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:

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

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

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

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

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

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

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

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

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

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

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