

3775--C

Cal. No. 97

2009-2010 Regular Sessions

I N S E N A T E

March 31, 2009

Introduced by Sens. SQUADRON, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Commerce, Economic Development and Small Business in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the alcoholic beverage control law, in relation to the siting of certain premises licensed to sell liquor for consumption on the premises, which premises are located in cities with populations in excess of one million people

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (d-1) of subdivision 7 of section 64 of the alco-
2 holic beverage control law, as amended by chapter 463 of the laws of
3 2009, is amended and a new paragraph (d-2) is added to read as follows:
4 (d-1) Within the context of this subdivision, a building occupied as a
5 place of worship does not cease to be "exclusively" occupied as a place
6 of worship by incidental uses that are not of a nature to detract from
7 the predominant character of the building as a place of worship, such
8 uses which include, but which are not limited to: the conduct of legally
9 authorized games of bingo or other games of chance held as a means of
10 raising funds for the not-for-profit religious organization which
11 conducts services at the place of worship or for other not-for-profit
12 organizations or groups; use of the building for fund-raising perform-
13 ances by or [benefitting] BENEFITING the not-for-profit religious organ-

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

LBD10833-06-0

1 ization which conducts services at the place of worship or other not-
2 for-profit organizations or groups; the use of the building by other
3 religious organizations or groups for religious services or other
4 purposes; the conduct of social activities by or for the benefit of the
5 congregants; the use of the building for meetings held by organizations
6 or groups providing bereavement counseling to persons having suffered
7 the loss of a loved one, or providing advice or support for conditions
8 or diseases including, but not limited to, alcoholism, drug addiction,
9 cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the
10 use of the building for blood drives, health screenings, health informa-
11 tion meetings, yoga classes, exercise classes or other activities
12 intended to promote the health of the congregants or other persons; and
13 use of the building by non-congregant members of the community for
14 private social functions. The building occupied as a place of worship
15 does not cease to be "exclusively" occupied as a place of worship where
16 the not-for-profit religious organization occupying the place of worship
17 accepts the payment of funds to defray costs related to another party's
18 use of the building.

19 (D-2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (C) AND (D) OF THIS
20 SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE
21 MILLION PEOPLE, THE MEASUREMENTS IN PARAGRAPHS (A) AND (B) OF THIS
22 SUBDIVISION ARE TO BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE
23 PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO
24 THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
25 PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF
26 SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP OR FROM THE
27 POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT
28 IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND
29 OPERATING PURSUANT TO THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY
30 LINE OF EACH SUCH PREMISES LICENSED AND OPERATING PURSUANT TO THE
31 PROVISIONS OF THIS SECTION; EXCEPT, HOWEVER, THAT NO RENEWAL LICENSE
32 SHALL BE DENIED BECAUSE OF SUCH RESTRICTION TO ANY PREMISES SO LOCATED
33 WHICH WERE MAINTAINED AS A BONA FIDE HOTEL, RESTAURANT, CATERING ESTAB-
34 LISHMENT OR CLUB ON OR PRIOR TO DECEMBER FIFTH, NINETEEN HUNDRED THIR-
35 TY-THREE; AND, EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT
36 WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY
37 FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR
38 AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
39 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
40 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
41 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
42 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
43 TY-FIRST, TWO THOUSAND TEN; AND EXCEPT THAT NO LICENSE SHALL BE DENIED
44 TO ANY PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE
45 EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF
46 THIS SECTION, AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXIST-
47 ENCE CONTINUOUSLY ON OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED NINE-
48 TY-THREE; AND EXCEPT THAT THIS SUBDIVISION SHALL NOT BE DEEMED TO
49 RESTRICT THE ISSUANCE OF A HOTEL LIQUOR LICENSE TO A BUILDING USED AS A
50 HOTEL AND IN WHICH A RESTAURANT LIQUOR LICENSE CURRENTLY EXISTS FOR
51 PREMISES WHICH SERVE AS A DINING ROOM FOR GUESTS OF THE HOTEL AND A
52 CATERER'S LICENSE TO A PERSON USING THE PERMANENT CATERING FACILITIES OF
53 A CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP PURSUANT TO A WRITTEN
54 AGREEMENT BETWEEN SUCH PERSON AND THE AUTHORITIES IN CHARGE OF SUCH
55 FACILITIES. THE LIQUOR AUTHORITY, IN ITS DISCRETION, MAY AUTHORIZE THE
56 REMOVAL OF ANY SUCH LICENSED PREMISES TO A DIFFERENT LOCATION ON THE

1 SAME STREET OR AVENUE, WITHIN TWO HUNDRED FEET OF SAID SCHOOL, CHURCH,
2 SYNAGOGUE OR OTHER PLACE OF WORSHIP, PROVIDED THAT SUCH NEW LOCATION IS
3 NOT WITHIN A CLOSER DISTANCE TO SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
4 PLACE OF WORSHIP.

5 S 2. Subdivision 7 of section 64-a of the alcoholic beverage control
6 law is amended by adding a new paragraph (b-1) to read as follows:

7 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-
8 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES
9 HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN
10 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION ARE TO
11 BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY LINE
12 OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY
13 LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE
14 CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
15 SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE POINT ON THE PROPERTY
16 BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE
17 PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND OPERATING PURSUANT TO
18 THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY LINE OF EACH SUCH
19 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
20 SECTION; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT WHICH
21 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A
22 DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR AVENUE AND
23 WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED EXCLUSIVELY
24 AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT
25 THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES
26 PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN
27 IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST,
28 TWO THOUSAND TEN; AND EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY
29 PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE EXISTING
30 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
31 SECTION, AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE
32 CONTINUOUSLY ON OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED
33 NINETY-THREE.

34 S 3. Subdivision 5 of section 64-b of the alcoholic beverage control
35 law is amended by adding a new paragraph (a-1) to read as follows:

36 (A-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
37 SION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE MILLION
38 PEOPLE, NO BOTTLE CLUB LICENSE SHALL BE GRANTED FOR ANY PREMISES WHICH
39 SHALL BE ON THE SAME STREET OR AVENUE AND WITHIN TWO HUNDRED FEET OF A
40 BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER
41 PLACE OF WORSHIP; THE MEASUREMENTS TO BE TAKEN IN A STRAIGHT LINE FROM
42 THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED
43 THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
44 SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY
45 BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF
46 WORSHIP; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT WHICH
47 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A
48 DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR AVENUE AND
49 WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED EXCLUSIVELY
50 AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT
51 THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES
52 PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN
53 IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST,
54 TWO THOUSAND TEN.

1 S 4. Paragraph (d) of subdivision 11 of section 64-c of the alcoholic
2 beverage control law, as amended by chapter 463 of the laws of 2009, is
3 amended and a new paragraph (b-1) is added to read as follows:

4 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-
5 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES
6 HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN
7 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION ARE TO
8 BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY LINE
9 OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY
10 LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE
11 CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
12 SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE POINT ON THE PROPERTY
13 BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE
14 PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND OPERATING PURSUANT TO
15 THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY LINE OF EACH SUCH
16 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
17 SECTION; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT WHICH
18 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A
19 DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR AVENUE AND
20 WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED EXCLUSIVELY
21 AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT
22 THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES
23 PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN
24 IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST,
25 TWO THOUSAND TEN; AND EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY
26 PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE EXISTING
27 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
28 SECTION OR SECTION SIXTY-FOUR OR SIXTY-FOUR-A OF THIS ARTICLE, AT WHICH
29 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY ON OR
30 PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED NINETY-THREE.

31 (d) Within the context of this subdivision, a building occupied as a
32 place of worship does not cease to be "exclusively" occupied as a place
33 of worship by incidental uses that are not of a nature to detract from
34 the predominant character of the building as a place of worship, such
35 uses which include, but which are not limited to: the conduct of legally
36 authorized games of bingo or other games of chance held as a means of
37 raising funds for the not-for-profit religious organization which
38 conducts services at the place of worship or for other not-for-profit
39 organizations or groups; use of the building for fund-raising perform-
40 ances by or [benefitting] BENEFITING the not-for-profit religious organ-
41 ization which conducts services at the place of worship or other not-
42 for-profit organizations or groups; the use of the building by other
43 religious organizations or groups for religious services or other
44 purposes; the conduct of social activities by or for the benefit of the
45 congregants; the use of the building for meetings held by organizations
46 or groups providing bereavement counseling to persons having suffered
47 the loss of a loved one, or providing advice or support for conditions
48 or diseases including, but not limited to, alcoholism, drug addiction,
49 cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the
50 use of the building for blood drives, health screenings, health informa-
51 tion meetings, yoga classes, exercise classes or other activities
52 intended to promote the health of the congregants or other persons; and
53 use of the building by non-congregant members of the community for
54 private social functions. The building occupied as a place of worship
55 does not cease to be "exclusively" occupied as a place of worship where
56 the not-for-profit religious organization occupying the place of worship

1 accepts the payment of funds to defray costs related to another party's
2 use of the building.

3 S 5. Paragraph (c) of subdivision 3 of section 105 of the alcoholic
4 beverage control law, as added by chapter 406 of the laws of 2007, is
5 amended and a new paragraph (b-1) is added to read as follows:

6 (B-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS
7 SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE
8 MILLION PEOPLE, NO RETAIL LICENSE TO SELL LIQUOR AND/OR WINE FOR
9 OFF-PREMISES CONSUMPTION SHALL BE GRANTED FOR ANY PREMISES WHICH SHALL
10 BE LOCATED ON THE SAME STREET OR AVENUE, AND WITHIN TWO HUNDRED FEET OF
11 A BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER
12 PLACE OF WORSHIP; THE MEASUREMENTS TO BE TAKEN IN A STRAIGHT LINE FROM
13 THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED
14 THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
15 SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY
16 BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF
17 WORSHIP; EXCEPT, HOWEVER, THAT NO LICENSE SHALL BE DENIED TO ANY PREM-
18 ISES AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTIN-
19 UOUSLY FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET
20 OR AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
21 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
22 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
23 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
24 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
25 TY-FIRST, TWO THOUSAND TEN.

26 (c) Within the context of this subdivision, a building occupied as a
27 place of worship does not cease to be "exclusively" occupied as a place
28 of worship by incidental uses that are not of a nature to detract from
29 the predominant character of the building as a place of worship, such
30 uses which include, but which are not limited to: the conduct of legally
31 authorized games of bingo or other games of chance held as a means of
32 raising funds for the not-for-profit religious organization which
33 conducts services at the place of worship or for other not-for-profit
34 organizations or groups; use of the building for fund-raising perform-
35 ances by or [benefitting] BENEFITING the not-for-profit religious
36 [organizations] ORGANIZATION which conducts services at the place of
37 worship or other not-for-profit organizations or groups; the use of the
38 building by other religious organizations or groups for religious
39 services or other purposes; the conduct of social activities by or for
40 the benefit of the congregants; the use of the building for meetings
41 held by organizations or groups providing bereavement counseling to
42 persons having suffered the loss of a loved one, or providing advice or
43 support for conditions or diseases including, but not limited to, alco-
44 holism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or
45 Alzheimer's disease; the use of the building for blood drives, health
46 screenings, health information meetings, yoga classes, exercise classes
47 or other activities intended to promote the health of the congregants or
48 other persons; and use of the building by non-congregant members of the
49 community for private social functions. The building occupied as a place
50 of worship does not cease to be "exclusively" occupied as a place of
51 worship where the not-for-profit religious organization occupying the
52 place of worship accepts the payment of funds to defray costs related to
53 another party's use of the building.

54 S 6. This act shall take effect December 31, 2010.