STATE OF NEW YORK

1328--A

2025-2026 Regular Sessions

IN ASSEMBLY

January 9, 2025

Introduced by M. of A. HUNTER, WILLIAMS, CUNNINGHAM, SEPTIMO, REYES, ZINERMAN, WALKER, TAYLOR, HEVESI, DE LOS SANTOS, DAVILA, HOOKS, FORREST, GONZALEZ-ROJAS, DeSTEFANO, ALVAREZ, COOK, DAIS, McDONALD -- read once and referred to the Committee on Economic Development -- 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 establishing supermarket wine licenses

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

Section 1. Section 3 of the alcoholic beverage control law is amended by adding a new subdivision 13-a to read as follows:

13-a. "Supermarket" shall mean any retail establishment (a) whose primary business is the sale of foodstuffs for off-premises consumption, and (b) which is at least four thousand square feet, in total floor area. There shall be a rebuttable presumption that a retail establishment is primarily engaged in the sale of foodstuffs where such sales of foodstuffs constitutes greater than sixty-five percent of the total revenue of such establishment in the twelve months preceding submission of an application.

§ 2. Subdivisions 3 and 5 of section 75 of the alcoholic beverage control law, subdivision 3 as amended by section 4 of part K of chapter 60 of the laws of 2004 and subdivision 5 as added by chapter 355 of the laws of 2013, are amended and a new subdivision 6 is added to read as follows:

3. Seven day license to sell wine at retail for consumption off the premises subject to paragraph (a) of subdivision fourteen of section one hundred five of this chapter[~~.~~]**;**

5. Roadside farm market license[~~.~~]**; and**

6. Supermarket wine license.

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

LBD01847-12-5

§ 3. The alcoholic beverage control law is amended by adding a new section 79-e to read as follows:

§ 79-e. Supermarket wine license. 1. Any person may apply to the authority for a license to sell from the licensed premises wine in sealed containers for consumption off such premises.

2. No such license shall be issued, however, to any person for any premises other than a supermarket, as defined in subdivision thirteen-a of section three of this chapter.

3. (a) For the purposes of this section, the premises of the supermarket wine licensee shall be the same as the premises licensed under section fifty-four or fifty-four-a of this chapter.

(b) Notwithstanding any other provisions of this chapter, any license issued pursuant to this section shall run concurrently with the underlying license under section fifty-four or fifty-four-a of this chapter, and shall be deemed expired at such time as the underlying license expires.

(c) Any person licensed to sell wine pursuant to this article shall be permitted to conduct wine tastings. Wine tastings which are conducted under the auspices of an official agent of a farm winery, winery, wholesaler, or importer and where such agent is physically present at all times during the conduct of the tasting, then, in that event, any liability stemming from a right of action resulting from a wine tasting as authorized pursuant to this section, and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm winery, winery, wholesaler, or importer.

4. Such application shall be in such form and shall contain such information as shall be required by the rules of the authority and shall be accompanied by a check or draft in the amount required by this article for such license.

5. Notwithstanding any other provisions of this chapter, any person receiving a license pursuant to this section shall not be subject to the provisions of subdivision two, three or four of section seventy-nine of this article.

6. Notwithstanding any other provisions of this chapter, any person receiving a license pursuant to this section shall not be subject to the provisions of subdivision two, paragraph (a) of subdivision three, subdivision fourteen, and subdivision sixteen of section one hundred five of this chapter.

7. (a) A one-time franchise fee shall be paid for by each licensee to the state liquor authority. This franchise fee is hereby imposed at a rate of ten thousand dollars.

(b) No license shall be issued pursuant to this section until the franchise fee or estimated franchise fee required by paragraph (a) of this subdivision has been paid in full.

(c) The franchise fee shall be deposited and disposed of in the same manner as any license fee as provided in section one hundred twenty-five of this chapter.

(d) The authority shall transfer any monies received, in excess of five hundred thousand dollars annually, by franchise or license fees received pursuant to this subdivision to the department of agriculture and markets for promotion of New York state wines pursuant to subdivision two-b of section sixteen of the agriculture and markets law.

8. Any person licensed to sell wine at retail for consumption off the premises under section seventy-nine of this article is authorized to sell wine to persons licensed to sell wine under this article and this section who operate the premises of the supermarket wine licensee.

9. The state liquor authority may make such rules as it deems necessary to carry out the provisions of this section.

10. All county, town, city and village governing bodies are hereby preempted from adopting any law, rule, ordinance, regulation or prohibition pertaining to the operation or licensure of supermarket wine licenses. However, towns, cities and villages may pass local laws and regulations governing the time, place and manner of the operation of supermarket wine licenses, provided such law or regulation does not make the operation of such licensed sales unreasonably impracticable as determined by the authority.

11. (a) No supermarket wine license shall be granted for any premises which shall be:

(i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship; or

(ii) on the same street or avenue and within five hundred feet of a building occupied exclusively as a liquor store licensed pursuant to section one hundred five of this chapter; or

(iii) in a city, town or village having a population of twenty thousand or more within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this chapter.

(b) The measurements in paragraph (a) of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship, such liquor store licensed pursuant to section one hundred five of this chapter or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this chapter; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to when a building on the same street or avenue and within five hundred feet of said premises has been occupied exclusively as a liquor store and except that no license shall be denied to any premises, which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this chapter, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three.

(c) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, sixty-four-d and/or one hundred five of this chapter or of the premises sought to be licensed, regularly used to give ingress to the general public attending, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

(d) Notwithstanding the provisions of subparagraphs (ii) and (iii) of paragraph (a) of this subdivision, the authority may issue a license

pursuant to this section for a premises which shall be within five hundred feet of a liquor store licensed pursuant to section one hundred five of this chapter or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-d of this chapter if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen-day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a liquor store licensed pursuant to section one hundred five of this chapter or of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this chapter.

§ 4. Section 83 of the alcoholic beverage control law is amended by adding a new subdivision 10 to read as follows:

10. The annual fee for a supermarket wine license pursuant to section seventy-nine-e of this article shall be at a rate of one-half (0.5) percent of sales of wine sold, less the amount from sales of wines sold that were produced in New York state.

§ 5. Subdivision 2-a of section 100 of the alcoholic beverage control law, as amended by chapter 249 of the laws of 2002, is amended to read as follows:

2-a. No retailer shall employ, or permit to be employed, or shall suffer to work, on any premises licensed for retail sale hereunder, any person under the age of eighteen years[~~, as a hostess, waitress, waiter, or~~] in any [~~other~~] capacity where the duties of such person require or permit such person to sell, dispense or handle alcoholic beverages; except that: (1) any person under the age of eighteen years and employed by any person holding a grocery or drug store beer license shall be permitted to handle and deliver beer and wine products for such licensee, (2) any person under the age of eighteen employed as a cashier by a person holding a grocery or drug store beer license shall be permitted to record and receive payment for beer and wine product sales when in the presence of and under the direct supervision of a person eighteen years of age or over, (2-a) any person under the age of eighteen years and employed by a person holding a grocery store or drug store beer license as either a cashier or in any other position to which handling

of containers which may have held alcoholic beverages is necessary, shall be permitted to handle the containers if such have been presented for redemption in accordance with the provisions of title ten of article twenty-seven of the environmental conservation law, [~~and~~] (3) any person under the age of eighteen years employed as a dishwasher, busboy, or other such position as to which handling of containers which may have held alcoholic beverages is necessary shall be permitted to do so under the direct supervision of a person of legal age to purchase alcoholic beverages in the state**, (4) any person under the age of eighteen years and employed by any person holding a supermarket wine license shall be permitted to handle and deliver wine for such licensee, and (5) any person under the age of eighteen employed as a cashier by a person holding a supermarket wine license shall be permitted to record and receive payment for wine when in the presence of and under the direct supervision of a person eighteen years of age or over**.

§ 6. Subdivisions 3-a and 3-b of section 102 of the alcoholic beverage control law, as amended by chapter 458 of the laws of 1993, are amended to read as follows:

3-a. No licensee or permittee shall purchase or agree to purchase any alcoholic beverages from any person within the state who is not duly licensed to sell such alcoholic beverage as the case may be, at the time of such agreement and sale nor give any order for any alcoholic beverage to any individual who is not the holder of a solicitor's permit, except as provided for in section eighty-five [~~or~~]**,** ninety-nine-g**, or seventy-nine-e** of this chapter.

3-b. No retail licensee shall purchase, agree to purchase or receive any alcoholic beverage except from a person duly licensed within the state by the liquor authority to sell such alcoholic beverage at the time of such agreement and sale to such retail licensee, except as provided for in section eighty-five [~~or~~]**,** ninety-nine-g**, or seventy-nine-e** of this chapter.

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

4. No licensee under this section shall be engaged in any other business on the licensed premises. The **sale of products complementary to the business of the licensed premises shall not constitute engaging in business within the meaning of this subdivision. Such products shall include but not be limited to the** sale of lottery tickets, when duly authorized and lawfully conducted, the sale of reusable bags as defined in section 27-2801 of the environmental conservation law, the sale of corkscrews or the sale of ice or the sale of publications, including prerecorded video and/or audio cassette tapes, or educational seminars, designed to help educate consumers in their knowledge and appreciation of alcoholic beverages, as defined in section three of this chapter and allowed pursuant to their license, or the sale of [~~non-carbonated, non-flavored mineral waters, spring waters and drinking waters~~] **non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages, or the sale of gift bags and gift baskets including, but not limited to, shot glasses, single malt glasses, grappa glasses, decanters, or other glassware, all of which is related to the consumption and enjoyment of wine and liquor** or the sale of glasses designed for the consumption of wine or liquor, racks designed for the storage of wine, and devices designed to minimize oxidation in bottles of wine which have been uncorked, or the sale of gift bags, gift boxes, associated gift or promotional items, or wrap-

ping, for alcoholic beverages purchased at the licensed premises shall not constitute engaging in another business within the meaning of this subdivision. Any fee obtained from the sale of an educational seminar shall not be considered as a fee for any tasting that may be offered during an educational seminar, provided that such tastings are available to persons who have not paid to attend the seminar and all tastings are conducted in accordance with section sixty-three-a of this article. For the purposes of this section, gift or promotional items shall only include those items that are complimentary and directly associated with the sale of wine or liquor they are promoting and shall mean: (i) items that are de minimis in value, but in no instance shall merchandise be valued at more than fifteen dollars in total; (ii) items that are imprinted with the wine or liquor brand logo on the gift or promotional item; and (iii) items that are included as part of a manufactured pre-sealed package with the wine or liquor that is being gifted or promoted. Further, for the purposes of this section, promotional items shall not include any food, non-alcoholic beverage, or other drink or food mix, nor shall these items be offered for sale to the general public as individual items.

§ 8. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 9. This act shall take effect immediately.