

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:

1 Section 1. Paragraph (a) of subdivision 1 of section 104 of the alco-
2 holic beverage control law, as amended by chapter 24 of the laws of
3 2024, is amended to read as follows:
4 (a) No wholesaler shall be engaged in any other business on the prem-
5 ises to be licensed; except that nothing contained in this chapter
6 shall: (1) prohibit a beer wholesaler from (i) acquiring, storing or
7 selling non-alcoholic snack foods, as defined in paragraph (b) of this
8 subdivision, (ii) manufacturing, bottling, storing, or selling non-alco-
9 holic carbonated beverages, (iii) manufacturing, storing or selling
10 non-alcoholic non-carbonated soft drinks, mineral waters, spring waters,
11 drinking water, non-taxable malt or cereal beverages, juice drinks,
12 fruit or vegetable juices, ice, liquid beverage mixes and dry or frozen
13 beverage mixes, (iv) acquiring, storing or selling wine products, (v)
14 the sale of promotional items on such premises, or (vi) the sale of
15 tobacco products at retail by wholesalers who are licensed to sell beer
16 and other products at retail; (2) prohibit a wholesaler authorized to
17 sell wine from manufacturing, acquiring or selling wine merchandise, as
18 defined in paragraph (d) of this subdivision; (3) prohibit a licensed
19 winery or licensed farm winery from engaging in the business of a wine
20 wholesaler for New York state labeled wines produced by any licensed
21 winery or licensed farm winery or prohibit such wine wholesaler from
22 exercising any of its rights pursuant to sections seventy-six and seven-
23 ty-six-a of this chapter provided that the operation of such beer and
24 wine wholesalers business shall be subject to such rules and regulations
25 as the liquor authority may prescribe; (4) prohibit a beer wholesaler
26 who is authorized to sell beer at retail from selling at retail: (i)
27 candy, chewing gum and cough drops; (ii) non-refrigerated salsa; (iii)
28 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.

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

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

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

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

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

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

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

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

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

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

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

52 (ix) tonic water;

53 (x) bitters;

54 (xi) or maraschino cherries.

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

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

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

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