

# STATE OF NEW YORK

1279--A

2025-2026 Regular Sessions

## IN SENATE

January 9, 2025

Introduced by Sens. KRUEGER, COMRIE, COONEY, GOUNARDES, SALAZAR, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- 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:

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

3 13-a. "Supermarket" shall mean any retail establishment (a) whose  
4 primary business is the sale of foodstuffs for off-premises consumption,  
5 and (b) which is at least four thousand square feet, in total floor  
6 area. There shall be a rebuttable presumption that a retail establish-  
7 ment is primarily engaged in the sale of foodstuffs where such sales of  
8 foodstuffs constitutes greater than sixty-five percent of the total  
9 revenue of such establishment in the twelve months preceding submission  
10 of an application.

11 § 2. Subdivisions 3 and 5 of section 75 of the alcoholic beverage  
12 control law, subdivision 3 as amended by section 4 of part K of chapter  
13 60 of the laws of 2004 and subdivision 5 as added by chapter 355 of the  
14 laws of 2013, are amended and a new subdivision 6 is added to read as  
15 follows:

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

19 5. Roadside farm market license~~[-]~~; and

20 6. Supermarket wine license.

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

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

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

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

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

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

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

24 4. Such application shall be in such form and shall contain such  
25 information as shall be required by the rules of the authority and shall  
26 be accompanied by a check or draft in the amount required by this arti-  
27 cle for such license.

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

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

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

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

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

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

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

55 9. The state liquor authority may make such rules as it deems neces-  
56 sary to carry out the provisions of this section.

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

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

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

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

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

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

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

53 (d) Notwithstanding the provisions of subparagraphs (ii) and (iii) of  
54 paragraph (a) of this subdivision, the authority may issue a license  
55 pursuant to this section for a premises which shall be within five  
56 hundred feet of a liquor store licensed pursuant to section one hundred

1 five of this chapter or to the center of the nearest entrance of each  
2 such premises licensed and operating pursuant to this section and  
3 sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-d of  
4 this chapter if, after consultation with the municipality or community  
5 board, it determines that granting such license would be in the public  
6 interest. Before it may issue any such license, the authority shall  
7 conduct a hearing, upon notice to the applicant and the municipality or  
8 community board, and shall state and file in its office its reasons  
9 therefor. The hearing may be rescheduled, adjourned or continued, and  
10 the authority shall give notice to the applicant and the municipality or  
11 community board of any such rescheduled, adjourned or continued hearing.  
12 Before the authority issues any said license, the authority or one or  
13 more of the commissioners thereof may, in addition to the hearing  
14 required by this paragraph, also conduct a public meeting regarding said  
15 license, upon notice to the applicant and the municipality or community  
16 board. The public meeting may be rescheduled, adjourned or continued,  
17 and the authority shall give notice to the applicant and the municipi-  
18 pality or community board of any such rescheduled, adjourned or contin-  
19 ued public meeting. Notice to the municipality or community board shall  
20 mean written notice mailed by the authority to such municipality or  
21 community board at least fifteen days in advance of any hearing sched-  
22 uled pursuant to this paragraph. Upon the request of the authority, any  
23 municipality or community board may waive the fifteen-day notice  
24 requirement. No premises having been granted a license pursuant to this  
25 section shall be denied a renewal of such license upon the grounds that  
26 such premises are within five hundred feet of a liquor store licensed  
27 pursuant to section one hundred five of this chapter or of a building or  
28 buildings wherein three or more premises are licensed and operating  
29 pursuant to this section and sections sixty-four-a, sixty-four-b,  
30 sixty-four-c, and/or sixty-four-d of this chapter.

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

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

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

40 2-a. No retailer shall employ, or permit to be employed, or shall  
41 suffer to work, on any premises licensed for retail sale hereunder, any  
42 person under the age of eighteen years [~~as a hostess, waitress, waiter,~~  
43 ~~or~~] in any [~~other~~] capacity where the duties of such person require or  
44 permit such person to sell, dispense or handle alcoholic beverages;  
45 except that: (1) any person under the age of eighteen years and employed  
46 by any person holding a grocery or drug store beer license shall be  
47 permitted to handle and deliver beer and wine products for such licen-  
48 see, (2) any person under the age of eighteen employed as a cashier by a  
49 person holding a grocery or drug store beer license shall be permitted  
50 to record and receive payment for beer and wine product sales when in  
51 the presence of and under the direct supervision of a person eighteen  
52 years of age or over, (2-a) any person under the age of eighteen years  
53 and employed by a person holding a grocery store or drug store beer  
54 license as either a cashier or in any other position to which handling  
55 of containers which may have held alcoholic beverages is necessary,  
56 shall be permitted to handle the containers if such have been presented

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

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

17 3-a. No licensee or permittee shall purchase or agree to purchase any  
18 alcoholic beverages from any person within the state who is not duly  
19 licensed to sell such alcoholic beverage as the case may be, at the time  
20 of such agreement and sale nor give any order for any alcoholic beverage  
21 to any individual who is not the holder of a solicitor's permit, except  
22 as provided for in section eighty-five [~~ex~~], ninety-nine-g, or seventy-  
23 nine-e of this chapter.

24 3-b. No retail licensee shall purchase, agree to purchase or receive  
25 any alcoholic beverage except from a person duly licensed within the  
26 state by the liquor authority to sell such alcoholic beverage at the  
27 time of such agreement and sale to such retail licensee, except as  
28 provided for in section eighty-five [~~ex~~], ninety-nine-g, or seventy-  
29 nine-e of this chapter.

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

33 4. No licensee under this section shall be engaged in any other busi-  
34 ness on the licensed premises. The sale of products complementary to the  
35 business of the licensed premises shall not constitute engaging in busi-  
36 ness within the meaning of this subdivision. Such products shall include  
37 but not be limited to the sale of lottery tickets, when duly authorized  
38 and lawfully conducted, the sale of reusable bags as defined in section  
39 27-2801 of the environmental conservation law, the sale of corkscrews or  
40 the sale of ice or the sale of publications, including prerecorded video  
41 and/or audio cassette tapes, or educational seminars, designed to help  
42 educate consumers in their knowledge and appreciation of alcoholic  
43 beverages, as defined in section three of this chapter and allowed  
44 pursuant to their license, or the sale of [~~non-carbonated, non-flavored~~  
45 ~~mineral waters, spring waters and drinking waters~~] non-alcoholic bever-  
46 ages for consumption on or off premises, including but not limited to  
47 bottled water, juice and soda beverages, or the sale of gift bags and  
48 gift baskets including, but not limited to, shot glasses, single malt  
49 glasses, grappa glasses, decanters, or other glassware, all of which is  
50 related to the consumption and enjoyment of wine and liquor or the sale  
51 of glasses designed for the consumption of wine or liquor, racks  
52 designed for the storage of wine, and devices designed to minimize  
53 oxidation in bottles of wine which have been uncorked, or the sale of  
54 gift bags, gift boxes, associated gift or promotional items, or wrap-  
55 ping, for alcoholic beverages purchased at the licensed premises shall  
56 not constitute engaging in another business within the meaning of this

1 subdivision. Any fee obtained from the sale of an educational seminar  
2 shall not be considered as a fee for any tasting that may be offered  
3 during an educational seminar, provided that such tastings are available  
4 to persons who have not paid to attend the seminar and all tastings are  
5 conducted in accordance with section sixty-three-a of this article. For  
6 the purposes of this section, gift or promotional items shall only  
7 include those items that are complimentary and directly associated with  
8 the sale of wine or liquor they are promoting and shall mean: (i) items  
9 that are de minimis in value, but in no instance shall merchandise be  
10 valued at more than fifteen dollars in total; (ii) items that are  
11 imprinted with the wine or liquor brand logo on the gift or promotional  
12 item; and (iii) items that are included as part of a manufactured pre-  
13 sealed package with the wine or liquor that is being gifted or promoted.  
14 Further, for the purposes of this section, promotional items shall not  
15 include any food, non-alcoholic beverage, or other drink or food mix,  
16 nor shall these items be offered for sale to the general public as indi-  
17 vidual items.

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

27 § 9. This act shall take effect immediately.