

STATE OF NEW YORK

8826

IN SENATE

April 21, 2022

Introduced by Sen. SKOUFIS -- 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 permitting the sale or promotional gifting of certain complementary products for wine and spirits

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

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

2 (a) No wholesaler shall be engaged in any other business on the premises to be licensed; except that nothing contained in this chapter shall: (1) prohibit a beer wholesaler from (i) acquiring, storing or selling non-alcoholic snack foods, as defined in paragraph (b) of this subdivision, (ii) manufacturing, bottling, storing, or selling non-alcoholic carbonated beverages, (iii) manufacturing, storing or selling non-alcoholic non-carbonated soft drinks, mineral waters, spring waters, drinking water, non-taxable malt or cereal beverages, juice drinks, fruit or vegetable juices, ice, liquid beverage mixes and dry or frozen beverage mixes, (iv) acquiring, storing or selling wine products, (v) the sale of promotional items on such premises, or (vi) the sale of tobacco products at retail by wholesalers who are licensed to sell beer and other products at retail; (2) prohibit a wholesaler authorized to sell wine from manufacturing, acquiring or selling wine merchandise, as defined in paragraph (d) of this subdivision; (3) prohibit a licensed winery or licensed farm winery from engaging in the business of a wine wholesaler for New York state labeled wines produced by any licensed winery or licensed farm winery or prohibit such wine wholesaler from exercising any of its rights pursuant to sections seventy-six and seventy-six-a of this chapter provided that the operation of such beer and wine wholesalers business shall be subject to such rules and regulations as the liquor authority may prescribe; (4) prohibit a beer wholesaler who is authorized to sell beer at retail from selling at retail: (i)

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

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1 candy, chewing gum and cough drops; (ii) non-refrigerated salsa; (iii)
2 cigarette lighters, lighter fluid, matches and ashtrays; (iv) barbecue
3 and picnic-related products and supplies, which shall include, but not
4 be limited to, charcoal, grills, propane gas, plastic and paper cups,
5 paper or plastic tablecloths and coolers; (v) beer making and brewing
6 supplies and publications, which shall include, but not be limited to,
7 books, magazines, equipment and ingredients; (vi) steins, mugs and other
8 glassware appropriate for the consumption of beer, malt beverages and
9 wine products; (vii) items typically used to serve beer and malt beverages
10 including, but not limited to, taps, kegerators, koozies and beer
11 socks; (viii) lemons, limes and oranges, provided that no more than two
12 dozen of each shall be displayed at any one time; (ix) rock salt, ice
13 and snow melting compounds, snow shovels; windshield washer solvent;
14 firewood; beach umbrellas; sunglasses and sun block; and (x) prepaid
15 telephone cards; ~~[or]~~ (5) prohibit the installation and operation of a
16 single automated teller machine in the premises of a beer wholesaler who
17 is authorized to sell beer at retail; or (6) prohibit a liquor wholesaler from transporting or selling gifts or promotional items associated
18 with wine or spirit products. For the purposes of this subdivision,
19 "automated teller machine" means a device which is linked to the
20 accounts and records of a banking institution and which enables consumers
21 to carry out banking transactions, including but not limited to,
22 account transfers, deposits, cash withdrawals, balance inquiries and
23 loan payments.

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

28 (a) No brand of liquor or wine shall be sold to or purchased by a
29 wholesaler, irrespective of the place of sale or delivery, unless a
30 schedule, as provided by this section, is transmitted to and received by
31 the liquor authority, and is then in effect. Such schedule shall be
32 transmitted to the authority in such form, manner, medium and format as
33 the authority may direct; shall be deemed duly verified by the person
34 submitting such schedule upon its transmission to the authority; and
35 shall contain, with respect to each item, the exact brand or trade name,
36 capacity of package, nature of contents, age and proof where stated on
37 the label, the number of bottles contained in each case, the bottle and
38 case price to wholesalers, the net bottle and case price paid by the
39 seller, which prices, in each instance, shall be individual for each
40 item and not in "combination" with any other item, the discounts for
41 quantity, if any, and the discounts for time of payment, if any. Such
42 brand of liquor or wine shall not be sold to wholesalers except at the
43 price and discounts then in effect unless prior written permission of
44 the authority is granted for good cause shown and for reasons not inconsistent
45 with the purpose of this chapter. Such schedule shall be transmitted by (1) the owner of such brand, or (2) a wholesaler selling such
46 brand and who is designated as agent for the purpose of filing such
47 schedule if the owner of the brand is not licensed by the authority, or
48 (3) with the approval of the authority, by a wholesaler, in the event
49 that the owner of the brand is unable to transmit a schedule or designate
50 an agent for such purpose. As used in this subdivision the term
51 "item" shall be deemed to include a sealed, pre-wrapped package consisting
52 of a sealed container or containers of liquor, wine or wine product
53 and other merchandise reasonably used in connection with the preparation,
54 storage, promotion, gifting, or service of liquor, wine or wine
55

1 products provided that such other merchandise shall not be potable or
2 edible.

3 § 3. Subdivision 4 of section 63 of the alcoholic beverage control
4 law, as amended by section 3 of part H of chapter 58 of the laws of
5 2019, is amended to read as follows:

6 4. No licensee under this section shall be engaged in any other busi-
7 ness on the licensed premises. The sale of lottery tickets, when duly
8 authorized and lawfully conducted, the sale of reusable bags as defined
9 in section 27-2801 of the environmental conservation law, the sale of
10 corkscrews or the sale of ice or the sale of publications, including
11 prerecorded video and/or audio cassette tapes, or educational seminars,
12 designed to help educate consumers in their knowledge and appreciation
13 of alcoholic beverages, as defined in section three of this chapter and
14 allowed pursuant to their license, or the sale of non-carbonated, non-
15 flavored mineral waters, spring waters and drinking waters or the sale
16 of glasses designed for the consumption of wine or spirits, racks
17 designed for the storage of wine, and devices designed to minimize
18 oxidation in bottles of wine which have been uncorked, or the sale of
19 gift bags, gift boxes, associated promotional items, or wrapping, for
20 alcoholic beverages purchased at the licensed premises shall not consti-
21 tute engaging in another business within the meaning of this subdivi-
22 sion. Any fee obtained from the sale of an educational seminar shall not
23 be considered as a fee for any tasting that may be offered during an
24 educational seminar, provided that such tastings are available to
25 persons who have not paid to attend the seminar and all tastings are
26 conducted in accordance with section sixty-three-a of this article.

27 § 4. This act shall take effect on the ninetieth day after it shall
28 have become a law.