STATE OF NEW YORK

10023

IN ASSEMBLY

May 1, 2024

Introduced by M. of A. FAHY -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to the sale of tonic water, bitters and maraschino cherries at liquor stores

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

Section 1. Paragraph (a) of subdivision 1 of section 104 of the alcoholic beverage control law, as amended by chapter 24 of the laws of 2024, is amended to read as follows:

(a) No wholesaler shall be engaged in any other business on the premises to be licensed; except that nothing contained in this chapter shall: (1) prohibit a beer wholesaler from (i) acquiring, storing or selling non-alcoholic snack foods, as defined in paragraph (b) of this subdivision, (ii) manufacturing, bottling, storing, or selling non-alcoholic carbonated beverages, (iii) manufacturing, storing or selling non-alcoholic non-carbonated soft drinks, mineral waters, spring waters, drinking water, non-taxable malt or cereal beverages, juice drinks, fruit or vegetable juices, ice, liquid beverage mixes and dry or frozen beverage mixes, (iv) acquiring, storing or selling wine products, (v) the sale of promotional items on such premises, or (vi) the sale of tobacco products at retail by wholesalers who are licensed to sell beer and other products at retail; (2) prohibit a wholesaler authorized to sell wine from manufacturing, acquiring or selling wine merchandise, as defined in paragraph (d) of this subdivision; (3) prohibit a licensed winery or licensed farm winery from engaging in the business of a wine wholesaler for New York state labeled wines produced by any licensed winery or licensed farm winery or prohibit such wine wholesaler from exercising any of its rights pursuant to sections seventy-six and seventy-six-a of this chapter provided that the operation of such beer and wine wholesalers business shall be subject to such rules and regulations as the liquor authority may prescribe; (4) prohibit a beer wholesaler who is authorized to sell beer at retail from selling at retail: (i) candy, chewing gum and cough drops; (ii) non-refrigerated salsa; (iii) cigarette lighters, lighter fluid, matches and ashtrays; (iv) barbecue

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

LBD04439-04-4

and picnic-related products and supplies, which shall include, but not be limited to, charcoal, grills, propane gas, plastic and paper cups, paper or plastic tablecloths and coolers; (v) beer making and brewing supplies and publications, which shall include, but not be limited to, books, magazines, equipment and ingredients; (vi) steins, mugs and other glassware appropriate for the consumption of beer, malt beverages and wine products; (vii) items typically used to serve beer and malt beverages including, but not limited to, taps, kegerators, koozies and beer socks; (viii) lemons, limes and oranges, provided that no more than two dozen of each shall be displayed at any one time; (ix) rock salt, ice and snow melting compounds, snow shovels; windshield washer solvent; firewood; beach umbrellas; sunglasses and sun block; and (x) prepaid telephone cards; (5) prohibit the installation and operation of a single automated teller machine in the premises of a beer wholesaler who is authorized to sell beer at retail; [~~or~~] (6) prohibit a liquor or a wine wholesaler from transporting or selling gifts or promotional items associated with wine or liquor products as provided for in subdivision four of section sixty-three of this chapter**; or (7) prohibit a liquor wholesaler from transporting or selling tonic water, bitters, or maraschino cherries**. For the purposes of this subdivision, "automated teller machine" means a device which is linked to the accounts and records of a banking institution and which enables consumers to carry out banking transactions, including but not limited to, account transfers, deposits, cash withdrawals, balance inquiries and loan payments.

§ 2. Subdivision 4 of section 63 of the alcoholic beverage control law, as amended by chapter 24 of the laws of 2024, is amended to read as follows:

4. **(a)** No licensee under this section shall be engaged in any other business on the licensed premises. The sale of **any of the following shall not constitute engaging in another business within the meaning of this subdivision:**

(i) lottery tickets, when duly authorized and lawfully conducted[~~, the sale of~~]**;**

(ii) reusable bags as defined in section 27-2801 of the environmental conservation law[~~, the sale of~~]**;**

(iii) corkscrews [~~or the sale of~~]**;**

(iv) ice [~~or the sale of~~]**;**

(v) publications, including prerecorded video and/or audio cassette tapes, or educational seminars, designed to help educate consumers in their knowledge and appreciation of alcoholic beverages, as defined in section three of this chapter and allowed pursuant to their license[~~, or the sale of non-carbonated,~~]**;**

(vi) non-flavored mineral waters, spring waters and drinking waters [~~or the sale of~~]**;**

(vii) glasses designed for the consumption of wine or liquor, racks designed for the storage of wine, and devices designed to minimize oxidation in bottles of wine which have been uncorked[~~, or the sale of~~]**;**

(viii) gift bags, gift boxes, associated gift or promotional items, or wrapping, for alcoholic beverages purchased at the licensed premises [~~shall not constitute engaging in another business within the meaning of this subdivision~~]**;**

(ix) tonic water;

(x) bitters;

(xi) or maraschino cherries.

(b) Any fee obtained from the sale of an educational seminar shall not be considered as a fee for any tasting that may be offered during an

educational seminar, provided that such tastings are available to persons who have not paid to attend the seminar and all tastings are conducted in accordance with section sixty-three-a of this article.

(c) For the purposes of this section, gift or promotional items shall only include those items that are complimentary and directly associated with the sale of wine or liquor they are promoting and shall mean: (i) items that are de minimis in value, but in no instance shall merchandise be valued at more than fifteen dollars in total; (ii) items that are imprinted with the wine or liquor brand logo on the gift or promotional item; and (iii) items that are included as part of a manufactured pre-sealed package with the wine or liquor that is being gifted or promoted. Further, for the purposes of this section, promotional items shall not include any food, non-alcoholic beverage, or other drink or food mix, nor shall these items be offered for sale to the general public as individual items.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law.