STATE OF NEW YORK

3806

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. CYMBROWITZ, SEAWRIGHT -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to authorizing retail licensees for on-premises consumption to sell and/or deliver alcoholic beverages for consumption off the premises

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

Section 1. Subdivision 3 of section 106 of the alcoholic beverage control law, as amended by chapter 297 of the laws of 2016, is amended and a new subdivision 3-a is added to read as follows:

3. [~~No~~] **Except as provided in subdivision three-a of this section, no** retail licensee for on-premises consumption shall sell, deliver or give away, or cause or permit or procure to be sold, delivered or given away any liquors and/or wines for consumption off the premises where sold. The provisions of this subdivision shall not prohibit a licensed winery or farm winery from allowing a patron to leave the winery or farm winery with a partially consumed bottle of wine provided that the removal of the bottle is done in accordance with subdivision four of section eighty-one of this chapter.

3-a. (a) Notwithstanding any other provision of law to the contrary, a retail licensee for on-premises consumption, upon approval by the authority, may sell and/or deliver certain alcoholic beverages containing wine, mead, or liquor for consumption off the premises where sold. Such licensee may only sell and/or deliver for consumption off the premises alcoholic beverages containing wine, mead, or liquor for which such licensee is licensed to sell for consumption on the premises.

(b) A retail licensee for on-premises consumption shall only permit the sale or delivery of alcoholic beverages containing wine, mead, or liquor:

(i) with the purchase of food;

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

LBD05034-01-1

(ii) in any closed or sealed container not to exceed five fluid ounces per container for wine or mead, thirty-two fluid ounces per container for wine or mead mixed with non-alcoholic beverages, and ten fluid ounces per container for liquor mixed with non-alcoholic beverages, provided such sale or delivery is consistent with municipal open container ordinances; and

(iii) during licensed hours of operation.

(c) Deliveries shall be made in:

(i) a vehicle permitted by the authority; or

(ii) a vehicle owned and operated by a retail licensee or its employee provided the person making the delivery shall have upon his or her person while so delivering a copy of the current license issued by the authority.

(d) Nothing in this subdivision shall be construed to abrogate the ability of a retail licensee for on-premises consumption to sell beer or cider for consumption off the premises as provided for in this chapter.

§ 2. This act shall take effect immediately.