

STATE OF NEW YORK

9107

IN ASSEMBLY

February 7, 2024

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

AN ACT to amend the alcoholic beverage control law, in relation to establishing a brand owner's license

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

1 Section 1. Subdivision 3 of section 17 of the alcoholic beverage
2 control law, as amended by section 8 of chapter 522 of the laws of 2018,
3 is amended to read as follows:
4 3. To revoke, cancel or suspend for cause any license or permit issued
5 under this chapter and/or to impose a civil penalty for cause against
6 any holder of a license or permit issued pursuant to this chapter. Any
7 civil penalty so imposed shall not exceed the sum of ten thousand
8 dollars as against the holder of any retail permit issued pursuant to
9 sections ninety-five, ninety-seven, ninety-eight, ninety-nine-d, and
10 paragraph f of subdivision one of section ninety-nine-b of this chapter,
11 and as against the holder of any retail license issued pursuant to
12 sections fifty-three-a, fifty-four, fifty-four-a, fifty-five, fifty-
13 five-a, sixty-three, sixty-four, sixty-four-a, sixty-four-b,
14 sixty-four-c, seventy-six-f, seventy-nine, eighty-one and eighty-one-a
15 of this chapter, and the sum of thirty thousand dollars as against the
16 holder of a license issued pursuant to sections thirty, thirty-one,
17 fifty-three, sixty-one-a, sixty-one-b, ~~sixty-one-c~~, seventy-six, seven-
18 ty-six-a, and seventy-eight of this chapter, provided that the civil
19 penalty against the holder of a wholesale license issued pursuant to
20 section fifty-three of this chapter shall not exceed the sum of ten
21 thousand dollars where that licensee violates provisions of this chapter
22 during the course of the sale of beer at retail to a person for consump-
23 tion at home, and the sum of one hundred thousand dollars as against the
24 holder of any license issued pursuant to sections fifty-one, sixty-one,
25 and sixty-two of this chapter. Any civil penalty so imposed shall be in
26 addition to and separate and apart from the terms and provisions of the
27 bond required pursuant to section one hundred twelve of this chapter.
28 Provided that no appeal is pending on the imposition of such civil
29 penalty, in the event such civil penalty imposed by the division remains
30 unpaid, in whole or in part, more than forty-five days after written
31 demand for payment has been sent by first class mail to the address of

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

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1 the licensed premises, a notice of impending default judgment shall be
2 sent by first class mail to the licensed premises and by first class
3 mail to the last known home address of the person who signed the most
4 recent license application. The notice of impending default judgment
5 shall advise the licensee: (a) that a civil penalty was imposed on the
6 licensee; (b) the date the penalty was imposed; (c) the amount of the
7 civil penalty; (d) the amount of the civil penalty that remains unpaid
8 as of the date of the notice; (e) the violations for which the civil
9 penalty was imposed; and (f) that a judgment by default will be entered
10 in the supreme court of the county in which the licensed premises are
11 located, or other court of civil jurisdiction or any other place
12 provided for the entry of civil judgments within the state of New York
13 unless the division receives full payment of all civil penalties due
14 within twenty days of the date of the notice of impending default judg-
15 ment. If full payment shall not have been received by the division with-
16 in thirty days of mailing of the notice of impending default judgment,
17 the division shall proceed to enter with such court a statement of the
18 default judgment containing the amount of the penalty or penalties
19 remaining due and unpaid, along with proof of mailing of the notice of
20 impending default judgment. The filing of such judgment shall have the
21 full force and effect of a default judgment duly docketed with such
22 court pursuant to the civil practice law and rules and shall in all
23 respects be governed by that chapter and may be enforced in the same
24 manner and with the same effect as that provided by law in respect to
25 execution issued against property upon judgments of a court of record. A
26 judgment entered pursuant to this subdivision shall remain in full force
27 and effect for eight years notwithstanding any other provision of law.

28 § 2. Subdivision 3 of section 17 of the alcoholic beverage control
29 law, as amended by section 9 of chapter 522 of the laws of 2018, is
30 amended to read as follows:

31 3. To revoke, cancel or suspend for cause any license or permit issued
32 under this chapter and/or to impose a civil penalty for cause against
33 any holder of a license or permit issued pursuant to this chapter. Any
34 civil penalty so imposed shall not exceed the sum of ten thousand
35 dollars as against the holder of any retail permit issued pursuant to
36 sections ninety-five, ninety-seven, ninety-eight, ninety-nine-d, and
37 paragraph f of subdivision one of section ninety-nine-b of this chapter,
38 and as against the holder of any retail license issued pursuant to
39 sections fifty-three-a, fifty-four, fifty-four-a, fifty-five, fifty-
40 five-a, sixty-three, sixty-four, sixty-four-a, sixty-four-b,
41 sixty-four-c, seventy-six-f, seventy-nine, eighty-one, and eighty-one-a
42 of this chapter, and the sum of thirty thousand dollars as against the
43 holder of a license issued pursuant to sections thirty, thirty-one,
44 fifty-three, sixty-one-a, sixty-one-b, sixty-one-c, seventy-six, seven-
45 ty-six-a and seventy-eight of this chapter, provided that the civil
46 penalty against the holder of a wholesale license issued pursuant to
47 section fifty-three of this chapter shall not exceed the sum of ten
48 thousand dollars where that licensee violates provisions of this chapter
49 during the course of the sale of beer at retail to a person for consump-
50 tion at home, and the sum of one hundred thousand dollars as against the
51 holder of any license issued pursuant to sections fifty-one, sixty-one
52 and sixty-two of this chapter. Any civil penalty so imposed shall be in
53 addition to and separate and apart from the terms and provisions of the
54 bond required pursuant to section one hundred twelve of this chapter.
55 Provided that no appeal is pending on the imposition of such civil
56 penalty, in the event such civil penalty imposed by the division remains

1 unpaid, in whole or in part, more than forty-five days after written
2 demand for payment has been sent by first class mail to the address of
3 the licensed premises, a notice of impending default judgment shall be
4 sent by first class mail to the licensed premises and by first class
5 mail to the last known home address of the person who signed the most
6 recent license application. The notice of impending default judgment
7 shall advise the licensee: (a) that a civil penalty was imposed on the
8 licensee; (b) the date the penalty was imposed; (c) the amount of the
9 civil penalty; (d) the amount of the civil penalty that remains unpaid
10 as of the date of the notice; (e) the violations for which the civil
11 penalty was imposed; and (f) that a judgment by default will be entered
12 in the supreme court of the county in which the licensed premises are
13 located, or other court of civil jurisdiction, or any other place
14 provided for the entry of civil judgments within the state of New York
15 unless the division receives full payment of all civil penalties due
16 within twenty days of the date of the notice of impending default judg-
17 ment. If full payment shall not have been received by the division with-
18 in thirty days of mailing of the notice of impending default judgment,
19 the division shall proceed to enter with such court a statement of the
20 default judgment containing the amount of the penalty or penalties
21 remaining due and unpaid, along with proof of mailing of the notice of
22 impending default judgment. The filing of such judgment shall have the
23 full force and effect of a default judgment duly docketed with such
24 court pursuant to the civil practice law and rules and shall in all
25 respects be governed by that chapter and may be enforced in the same
26 manner and with the same effect as that provided by law in respect to
27 execution issued against property upon judgments of a court of record. A
28 judgment entered pursuant to this subdivision shall remain in full force
29 and effect for eight years notwithstanding any other provision of law.

30 § 3. The alcoholic beverage control law is amended by adding a new
31 section 61-c to read as follows:

32 § 61-c. Brand owner's license. Any person with a federal basic permit
33 may apply to the liquor authority for a brand owner's license. Such
34 license shall authorize the holder thereof to:

35 1. contract with a licensed manufacturer of alcoholic beverages in
36 this state for the purposes of manufacturing such products;

37 2. appoint a licensed wholesaler authorized to sell and deliver alco-
38 holic beverages in this state as exclusive brand agent for the purposes
39 of soliciting, negotiating, and receiving payments for the sale of alco-
40 holic beverages to retail licensees for on-premises or off-premises
41 consumption; and

42 3. sell such alcoholic beverages to licensed wholesalers authorized to
43 sell and deliver alcoholic beverages in this state appointed as exclu-
44 sive brand agent and be remitted payments for such sales.

45 § 4. Section 66 of the alcoholic beverage control law is amended by
46 adding a new subdivision 3-b to read as follows:

47 3-b. The annual fee for a brand owner's license shall be one hundred
48 twenty-five dollars.

49 § 5. This act shall take effect immediately; provided, however, that
50 the amendments to subdivision 3 of section 17 of the alcoholic beverage
51 control law made by section one of this act shall be subject to the
52 expiration and reversion of such section pursuant to section 4 of chap-
53 ter 118 of the laws of 2012, as amended, when upon such date section two
54 of this act shall take effect.