

# 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:

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

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4 is REPEALED and subdivision 5 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

44 § 3. Subdivision 5 of section 66 of the alcoholic beverage control  
45 law, as amended by section 3 of part Z of chapter 85 of the laws of  
46 2002, is amended to read as follows:

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

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

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

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

18 § 97-bbbbb. New York distilled spirits and wine industry marketing and  
19 promotion fund. 1. There is hereby established in the joint custody of  
20 the commissioner of taxation and finance and the state comptroller a  
21 special fund to be known as the "New York distilled spirits and wine  
22 industry marketing fund". As used in this section, the term "the fund"  
23 shall mean the New York distilled spirits and wine industry marketing  
24 fund established pursuant to this section.

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

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

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

51 3. Moneys for the fund shall be expended only for the marketing and  
52 promotional campaigns and education projects on behalf of New York  
53 produced distilled spirits and wine that are approved by the commission-  
54 er of economic development.

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

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

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