

# STATE OF NEW YORK

3568--A

2023-2024 Regular Sessions

## IN SENATE

February 1, 2023

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the alcoholic beverage control law, in relation to the sale of tonic water, bitters, maraschino cherries, and dealcoholized wine 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

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

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1 winery or licensed farm winery or prohibit such wine wholesaler from  
 2 exercising any of its rights pursuant to sections seventy-six and seven-  
 3 ty-six-a of this chapter provided that the operation of such beer and  
 4 wine wholesalers business shall be subject to such rules and regulations  
 5 as the liquor authority may prescribe; (4) prohibit a beer wholesaler  
 6 who is authorized to sell beer at retail from selling at retail: (i)  
 7 candy, chewing gum and cough drops; (ii) non-refrigerated salsa; (iii)  
 8 cigarette lighters, lighter fluid, matches and ashtrays; (iv) barbecue  
 9 and picnic-related products and supplies, which shall include, but not  
 10 be limited to, charcoal, grills, propane gas, plastic and paper cups,  
 11 paper or plastic tablecloths and coolers; (v) beer making and brewing  
 12 supplies and publications, which shall include, but not be limited to,  
 13 books, magazines, equipment and ingredients; (vi) steins, mugs and other  
 14 glassware appropriate for the consumption of beer, malt beverages and  
 15 wine products; (vii) items typically used to serve beer and malt bever-  
 16 ages including, but not limited to, taps, kegerators, koozies and beer  
 17 socks; (viii) lemons, limes and oranges, provided that no more than two  
 18 dozen of each shall be displayed at any one time; (ix) rock salt, ice  
 19 and snow melting compounds, snow shovels; windshield washer solvent;  
 20 firewood; beach umbrellas; sunglasses and sun block; and (x) prepaid  
 21 telephone cards; (5) prohibit the installation and operation of a single  
 22 automated teller machine in the premises of a beer wholesaler who is  
 23 authorized to sell beer at retail; ~~(6) prohibit a liquor or a wine~~  
 24 ~~wholesaler from transporting or selling gifts or promotional items asso-~~  
 25 ~~ciated with wine or liquor products as provided for in subdivision four~~  
 26 ~~of section sixty-three of this chapter; or (7) prohibit a liquor whole-~~  
 27 ~~saler from transporting or selling tonic water, bitters, maraschino~~  
 28 ~~cherries, or dealcoholized wine.~~ For the purposes of this subdivision,  
 29 "automated teller machine" means a device which is linked to the  
 30 accounts and records of a banking institution and which enables consum-  
 31 ers to carry out banking transactions, including but not limited to,  
 32 account transfers, deposits, cash withdrawals, balance inquiries and  
 33 loan payments.

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

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

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

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

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

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

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

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

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

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

5 (ix) tonic water;

6 (x) bitters;

7 (xi) maraschino cherries; or

8 (xii) dealcoholized wine.

9 (b) Any fee obtained from the sale of an educational seminar shall not  
10 be considered as a fee for any tasting that may be offered during an  
11 educational seminar, provided that such tastings are available to  
12 persons who have not paid to attend the seminar and all tastings are  
13 conducted in accordance with section sixty-three-a of this article.

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

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