

STATE OF NEW YORK

3460

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

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 allowing cooperative agreements by licensees to sell wine or liquor at retail for consumption off the premises

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

1 Section 1. The alcoholic beverage control law is amended by adding a
2 new section 106-c to read as follows:

3 § 106-c. Cooperative agreements by licensees to sell wine or liquor at
4 retail for consumption off the premises. No more than ten licensees with
5 licenses for the sale at retail of wine or liquor for off-premises
6 consumption as established in section sixty-three or section seventy-
7 nine of this chapter, may join a cooperative agreement to make joint
8 purchases of alcoholic beverages, provided that such agreement and
9 activity shall conform to the following standards:

10 1. The cooperative may hire employees to act in an administrative or
11 management capacity for the cooperative's purchase, storage and trans-
12 portation of alcoholic beverages. Such employees shall be in compliance
13 with sections one hundred twenty-six and one hundred twenty-eight of
14 this article;

15 2. No cooperative agreement shall prohibit any licensee from joining
16 any other cooperative agreement;

17 3. No cooperative agreement shall prohibit any retailer from advertis-
18 ing or selling any product at any otherwise lawful price;

19 4. Any licensee may withdraw from a cooperative agreement within thir-
20 ty days of forming such cooperative by written notice to the remaining
21 participating members of such cooperative and no penalties shall be
22 charged for such withdrawal;

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

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1 5. All purchases on credit through or by cooperative agreement shall
2 be reduced to writing, signed by the wholesaler and each individual
3 participating member of the cooperative and be consistent with sections
4 one hundred one-aa and one hundred one-aaa of this article. All credit
5 terms shall include adequate assurances of payment by each individual
6 participating member of the cooperative by either the posting of a bond
7 by the cooperative member or a provision that each member of the cooper-
8 ative shall be jointly and severally liable for payment for the cooper-
9 ative purchases made through the cooperative. A copy of such written agree-
10 ments shall be maintained by the wholesaler and by the registered buying
11 cooperative member;

12 6. All individual purchases through or by cooperative agreement shall
13 be separately invoiced consistent with sections one hundred one-aa and
14 one hundred one-aaa of this article and shall contain the cooperative's
15 registration number;

16 7. All purchases through or by a cooperative agreement shall be trans-
17 ported consistent with section one hundred seventeen of this article;

18 8. No licensed party to a cooperative agreement shall commingle inven-
19 tory, funds or other assets inconsistent with any section of this chap-
20 ter;

21 9. Any purchase or transfer in violation of any section of this chap-
22 ter or the regulations promulgated thereunder, shall be a violation by
23 all members of the cooperative purchase agreement;

24 10. Nothing herein shall be deemed to require the servicing of any
25 cooperative agreement with quantity or cash discounts if there exists no
26 corresponding justification for the differential; and

27 11. Each licensed cooperative buying group may maintain a public ware-
28 house provided that the cooperative complies with section one hundred
29 two of this article, the cooperative public warehouse maintains assigned
30 space for each individual participating member of the cooperative and
31 the inventory is transferred to that space within seventy-two hours
32 after delivery. All purchases through or by the cooperative agreement
33 shall be transported to and from the warehouse consistent with section
34 one hundred seventeen of this article.

35 § 2. This act shall take effect on the one hundred eightieth day after
36 it shall have become a law. Effective immediately, the addition, amend-
37 ment and/or repeal of any rule or regulation necessary for the implemen-
38 tation of this act on its effective date are authorized to be made and
39 completed on or before such effective date.