

2009-2010 Regular Sessions

I N S E N A T E

January 15, 2009

Introduced by Sen. ALESÌ -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to serving alcoholic beverages on certain premises while persons under the age of twenty-one are present

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

1 Section 1. Legislative intent. The legislature hereby finds that
2 many bars and clubs promote "under/over nights" where individuals under
3 twenty-one years of age (i.e., the legal drinking age) may attend but
4 not drink alcoholic beverages. At these events, underage patrons are
5 typically charged a cover charge and given a bracelet or some other
6 marking to distinguish them from the patrons who are legally able to
7 drink. The legislature further finds that permitting underage persons
8 to patronize bars or clubs often makes it easier for younger teenagers
9 to gain admission, and in some cases obtain alcoholic beverages once
10 inside the bar or club, either by being served directly or having
11 "legal" friends purchase alcoholic beverages for them. In addition, the
12 legislature finds that there have been complaints of disruptive and
13 violent behavior at some of these establishments. Consequently, the
14 legislature finds that those establishments that permit patrons under
15 the legal drinking age for "under/over nights" should do so only when
16 alcoholic beverages are not being served.

17 S 2. Section 106 of the alcoholic beverage control law is amended by
18 adding a new subdivision 16 to read as follows:

19 16. NO RETAIL LICENSEE FOR ON-PREMISES CONSUMPTION WHICH IS A BAR OR
20 CLUB AND WHICH ADVERTISES, PROMOTES OR HOLDS ANY EVENT WHICH IS TARGETED
21 TO PERSONS UNDER TWENTY-ONE YEARS OF AGE, SHALL SERVE ANY ALCOHOLIC
22 BEVERAGE ON SUCH LICENSED PREMISES WHILE ANY PERSON UNDER THE AGE OF
23 TWENTY-ONE SHALL BE PRESENT ON SUCH PREMISES, EXCEPT IF SUCH PERSON IS

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

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1 AN EMPLOYEE OF SUCH BAR OR CLUB ACTING IN HIS OR HER CAPACITY AS AN
2 EMPLOYEE. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO A BONA
3 FIDE HOTEL, A RESTAURANT-BREWER LICENSED IN ACCORDANCE WITH SECTION
4 SIXTY-FOUR-C OF THIS CHAPTER, OR A CABARET LICENSED IN ACCORDANCE WITH
5 SECTION SIXTY-FOUR-D OF THIS CHAPTER.

6 FOR THE PURPOSES OF THIS SUBDIVISION THE TERMS "BAR" AND "CLUB" SHALL
7 INCLUDE ANY BUSINESS ESTABLISHMENT OPEN TO THE PUBLIC DEVOTED TO THE
8 SALE AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION AND
9 WHERE THE SERVICE OF FOOD IS ONLY INCIDENTAL TO THE CONSUMPTION OF SUCH
10 BEVERAGES. SERVICES OF FOOD SHALL BE CONSIDERED INCIDENTAL IF THE FOOD
11 SERVICE GENERATES LESS THAN FORTY PERCENT OF TOTAL ANNUAL GROSS SALES.
12 THE TERM "BAR" SHALL NOT INCLUDE A BAR IN A RESTAURANT OPEN TO THE
13 PUBLIC WHICH IS DEVOTED TO THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES
14 FOR ON-PREMISES CONSUMPTION AND SUCH RESTAURANT GENERATES FORTY PERCENT
15 OR MORE OF ITS TOTAL ANNUAL GROSS SALES FROM THE SALE OF FOOD FOR
16 ON-PREMISES CONSUMPTION.

17 S 3. This act shall take effect on the thirtieth day after it shall
18 have become a law.