# STATE OF NEW YORK

11002

# IN ASSEMBLY

April 16, 2026

Introduced by M. of A. STIRPE, BURKE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the measurement of liquor for tax purposes

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

Section 1. Subdivision 1 of section 421 of the tax law, as amended by chapter 508 of the laws of 1993, is amended to read as follows:

1. General. The commissioner, upon the application of a distributor, shall register such distributor in suitable books to be kept by the department for that purpose, conditioned upon the obtaining of appropriate licenses pursuant to the alcoholic beverage control law, and the continuance of such license shall be a continuing condition of registration as a distributor under this article. The application shall be in a form and contain such data as the commissioner shall prescribe. No distributor, unless so registered, shall make any sale of alcoholic beverages within this state, except a sale, if any, as to which this state is without power to impose such condition. No person, unless so registered, shall (i) import or cause any liquors to be imported in this state for sale or use within this state, (ii) purchase a warehouse receipt and pursuant to such purchase then cause liquors covered by such receipt to be removed from a warehouse in this state or (iii) except in accordance with clause (i) or (ii) of paragraph (b) of subdivision four of section four hundred twenty of this article, produce, distill, manufacture, compound, mix or ferment any such liquors within this state for sale. Provided, however, that the commissioner may exclude from registration requirements any person who is a distributor of liquors solely by reason of the importation into this state of no more than [~~ninety liters~~] **twenty-four gallons** of liquors during a one-year period for such person's personal use and consumption to register as a distributor with respect to liquor. Provided, further, that an abbreviated registration in the [~~from~~] **form** of a permit, without a bond, may be instituted by the commissioner for the purpose of authorizing the importation of up to [~~three hundred sixty liters~~] **ninety-five gallons** of liquors per year into this state by an individual for such individual's personal use and consumption in this state.

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

LBD09366-01-5

§ 2. Paragraphs (e), (f) and the opening paragraph of paragraph (g) of subdivision 1 of section 424 of the tax law, paragraph (e) as amended by section 1 and the opening paragraph of paragraph (g) as amended by section 2 of part J of chapter 59 of the laws of 2020 and paragraph (f) as amended by chapter 508 of the laws of 1993, are amended to read as follows:

(e) [~~Sixty-seven~~] **Two dollars and fifty-four** cents per [~~liter~~] **gallon** upon liquors containing not more than twenty-four per centum of alcohol by volume except liquors containing not more than two per centum of alcohol by volume, upon which the tax shall be [~~zero~~] **four cents per gallon**; and

(f) [~~One dollar and seventy~~] **Six dollars and forty-four** cents per [~~liter~~] **gallon** upon all other liquors; when sold or used within this state, except when sold or used under such circumstances that this state is without power to impose such tax or when sold to the United States and except beers when sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States, to the extent provided in such regulations, directives and policy statements of such an agency applicable to such sales, and except when sold to professional foreign consuls-general, consuls and vice-consuls who are nationals of the state appointing them and who are assigned to foreign consulates in this state, provided that American consular officers of equal rank who are citizens of the United States and who exercise their official functions at American consulates in such foreign country are granted reciprocal exemptions; provided, however, that the commissioner may permit the sale of alcohol without tax to a holder of any industrial alcohol permit, alcohol permit or alcohol distributor's permit, issued by the state liquor authority, and by the holder of an alcohol distributor's permit, class A, issued by such authority to a holder of a distiller's license, class B, or a winery license, issued by such authority and may also permit the use of alcohol for any purpose other than the production of alcoholic beverages by such holders without tax; provided also that the commissioner may permit the sale of cider without tax by a holder of a cider producer's license issued by the state liquor authority to a holder of a cider producer's license or a cider wholesaler's license issued by such authority.

For purposes of this chapter, it is presumed that liquors are possessed for the purpose of sale in this state if the quantity of liquors possessed in this state, imported or caused to be imported into this state or produced, distilled, manufactured, compounded, mixed or fermented in this state exceeds [~~ninety liters~~] **twenty-four gallons**. Such presumption may be rebutted by the introduction of substantial evidence to the contrary. In any case where the quantity of alcoholic beverages taxable pursuant to this article is a fractional part of one [~~liter (or one~~] gallon [~~in the case of beers)~~] or an amount greater than a whole multiple of [~~liters (or~~] gallons [~~in the case of beers)~~], the amount of tax levied and imposed on such fractional part of one [~~liter (or one~~] gallon [~~in the case of beers)~~], or fractional part of a [~~liter (or gallon)~~] **gallon** in excess of a whole multiple of [~~liters or~~] gallons shall be such fractional part of the rate imposed by paragraphs (a) through (f) **of this subdivision**.

§ 3. Section 425-a of the tax law, as added by chapter 508 of the laws of 1993, is amended to read as follows:

§ 425-a. Presumption of taxability. For the purpose of the proper administration of the taxes imposed by this article and to prevent evasion thereof, it shall be presumed with respect to this chapter that all alcoholic beverages possessed or found in this state are subject to the taxes imposed by this article until the contrary is established by substantial evidence. Except with respect to a purchase at retail of beers or wines and a purchase at retail of [~~ninety liters~~] **twenty-four gallons** or less of liquors, no person shall purchase alcoholic beverages in this state unless the taxes imposed by this article with respect to such beverages have been assumed by a distributor registered under this article or paid by such distributor pursuant to and in accordance with the manner provided herein and evidenced in accordance with the manner provided herein. In the case of liquors, such taxes shall be assumed by a distributor in accordance with the invoice required, and the certification of tax payment included therein, under section four hundred twenty-seven of this article; in the case of other alcoholic beverages, the taxes shall be assumed by such distributor pursuant to and in accordance with the rules or regulations of the department.

§ 4. Section 426 of the tax law, as amended by chapter 891 of the laws of 1986, is amended to read as follows:

§ 426. Records to be kept by brand owners, distributors, owners and others. Every brand owner, distributor, owner or other person shall keep a complete and accurate record of all purchases and sales or other dispositions of alcoholic beverages, and a complete and accurate record of the number of gallons of beers produced, manufactured, brewed or fermented and [~~liters~~] **gallons** of all other alcoholic beverages produced, distilled, manufactured, brewed, compounded, mixed or fermented. Such records shall be in such form and contain such other information as the tax commission shall prescribe. Said commission, by rule or regulation, also may require the delivery of statements to purchasers of alcoholic beverages, and prescribe the matters to be contained therein. Such records and statements, unless required by the tax commission to be preserved for a longer period, shall be preserved for a period of one year and shall be offered for inspection at any time upon oral or written demand by the commissioner [~~of taxation and finance~~] or [~~his~~] **their** duly authorized agents, and every such distributor, brand owner, owner or other person shall make such reports to the department [~~of taxation and finance~~] as may be required by the tax commission. Nothing in this section contained shall be construed to require the keeping of a record of the purchase or disposition of alcoholic beverages by a consumer thereof, except by a person who uses the same for commercial purposes, or of the sale of alcoholic beverages at retail.

§ 5. Subdivision 1 and paragraph (i) of subdivision 2 of section 427 of the tax law, as added by chapter 508 of the laws of 1993, are amended to read as follows:

1. Every sale of liquors, except a sale at retail of [~~ninety liters~~] **twenty-four gallons** or less, shall be evidenced by and recorded on an individual, serially numbered invoice, and, with respect to each such sale, the seller therein shall make and complete such invoice which shall contain the information required by this section and give the same to the purchaser at the time of delivery. The seller shall sign and date the invoice required by this section and certify the entire content of such invoice.

(i) the size (in [~~liters~~] **gallons**) and number of bottles of liquors sold, and its description, by brand name and price; and

§ 6. Subdivision 2 of section 428 of the tax law, as added by chapter 508 of the laws of 1993, is amended to read as follows:

2. The operator of a motor vehicle, as such term is defined in subdivision three of section two hundred eighty-two of this chapter, or any other means of transport of liquors in which more than [~~ninety liters~~] **twenty-four gallons** of liquors is being transported in this state must have in [~~his or her~~] **their** possession a manifest, invoice or other document which shows the name and address of the person from whom such liquors were received and the date and place of receipt of such liquor and the name and address of every person to whom such operator is to make delivery of the same and the place of delivery, together with the number of [~~liters~~] **gallons** to be delivered to each person, and, if such liquor is being imported into the state in such motor vehicle or such other means of transport, the name of the distributor importing or causing such liquors to be imported into the state and such other information as the commissioner may require pursuant to rule or regulation. Every operator of such motor vehicle or such other means of transport shall at the request of a peace officer, acting pursuant to [~~his~~] **their** special duties, a police officer, any representative of the department or any other person authorized by law to inquire into or investigate the transportation of such liquors, produce such manifest, invoice or other document for inspection. The person causing the operation of such motor vehicle or such other means of transport shall be responsible to cause the operator to keep in such operator's possession in such motor vehicle or such other means of transport the manifest, invoice or other document required by this section. The absence of the manifest, invoice or other document required by this section shall give rise to a presumption that the liquors being transported are being imported or caused to be imported into this state for sale or use therein by other than a registered distributor. Moreover, the absence of (1) the place of delivery of liquors on the manifest, invoice or other document with respect to liquors being imported into the state shall give rise to a presumption that such liquors are being imported into the state for sale or use in the state and (2) the name of a registered distributor on the manifest, invoice or other document with respect to liquors being imported into the state shall give rise to a presumption that such liquors are being so imported or caused to be imported into this state, for sale or use therein, by other than a registered distributor. Such presumptions may be rebutted by the introduction of substantial evidence to the contrary.

§ 7. Subdivisions 1 and 2 of section 429 of the tax law, subdivision 1 as amended by section 1 of part Q of chapter 59 of the laws of 2021 and subdivision 2 as amended by chapter 433 of the laws of 1978, are amended to read as follows:

1. Every distributor, noncommercial importer or other person shall, on or before the twentieth day of each month, file with the department [~~of taxation and finance~~] a return, on forms to be prescribed by the commissioner and furnished by such department, stating separately the number of gallons, or lesser quantity, of beers, [~~and the number of liters, or lesser quantity, of~~] wines and liquors sold or used by such distributor, noncommercial importer or other person in this state during the preceding calendar month, except that the commissioner may, if [~~he or she deems~~] **they deem** it necessary to facilitate the efficient reporting and payment of the tax imposed by this article, require returns to be made at such times and covering such periods as [~~he or she~~] **they** may deem necessary. Such return shall contain such further information as the commissioner shall require. The fact that the name of the distributor,

noncommercial importer or other person is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by such distributor, noncommercial importer or other person.

2. Each such distributor, noncommercial importer or other person shall pay to such department with the filing of such return, the tax imposed by this article, on each gallon, or lesser quantity, of [~~beers and on each liter, or lesser quantity of all other~~] **all** alcoholic beverages sold or used by such distributor, noncommercial importer or other person in this state, as so reported, during the period covered by such return, except that, where a distributor has purchased alcoholic beverages prior to the expiration of the period covered by the return, upon which the taxes imposed by this article have been or are required to be paid by another distributor, a credit shall be allowed for the amount of such taxes.

§ 8. Paragraph (b) of subdivision 1 and subdivision 2 of section 445 of the tax law, as amended by chapter 433 of the laws of 1978, are amended to read as follows:

(b) [~~Twenty-six and four-tenths~~] **Ninety-nine and nine-tenths** cents per [~~liter~~] **gallon** on the liquors described in paragraph (f) of subdivision one of section four hundred twenty-four **of this article**, when sold or used in such city.

2. Every local law imposing taxes pursuant to the authority of subdivision one shall also impose upon each person, other than a distributor within the meaning of such local law, who, on the date the taxes imposed pursuant to the authority of such subdivision become effective, owns and possesses for the purposes of sale beer, or other alcoholic beverages described in subdivision one **of this section**, a floor tax at the rates applicable under subdivision one upon such beer **or other alcoholic beverages** in excess of one hundred gallons [~~and upon such other alcoholic beverages in excess of four hundred liters~~]. Such floor tax shall be due and payable on the twentieth day of the month succeeding the month in which the taxes become effective.

§ 9. Subdivisions (e), (f) and (g) of section 1813 of the tax law, as amended by section 27 of subpart I of part V-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(e) Person not registered as a distributor. (1) Any person required to be registered as a distributor pursuant to the provisions of article eighteen of this chapter who, while not so registered, knowingly imports or causes to be imported into the state, for sale or use therein, any liquors or, who, except in accordance with clause (i) or (ii) of paragraph (b) of subdivision four of section four hundred twenty of this chapter, knowingly produces, distills, manufactures, compounds, mixes or ferments in this state any such liquors for sale, or who, as a purchaser of a warehouse receipt, knowingly causes liquors covered by such receipt to be removed from a warehouse in this state, shall be guilty of a class A misdemeanor. Provided, however, that any person who has twice been convicted under this section within the preceding five years, shall be guilty of a class E felony for any subsequent violation of this paragraph.

(2) Any person who, while not registered as a distributor pursuant to the provisions of article eighteen of this chapter, knowingly and intentionally imports or causes to be imported into this state, for sale or use therein, more than [~~three hundred sixty liters~~] **ninety-five gallons** of liquors into this state in a one-year period or, except in accordance with clause (i) or (ii) of paragraph (b) of subdivision four of section four hundred twenty of this chapter, knowingly and intentionally produc-

es, distills, manufactures, compounds, mixes or ferments for sale more than [~~three hundred sixty liters~~] **ninety-five gallons** of such liquors within this state in a one-year period, or, as a purchaser of a warehouse receipt, knowingly and intentionally causes more than [~~three hundred sixty liters~~] **ninety-five gallons** of liquors in a one-year period to be removed from a warehouse in this state, shall be guilty of a class E felony.

(3) For purposes of this subdivision, it shall be presumed that the importation or the causing to be imported into this state or the production, distillation, manufacture, compounding, mixing or fermenting in this state of more than [~~ninety liters~~] **twenty-four gallons** of such liquors by any person in a one-year period is for purposes of sale. Such presumption may be rebutted by the introduction of substantial evidence to the contrary.

(f) Person not registered as a distributor for city purposes. (1) Any person required to be registered as a distributor for city purposes pursuant to the provisions of section four hundred forty-five of article eighteen of this chapter who, while not so registered, knowingly imports or causes to be imported into such city, for sale or use therein, any liquors or, who, except in accordance with clause (i) or (ii) of paragraph (b) of subdivision four of section four hundred twenty of this chapter as incorporated into such section four hundred forty-five, knowingly produces, distills, manufactures, compounds, mixes or ferments in such city any such liquors for sale, or who, as a purchaser of a warehouse receipt, causes liquors covered by such receipt to be removed from a warehouse in this state, shall be guilty of a class A misdemeanor. Provided, however, that any person who has twice been convicted under this section within the preceding five years shall be guilty of a class E felony for any subsequent violation of this paragraph.

(2) Any person who, while not registered as a distributor for city purposes pursuant to the provisions of section four hundred forty-five of article eighteen of this chapter, knowingly and intentionally imports or causes to be imported into such city, for sale or use therein, more than [~~three hundred sixty liters~~] **ninety-five gallons** of liquors into such city in a one-year period or, except in accordance with clause (i) or (ii) of paragraph (b) of subdivision four of section four hundred twenty of this chapter as incorporated into such section four hundred forty-five, knowingly and intentionally produces, distills, manufactures, compounds, mixes or ferments for sale more than [~~three hundred sixty liters~~] **ninety-five gallons** of such liquors within such city in a one-year period, or, as a purchaser of a warehouse receipt, knowingly and intentionally causes more than [~~three hundred sixty liters~~] **ninety-five gallons** of liquors in a one-year period to be removed from a warehouse in this state, shall be guilty of a class E felony.

(3) For purposes of this subdivision, it shall be presumed that the importation or the causing to be imported into such city or the production, distillation, manufacture, compounding, mixing or fermenting in such city of more than [~~ninety liters~~] **twenty-four gallons** of liquors by any person in a one-year period is for purposes of sale. Such presumption may be rebutted by the introduction of substantial evidence to the contrary.

(g) Any person, other than the distributor registered under article eighteen of this chapter which imported or caused the liquors to be imported into this state, who shall willfully and knowingly have in [~~his~~] **their** custody, possession or under [~~his~~] **their** control liquors with respect to which the taxes imposed by or pursuant to the authority of article eighteen of this chapter have not been assumed or paid by a distributor registered as such under such article, shall be guilty of a class B misdemeanor; if such person shall willfully and knowingly have more than [~~ninety liters~~] **twenty-four gallons** of such liquors in [~~his~~] **their** custody or possession or under [~~his~~] **their** control, such person shall be guilty of a class A misdemeanor; or if such person shall knowingly and intentionally have more than [~~three hundred sixty liters~~] **ninety-five gallons** of such liquors in [~~his~~] **their** custody or possession or under [~~his~~] **their** control, such person shall be guilty of a class E felony. For purposes of this subdivision, such person shall willfully and knowingly have in [~~his~~] **their** custody, possession or under [~~his~~] **their** control any liquors with respect to which such taxes have not been assumed or paid by a distributor registered as such where such person has knowledge of the requirement of such taxes and where, to [~~his~~] **their** knowledge, such taxes have not been assumed or paid by a registered distributor with respect to such liquors.

§ 10. Subdivisions (a), (k) and (l) of section 1845 of the tax law, as added by chapter 508 of the laws of 1993, are amended to read as follows:

(a) Temporary seizure. Whenever a police officer designated in section 1.20 of the criminal procedure law or a peace officer designated in subdivision four of section 2.10 of such law, acting pursuant to [~~his~~] **their** special duties, shall discover more than [~~ninety liters~~] **twenty-four gallons** of liquors which are being imported for sale or use in the state, where the person importing or causing such liquors to be imported is not registered as a distributor under section four hundred twenty-one of this chapter, such police officer or peace officer is hereby authorized to seize and take possession of such liquors, and to seize and take possession of the vehicle or other means of transportation used to transport such liquors.

(k) An additional ground for seizure and forfeiture under this section shall be where such police officer or peace officer shall discover more than [~~ninety liters~~] **twenty-four gallons** of liquors in this state, with respect to which the taxes imposed by or pursuant to article eighteen of this chapter have not been paid or assumed by a person registered as a distributor pursuant to such article, which are in the course of distribution in this state or which are being sold in this state. All the foregoing subdivisions of this section shall apply to the seizure and forfeiture of liquors referred to in this subdivision and the vehicle transporting the same as if such foregoing subdivisions specifically referred to such grounds and as if such grounds set forth in this subdivision were set forth as grounds for seizure in subdivision (a) hereof. Provided that in the forfeiture action with respect to the liquors or vehicle referred to in this subdivision, the department shall be required to show that such liquors were found within the state and that they were in the course of distribution in this state or were being sold in this state.

(l) This section shall also apply to a forfeiture action with respect to the importation of more than [~~ninety liters~~] **twenty-four gallons** of liquors into a city imposing a tax pursuant to the authority of section four hundred forty-five of this chapter by a person not registered as a distributor for purposes of such tax or, in addition, with respect to the distribution or sale of untaxed liquors in such city.

§ 11. This act shall take effect on the one hundred eightieth day after it shall have become a law.