STATE OF NEW YORK

9033

IN SENATE

May 4, 2022

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to adjusting licensing fees regarding certain alcoholic beverages

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

Section 1. Subdivisions 3 and 4 of section 93 of the alcoholic beverage control law, subdivision 3 as amended by section 12 of part Z of chapter 85 of the laws of 2002 and subdivision 4 as amended by chapter 297 of the laws of 2016, are amended to read as follows:

3. The license fee for such permit shall be [~~twenty-six~~] twenty-five dollars per year, or for any part thereof, and the permit shall be issued for the calendar year.

4. Notwithstanding the foregoing provisions of this section, any duly licensed manufacturer or wholesaler may apply to the liquor authority for an annual temporary solicitor's employment permit. Such permit shall authorize such manufacturer or wholesaler to employ one or more persons as a solicitor for a period of not exceeding six months provided that within sixty days after such employee has been employed as a solicitor such employee shall file his application for a solicitor's permit with the liquor authority. The license fee for such permit shall be [~~thirty-eight~~] thirty-five dollars per year, or for any part thereof, and the permit shall be issued for the calendar year. Such permit and the exercise of the privileges hereby granted thereunder, shall be subject to such terms and conditions as may be prescribed by the liquor authority.

§ 2. Subdivision 2 of section 94 of the alcoholic beverage control law, as amended by section 14 of part Z of chapter 85 of the laws of 2002, is amended to read as follows:

2. Such permit shall be issued for the calendar year, and may cover one or more trucks and in cities having a population of one million or less to duly licensed taxicabs used to deliver only wine or liquor sold at retail and the fee therefor shall be at the rate of [~~fifty-one~~] fifty dollars per truck or such duly licensed taxicab per year.

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

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§ 3. Section 97 of the alcoholic beverage control law, as amended by chapter 204 of the laws of 1963, the section heading as amended by chapter 363 of the laws of 1977, subdivisions 1 and 2 as amended by section 19 of part Z of chapter 85 of the laws of 2002, and subdivision 4 as added by chapter 120 of the laws of 2012, is amended to read as follows:

§ 97. Temporary beer and wine permit. 1. The liquor authority is hereby authorized to issue temporary permits effective for a period not to exceed twenty-four consecutive hours to authorize the sale of beer and wine manufactured in New York state at outdoor or indoor gatherings, functions, occasions or events, within the hours fixed by or pursuant to subdivision five of section one hundred six of this chapter, during which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages at retail for on-premises consumption in the community in which is located the premises in which such gathering, function, occasion or event is held. The fee for such permit shall be [~~twenty-six~~] twenty-five dollars. Such permit and the exercise of the privilege granted thereby shall be subject to such rules of the liquor authority as it deems necessary.

2. The liquor authority is hereby authorized to issue an annual permit to brewers and beer wholesalers authorizing such licensees to sell beer for consumption at outdoor or indoor gatherings, functions, occasions or events, provided that such gatherings are not open to admission to the general public nor is admission thereto made contingent upon the payment of an admission fee, donation or contribution, and further provided that such beer is not resold at such gatherings. Every brewer or beer wholesaler to whom a permit shall be issued hereunder shall require every person to whom beer shall be sold for use at such gatherings to make, execute and file with such brewer or beer wholesaler, upon a form to be prescribed by the liquor authority, a statement, that the beer purchased by such person will not be sold or offered for sale by such person. Such statement shall be accepted for all purposes as the equivalent of an affidavit, and if false, shall subject the person making and executing the same to the same penalties as if he had been duly sworn. Such permit shall be issued in the form prescribed by the liquor authority and shall run concurrently with the annual term of the brewer's license or of the wholesale beer license, and the fee for such permit shall be [~~sixty-four~~] sixty dollars. Such a permit and the exercise of the privileges granted thereunder shall be subject to such rules by the liquor authority as it deems necessary. The provisions hereof shall not apply to the sale of beer for consumption in the home.

4. The liquor authority is hereby authorized to issue a temporary permit effective for a period not to exceed twenty-four consecutive hours to any holder of a license to manufacture wine in this or any other state, to sell wine at outdoor or indoor gatherings, functions, occasions, or events, provided that such manufacturer produces not more than one hundred fifty thousand gallons of wine annually. The fee for such permit shall be [~~twenty-six~~] twenty-five dollars.

§ 4. Paragraph (b) of subdivision 2 and subdivision 4 of section 97-a of the alcoholic beverage control law, as added by chapter 396 of the laws of 2010, are amended to read as follows:

(b) the applicant shall have filed with the authority an application for a temporary retail permit, accompanied by a nonrefundable filing fee of one hundred [~~twenty-eight~~] twenty-five dollars for all retail beer licenses or six hundred forty dollars for all other retail licenses;

4. A temporary retail permit issued by the authority pursuant to this section shall be for a period not to exceed ninety days. A temporary

permit may be extended at the discretion of the authority, for an additional thirty day period upon payment of an additional fee of [~~sixty-four~~] sixty dollars for all retail beer licenses and [~~ninety-six~~] ninety-five dollars for all other temporary permits and upon compliance with all conditions required in this section. The authority may, in its discretion, issue additional thirty day extensions upon payment of the appropriate fee.

§ 5. Subdivisions 2 and 3 of section 99-d of the alcoholic beverage control law, subdivision 2 as amended by chapter 560 of the laws of 2011 and subdivision 3 as amended by section 24 of part Z of chapter 85 of the laws of 2002, are amended to read as follows:

2. Before any change in the members of a limited liability company or the transfer or assignment of a membership interest in a limited liability company or any corporate change in stockholders, stockholdings, alcoholic beverage officers, officers or directors, except officers and directors of a premises licensed as a club or a luncheon club under this chapter can be effectuated for the purposes of this chapter, there shall be filed with the liquor authority an application for permission to make such change and there shall be paid to the liquor authority in advance upon filing of the application a fee of one hundred [~~twenty-eight~~] twenty-five dollars.

(a) The provisions of this section shall not be applicable where there are ten or more stockholders and such change involves less than ten per centum of the stock of the corporation and the stock holdings of any stockholder are not increased thereby to ten per centum or more of the stock.

(b) Where the same corporation operates two or more premises separately licensed under this chapter a separate corporate change shall be filed for each such licensed premises, except as otherwise provided for by rule of the liquor authority. The corporate change fee provided for herein shall not be applicable to more than one license held by the same corporation.

(c) Notwithstanding any corporate change approved by the authority, a licensed corporation or limited liability company shall be bound by the representations set forth in the original application and any amendments thereto approved by the authority.

3. Before any removal of a license to any premises other than the licensed premises or to any other part of the building containing the licensed premises, the licensee shall make an application to the liquor authority for permission to effect such removal and shall pay to the liquor authority in advance upon filing of the application a fee of one hundred [~~ninety-two~~] ninety dollars where the base license fee is five hundred dollars or more and [~~thirty-two~~] thirty dollars in all other instances.

§ 6. Paragraphs (a) and (b) of subdivision 4 of section 100 of the alcoholic beverage control law, as amended by chapter 423 of the laws of 2016, are amended to read as follows:

(a) if the licensed premises is a legitimate theatre or concert hall, or contiguous to and used in conjunction with a legitimate theatre or concert hall, additional bars, counters or contrivances may be permitted by the liquor authority upon payment to it of an annual fee of one hundred dollars for each such additional bar, counter or contrivance so permitted[~~,~~] in addition to the annual license fee paid by such licensee;

(b) if such licensed premises be located at a baseball park, race track, or either outdoor or indoor athletic field, facility, arena or

stadium, additional bars, counters or contrivances where beer shall be sold at retail for consumption on the premises may be permitted by the liquor authority, upon payment to it of the annual fee of thirty dollars for each such additional bar, counter or contrivance so permitted[~~,~~] in addition to the amount of the annual license fee paid by the licensee; and

§ 7. Section 56 of the alcoholic beverage control law, as amended by section 1 of part Z of chapter 85 of the laws of 2002, subdivision 1 as amended by chapter 108 of the laws of 2012, paragraph (a) of subdivision 1 as amended by chapter 431 of the laws of 2014, and subdivision 11 as added by chapter 422 of the laws of 2016, is amended to read as follows:

§ 56. License fees. 1. The annual fee for a license to manufacture beer shall be:

(a) four thousand dollars for a brewer's license, unless the annual production of the brewer is less than seventy-five thousand barrels per year, in which case the annual fee shall be three hundred twenty dollars;

(b) three hundred twenty dollars for a farm brewery license.

2. The annual fee for a wholesaler's beer license shall be eight hundred dollars.

3. The annual fee for a vendor's license shall be one hundred [~~forty-four~~] **forty** dollars.

4. The annual fee for a license to sell beer at retail not to be consumed on the premises where sold shall be one hundred ten dollars. Where, however, the applicant is the holder of two such licenses, the annual fee for each additional license thereafter issued to such licensee shall be double the amount hereinabove set forth.

5. The annual fee for a license to sell beer at retail to be consumed on the premises where sold shall be three hundred twenty dollars in cities having a population of one hundred thousand or over, and one hundred sixty dollars elsewhere; provided, however, that where the premises to be licensed remain open only within the period commencing April first and ending October thirty-first of any one year or only within the period commencing October first and ending the following April thirtieth, the liquor authority, in its discretion, may grant a summer or winter license effective only for such appropriate period of time, for which an annual fee of one hundred sixty dollars shall be paid where the premises are located in cities having a population of one hundred thousand or over, and eighty dollars where such premises are located elsewhere.

6. The annual fee for selling beer upon any railroad car to be consumed on such car or any car connected therewith shall be [~~ninety-six~~] **ninety** dollars for each railroad car licensed.

7. The annual fee for selling beer upon any vessel in this state, other than one regularly and exclusively engaged in the business of carrying passengers for hire, by charter or otherwise, for fishing purposes, to be consumed on such vessel, shall be one hundred sixty dollars for each vessel licensed. The annual fee for selling beer upon a vessel regularly and exclusively engaged in the business of carrying passengers for hire, by charter or otherwise, for fishing purposes, to be consumed on such vessel, shall be forty dollars for each vessel licensed. The annual fee for selling beer for off-premise consumption upon a vessel regularly and exclusively engaged, as a duly licensed supply ship, in furnishing supplies to other vessels, shall be eighty dollars.

8. The annual fee for selling beer at any baseball park, race track or outdoor athletic field or stadium, to be consumed in any such baseball park, race track, or outdoor athletic field or stadium, shall be one hundred [~~ninety-two~~] ninety dollars.

9. The annual fee for a license to sell beer and wine products at retail not to be consumed on the premises where sold shall be one hundred [~~ninety-eight~~] ninety-five dollars.

10. The annual fee for a license to sell beer and wine products at retail not to be consumed on the premises where sold, when the applicant is the holder of two such licenses, the annual fee for each additional license thereafter issued to such licensee shall be three hundred [~~fifty-two~~] fifty dollars.

11. The annual fee for a license to operate a custom beermakers' center shall be three hundred twenty dollars.

§ 8. Subdivision 6 of section 64 of the alcoholic beverage control law, as amended by chapter 204 of the laws of 1963, is amended to read as follows:

6. Where an on-premise license shall be granted to the owner of a hotel situated in a town or village the liquor authority may in its discretion grant to such owner the right to sell liquor and wine for off-premise consumption under the same terms and conditions as apply to off-premise licenses upon the payment of an additional fee of [~~sixty-two~~] sixty dollars [~~and fifty cents~~]; provided, however, that this permission shall not be granted if an off-premise license has been granted for premises located within eight miles of such hotel.

§ 9. Section 66 of the alcoholic beverage control law, as amended by section 3 of part Z of chapter 85 of the laws of 2002, subdivision 1-a as added by chapter 580 of the laws of 2002, subdivision 2-c as added by chapter 564 of the laws of 2007, subdivision 3-a as added by chapter 297 of the laws of 2016, and subdivision 10 as added by chapter 331 of the laws of 2004, is amended to read as follows:

§ 66. License fees. 1. The annual fee for a distiller's license, class A, shall be twelve thousand dollars.

1-a. The annual fee for a distiller's license, class A-1, shall be two hundred fifty dollars.

2. The annual fee for a distiller's license, class B, shall be eight thousand dollars.

2-a. The annual fee for a distiller's license, class C, shall be one hundred [~~twenty-eight~~] twenty-five dollars.

2-b. The annual fee for a distiller's license, class B-1, shall be three hundred twenty dollars.

2-c. The annual fee for a distiller's license, class D, shall be one hundred [~~twenty-eight~~] twenty-five dollars.

3. The annual fee for a license to sell liquor at wholesale [~~shall be sixty-four hundred dollars~~]:

(a) if such wholesaler has revenue of at least twenty-five million dollars within the previous year in New York state, shall be one million dollars; and

(b) if such wholesaler has revenue under twenty-five million dollars within the previous year in New York state, shall be eight hundred dollars.

3-a. The annual fee for an importer's license shall be one hundred twenty-five dollars.

4. The annual fee for a license, under section sixty-four or sixty-four-a, to sell liquor at retail to be consumed on the premises where sold shall be twenty-one hundred [~~seventy-six~~] seventy dollars in the

counties of New York, Kings, Bronx and Queens; fifteen hundred [~~thirty-six~~] thirty-five dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; twelve hundred [~~sixteen~~] ten dollars in cities having a population of more than fifty thousand and less than one hundred thousand; and the sum of eight hundred [~~ninety-six~~] ninety-five dollars elsewhere; except that the license fees for catering establishments shall be two-thirds the license fee specified herein and for clubs, except luncheon clubs and golf clubs, shall be seven hundred fifty dollars in counties of New York, Kings, Bronx and Queens; five hundred dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; three hundred fifty dollars in cities having a population of more than fifty thousand and less than one hundred thousand; and the sum of two hundred fifty dollars elsewhere. The annual fees for luncheon clubs shall be three hundred seventy-five dollars, and for golf clubs in the counties of New York, Kings, Bronx, Queens, Nassau, Richmond and Westchester, two hundred fifty dollars, and elsewhere one hundred [~~eighty-seven~~] eighty-five dollars [~~and fifty cents~~]. Notwithstanding any other provision of law to the contrary, there shall be no annual fee for a license, under section sixty-four, to sell liquor at retail to be consumed on the premises where the applicant is an organization organized under section two hundred sixty of the military law and incorporated pursuant to the not-for-profit corporation law. Provided, however, that where any premises for which a license is issued pursuant to section sixty-four or sixty-four-a of this article remain open only within the period commencing April first and ending October thirty-first of any one year, or only within the period commencing October first and ending the following April thirtieth, the liquor authority may, in its discretion, grant a summer or winter license effective only for such appropriate period of time, for which a license fee shall be paid to be pro-rated for the period for which such license is effective, at the rate provided for in the city, town or village in which such premises are located, except that no such license fee shall be less than one-half of the regular annual license fee; provided further that where the premises to be licensed are a race track or a golf course or are licensed pursuant to section sixty-four or sixty-four-a of this chapter, the period of such summer license may commence March first and end November thirtieth.

Where a hotel, restaurant, club, golf course or race track is open prior to April first and/or subsequent to October thirty-first by reason of the issuance of a caterer's permit or permits issued by the authority, such fact alone shall not affect the eligibility of the premises or the person owning or operating such hotel, restaurant, club, golf course or race track for a summer license.

5. The annual fee for a license to sell liquor at retail not to be consumed on the premises where sold shall be thirteen hundred [~~sixty-six~~] sixty dollars in the counties of New York, Kings, Bronx and Queens; eight hundred [~~fifty-four~~] fifty dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; and elsewhere the sum of five hundred [~~twelve~~] ten dollars.

6. The annual fee for a license to sell liquor upon any railroad car to be consumed on such car or any car connected therewith shall be one hundred [~~ninety-two~~] ninety dollars for each railroad car licensed.

7. The annual fee for a license to sell liquor upon any vessel in this state to be consumed upon such vessel shall be sixteen hundred dollars

for each vessel licensed, provided, however, that where a vessel is operated only within the period commencing April first and ending October thirty-first of any one year, the liquor authority may, in its discretion, grant for such vessel a summer license effective only for such period of time, for which a license fee of four hundred [~~forty-eight~~] **forty** dollars shall be paid.

8. The annual fee for a license to sell liquor upon an aircraft being operated on regularly scheduled flights by a United States certificated airline in this state shall be nineteen **thousand two** hundred [~~twenty~~] dollars per annum for an airline company operating up to and including twenty such aircraft and twenty-five **thousand six** hundred [~~sixty~~] dollars for such an airline operating more than twenty such aircraft.

9. The annual fee for a license for a bottle club shall be the same as the annual fee for a special license to sell liquor at retail to be consumed on the premises, as set forth in subdivision four of this section.

10. Notwithstanding any provision to the contrary, the annual fee for a license for an establishment defined as an owner-occupied residence providing at least three but no more than five rooms for temporary transient lodgers with sleeping accommodations and a meal in the forenoon of the day, known as a "bed and breakfast dwelling" as authorized by subdivision five-a of section sixty-four of this article, shall be two hundred dollars plus fifteen dollars per each available bedroom.

§ 10. Subdivision 1 of section 79-a of the alcoholic beverage control law, as amended by section 5 of part Z of chapter 85 of the laws of 2002, is amended to read as follows:

1. Any person licensed to sell beer at retail for consumption off the premises, pursuant to section fifty-four of this chapter, shall, by virtue of such license and upon payment to the liquor authority of an additional fee in the sum of one hundred sixty-five dollars in cities having a population of one hundred thousand or over and [~~eighty-three~~] **eighty** dollars elsewhere, be granted authorization to sell from the licensed premises wine products in sealed containers for consumption off such premises. Upon receipt of such additional fee, the liquor authority shall promptly issue a permit authorizing such sales by the licensee.

§ 11. Subdivisions 1 and 1-a of section 79-b of the alcoholic beverage control law, as amended by section 6 of part Z of chapter 85 of the laws of 2002, are amended to read as follows:

1. Any person licensed to sell beer at retail for consumption on the premises, pursuant to section fifty-five of this chapter, shall, by virtue of such license and upon payment to the liquor authority of an additional fee in the sum of one hundred [~~ninety-two~~] **ninety** dollars in cities having a population of one hundred thousand or over and [~~ninety-six~~] **ninety** dollars elsewhere, be granted authorization to sell from the licensed premises wine products in sealed containers at retail for consumption on or off such premises. Upon receipt of such additional fee, the liquor authority shall promptly issue a permit authorizing such sales by the licensee.

1-a. Any person licensed to sell beer at retail for consumption on the premises, pursuant to section fifty-five-a of this chapter, shall, by virtue of such license and upon payment to the liquor authority of an additional fee in the sum of one hundred [~~ninety-two~~] **ninety** dollars in cities having a population of one hundred thousand or over and [~~ninety-six~~] **ninety** dollars elsewhere, be granted authorization to sell from the licensed premises wine products in sealed containers at retail for consumption on such premises. Upon receipt of such additional fee, the

liquor authority shall promptly issue a permit authorizing such sales by the licensee.

§ 12. Section 83 of the alcoholic beverage control law, as amended by section 7 of part Z of chapter 85 of the laws of 2002, subdivision 1-a as amended by chapter 221 of the laws of 2011, subdivision 1-d as amended by chapter 613 of the laws of 2008, subdivision 8 as added by chapter 355 of the laws of 2013, and subdivision 9 as added by chapter 422 of the laws of 2016, is amended to read as follows:

§ 83. License fees. 1. The annual fee for a winery license shall be six hundred twenty-five dollars.

1-a. The annual fee for a farm winery license shall be one hundred twenty-five dollars, provided that the annual fee for a farm winery manufacturing no more than fifteen hundred finished gallons of wine annually shall be fifty dollars.

1-d. The fee for each license issued for a winery or farm winery licensee's authority to conduct wine tastings and the sale of New York state labelled wines for off-premises consumption pursuant to paragraph (c) of subdivision two of section seventy-six of this article shall be forty dollars.

2. The annual fee for a license to sell wine at wholesale [~~shall be eight hundred dollars~~]**:**

(a) if such wholesaler has revenue of at least twenty-five million dollars within the previous year in New York state, shall be one million dollars; and

(b) if such wholesaler has revenue of under twenty-five million dollars within the previous year in New York state, shall be eight hundred dollars.

3. The annual fee for a license to sell wine at retail, not to be consumed on the premises, shall be six hundred forty dollars for each such place where such business is carried on in cities having a population of one million or more; in cities having less than one million population and more than one hundred thousand, three hundred twenty dollars; and elsewhere, the sum of one hundred forty-five dollars.

4. The annual fee for selling wine at retail, to be consumed on the premises where sold, shall be as follows:

(a) In cities having a population of one hundred thousand or over the sum of four hundred eighty dollars per year; and

(b) Elsewhere, the sum of two hundred forty dollars per year.

4-a. The annual fee for a license to sell wine at retail to be consumed on the premises where sold where the premises to be licensed remain open only within the period commencing April first and ending October thirty-first of any one year or only within the period commencing October first and ending the following April thirtieth, the liquor authority, in its discretion, may grant a summer or winter license effective only for such appropriate period of time, for which an annual fee of one hundred [~~twelve~~] **ten** dollars shall be paid.

5. The annual fee for a special license to sell wine at retail, to be consumed on the premises where sold, shall be as follows:

(a) In cities having a population of one hundred thousand or over, the sum of five hundred [~~seventy-six~~] **seventy-five** dollars per year; and

(b) Elsewhere, the sum of two hundred seventy dollars per year.

6. The annual fee for a special winery license shall be six hundred twenty-five dollars.

7. The annual fee for a special farm winery license shall be one hundred twenty-five dollars.

8. The annual fee for a roadside farm market license shall be one hundred dollars.

9. The annual fee for a license to operate a custom winemakers' center shall be three hundred twenty dollars.

§ 13. Section 122 of the alcoholic beverage control law, as amended by chapter 408 of the laws of 1997, is amended to read as follows:

§ 122. Continuance of business by receiver or other representative. If a corporation or copartnership holding any license or holding a permit for which an annual fee of one hundred dollars or more is prescribed by this chapter shall be dissolved, or if a receiver or assignee for the benefit of creditors be appointed therefor, or if a receiver, assignee for the benefit of creditors or a committee or conservator of the property of an individual holding any license or holding a permit for which an annual fee of one hundred dollars or more is prescribed by this chapter be appointed, during the time for which such license or permit was granted, or if a person, including a member of a copartnership, holding any license or holding a permit for which an annual fee of one hundred dollars or more is prescribed by this chapter shall die during the term for which such license or permit was given, such corporation, copartnership, receiver or assignee, or the administrator or executor of the estate of such individual, or of such deceased member of a copartnership, or a committee of the property of a person adjudged to be incompetent, or a conservator of the property of an individual, or a petition under title eleven of the United States code shall have been filed and a trustee has been appointed or the holder of the license [~~of~~] or permit has been permitted to remain in possession without the appointment of a trustee, may continue to carry on such business upon such premises for the balance of the term for which such license or permit was effective, with the same rights and subject to the same restrictions and liabilities as if he had been the original applicant for and the original holder, or one of either of them, of such license or permit, providing the approval of the liquor authority shall be first obtained. Before continuing such business, such receiver, assignee, individual, committee, or conservator, debtor in possession, or trustee in bankruptcy shall file a statement setting forth in such form and substance as the liquor authority may prescribe the facts and circumstances by which he has succeeded to the rights of the original licensee or permittee. The liquor authority may, in its discretion, permit the continuance of such business or may refuse to do so. In the event that the authority determines to permit the continuance of the business, the license or permit shall be submitted to the authority and shall have affixed thereto a certificate in the form prescribed by the authority. For each such certificate, a fee shall be paid to the liquor authority of fifty dollars by the applicant, except in the case of an off-premise beer license, such fee shall be ten dollars which shall be paid into the same fund as other license fees herein provided for.

§ 14. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.