STATE OF NEW YORK

589--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. BENJAMIN, BRESLIN, GOUNARDES, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT permitting a retail licensee for on-premises consumption or a manufacturer with retail on-premises consumption privileges to sell for takeout and deliver alcoholic beverages for off-premises consumption; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. (a) The intent of this act is to provide relief to a retail licensee for on-premises consumption or a manufacturer with retail on-premises consumption privileges, as provided for in the alcoholic beverage control law, in relation to permitting the takeout or delivery of alcoholic beverages.

(b) Notwithstanding any other provision of law to the contrary, a retail licensee for on-premises consumption or a manufacturer with retail on-premises consumption privileges, as provided for in the alcoholic beverage control law and licensed by the state liquor authority (hereinafter referred to as "the authority"), and in accordance with their license, may sell for takeout or delivery certain alcoholic beverages that it is currently licensed to sell for on-premises consumption. Such licensee may only sell for takeout 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 to a person twenty-one years of age or older. A retail licensee for on-premises consumption or a manufacturer with retail on-premises

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

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consumption privileges shall only permit the takeout or delivery sale of authorized alcoholic beverages:

(i) only with the purchase of an entree or meal;

(ii) the alcoholic beverages are packaged in a container with a secure lid or cap sealed in a manner designed to prevent consumption without removal of the lid or cap by breaking the seal;

(iii) per entree or meal and in individually sized servings that are either in manufacturer sealed containers or containers provided by licensees that meet the requirements of this act: up to two servings, not to exceed five fluid ounces of wine or mead per serving; a serving, not to exceed ten fluid ounces of wine or mead which shall be mixed with any non-alcoholic beverage; or, up to two servings, not to exceed three fluid ounces of liquor per serving which may be mixed with any non-alcoholic beverage;

(iv) takeout or delivery of alcoholic beverages are consistent with state and municipal open container laws, rules, regulations or ordinances;

(v) takeout and delivery are only authorized during licensed hours of operation of the county in which the premises are located or, if different, the hours of operation set forth in the licensee's method of operation with the authority; and

(vi) It shall be unlawful for a retail licensee for on-premises consumption or a manufacturer with retail on-premises consumption privileges, pursuant to this act: (A) to sell for takeout or delivery alcoholic beverages in quantities greater than otherwise permitted by this act; such prohibition shall be inclusive of full bottles of wine, mead or liquor; (B) to advertise or promote the sale of full bottles of wine, mead, or liquor for off-premises consumption; or (C) to display full bottles of wine, mead, or liquor for the purpose of promoting the sale of such products for off-premises consumption.

(c) Deliveries made via motor vehicle shall only be made in (i) a vehicle permitted by the authority, or (ii) in a vehicle owned and operated, or hired and operated, by the licensee or its employee; provided, that a copy of the permit or license must be present in such vehicle while making deliveries. Delivery drivers shall be required to verify that delivery of alcoholic beverages shall only be to those twenty-one years of age and older.

(d) Nothing in this act shall be construed to change the existing privilege of a retail licensee for on-premises consumption or a manufacturer with retail on-premises consumption privileges to sell beer or cider for consumption off the premises as currently provided for in the alcoholic beverage control law. Provided, further, that nothing contained in this act shall be deemed to supersede the provisions of section 1227 of the vehicle and traffic law.

(e) The authority may promulgate guidance, rules and regulations necessary to implement the provisions of this act.

(f) The authority may, on its own initiative or on complaint of any person, institute proceedings to suspend or revoke a licensee's ability to sell for takeout or delivery alcoholic beverages pursuant to this act after a hearing, in accordance with section 119 of the alcoholic beverage control law, at which such licensee shall be given an opportunity to be heard. Such proceedings and such hearing shall be held in such manner and upon such notice as may be prescribed by the rules of the authority.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed one year after it shall have become a law.