

5508--A

2009-2010 Regular Sessions

I N S E N A T E

May 13, 2009

Introduced by Sens. KLEIN, HASSELL-THOMPSON, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business -- recommitted to the Committee on Commerce, Economic Development and Small Business in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the alcoholic beverage control law, in relation to procedures associated with issuing retail, special retail, bottle club, restaurant-brewer and cabaret licenses to sell liquor for on-premises consumption regarding premises located within five hundred feet of three or more existing premises in cities, towns and villages having a population of twenty thousand or more

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

1 Section 1. Paragraph (f) 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 to read as follows:
4 (f) Notwithstanding the provisions of paragraph (b) of this subdivi-
5 sion, the authority may issue a license pursuant to this section for a
6 premises which shall be within five hundred feet of three or more exist-
7 ing premises licensed and operating pursuant to this section and
8 sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d
9 of this article if, after consultation with the municipality or communi-
10 ty board, it determines that granting such license would be in the
11 public interest. Before it may issue any such license, the authority
12 shall conduct a hearing, upon notice to the applicant and the munici-
13 pality or community board, and shall state and file in its office its
14 reasons therefor. THE HEARING MAY BE RESCHEDULED, ADJOURNED OR CONTIN-
15 UED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNI-

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

LBD05926-04-0

1 CIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR
2 CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE
3 AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION
4 TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING
5 REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICI-
6 PALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED,
7 ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE
8 APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHED-
9 ULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality
10 or community board shall mean written notice mailed by the authority to
11 such municipality or community board at least fifteen days in advance of
12 any hearing scheduled pursuant to this paragraph. Upon the request of
13 the authority, any municipality or community board may waive the fifteen
14 day notice requirement. No premises having been granted a license pursu-
15 ant to this section shall be denied a renewal of such license upon the
16 grounds that such premises are within five hundred feet of a building or
17 buildings wherein three or more premises are licensed and operating
18 pursuant to this section and sections sixty-four-a, sixty-four-b,
19 sixty-four-c, and/or sixty-four-d of this article.

20 S 2. Paragraph (d) of subdivision 7 of section 64-a of the alcoholic
21 beverage control law, as amended by chapter 463 of the laws of 2009, is
22 amended to read as follows:

23 (d) Notwithstanding the provisions of subparagraph (ii) of paragraph
24 (a) of this subdivision, the authority may issue a license pursuant to
25 this section for a premises which shall be within five hundred feet of
26 three or more existing premises licensed and operating pursuant to this
27 section and sections sixty-four, sixty-four-b, sixty-four-c, and/or
28 sixty-four-d of this article if, after consultation with the munici-
29 pality or community board, it determines that granting such license
30 would be in the public interest. Before it may issue any such license,
31 the authority shall conduct a hearing, upon notice to the applicant and
32 the municipality or community board, and shall state and file in its
33 office its reasons therefor. Notice to the municipality or community
34 board shall mean written notice mailed by the authority to such munici-
35 pality or community board at least fifteen days in advance of any hear-
36 ing scheduled pursuant to this paragraph. Upon the request of the
37 authority, any municipality or community board may waive the fifteen day
38 notice requirement. THE HEARING MAY BE RESCHEDULED, ADJOURNED OR
39 CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE
40 MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR
41 CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE
42 AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION
43 TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING
44 REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICI-
45 PALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED,
46 ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE
47 APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHED-
48 ULED, ADJOURNED OR CONTINUED PUBLIC MEETING. No premises having been
49 granted a license pursuant to this section shall be denied a renewal of
50 such license upon the grounds that such premises are within five hundred
51 feet of a building or buildings wherein three or more premises are
52 licensed and operating pursuant to this section and sections sixty-four,
53 sixty-four-b, sixty-four-c, and/or sixty-four-d of this article.

54 S 3. Paragraph (c) of subdivision 5 of section 64-b of the alcoholic
55 beverage control law, as amended by chapter 463 of the laws of 2009, is
56 amended to read as follows:

1 (c) Notwithstanding the provisions of subparagraph (ii) of paragraph
2 (a) of this subdivision, the authority may issue a license pursuant to
3 this section for a premises which shall be within five hundred feet of
4 three or more existing premises licensed and operating pursuant to this
5 section and sections sixty-four, sixty-four-a, sixty-four-c, and/or
6 sixty-four-d of this article if, after consultation with the munici-
7 pality or community board, it determines that granting such license
8 would be in the public interest. Before it may issue any such license,
9 the authority shall conduct a hearing, upon notice to the applicant and
10 the municipality or community board, and shall state and file in its
11 office its reasons therefor. THE HEARING MAY BE RESCHEDULED, ADJOURNED
12 OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND
13 THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED
14 OR CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE
15 AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION
16 TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING
17 REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICI-
18 PALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED,
19 ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE
20 APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHED-
21 ULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality
22 or community board shall mean written notice mailed by the authority to
23 such municipality or community board at least fifteen days in advance of
24 any hearing scheduled pursuant to this paragraph. Upon the request of
25 the authority, any municipality or community board may waive the fifteen
26 day notice requirement. No premises having been granted a license pursu-
27 ant to this section shall be denied a renewal of such license upon the
28 grounds that such premises are within five hundred feet of a building or
29 buildings wherein three or more premises are licensed and operating
30 pursuant to this section and sections sixty-four, sixty-four-a, sixty-
31 four-c, and/or sixty-four-d of this article.

32 S 4. Paragraph (c) of subdivision 11 of section 64-c of the alcoholic
33 beverage control law, as amended by chapter 463 of the laws of 2009, is
34 amended to read as follows:

35 (c) Notwithstanding the provisions of subparagraph (ii) of paragraph
36 (a) of this subdivision, the authority may issue a license pursuant to
37 this section for a premises which shall be within five hundred feet of
38 three or more existing premises licensed and operating pursuant to this
39 section and sections sixty-four, sixty-four-a, sixty-four-b and/or
40 sixty-four-d of this article if, after consultation with the munici-
41 pality or community board, it determines that granting such license
42 would be in the public interest. Before it may issue any such license,
43 the authority shall conduct a hearing, upon notice to the applicant and
44 the municipality or community board, and shall state and file in its
45 office its reasons therefor. THE HEARING MAY BE RESCHEDULED, ADJOURNED
46 OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND
47 THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED
48 OR CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE
49 AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION
50 TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING
51 REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICI-
52 PALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED,
53 ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE
54 APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHED-
55 ULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality
56 or community board shall mean written notice mailed by the authority to

1 such municipality or community board at least fifteen days in advance of
2 any hearing scheduled pursuant to this paragraph. Upon the request of
3 the authority, any municipality or community board may waive the fifteen
4 day notice requirement. No premises having been granted a license pursu-
5 ant to this section shall be denied a renewal of such license upon the
6 grounds that such premises are within five hundred feet of a building or
7 buildings wherein three or more premises are operating and licensed
8 pursuant to this section or sections sixty-four, sixty-four-a, sixty-
9 four-b and/or sixty-four-d of this article.

10 S 5. Paragraph (e) of subdivision 8 of section 64-d of the alcoholic
11 beverage control law, as amended by chapter 463 of the laws of 2009, is
12 amended to read as follows:

13 (e) notwithstanding the provisions of paragraph (b) of this subdivi-
14 sion, the authority may issue a license pursuant to this section for a
15 premises which shall be within five hundred feet of an existing premises
16 licensed and operating pursuant to the provisions of this section or
17 within five hundred feet of three or more existing premises licensed and
18 operating pursuant to this section and sections sixty-four,
19 sixty-four-a, sixty-four-b, and/or sixty-four-c of this article if,
20 after consultation with the municipality or community board, it deter-
21 mines that granting such license would be in the public interest.
22 Before it may issue any such license, the authority shall conduct a
23 hearing, upon notice to the applicant and the municipality or community
24 board, and shall state and file in its office its reasons therefor. THE
25 HEARING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY
26 SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY
27 BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED HEARING. BEFORE
28 THE AUTHORITY ISSUES ANY SAID LICENSE, THE AUTHORITY OR ONE OR MORE OF
29 THE COMMISSIONERS THEREOF MAY, IN ADDITION TO THE HEARING REQUIRED BY
30 THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING REGARDING SAID LICENSE,
31 UPON NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD.
32 THE PUBLIC MEETING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE
33 AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR
34 COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED PUBLIC
35 MEETING. Notice to the municipality or community board shall mean writ-
36 ten notice mailed by the authority to such municipality or community
37 board at least fifteen days in advance of any hearing scheduled pursuant
38 to this paragraph. Upon the request of the authority, any municipality
39 or community board may waive the fifteen day notice requirement. No
40 premises having been granted a license pursuant to this section shall be
41 denied a renewal of such license upon the grounds that such premises are
42 within five hundred feet of an existing premises licensed and operating
43 pursuant to the provisions of this section or within five hundred feet
44 of a building or buildings wherein three or more premises are licensed
45 and operating pursuant to this section and sections sixty-four, sixty-
46 four-a, sixty-four-b, and/or sixty-four-c of this article.

47 S 6. This act shall take effect on the one hundred eightieth day after
48 it shall have become a law and shall apply to all applications for a
49 retail license, special retail license, bottle club license, restau-
50 rant-brewer license or cabaret license, for on-premises consumption of
51 alcoholic beverages for premises within five hundred feet of existing
52 licensed premises that are pending before or filed with the state liquor
53 authority on or after such effective date. Effective immediately any
54 rules or regulations necessary or convenient to implement the provisions
55 of this act are authorized to be promulgated on or before such effective
56 date.