

**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 ABCL §17(3) to allow the Authority to impose civil penalties on two new licenses created by this bill.

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.

Section 5 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 6 of the bill would amend ABCL §63(4) to permit off-premise liquor and wine stores to sell gift bags and gift wrapping.

Section 7 of the bill would add a new ABCL §66(3-a) to provide a license fee for the new importer's license.

Section 8 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 9 of the bill would amend ABCL § 93(4) to extend the duration of a temporary solicitor's permit from sixty days to six months.

Section 10 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 ten o'clock a.m. The permit would be valid for one calendar day and each on-premises licensee is allowed to apply for twelve such permits in one calendar year. Each permit application requires notice to the local municipality. Only on-premises licensees in a city with populations under one million are eligible to receive the permit.

Section 11 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.

Section 12 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 eliminate the long-standing prohibition against serving alcoholic beverages before noon on Sundays. This section will allow sales of alcoholic beverages starting at 10 a.m. on Sundays.

Section 13 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 14 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 15 of the bill would amend ABCL §118 adding new subdivision 5 limiting the sanctions on prosecutions of combined manufacturing licenses issued under ABCL §61-a to apply to only the prosecuted manufacturing activity.

Sections 16 of the bill would amend Executive Law §270 to coincide with changes made by this bill to the ABCL.

Sections 17 of the bill would amend Executive Law §273 to coincide with changes made by this bill to the ABCL.

Section 18 of the bill would make it effective sixty days after it is signed into law, provided that: sections 6 and 14 of this bill will expire and be deemed repealed three years after this bill becomes law; and section 12 of this bill would take effect immediately upon this bill being 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 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; and
- 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.

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 for a period up to nine months until a new Chairman is nominated by the Governor and confirmed by the Senate.
- 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 solicitors permits burdensome. The bill would remove these requirements for small entities and also remove the requirement of a bond for solicitor 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 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 imposes restrictions on the hours of sale of alcoholic beverages on Sundays, referred to as “Blue Laws.” This bill would enable on-premises licenses throughout the state to begin serving alcoholic beverages for consumption on the premises on Sundays at 10 a.m., rather than noon. Licensees outside of New York City may also apply for a permit to allow the licensee to serve alcoholic beverages starting at 8 a.m. on a particular day of the year. Licensees seeking the permit must notify the local municipality and may only obtain twelve of these permits each calendar year.
- 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 2 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; the provisions of sections six and thirteen of the bill will expire and be deemed repealed three years after this bill becomes law; and the provisions of section 12 of this bill would take effect immediately upon this bill being signed into law