

STATE OF NEW YORK

5438--A

2021-2022 Regular Sessions

IN SENATE

March 5, 2021

Introduced by Sens. HINCHEY, BORRELLO, BRISPORT, GALLIVAN, GOUNARDES, MAY, OBERACKER, O'MARA, RITCHIE, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business -- recommitted to the Committee on Commerce, Economic Development and Small Business in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 for consumption on and off the premises shall apply so far as applicable
2 to such licensee.

3 (b)(i) Sales for off-premises consumption may be made only to custom-
4 ers who are physically present upon the licensed premises and such sale
5 shall be concluded by the customer's taking, with him or her, of the
6 sealed containers purchased by the customer at the time the customer
7 leaves the licensed premises.

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

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

15 § 2. Paragraphs (a) and (b) of subdivision 5 of section 101-b of the
16 alcoholic beverage control law, as amended by chapter 522 of the laws of
17 2003, are amended to read as follows:

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

27 (ii) A micro-winery, winery, or farm winery, or a class A, A-1, B,
28 B-1, C, or D distiller licensee may file a price schedule change at any
29 time between the required annual filings. Each such price schedule
30 change shall be filed on or before the twenty-fifth day of each month
31 for a change in prices to become effective on the first day of the
32 second succeeding calendar month and shall remain in effect until the
33 effective date of the next filing.

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

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

50 § 3. This act shall take effect immediately, provided that for the
51 purposes of subparagraph (i) of paragraph (a) and subparagraph (i) of
52 paragraph (b) of subdivision 5 of section 101-b of the alcoholic bever-
53 age control law, as amended by section two of this act, the price sched-
54 ule filing effective at the time this act shall have become a law shall
55 be the licensee's annual filing for 2022.