

STATE OF NEW YORK

6765

2023-2024 Regular Sessions

IN SENATE

May 9, 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 establishing a brand owner's license

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

1 Section 1. Subdivision 3 of section 17 of the alcoholic beverage
2 control law, as amended by section 8 of chapter 522 of the laws of 2018,
3 is amended to read as follows:
4 3. To revoke, cancel or suspend for cause any license or permit issued
5 under this chapter and/or to impose a civil penalty for cause against
6 any holder of a license or permit issued pursuant to this chapter. Any
7 civil penalty so imposed shall not exceed the sum of ten thousand
8 dollars as against the holder of any retail permit issued pursuant to
9 sections ninety-five, ninety-seven, ninety-eight, ninety-nine-d, and
10 paragraph f of subdivision one of section ninety-nine-b of this chapter,
11 and as against the holder of any retail license issued pursuant to
12 sections fifty-three-a, fifty-four, fifty-four-a, fifty-five, fifty-
13 five-a, sixty-three, sixty-four, sixty-four-a, sixty-four-b,
14 sixty-four-c, seventy-six-f, seventy-nine, eighty-one and eighty-one-a
15 of this chapter, and the sum of thirty thousand dollars as against the
16 holder of a license issued pursuant to sections thirty, thirty-one,
17 fifty-three, sixty-one-a, sixty-one-b, sixty-one-c, seventy-six, seven-
18 ty-six-a, and seventy-eight of this chapter, provided that the civil
19 penalty against the holder of a wholesale license issued pursuant to
20 section fifty-three of this chapter shall not exceed the sum of ten
21 thousand dollars where that licensee violates provisions of this chapter
22 during the course of the sale of beer at retail to a person for consump-
23 tion at home, and the sum of one hundred thousand dollars as against the
24 holder of any license issued pursuant to sections fifty-one, sixty-one,

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

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1 and sixty-two of this chapter. Any civil penalty so imposed shall be in
2 addition to and separate and apart from the terms and provisions of the
3 bond required pursuant to section one hundred twelve of this chapter.
4 Provided that no appeal is pending on the imposition of such civil
5 penalty, in the event such civil penalty imposed by the division remains
6 unpaid, in whole or in part, more than forty-five days after written
7 demand for payment has been sent by first class mail to the address of
8 the licensed premises, a notice of impending default judgment shall be
9 sent by first class mail to the licensed premises and by first class
10 mail to the last known home address of the person who signed the most
11 recent license application. The notice of impending default judgment
12 shall advise the licensee: (a) that a civil penalty was imposed on the
13 licensee; (b) the date the penalty was imposed; (c) the amount of the
14 civil penalty; (d) the amount of the civil penalty that remains unpaid
15 as of the date of the notice; (e) the violations for which the civil
16 penalty was imposed; and (f) that a judgment by default will be entered
17 in the supreme court of the county in which the licensed premises are
18 located, or other court of civil jurisdiction or any other place
19 provided for the entry of civil judgments within the state of New York
20 unless the division receives full payment of all civil penalties due
21 within twenty days of the date of the notice of impending default judg-
22 ment. If full payment shall not have been received by the division with-
23 in thirty days of mailing of the notice of impending default judgment,
24 the division shall proceed to enter with such court a statement of the
25 default judgment containing the amount of the penalty or penalties
26 remaining due and unpaid, along with proof of mailing of the notice of
27 impending default judgment. The filing of such judgment shall have the
28 full force and effect of a default judgment duly docketed with such
29 court pursuant to the civil practice law and rules and shall in all
30 respects be governed by that chapter and may be enforced in the same
31 manner and with the same effect as that provided by law in respect to
32 execution issued against property upon judgments of a court of record. A
33 judgment entered pursuant to this subdivision shall remain in full force
34 and effect for eight years notwithstanding any other provision of law.

35 § 2. Subdivision 3 of section 17 of the alcoholic beverage control
36 law, as amended by section 9 of chapter 522 of the laws of 2018, is
37 amended to read as follows:

38 3. To revoke, cancel or suspend for cause any license or permit issued
39 under this chapter and/or to impose a civil penalty for cause against
40 any holder of a license or permit issued pursuant to this chapter. Any
41 civil penalty so imposed shall not exceed the sum of ten thousand
42 dollars as against the holder of any retail permit issued pursuant to
43 sections ninety-five, ninety-seven, ninety-eight, ninety-nine-d, and
44 paragraph f of subdivision one of section ninety-nine-b of this chapter,
45 and as against the holder of any retail license issued pursuant to
46 sections fifty-three-a, fifty-four, fifty-four-a, fifty-five, fifty-
47 five-a, sixty-three, sixty-four, sixty-four-a, sixty-four-b,
48 sixty-four-c, seventy-six-f, seventy-nine, eighty-one, and eighty-one-a
49 of this chapter, and the sum of thirty thousand dollars as against the
50 holder of a license issued pursuant to sections thirty, thirty-one,
51 fifty-three, sixty-one-a, sixty-one-b, sixty-one-c, seventy-six, seven-
52 ty-six-a and seventy-eight of this chapter, provided that the civil
53 penalty against the holder of a wholesale license issued pursuant to
54 section fifty-three of this chapter shall not exceed the sum of ten
55 thousand dollars where that licensee violates provisions of this chapter
56 during the course of the sale of beer at retail to a person for consump-

tion at home, and the sum of one hundred thousand dollars as against the holder of any license issued pursuant to sections fifty-one, sixty-one and sixty-two of this chapter. Any civil penalty so imposed shall be in addition to and separate and apart from the terms and provisions of the bond required pursuant to section one hundred twelve of this chapter. Provided that no appeal is pending on the imposition of such civil penalty, in the event such civil penalty imposed by the division remains unpaid, in whole or in part, more than forty-five days after written demand for payment has been sent by first class mail to the address of the licensed premises, a notice of impending default judgment shall be sent by first class mail to the licensed premises and by first class mail to the last known home address of the person who signed the most recent license application. The notice of impending default judgment shall advise the licensee: (a) that a civil penalty was imposed on the licensee; (b) the date the penalty was imposed; (c) the amount of the civil penalty; (d) the amount of the civil penalty that remains unpaid as of the date of the notice; (e) the violations for which the civil penalty was imposed; and (f) that a judgment by default will be entered in the supreme court of the county in which the licensed premises are located, or other court of civil jurisdiction, or any other place provided for the entry of civil judgments within the state of New York unless the division receives full payment of all civil penalties due within twenty days of the date of the notice of impending default judgment. If full payment shall not have been received by the division within thirty days of mailing of the notice of impending default judgment, the division shall proceed to enter with such court a statement of the default judgment containing the amount of the penalty or penalties remaining due and unpaid, along with proof of mailing of the notice of impending default judgment. The filing of such judgment shall have the full force and effect of a default judgment duly docketed with such court pursuant to the civil practice law and rules and shall in all respects be governed by that chapter and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. A judgment entered pursuant to this subdivision shall remain in full force and effect for eight years notwithstanding any other provision of law.

§ 3. The alcoholic beverage control law is amended by adding a new section 61-c to read as follows:

§ 61-c. Brand owner's license. Any person with a federal basic permit may apply to the liquor authority for a brand owner's license. Such license shall authorize the holder thereof to:

1. contract with a licensed manufacturer of alcoholic beverages in this state for the purposes of manufacturing such products;

2. appoint a licensed wholesaler authorized to sell and deliver alcoholic beverages in this state as exclusive brand agent for the purposes of soliciting, negotiating, and receiving payments for the sale of alcoholic beverages to retail licensees for on-premises or off-premises consumption; and

3. sell such alcoholic beverages to licensed wholesalers authorized to sell and deliver alcoholic beverages in this state appointed as exclusive brand agent and be remitted payments for such sales.

§ 4. Section 66 of the alcoholic beverage control law is amended by adding a new subdivision 3-b to read as follows:

3-b. The annual fee for a brand owner's license shall be one hundred twenty-five dollars.

1 § 5. This act shall take effect immediately; provided, however, that
2 the amendments to subdivision 3 of section 17 of the alcoholic beverage
3 control law made by section one of this act shall be subject to the
4 expiration and reversion of such section pursuant to section 4 of chap-
5 ter 118 of the laws of 2012, as amended, when upon such date section two
6 of this act shall take effect.