

# STATE OF NEW YORK

5438

2021-2022 Regular Sessions

## IN SENATE

March 5, 2021

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the alcoholic beverage control law, in relation to providing distillers with the same privileges currently enjoyed by other New York manufacturers

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

1 Section 1. Section 61 of the alcoholic beverage control law is amended  
2 by adding a new subdivision 9 to read as follows:

3 9. (a) The holder of a license issued under subdivision one, one-a,  
4 two, two-a or two-b of this section may, at the licensed premises,  
5 conduct tastings of, and sell at retail for consumption on or off the  
6 licensed premises, any liquor manufactured by the licensee or any New  
7 York state labeled liquor. Provided, however, that for tastings and  
8 sales for on-premises consumption, the licensee shall regularly keep  
9 food available for sale or service to its retail customers for consump-  
10 tion on the premises. A licensee providing the following shall be deemed  
11 in compliance with this subdivision: (i) sandwiches, soups or other such  
12 foods, whether fresh, processed, pre-cooked or frozen; and/or (ii) food  
13 items intended to complement the tasting of alcoholic beverages, which  
14 shall mean a diversified selection of food that is ordinarily consumed  
15 without the use of tableware and can be conveniently consumed while  
16 standing or walking, including but not limited to: cheeses, fruits,  
17 vegetables, chocolates, breads, mustards and crackers. All of the  
18 provisions of this chapter relative to licenses to sell liquor at retail  
19 for consumption on and off the premises shall apply so far as applicable  
20 to such licensee.

21 (b)(i) Sales for off-premises consumption may be made only to custom-  
22 ers who are physically present upon the licensed premises and such sale  
23 shall be concluded by the customer's taking, with him or her, of the

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

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1 sealed containers purchased by the customer at the time the customer  
2 leaves the licensed premises.

3 (ii) Sales for off-premises consumption shall not be made where the  
4 order is placed by letter, telephone, fax or e-mail, or where the  
5 customer otherwise does not place the order while the customer is phys-  
6 ically present upon the premises of the licensed premises.

7 (iii) Sales for off-premises consumption shall not be made where the  
8 contemplated sale requires the licensee to transport or ship by common  
9 carrier, sealed containers of liquor to a customer.

10 § 2. Section 61 of the alcoholic beverage control law is amended by  
11 adding a new subdivision 10 to read as follows:

12 10. (a) The holder of a license issued under subdivision one, one-a,  
13 two, two-a, or two-b of this section may operate a restaurant, hotel,  
14 catering establishment, or other food and drinking establishment in or  
15 adjacent to the licensed premises and sell at such place, at retail for  
16 consumption on the premises, liquor manufactured by the licensee and any  
17 New York state labeled liquor. All of the provisions of this chapter  
18 relative to licenses to sell liquor at retail for consumption on the  
19 premises shall apply so far as applicable to such licensee.

20 (b) Notwithstanding any other provision of law, the holder of a  
21 license issued under subdivision one, one-a, two, two-a or two-b of this  
22 section may apply to the liquor authority for a license to sell beer,  
23 wine or liquor at retail for consumption on the premises at such restau-  
24 rant, hotel, catering establishment, or other food and drinking estab-  
25 lishment. All of the provisions of this chapter relative to licenses to  
26 sell beer, wine or liquor at retail for consumption on the premises  
27 shall apply so far as applicable to such application.

28 § 3. Paragraph (g) of subdivision 2-c of section 61 of the alcoholic  
29 beverage control law, as added by chapter 431 of the laws of 2014, is  
30 amended to read as follows:

31 (g) The holder of a license issued under this subdivision may operate  
32 up to [~~one~~ five] branch [~~office~~ offices] located away from the licensed  
33 farm distillery. Such [~~location~~ locations] shall be considered part of  
34 the licensed premises and all activities allowed at and limited to the  
35 farm distillery may be conducted at the branch office. Such branch  
36 [~~office~~ offices] shall not be located within, share a common entrance  
37 and exit with, or have any interior access to any other business,  
38 including premises licensed to sell alcoholic beverages at retail. Prior  
39 to commencing operation of any such branch office, the licensee shall  
40 notify the authority of the location of such branch office and the  
41 authority may issue a permit for the operation of same.

42 § 4. Paragraphs (a) and (b) of subdivision 5 of section 101-b of the  
43 alcoholic beverage control law, as amended by chapter 522 of the laws of  
44 2003, are amended to read as follows:

45 (a) (i) Notwithstanding any other provision of law, each such schedule  
46 required by paragraph (a) of subdivision three of this section which is  
47 filed by a micro-winery, winery, or farm winery, or a class A, A-1, B,  
48 B-1, C, or D distiller shall be filed annually on or before the twenty-  
49 fifth day of November. The prices and discounts set forth therein shall  
50 become effective on the first day of the second succeeding calendar  
51 month and shall remain in effect for such twelve succeeding calendar  
52 months, unless a price change filing is made pursuant to subparagraph  
53 (ii) of this paragraph.

54 (ii) A micro-winery, winery, or farm winery, or a class A, A-1, B,  
55 B-1, C, or D distiller licensee may file a price schedule change at any  
56 time between the required annual filings. Each such price schedule

1 change shall be filed on or before the twenty-fifth day of each month  
2 for a change in prices to become effective on the first day of the  
3 second succeeding calendar month and shall remain in effect until the  
4 effective date of the next filing.

5 (b) (i) Notwithstanding any other provision of law, each such schedule  
6 required by paragraph (b) of subdivision three of this section which is  
7 filed by a micro-winery, winery, or farm winery licensee, or a class A,  
8 A-1, B, B-1, C, or D distiller shall be filed annually on or before the  
9 fifth day of December. The prices and discounts set forth therein shall  
10 become effective on the first day of the calendar month following the  
11 filing thereof, and shall remain in effect for such twelve succeeding  
12 calendar months, unless a price change filing is made pursuant to  
13 subparagraph (ii) of this paragraph.

14 (ii) A micro-winery, winery, or farm winery, or a class A, A-1, B,  
15 B-1, C, or D distiller licensee may file a price schedule change at any  
16 time between the required annual filings. Each such price schedule  
17 change shall be filed on or before the fifth day of each month for a  
18 change in prices to become effective on the first day of the calendar  
19 month following the filing thereof and shall remain in effect until the  
20 effective date of the next filing.

21 § 5. This act shall take effect immediately, provided that for the  
22 purposes of subparagraph (i) of paragraph (a) and subparagraph (i) of  
23 paragraph (b) of subdivision 5 of section 101-b of the alcoholic beverage  
24 control law, as amended by section four of this act, the price schedule  
25 filing effective at the time this act shall have become a law shall  
26 be the licensee's annual filing for 2021.