

# STATE OF NEW YORK

8728

## IN SENATE

January 7, 2026

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, the public health law and the alcoholic beverage control law, in relation to the manufacture and sale of slushies made with liquor, wine, beer or cider

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

1 Section 1. Subdivisions 14 and 15 of section 200 of the agriculture  
2 and markets law, as amended by chapter 132 of the laws of 2020, are  
3 amended to read as follows:

4 14. If it is ice cream or other frozen desserts, including slushies,  
5 made with liquor, wine, beer or cider bearing or containing more than  
6 five percent of alcohol by volume.

7 15. With respect to the manufacture and sale of ice cream or other  
8 frozen desserts, including slushies, made with liquor, wine, beer or  
9 cider bearing or containing more than one-half of one percent, but not  
10 more than five percent of alcohol by volume:

11 (a) No person shall sell at retail packages of ice cream or other  
12 frozen desserts, including slushies, made with liquor, wine, beer or  
13 cider for consumption off the premises where sold unless:

14 (i) each package is a sealed package, as received from the manufactur-  
15 er or distributor;

16 (ii) each sealed package, as received from the manufacturer or  
17 distributor, in a format to be established or approved by the commis-  
18 sioner, prominently bears the following statements, provided that such  
19 statements may refer to either liquor, wine, beer or cider or a combina-  
20 tion thereof:

21 (A) The sale of this product to individuals under the age of twenty-  
22 one years is prohibited.

23 (B) This product is made with (insert liquor, wine, beer and/or cider)  
24 and contains alcohol up to five percent by volume.

25 (C) Notice. This product contains alcohol used as a flavoring and, as  
26 with any product that contains alcohol:

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

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1 (1) [~~women~~] persons who are pregnant should not consume alcohol during  
2 pregnancy because of the risk of birth defects, and

3 (2) consumption of alcohol impairs your ability to drive a car or  
4 operate machinery, and may cause health problems.

5 (iii) the following advisory, on a sign or poster not less than seven  
6 inches by five inches, in a format to be established or approved by the  
7 commissioner, is displayed prominently at each location where packages  
8 of ice cream or other frozen desserts made with liquor, wine, beer or  
9 cider are made available to the public provided that such sign or poster  
10 may refer to either liquor, wine, beer or cider or a combination there-  
11 of:

12 "THIS AREA CONTAINS (INSERT LIQUOR, WINE, BEER AND/OR CIDER) ICE CREAM  
13 OR OTHER FROZEN DESSERTS

14 The sale of (INSERT LIQUOR, WINE, BEER AND/OR CIDER) ICE CREAM OR  
15 OTHER FROZEN DESSERTS to individuals under the age of twenty-one years  
16 is prohibited.

17 (INSERT LIQUOR, WINE, BEER AND/OR CIDER) ICE CREAM OR OTHER FROZEN  
18 DESSERTS contain alcohol up to five percent by volume.

19 NOTICE: (INSERT LIQUOR, WINE, BEER AND/OR CIDER) ICE CREAM OR OTHER  
20 FROZEN DESSERTS contain alcohol used as a flavoring and, as with any  
21 product that contains alcohol:

22 (1) [~~women~~] persons who are pregnant should not consume alcohol during  
23 pregnancy because of the risk of birth defects, and

24 (2) consumption of alcohol impairs your ability to drive a car or  
25 operate machinery, and may cause health problems.

26 IT IS A VIOLATION PUNISHABLE UNDER LAW FOR ANY PERSON UNDER THE AGE OF  
27 TWENTY-ONE TO PRESENT ANY WRITTEN EVIDENCE OF AGE WHICH IS FALSE, FRAU-  
28 DULENT OR NOT ACTUALLY [~~HIS OR HER~~] SUCH PERSON'S OWN FOR THE PURPOSE OF  
29 ATTEMPTING TO PURCHASE (INSERT LIQUOR, WINE, BEER AND/OR CIDER) ICE  
30 CREAM OR OTHER FROZEN DESSERTS."

31 (b) No manufacturer and/or distributor of ice cream or other frozen  
32 desserts, including slushies, made with liquor, wine, beer or cider  
33 shall sell such product:

34 (i) to a person intending to sell at retail individual servings of ice  
35 cream or other frozen desserts made with liquor, wine, beer or cider,  
36 unless, with each shipment, such manufacturer and/or distributor  
37 provides:

38 (A) a written notice that individual servings of ice cream or other  
39 frozen desserts made with liquor, wine, beer or cider may be sold at  
40 retail only where the retailer complies with all of the requirements set  
41 forth in paragraph (a) of this subdivision, and

42 (B) a written copy of such requirements; and

43 (ii) to a person intending to sell at retail packages of ice cream or  
44 other frozen desserts made with liquor, wine, beer or cider for consump-  
45 tion off the premises, unless, with each shipment, such manufacturer  
46 and/or distributor provides:

47 (A) a written notice that packages of ice cream or other frozen  
48 desserts made with liquor, wine, beer or cider may be sold at retail  
49 only where the retailer complies with all of the requirements set forth  
50 in paragraph (a) of this subdivision, and

51 (B) a written copy of such requirements.

52 § 2. Section 1352-c of the public health law, as amended by chapter  
53 132 of the laws of 2020, is amended to read as follows:

54 § 1352-c. Ice cream or other frozen desserts made with liquor, wine,  
55 beer or cider. No person shall sell at retail individual servings of ice  
56 cream or other frozen desserts, including slushies, made with liquor,

1 wine, beer or cider bearing or containing more than one-half of one  
2 percent but not more than five percent of alcohol by volume, unless the  
3 following statements are prominently displayed on the printed menu (or,  
4 if no printed menus are used, on the menu board or sign setting forth  
5 the bill of fare) immediately adjacent to the listing of the item or  
6 items of ice cream or other frozen desserts made with liquor, wine, beer  
7 or cider being offered provided that such statements may refer to  
8 liquor, wine, beer or cider or a combination thereof:

9 1. The sale of (insert liquor, wine, beer and/or cider) ice cream or  
10 other frozen desserts to individuals under the age of twenty-one is  
11 prohibited.

12 2. (Insert liquor, wine, beer and/or cider) ice cream or other frozen  
13 desserts contain alcohol up to five percent by volume.

14 3. Notice: (Insert liquor, wine, beer and/or cider) ice cream or other  
15 frozen desserts contain alcohol used as a flavoring and, as with any  
16 product that contains alcohol:

17 (a) [~~women~~] persons who are pregnant should not consume alcohol during  
18 pregnancy because of the risk of birth defects, and

19 (b) consumption of alcohol impairs your ability to drive a car or  
20 operate machinery, and may cause health problems.

21 § 3. Subdivision 1 of section 3 of the alcoholic beverage control law,  
22 as amended by chapter 132 of the laws of 2020, is amended to read as  
23 follows:

24 1. "Alcoholic beverage" or "beverage" mean and include alcohol, spir-  
25 its, liquor, wine, beer, cider and every liquid, solid, powder or crys-  
26 tal, patented or not, containing alcohol, spirits, wine or beer and  
27 capable of being consumed by a human being, and any warehouse receipt,  
28 certificate, contract or other document pertaining thereto; except that  
29 confectionery containing alcohol as provided by subdivision twelve of  
30 section two hundred of the agriculture and markets law and ice cream and  
31 other frozen desserts, including slushies, made with liquor, wine, beer  
32 or cider as provided in subdivision fifteen of section two hundred of  
33 the agriculture and markets law shall not be regulated as an "alcoholic  
34 beverage" or "beverage" within the meaning of this section where the  
35 sale, delivery or giving away is to a person aged twenty-one years or  
36 older. The sale, delivery or giving away of ice cream or other frozen  
37 desserts, including slushies, made with liquor, wine, beer or cider to a  
38 person under the age of twenty-one years may be prosecuted administra-  
39 tively and/or criminally in accordance with the provisions of this chap-  
40 ter.

41 § 4. This act shall take effect immediately.