

PROGRAM BILL # 17

S. Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

ALCOBELA
(Provides for the brand or trade
name labeling of alcoholic beverage
es)

ABC. brand or trade name labeling

AN ACT

to amend the alcoholic beverage
control law, in relation to brand or
trade name labeling of alcoholic
beverages

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

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s20 Adams	s17 Felder	s63 Kennedy	s25 Montgomery	s23 Savino
s15 Addabbo	s02 Flanagan	s34 Klein	s54 Nozzolio	s29 Serrano
s11 Avella	s08 Fuschillo	s28 Krueger	s55 O'Brien	s51 Seward
s40 Ball	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s42 Bonacic	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s04 Boyle	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s44 Breslin	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s38 Carlucci	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart- Cousins
s50 DeFrancisco	s60 Grisanti	s45 Little	s48 Ritchie	s46 Tkaczyk
s32 Diaz	s06 Hannon	s05 Marcellino	s33 Rivera	s53 Valesky
s18 Dilan	s36 Hassell- Thompson	s43 Marchione	s56 Robach	s57 Young
s31 Espaillat		s07 Martins	s19 Sampson	s03 Zeldin
s49 Farley	s27 Hoylman	s62 Maziarz	s10 Sanders	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a081 Dinowitz	a135 Johns	a133 Nojay	a140 Schimminger
a092 Abinanti	a147 DiPietro	a113 Jordan	a037 Nolan	a087 Sepulveda
a084 Arroyo	a115 Duprey	a094 Katz	a130 Oaks	a065 Silver
a035 Aubry	a004 Englebright	a074 Kavanagh	a069 O'Donnell	a027 Simanowitz
a120 Barclay	a054 Espinal	a142 Kearns	a051 Ortiz	a036 Simotas
a106 Barrett	a109 Fahy	a076 Kellner	a091 Otis	a104 Skartados
a060 Barron	a071 Farrell	a040 Kim	a132 Palmesano	a099 Skoufis
a082 Benedetto	a126 Finch	a131 Kolb	a088 Paulin	a022 Soiares
a117 Blankenbush	a008 Fitzpatrick	a105 Lalor	a141 Peoples- Stokes	a114 Stec
a062 Borelli	a124 Friend	a013 Lavine		a110 Steck
a055 Boyland	a143 Gabryszak	a050 Lentol	a058 Perry	a079 Stevenson
a026 Braunstein	a095 Galef	a125 Lifton	a089 Pretlow	a127 Stirpe
a044 Brennan	a137 Gantt	a102 Lopez, P.	a073 Quart	a011 Sweeney
a119 Brindisi	a007 Garbarino	a123 Lupardo	a019 Ra	a112 Tedisco
a138 Bronson	a077 Gibson	a010 Lupinacci	a098 Rabbitt	a101 Tenney
a046 Brook-Krasny	a148 Giglio	a121 Magee	a012 Raia	a001 Thiele
a093 Buchwald	a080 Gjonaj	a129 Magnarelli	a006 Ramos	a061 Titone
a118 Butler	a066 Glick	a059 Maisel	a134 Reilich	a031 Titus
a103 Cahill	a023 Goldfeder	a064 Malliotakis	a078 Rivera	a146 Walter
a043 Camara	a150 Goodell	a030 Markey	a128 Roberts	a041 Weinstein
a145 Ceretto	a075 Gottfried	a090 Mayer	a056 Robinson	a020 Weisenberg
a033 Clark	a005 Graf	a108 McDonald	a068 Rodriguez	a024 Weprin
a047 Colton	a100 Gunther	a014 McDonough	a072 Rosa	a070 Wright
a032 Cook	a139 Hawley	a017 McKeivitt	a067 Rosenthal	a096 Zebrowski
a144 Corwin	a083 Heastie	a107 McLaughlin	a025 Rozic	a002
a085 Crespo	a003 Hennessey	a038 Miller	a116 Russell	a053
a122 Crouch	a028 Hevesi	a052 Millman	a149 Ryan	a086
a021 Curran	a048 Hikind	a015 Montesano	a009 Saladino	
a063 Cusick	a018 Hooper	a136 Morelle	a111 Santabarbara	
a045 Cymbrowitz	a042 Jacobs	a057 Mosley	a029 Scarborough	
a034 DenDekker	a097 Jaffee	a039 Moya	a016 Schimel	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

1 Section 1. Section 107-a of the alcoholic beverage control law, as
2 added by chapter 479 of the laws of 1940, subdivision 1 as amended by
3 chapter 204 of the laws of 1963, subdivisions 3 and 4 as amended by
4 chapter 490 of the laws of 1993, subparagraph 1 and clause (i) of
5 subparagraph 2 of paragraph (c) of subdivision 4 as amended by chapter
6 213 of the laws of 2010, paragraph (d) of subdivision 4 as amended by
7 chapter 361 of the laws of 1994 and paragraph (g) of subdivision 4 as
8 amended by chapter 109 of the laws of 2012, is amended to read as
9 follows:

10 § 107-a. Labeling containers of alcoholic beverages. 1. The liquor
11 authority is hereby authorized to promulgate rules and regulations
12 governing the labeling and offering of alcoholic beverages bottled,
13 packaged, sold or possessed for sale within this state.

14 [2.] Such regulations shall be calculated to prohibit deception of the
15 consumer; to afford him or her adequate information as to quality and
16 identity; and to achieve national uniformity [in this field] in so far
17 as possible.

18 [3.] 2. The bottling, packaging, sale or possession by any licensee of
19 any alcoholic beverage not labelled or offered in conformity with this
20 section shall be ground for suspension, revocation or cancellation of
21 the license.

22 [4. (a)] 3. No [liquor, wine or beer] alcoholic beverage shall be
23 [labelled,] offered or advertised for sale in this state unless [in
24 accordance with this section and unless the]:

25 (a) there is a brand or trade name label affixed to or imprinted upon
26 the container of such alcoholic beverage [shall have been]:

27 (b) such label is registered with and approved by the authority and
28 contains the information required in this section; and

1 (c) the appropriate fee has been paid as provided for in this section.

2 [(b)] 4. An application for registration of a brand or trade name
3 label shall be filed by (1) the owner of the brand or trade name if such
4 owner is licensed by the authority, or (2) a wholesaler selling such
5 brand who is appointed as exclusive agent, in writing, by the owner of
6 the brand or trade name for the purpose of filing such application, if
7 the owner of the brand or trade name is not licensed by the authority,
8 or (3) any wholesaler, with the approval of the authority, in the event
9 that the owner of the brand or trade name does not file or is unable to
10 file such application or designate an agent for such purposes, or (4)
11 any wholesaler, with the approval of the authority, in the event that
12 the owner of the brand or trade name is a retailer who does not file
13 such application, provided that the retailer shall consent to such
14 filing by such wholesaler. Such retailer may revoke his consent at any
15 time, upon written notice to the authority and to such wholesaler.

16 Unless otherwise permitted or required by the authority, the applica-
17 tion for registration of a liquor or wine brand or trade name label
18 filed pursuant to this section shall be filed by the same licensee
19 filing schedules pursuant to section one hundred one-b of this [chapter]
20 article.

21 Cordials and wines which differ only as to fluid content, age, or
22 vintage year, as defined by such regulations, shall be considered the
23 same brand; and those that differ as to type or class may be considered
24 the same brand by the authority where consistent with the purposes of
25 this section.

26 [(c)] (a) (1) The application for registration of a brand or trade
27 name label shall be filed by certified mail return receipt requested,
28 registered mail return receipt requested, or overnight delivery service

1 with proof of mailing, on a form prescribed by the authority, and shall
2 contain such information as the authority shall require. Such applica-
3 tion shall be accompanied by the appropriate fee prescribed by paragraph
4 [(d)] (b) of this subdivision.

5 (2) Provided, however, where a brand or trade name label has been
6 approved by the [federal bureau of alcohol, tobacco and firearms] Alco-
7 hol and Tobacco Tax and Trade Bureau of the United States Department of
8 Treasury, it shall be deemed registered and approved by the authority
9 if:

10 (i) the applicant submits on a form prescribed by the authority, by
11 certified mail return receipt requested, registered mail return receipt
12 requested, or overnight delivery service with proof of mailing, a true
13 copy of the brand or trade name label approval issued by the [federal
14 bureau of alcohol, tobacco and firearms] Alcohol and Tobacco Tax and
15 Trade Bureau of the United States Department of Treasury along with the
16 appropriate fee as established in paragraph [(d)] (b) of this subdivi-
17 sion; and

18 (ii) the authority does not deny such application within thirty days
19 after receipt.

20 (3) Provided, however, that where a brand or trade name label for wine
21 has been approved by the [federal bureau of alcohol, tobacco and
22 firearms] Alcohol and Tobacco Tax and Trade Bureau of the United States
23 Department of Treasury, it shall be deemed registered and approved by
24 the authority and no application, application fee, or annual registra-
25 tion fee shall be submitted to the authority.

26 [(d)] (b) The annual fee for registration of any brand or trade name
27 label for liquor shall be two hundred fifty dollars; the annual fee for
28 registration of any brand or trade name label for beer or cider shall be

1 one hundred fifty dollars; the annual fee for registration of any brand
2 or trade name label for wine or wine products shall be fifty dollars.
3 Such fee shall be in the form of a check or draft. No annual fee for
4 registration of any brand or trade name label for wine shall be required
5 if it has been approved by the [federal bureau of alcohol, tobacco and
6 firearms] Alcohol and Tobacco Tax and Trade Bureau of the United States
7 Department of Treasury pursuant to this section.

8 Each brand or trade name label registration approved pursuant to this
9 section shall be valid for a term [which shall run concurrently with the
10 term of the license of the person registering such brand or trade name
11 label] of one year as set forth by the authority and which shall be
12 pro-rated for partial years as applicable.

13 Each brand or trade name label registration approved pursuant to this
14 section shall be valid only for the licensee to whom issued and shall
15 not be transferable.

16 [(e)] (c) If the authority shall deny the application for registration
17 of a brand or trade name label pursuant to this section, it shall return
18 the registration fee to the applicant, less twenty-five per centum of
19 such fee and shall notify the applicant, in writing with the specific
20 reasons for its denial.

21 [(f) When not inconsistent with the purposes of this subdivision and
22 whenever necessary to avoid practical difficulties or unnecessary hard-
23 ship to any licensee affected by this section, the authority may, until
24 October first, nineteen hundred sixty-three, exempt any brand from the
25 fee provisions of this subdivision upon satisfactory showing by the
26 licensee that such brand is being discontinued.] (d) The authority may
27 at any time exempt any discontinued brand from such fee provisions where
28 a manufacturer or wholesaler has an inventory of one hundred cases or

1 less of liquor or wine and five hundred cases or less of beer, and
2 certifies to the authority in writing that such brand is being discon-
3 tinued. The authority may also at any time exempt any discontinued brand
4 from such fee provisions where a retailer discontinuing a brand owned by
5 him has a balance of an order yet to be delivered of fifty cases or less
6 of liquor or wine, or two hundred fifty cases or less of beer, wine
7 products or cider.

8 [(g)] (e) The authority shall exempt from such fee provisions the
9 registration of each brand or trade name label used for beer or cider
10 that is produced in small size batches totaling fifteen hundred barrels
11 [of beer] or less of beer or cider annually.

12 (f) The authority shall exempt from such fee provisions the registra-
13 tion of each brand or trade name label used for spirits or liquor that
14 is produced in small size batches totaling one thousand gallons or less
15 of spirits or liquor annually.

16 5. (a) Each brand or trade name label shall contain the following
17 information:

18 (i) the brand or trade name;

19 (ii) the class and type (if applicable) of alcoholic beverage in
20 accordance with the labeling regulations promulgated by the Alcohol and
21 Tobacco Tax and Trade Bureau of the United States Department of Treas-
22 ury; and

23 (iii) the net contents of the container.

24 (b) The brand or trade name label, or a separate label on the front or
25 back of the container shall contain information consistent with the
26 labeling regulations promulgated by the Alcohol and Tobacco Tax and
27 Trade Bureau of the United States Department of Treasury.

1 (c) No brand or trade name label, or any separate label on the front
2 or back of the container shall contain:

3 (i) any statement that is false or untrue in any particular manner;

4 (ii) any statement that is disparaging of a competitor's product;

5 (iii) any statement, design, device or representation that is likely
6 to mislead the consumer; or

7 (iv) any statement or claim of health benefits to be derived from
8 consumption by the consumer.

9 (d) A separate label registration shall be required in connection with
10 the registration of a brand or trade name label used where there is a
11 difference in any of the following information:

12 (i) the brand or trade name;

13 (ii) the class and type (if applicable) of alcoholic beverage in
14 accordance with federal label regulations; or

15 (iii) a private label owned and sold exclusively by one retailer,
16 where the alcoholic beverage is manufactured, bottled, or imported by a
17 different manufacturer, bottler, or importer, provided all other infor-
18 mation appearing on the label is the same.

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