

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 § 9. This act shall take effect immediately.