STATE OF NEW YORK

3397

2023-2024 Regular Sessions

IN ASSEMBLY

February 3, 2023

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

AN ACT to amend the alcoholic beverage control law and the state finance law, in relation to enacting the "New York wine & distilled spirits development act"; and to repeal certain provisions of the alcoholic beverage control law relating thereto

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

Section 1. This act shall be known and may be cited as the "New York wine & distilled spirits development act".

§ 2. Subdivision 6 of section 63 of the alcoholic beverage control law is REPEALED and subdivision 5 is amended to read as follows:

5. [~~Not~~] **(a) Prior to January first, two thousand twenty-four, not** more than one license shall be granted to any person under this section. **Beginning on and after January first, two thousand twenty-four, a person may be granted additional seven day licenses as follows, provided however, the issuance of such seven day licenses shall be in accordance with paragraphs (b), (c) and (d) of this subdivision:**

(i) On or after January first, two thousand twenty-four, not more than two additional seven day licenses may be granted to any person under this section, for a maximum of three seven day licenses any person may hold.

(ii) On or after January first, two thousand twenty-six, not more than four additional seven day licenses may be granted to any person under this section, for a maximum of five seven day licenses any person may hold.

(iii) On or after January first, two thousand twenty-eight, not more than six additional seven day licenses may be granted to any person under this section, for a maximum of seven seven day licenses any person may hold.

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

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(iv) On or after January first, two thousand thirty, not more than eight additional seven day licenses may be granted to any person under this section, for a maximum of nine seven day licenses any person may hold.

(v) On or after January first, two thousand thirty-two, not more than eleven additional seven day licenses may be granted to any person under this section, for a maximum of twelve seven day licenses any person may hold.

(b) Commencing on the effective date of this paragraph, and every five years thereafter, the authority shall determine the ratio of active seven day licenses in a county per adult residents over the age of twenty-one years residing in such county, using the most current decennial census as conducted by the United States Department of Commerce. Such ratio shall be used by the authority when considering an application for a seven day license within any county provided for in paragraphs (c) and (d) of this subdivision.

(c) No additional seven day licenses shall be granted by the authority in any county in which the ratio of active seven day licenses in such county per adult residents over the age of twenty-one years residing in such county is equal to or less than one active seven day license per three thousand adult residents over the age of twenty-one years. The provisions of this paragraph shall not apply to:

(i) the renewal, removal or continuance of a seven day license;

(ii) an application for a seven day license filed before the effective date of this paragraph; or

(iii) an application by a purchaser of all or substantially all of the assets of an existing licensee of a seven day license within the county. A purchaser under this subparagraph shall make an application to the authority, which the authority shall grant, provided that (A) such purchaser is otherwise qualified to hold a seven day license, and (B) the premises sought to be licensed under this section shall comply with the requirements of this article and are not located in a different county.

(d) The authority may, in its discretion, auction additional seven day licenses to be used in any county whose ratio of active seven day licenses in such county per adult residents over the age of twenty-one years residing in the county is greater than one active seven day license per three thousand adult residents over the age of twenty-one years. No seven day license may be auctioned if such license would cause the county's ratio of active seven day licenses per adult residents over the age of twenty-one years residing in the county to be equal to or less than three thousand adult residents over the age of twenty-one years.

§ 3. Subdivision 5 of section 66 of the alcoholic beverage control law, as amended by section 3 of part Z of chapter 85 of the laws of 2002, is amended to read as follows:

5. The annual fee for [~~a~~] each license to sell liquor at retail not to be consumed on the premises where sold shall be thirteen hundred sixty-six dollars in the counties of New York, Kings, Bronx and Queens; eight hundred fifty-four dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; and elsewhere the sum of five hundred twelve dollars.

§ 4. Subdivision 16 of section 105 of the alcoholic beverage control law, as amended by chapter 621 of the laws of 1944, is amended to read as follows:

16. No retail licensee to sell liquors and/or wines for off-premises consumption shall be interested, directly or indirectly, in any premises where liquors, wines or beer are manufactured or sold at wholesale or, **except as set forth in section sixty-three of this chapter,** any other premises where liquor or wine is sold at retail for off-premises consumption, by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means. Any lien, mortgage or other interest or estate, however, now held by such retailer on or in the personal or real property of such manufacturer or wholesaler, which mortgage, lien, interest or estate was acquired on or before December thirty-first, nineteen hundred thirty-two, shall not be included within the provisions of this subdivision; provided, however, the burden of establishing the time of the accrual of the interest comprehended by this subdivision, shall be upon the person who claims to be entitled to the protection and exemption afforded hereby.

§ 5. The state finance law is amended by adding a new section 97-bbbbb to read as follows:

§ 97-bbbbb. New York distilled spirits and wine industry marketing and promotion fund. 1. There is hereby established in the joint custody of the commissioner of taxation and finance and the state comptroller a special fund to be known as the "New York distilled spirits and wine industry marketing fund". As used in this section, the term "the fund" shall mean the New York distilled spirits and wine industry marketing fund established pursuant to this section.

2. (a) The fund shall consist of twenty-five percent of all revenues received pursuant to subdivision five of section sixty-six of the alcoholic beverage control law, and all other money appropriated, credited or transferred thereto from any other fund or source pursuant to law. Nothing contained in this section shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund and depositing them into the fund according to law.

(b) On or before the first day of February each year, the comptroller shall certify to the governor, temporary president of the senate, speaker of the assembly, chair of the senate finance committee, and chair of the assembly ways and means committee, the amount of money deposited into the fund during the preceding calendar year as the result of revenue derived pursuant to subdivision five of section sixty-six of the alcoholic beverage control law and from grants, gifts and bequests.

(c) On or before the first day of February each year, the commissioner of economic development shall provide a written report to the temporary president of the senate, speaker of the assembly, chair of the senate finance committee, chair of the assembly ways and means committee, chair of the senate investigations and government operations committee, chair of the senate agriculture committee, chair of the senate commerce, economic development and small business committee, chair of the assembly economic development, job creation, commerce and industry committee, chair of the assembly agriculture committee, the state comptroller, and the public. Such report shall include how the moneys of the fund were utilized during the preceding calendar year including expenditures for all promotional and marketing activity.

3. Moneys for the fund shall be expended only for the marketing and promotional campaigns and education projects on behalf of New York produced distilled spirits and wine that are approved by the commissioner of economic development.

4. Moneys shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of economic development.

5. To the extent practicable, the commissioner of economic development shall ensure that all moneys received by the fund during a fiscal year are expended prior to the end of the fiscal year.

§ 6. This act shall take effect January 1, 2024.