

18 f. Notwithstanding any inconsistent provision of law to the contrary,  
19 the liquor authority may on its own initiative or on complaint of any  
20 person institute proceedings to suspend or revoke a licensee's ability  
21 to sell alcoholic beverages for off-premises consumption pursuant to  
22 this act after a hearing at which the licensee shall be given an oppor-  
23 tunity to be heard. Such proceedings and such hearing shall be held in  
24 such manner and upon such notice as may be prescribed by the rules of  
25 the liquor authority, provided that:

26 (i) the liquor authority shall give written notice to the licensee and  
27 the municipality or community board at least fifteen days in advance of  
28 such hearing; and

29 (ii) a municipality or community board may express an opinion for or  
30 against allowing such licensee to continue to sell alcoholic beverages  
31 for off-premises consumption pursuant to this act. Any such opinion  
32 shall be deemed part of the record upon which the liquor authority makes  
33 its determination pursuant to this subdivision.

34 g. The liquor authority may promulgate rules and regulations to imple-  
35 ment the provisions of this act.

36 § 2. This act shall take effect immediately, and shall expire and be  
37 deemed repealed two years after the expiration of the state disaster  
38 emergency, as such term is defined in section 20 of the executive law,  
39 declared pursuant to executive order 202 of 2020, as amended.