

# STATE OF NEW YORK

10264

## IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gonzalez-Rojas) -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to providing for alternative penalties for violations of certain provisions of the alcoholic beverage control law

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

1 Section 1. Section 118 of the alcoholic beverage control law is  
2 amended by adding a new subdivision 7 to read as follows:

3 7. (a) Notwithstanding any other provision of this chapter or subdivi-  
4 sion six of this section, in lieu of commencement of a disciplinary  
5 proceeding against a licensee or permittee, the authority shall provide  
6 a cure period of ninety days and an opportunity for ameliorative action  
7 if a licensee or permittee violates one of the following provisions of  
8 law: (i) subdivision two of section sixty-five-d of this chapter; (ii)  
9 subdivision two of section one hundred five-b of this article; (iii)  
10 subdivision six of section one hundred fourteen of this article; (iv)  
11 subdivision twelve of section one hundred six of this article; (v)  
12 subdivision three or subdivision nine of section one hundred six of this  
13 article; (vi) 9 NYCRR 48.3; (vii) 9 NYCRR 53.1(p); or (viii) any law,  
14 rule or regulation which prohibits the pre-batching of alcoholic bever-  
15 ages or sangria.

16 (b) Upon such violation, the authority shall (i) provide the licensee  
17 a written warning and a copy of the applicable law or rule and any other  
18 helpful guidance or information explaining such law or rule, to the  
19 extent such materials exist, in English and any other languages of the  
20 licensee as known to the authority, and (ii) to the extent practicable,  
21 provide such licensee assistance with compliance with the law or the  
22 authority's rules. All written communications to a licensee shall be  
23 through mail and electronic communications, including but not limited to  
24 email.

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

LBD15471-01-2

§ 2. Subdivision 3 of section 17 of the alcoholic beverage control law, as amended by section 8 of chapter 522 of the laws of 2018, is amended to read as follows:

3. To revoke, cancel or suspend for cause any license or permit issued under this chapter and/or to impose a civil penalty for cause against any holder of a license or permit issued pursuant to this chapter. Any civil penalty so imposed shall not exceed the sum of [~~ten~~] **five** thousand dollars as against the holder of any retail permit issued pursuant to sections ninety-five, ninety-seven, ninety-eight, ninety-nine-d, and paragraph f of subdivision one of section ninety-nine-b of this chapter, and as against the holder of any retail license issued pursuant to sections fifty-three-a, fifty-four, fifty-four-a, fifty-five, fifty-five-a, sixty-three, sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, seventy-six-f, seventy-nine, eighty-one and eighty-one-a of this chapter, and the sum of thirty thousand dollars as against the holder of a license issued pursuant to sections thirty, thirty-one, fifty-three, sixty-one-a, sixty-one-b, seventy-six, seventy-six-a, and seventy-eight of this chapter, provided that the civil penalty against the holder of a wholesale license issued pursuant to section fifty-three of this chapter shall not exceed the sum of [~~ten~~] **five** thousand dollars where that licensee violates provisions of this chapter during the course of the sale of beer at retail to a person for consumption at home, and the sum of one hundred thousand dollars as against the holder of any license issued pursuant to sections fifty-one, sixty-one, and sixty-two of this chapter. Any civil penalty so imposed shall be in addition to and separate and apart from the terms and provisions of the bond required pursuant to section one hundred twelve of this chapter. Provided that no appeal is pending on the imposition of such civil penalty, in the event such civil penalty imposed by the division remains unpaid, in whole or in part, more than forty-five days after written demand for payment has been sent by first class mail to the address of the licensed premises, a notice of impending default judgment shall be sent by first class mail to the licensed premises and by first class mail to the last known home address of the person who signed the most recent license application. The notice of impending default judgment shall advise the licensee: (a) that a civil penalty was imposed on the licensee; (b) the date the penalty was imposed; (c) the amount of the civil penalty; (d) the amount of the civil penalty that remains unpaid as of the date of the notice; (e) the violations for which the civil penalty was imposed; and (f) that a judgment by default will be entered in the supreme court of the county in which the licensed premises are located, or other court of civil jurisdiction or any other place provided for the entry of civil judgments within the state of New York unless the division receives full payment of all civil penalties due within twenty days of the date of the notice of impending default judgment. If full payment shall not have been received by the division within thirty days of mailing of the notice of impending default judgment, the division shall proceed to enter with such court a statement of the default judgment containing the amount of the penalty or penalties remaining due and unpaid, along with proof of mailing of the notice of impending default judgment. The filing of such judgment shall have the full force and effect of a default judgment duly docketed with such court pursuant to the civil practice law and rules and shall in all respects be governed by that chapter and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. A

1 judgment entered pursuant to this subdivision shall remain in full force  
2 and effect for eight years notwithstanding any other provision of law.

3 § 3. Subdivision 3 of section 17 of the alcoholic beverage control  
4 law, as amended by section 9 of chapter 522 of the laws of 2018, is  
5 amended to read as follows:

6 3. To revoke, cancel or suspend for cause any license or permit issued  
7 under this chapter and/or to impose a civil penalty for cause against  
8 any holder of a license or permit issued pursuant to this chapter. Any  
9 civil penalty so imposed shall not exceed the sum of [~~ten~~] **five** thousand  
10 dollars as against the holder of any retail permit issued pursuant to  
11 sections ninety-five, ninety-seven, ninety-eight, ninety-nine-d, and  
12 paragraph f of subdivision one of section ninety-nine-b of this chapter,  
13 and as against the holder of any retail license issued pursuant to  
14 sections fifty-three-a, fifty-four, fifty-four-a, fifty-five, fifty-  
15 five-a, sixty-three, sixty-four, sixty-four-a, sixty-four-b,  
16 sixty-four-c, seventy-six-f, seventy-nine, eighty-one, and eighty-one-a  
17 of this chapter, and the sum of thirty thousand dollars as against the  
18 holder of a license issued pursuant to sections thirty, thirty-one,  
19 fifty-three, sixty-one-a, sixty-one-b, seventy-six, seventy-six-a and  
20 seventy-eight of this chapter, provided that the civil penalty against  
21 the holder of a wholesale license issued pursuant to section fifty-three  
22 of this chapter shall not exceed the sum of [~~ten~~] **five** thousand dollars  
23 where that licensee violates provisions of this chapter during the  
24 course of the sale of beer at retail to a person for consumption at  
25 home, and the sum of one hundred thousand dollars as against the holder  
26 of any license issued pursuant to sections fifty-one, sixty-one and  
27 sixty-two of this chapter. Any civil penalty so imposed shall be in  
28 addition to and separate and apart from the terms and provisions of the  
29 bond required pursuant to section one hundred twelve of this chapter.  
30 Provided that no appeal is pending on the imposition of such civil  
31 penalty, in the event such civil penalty imposed by the division remains  
32 unpaid, in whole or in part, more than forty-five days after written  
33 demand for payment has been sent by first class mail to the address of  
34 the licensed premises, a notice of impending default judgment shall be  
35 sent by first class mail to the licensed premises and by first class  
36 mail to the last known home address of the person who signed the most  
37 recent license application. The notice of impending default judgment  
38 shall advise the licensee: (a) that a civil penalty was imposed on the  
39 licensee; (b) the date the penalty was imposed; (c) the amount of the  
40 civil penalty; (d) the amount of the civil penalty that remains unpaid  
41 as of the date of the notice; (e) the violations for which the civil  
42 penalty was imposed; and (f) that a judgment by default will be entered  
43 in the supreme court of the county in which the licensed premises are  
44 located, or other court of civil jurisdiction, or any other place  
45 provided for the entry of civil judgments within the state of New York  
46 unless the division receives full payment of all civil penalties due  
47 within twenty days of the date of the notice of impending default judg-  
48 ment. If full payment shall not have been received by the division with-  
49 in thirty days of mailing of the notice of impending default judgment,  
50 the division shall proceed to enter with such court a statement of the  
51 default judgment containing the amount of the penalty or penalties  
52 remaining due and unpaid, along with proof of mailing of the notice of  
53 impending default judgment. The filing of such judgment shall have the  
54 full force and effect of a default judgment duly docketed with such  
55 court pursuant to the civil practice law and rules and shall in all  
56 respects be governed by that chapter and may be enforced in the same

1 manner and with the same effect as that provided by law in respect to  
2 execution issued against property upon judgments of a court of record. A  
3 judgment entered pursuant to this subdivision shall remain in full force  
4 and effect for eight years notwithstanding any other provision of law.

5 § 4. This act shall take effect on the ninetieth day after it shall  
6 have become a law, provided that the amendments to section 17 of the  
7 alcoholic beverage control law made by section two of this act shall be  
8 subject to the expiration and reversion of such section pursuant to  
9 section 4 of chapter 118 of the laws of 2012, as amended, when upon such  
10 date the provisions of section three of this act shall take effect.