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:

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

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

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

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

3. No cooperative agreement shall prohibit any retailer from advertising or selling any product at any otherwise lawful price;

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

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

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

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

7. All purchases through or by a cooperative agreement shall be transported consistent with section one hundred seventeen of this article;

8. No licensed party to a cooperative agreement shall commingle inventory, funds or other assets inconsistent with any section of this chapter;

9. Any purchase or transfer in violation of any section of this chapter or the regulations promulgated thereunder, shall be a violation by all members of the cooperative purchase agreement;

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

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

§ 2. This act shall take effect on the one hundred eightieth day after 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.