

STATE OF NEW YORK

8855

IN SENATE

April 25, 2022

Introduced by Sen. KAMINSKY -- 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 licensees to purchase alcohol with a business payment card

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

1 Section 1. Subdivision 1 of section 101-aa of the alcoholic beverage
2 control law is amended by adding three new paragraphs g, h and i to read
3 as follows:

4 g. "Business payment card" means: (1) any credit card issued to a
5 retail licensee for business or commercial use pursuant to an agreement
6 that allows the holder thereof to obtain goods and services on the cred-
7 it of the issuer or a debit card that provides access to a bank account
8 of a retail licensee; (2) a credit or debit card from an issuer accepted
9 by the manufacturer or wholesaler as permitted by the authority in regu-
10 lation; and (3) such credit card shall not include cards in which a
11 manufacturer or wholesaler has a financial interest or cards by which
12 their use benefits a manufacturer or wholesaler. Such card must be
13 issued in the same name as a retail licensee and registered to the same
14 address as the address on the retail license, or as otherwise permitted
15 by the authority in regulation.

16 h. "Final cash invoice amount" means the amount charged by a manufac-
17 turer or wholesaler to a retail licensee pursuant to paragraphs (a) and
18 (b) of subdivision two of this section.

19 i. "Final business payment card invoice amount" means the amount
20 charged by a manufacturer or wholesaler to a retail licensee pursuant to
21 paragraph (c) of subdivision two of this section; and shall equal the
22 final cash invoice amount plus the exact surcharges and fees that are
23 charged to the manufacturer or wholesaler by the business payment card
24 issuer, or a person or entity associated with the issuer.

25 § 2. Paragraph (b) of subdivision 2 of section 101-aa of the alcoholic
26 beverage control law, as amended by section 5 of subpart W of part XX of

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

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1 chapter 55 of the laws of 2020, is amended and a new paragraph (c) is
2 added to read as follows:

3 (b) on terms requiring payment by such retail licensee for such alco-
4 holic beverages on or before the final payment date of the credit period
5 for which delivery is made[+]; or

6 (c) by business payment card; provided that a manufacturer or whole-
7 saler that exercises reasonable diligence to ensure the sale comports
8 with the requirements of this section shall not be found to have
9 violated this subdivision where a retail licensee uses a credit card
10 other than a business payment card.

11 § 3. Section 101-aa of the alcoholic beverage control law is amended
12 by adding two new subdivisions 2-a and 2-b to read as follows:

13 2-a. A manufacturer or wholesaler that accepts business payment cards
14 shall clearly state the final cash invoice amount and the final business
15 payment card invoice amount on an invoice provided to a retail licensee.
16 Nothing in this section shall preclude, or permit a manufacturer or
17 wholesaler to prevent, a retail licensee that receives such an invoice
18 from electing to use any other form of payment method permitted pursuant
19 to subdivision two of this section following receipt of such invoice.

20 2-b. Nothing herein contained shall be construed to require any
21 manufacturer or wholesaler to accept business payment cards as a method
22 of payment by any retail licensee, provided that if such payment method
23 is made available it shall be available on equal terms to all retail
24 licensees.

25 § 4. This act shall take effect immediately.