

## GOVERNOR'S PROGRAM BILL 2016 MEMORANDUM

AN ACT to amend the alcoholic beverage control law and the executive law, in relation to a reorganization of the alcoholic beverage control law; and to repeal certain provisions of the alcoholic beverage control law relating thereto

### Purpose:

This bill would amend various provisions of the Alcoholic Beverage Control Law ("ABCL") and make related amendments to other laws to implement recommendations made by the Alcoholic Beverage Working Group.

### Summary of provisions:

Section 1 of the bill would amend ABCL §10 to state that the Members of the State Liquor Authority ("Authority") shall consist of a chairman and two commissioners, rather than three commissioners.

Section 2 of the bill would amend ABCL §14 to permit the Governor to appoint a commissioner as Chairman in the case of a vacancy in the office of Chairman pending the qualification of a new Chairman.

Section 3 of the bill would amend the current version of ABCL §17(3) to allow the Authority to impose civil penalties on two new licenses created by this bill and to remove references to licenses this bill repeals.

Section 4 of the bill would amend the version of ABCL §17(3) now scheduled to become effective in two years to allow the Authority to impose civil penalties on two new licenses created by this bill and to remove references to licenses this bill repeals.

Section 5 of the bill would amend ABCL §55 and change the heading to: "Retail on-premise beer license".

Section 6 of the bill would amend ABCL §55(3) to consolidate all on-premises beer licenses into one "Retail on-premise beer license".

Section 7 of the bill would add a new (4) ABCL §55(4) to apply the same conditions to on-premises beer licenses as on-premise wine and liquor licenses, and to state that they will be granted upon good cause shown.

Section 8 of the bill would add new ABCL §61-a and §61-b to create a combined craft manufacturing license and an importer's license.

Section 9 of the bill would amend ABCL §64(4) to permit off-premise liquor and wine stores to sell gift bags and gift wrapping.

Section 10 of the bill would repeal ABCL §64 and create a new ABCL §64 with the heading: "Retail on-premises liquor license". The new ABCL § 64 would incorporate ABCL §§ 64-a, 64-b, 64-c and 64-d and permit the Authority, for good cause shown, to issue an on-premise license notwithstanding that the location is within two hundred feet and on the same street as a school or place of worship.

Section 11 of the bill would add a new ABCL §66(3-a) to provide a license fee for the new importers license.

Section 12 of the bill would add a new subdivision (11) to ABCL §66 which sets the fee for a restaurant brewer's license.

Section 13 of the bill would amend ABCL §93(1) to eliminate the need for a solicitor's permit for a sales person working for a craft manufacturer.

Section 14 of the bill would amend ABCL §(81) and change the heading to: "Retail on-premises wine license". ABCL §81 would be amended to incorporate the same conditions to on-premises wine licenses as on-premise beer and liquor licenses.

Section 15 of the bill would amend ABCL § 93(4) by extending the duration of a temporary solicitor's permit from sixty days to six months.

Section 16 of the bill would amend ABCL §99-e to reflect the addition of a new permit created by this bill under ABCL §99-h.

Section 17 of the bill would add a new ABCL §99-h to create a permit to allow on-premises licensees to sell alcoholic beverages on Sundays between 8 a.m. and noon.

Sections 18 and 19 of the bill would amend ABCL §105(5) and (11) to provide that a winery or farm winery may sell wine in open containers, such as growlers, and allow patrons to take opened bottles of wine away from the licensed premises.

Section 20 of the bill would amend ABCL §106(5)(3)(a) to provide that a winery or farm winery may allow patrons to take opened bottles of wine away from the licensed premises and to permit on-premises licenses to obtain a permit under the new ABCL §99-h.

Section 21 of the bill would repeal ABCL §106(9) which imposes restrictions on the location of an establishment with an on-premises license that is adjacent to an unlicensed area.

Section 22 of the bill would amend ABCL §108 to allow a person with an on-premises liquor or wine license establishment adjacent to such person's off-premises beer license establishment to transport liquor and wine through the off-premises establishment.

Section 23 of the bill would amend ABCL §112 to eliminate the need for the holder of a solicitor's permit to obtain a surety bond.

Section 24 of the bill would amend ABCL §126(1) &(4) to eliminate the prohibition against a person with certain misdemeanor convictions from holding a license and limit the prohibition regarding felonies to those within the last five years. It would also provide for instances where the person has an out-of-state conviction.

Sections 25-39 of the bill would make various technical and conforming changes to address the consolidation of licenses proposed in Sections 5, 11 and 14 of the bill.

Section 40-45 of the bill would repeal ABCL §§55-a, 64-a-d, and 81-a.

Section 46 of the bill would add a new ABCL §165 to ensure licenses issued prior to this bill under repealed sections remain in effect.

Sections 47- 48 of the bill would amend Exec. L. §§ 270, 271, and 273 to coincide with changes made to the ABCL by this bill.

Section 49 of the bill would make it effective sixty days after it is signed into law.

**Existing Law:**

This bill is intended to address the following omissions in the ABCL as well as unduly burdensome complications within the ABCL. The ABCL currently:

- Does not address who will have administrative power over the agency in the case of a vacancy in the office of Chairman pending the qualification of a new Chairman;
- Does not provide the Authority with discretion to issue an on-premises license or package store license for a location that is within two hundred feet and on the same street as a school or place of worship;
- Does not easily identify the appropriate on-premises retail license a business should seek as well the types of business eligible to be licensed and the legal standard under which it is granted;
- Does not have a license for a company that intends to sell at wholesale, but only to other wholesalers;
- Unnecessarily requires any solicitor working for a manufacturer, regardless of the size of the business, to file a surety bond with the Authority;

- Unnecessarily requires manufacturers to obtain a permit to allow new employees to work without a solicitor's permit, but only for sixty days;
- Prohibits on-premises sales of alcoholic beverages from 8 a.m. until noon on Sundays;
- Unnecessarily requires a person with multiple manufacturing operations at one location to obtain multiple licenses;
- Sets limits on the types of items that can be sold at a package store;
- Prohibits a winery from selling wine in growlers, or letting patrons leave with an open bottle of wine;
- Limits the Authority's ability to issue an on-premises liquor license that is adjacent to an unlicensed area;
- Prohibits a person with an on-premises liquor or wine license and an adjacent off-premises beer license from moving liquor or wine from a storage area, through the beer premises, and into the on-premises location;
- Prohibits a person with a felony conviction, no matter when the conviction took place, from holding a license. This bill would create more business opportunities by limiting the prohibition to only those with felony convictions in the last five years.

**Legislative History:**

This is a new bill.

**Statement in support:**

This bill would incorporate recommendations made by the Governor's ABCL Working Group, which was tasked with offering suggestions to improve the law and aid businesses.

- The ABCL does not contain a provision to appoint a temporary Chairman when a vacancy arises. The bill would authorize the Governor, in the event of the death, resignation, removal or disability of the Chairman, to designate one of the Commissioners to serve as acting Chairman until such time as a new Chairman is nominated by the Governor and confirmed by the Senate.
- The ABCL contains nine different sections for on-premises licenses that make references to other ABCL sections and do not clearly describe the businesses eligible for each license. This bill reduces the number of on-premises licenses to three by incorporating all of the beer licenses in one section, all of the wine licenses in another as well as all of the liquor licenses in yet another. Each section is now easier to read and will reduce confusion by business owners seeking a license.

- Small businesses that import products into the state to be wholesaled by other entities must currently choose between: (i) obtaining a costly wholesale license; or (ii) moving their business outside of New York State. The importers license will enable them to stay in New York State and operate with an inexpensive license.
- Small craft manufacturers find the filing of applications and fees for solicitor's permits burdensome. The bill would remove these requirements for small entities and also remove the requirement of a bond for solicitor's permits for larger entities. Those solicitors are still regulated but employers are no longer obligated to obtain bonds.
- New York craft manufacturers may manufacture different products under different licenses at the same location. This practice requires a separate application, fee and renewal process for each license. This bill would enable manufacturers to apply for one license for the selected activities requiring one filing fee and one renewal application.
- The ABCL prohibits individuals with certain convictions from holding a license. This bill would create more business opportunities by limiting the Authority's character and fitness reviews to only those with felony convictions in the last five years.
- Currently, the Authority may only grant licenses to felons if they hold a certificate of relief from disability or a certificate of good conduct. This bill would enable the Authority to use its discretion to license individuals who, for residency reasons, are unable to obtain either of those documents.
- The ABCL requires that wine sold at retail stores for off-premises consumption be kept in sealed containers. This bill permits wineries to sell wine in growlers. The ABCL also prohibits an individual from leaving a winery with an open bottle of wine. This bill would permit the patron to take the rest of the wine home.
- The ABCL's "Two Hundred Foot Law" prevents the Authority from issuing certain licenses to a location that is within two hundred feet of a building that is exclusively occupied by a school or place of worship, even if the school, house of worship or municipality supports the licensing application. This bill would grant the Authority discretion in these matters.
- The ABCL imposes restrictions on the hours of sale of alcoholic beverages on Sundays, referred to as "Blue Laws." This bill would enable on-premises licenses to apply for a permit to sell alcoholic beverages for consumption on the premises on Sundays between the formerly prohibited hours of 8 a.m. and noon. Licensees may apply for a permit that is issued for one day or one year, and must notify the local municipality.
- The ABCL currently prohibits the licensing of a premises that has an opening or passage way to another premises. This outdated prohibition era restriction creates difficulties in licensing certain venues. This bill would lift this prohibition.

- The ABCL limits package stores and wine stores to selling only alcoholic beverages and certain other specified items such as wine glasses. This bill would also allow package stores and wine stores to sell gift wrapping and gift bags.
- Numerous grocery stores own restaurants adjacent to the grocery stores. Because wine and liquor may not enter a grocery store, licensees must take the wine and liquor around the outside of the grocery store to bring it into the restaurant. This bill would eliminate this burdensome requirement and allow wine and liquor to pass through the grocery store en-route to the restaurant.

**Budget implications:** None.

**Effective Date:**

Effective on the sixtieth day after it shall become law, provided that the amendments to section 17 of the ABCL made by section three shall be subject to the expiration and reversion of such section pursuant to section 4 of chapter 118 of the laws of 2012, as amended, when upon such date the provisions of section four of this act shall take effect.