STATE OF NEW YORK

5437

2023-2024 Regular Sessions

IN ASSEMBLY

March 10, 2023

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

AN ACT to amend the alcoholic beverage control law, in relation to authorizing retail licensees to purchase alcohol with a business payment card

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

Section 1. Subdivision 1 of section 101-aa of the alcoholic beverage control law is amended by adding three new paragraphs g, h and i to read as follows:

g. "Business payment card" means: (1) any credit card issued to a retail licensee for business or commercial use pursuant to an agreement that allows the holder thereof to obtain goods and services on the credit of the issuer or a debit card that provides access to a bank account of a retail licensee; (2) a credit or debit card from an issuer accepted by the manufacturer or wholesaler as permitted by the authority in regulation; and (3) such credit card shall not include cards in which a manufacturer or wholesaler has a financial interest or cards by which their use benefits a manufacturer or wholesaler. Such card must be issued in the same name as a retail licensee and registered to the same address as the address on the retail license, or as otherwise permitted by the authority in regulation.

h. "Final cash invoice amount" means the amount charged by a manufacturer or wholesaler to a retail licensee pursuant to paragraphs (a) and (b) of subdivision two of this section.

i. "Final business payment card invoice amount" means the amount charged by a manufacturer or wholesaler to a retail licensee pursuant to paragraph (c) of subdivision two of this section; and shall equal the final cash invoice amount plus the exact surcharges and fees that are charged to the manufacturer or wholesaler by the business payment card issuer, or a person or entity associated with the issuer.

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

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§ 2. Paragraph (b) of subdivision 2 of section 101-aa of the alcoholic beverage control law, as amended by section 5 of subpart W of part XX of chapter 55 of the laws of 2020, is amended and a new paragraph (c) is added to read as follows:

(b) on terms requiring payment by such retail licensee for such alcoholic beverages on or before the final payment date of the credit period for which delivery is made[~~.~~]**; or**

(c) by business payment card; provided that a manufacturer or wholesaler that exercises reasonable diligence to ensure the sale comports with the requirements of this section shall not be found to have violated this subdivision where a retail licensee uses a credit card other than a business payment card.

§ 3. Section 101-aa of the alcoholic beverage control law is amended by adding two new subdivisions 2-a and 2-b to read as follows:

2-a. A manufacturer or wholesaler that accepts business payment cards shall clearly state the final cash invoice amount and the final business payment card invoice amount on an invoice provided to a retail licensee. Nothing in this section shall preclude, or permit a manufacturer or wholesaler to prevent, a retail licensee that receives such an invoice from electing to use any other form of payment method permitted pursuant to subdivision two of this section following receipt of such invoice.

2-b. Nothing herein contained shall be construed to require any manufacturer or wholesaler to accept business payment cards as a method of payment by any retail licensee, provided that if such payment method is made available it shall be available on equal terms to all retail licensees.

§ 4. This act shall take effect immediately.