

1 Section 1. Section 106 of the alcoholic beverage control law is
2 amended by adding a new subdivision 2-a to read as follows:

3 2-a. (a) Notwithstanding any provision of law to the contrary, in
4 addition to any other privilege provided under this chapter, any retail
5 license that allows for liquor and/or wine sale for on-premises consump-
6 tion shall also include the privilege to sell for take-out and delivery,
7 any product it may otherwise sell at retail, subject to the following
8 conditions:

9 (i) any purchase for take-out or delivery must be accompanied by a
10 purchase of a substantial food item;

11 (ii) the alcoholic beverages are packaged in a container with a secure
12 lid or cap sealed in a manner designed to prevent consumption without
13 removal of the lid or cap by breaking the seal;

14 (iii) beverages purchased for take-out or delivery are subject to any
15 applicable state and municipal open container laws, rules, regulations,
16 or ordinances;

17 (iv) takeout and delivery of alcoholic beverages may only occur during
18 licensed hours of operation of on premises retailers in the county in
19 which the licensed premises are located or, if different, the hours of
20 operation set forth in the licensee's method of operation with the
21 authority;

22 (v) the price per serving shall be the same as if consumed on premises
23 and shall not be sold as part of any promotion or special unless such
24 promotion or special is also available for consumption on premises; and
25 further provided each serving shall be available only in the same manner
26 as available on premises;

27 (vi) the licensee shall not sell for take-out, or deliver, any bottles
28 of liquor or bottles of wine;

29 (vii) the licensee shall not advertise or promote the sale of full
30 bottles of wine or liquor for off-premises consumption; and

31 (viii) the licensee shall not display full bottles of wine or liquor
32 for the purpose of promoting the sale of such products for off-premises
33 consumption.

34 (b) Deliveries made via motor vehicle shall only be made in (i) a
35 vehicle permitted by the authority pursuant to section ninety-four of
36 this chapter, or (ii) in a vehicle owned and operated, or hired and
37 operated, by the licensee or its employee pursuant to section one
38 hundred sixteen of this article; provided deliveries may be made utiliz-
39 ing the vehicle of an employee of the licensee, and provided further
40 that a copy of the permit or license must be present in any vehicle
41 while making deliveries. Delivery must be to a residential address, and
42 may not be delivered except to a person twenty-one years of age or older
43 at that residence who is not at the time of delivery intoxicated. Deliv-
44 ery drivers shall require a recipient, at the delivery address, upon
45 delivery, to demonstrate that the recipient is at least twenty-one years
46 of age by providing a valid form of photographic identification author-
47 ized by section sixty-five-b of this chapter.

48 (c) Nothing in this subdivision shall be construed to change the
49 existing privilege of a retail licensee for on-premises consumption to
50 sell beer, cider, or mead for consumption off the premises as currently
51 provided for in this chapter. Provided, further, that nothing contained
52 in this subdivision shall be deemed to supersede the provisions of
53 section one thousand two hundred twenty-seven of the vehicle and traffic
54 law.

55 (d) The authority may promulgate guidance, rules and regulations
56 necessary to implement the provisions of this subdivision.

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1 (e) The authority may, on its own initiative or on complaint of any
2 person, institute proceedings to suspend or revoke a licensee's ability
3 to sell alcoholic beverages for takeout or delivery pursuant to this
4 subdivision after a hearing, in accordance with section one hundred
5 nineteen of this article, at which such licensee shall be given an
6 opportunity to be heard. Such proceedings and such hearing shall be held
7 in such manner and upon such notice as may be prescribed by the rules of
8 the authority.

9 § 2. This act shall take effect immediately and shall expire and be
10 deemed repealed three years after such date.