

2372

2009-2010 Regular Sessions

I N S E N A T E

February 19, 2009

Introduced by Sen. PADAVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the alcoholic beverage control law, in relation to the distances of certain establishments from a school, church, synagogue or other place of worship; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Paragraphs (a) and (c) of subdivision 7 of section 64 of
2 the alcoholic beverage control law, as amended by chapter 177 of the
3 laws of 1996, are amended to read as follows:
4 (a) on the same street or avenue and within [two] FIVE hundred feet of
5 a building occupied [exclusively] as a school, church, synagogue or
6 other place of worship or
7 (c) the measurements in paragraphs (a) and (b) of this subdivision are
8 to be taken in straight lines from the center of the nearest entrance of
9 the premises sought to be licensed to [the center of the nearest
10 entrance] ANY POINT of such school, church, synagogue or other place of
11 worship or to [the center of the nearest entrance] ANY POINT of each
12 such premises licensed and operating pursuant to the provisions of this
13 section; except, however, that no renewal license shall be denied
14 because of such restriction to any premises so located which were main-
15 tained as a bona fide hotel, restaurant, catering establishment or club
16 on or prior to December fifth, nineteen hundred thirty-three; and,
17 except that no license shall be denied to any premises at which a
18 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 shall be denied to any premises, which is within five

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

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1 hundred feet of three or more existing premises licensed and operating
2 pursuant to the provisions of this section, at which a license under
3 this chapter has been in existence continuously on or prior to November
4 first, nineteen hundred ninety-three; and except that this subdivision
5 shall not be deemed to restrict the issuance of a hotel liquor license
6 to a building used as a hotel and in which a restaurant liquor license
7 currently exists for premises which serve as a dining room for guests of
8 the hotel and a caterer's license to a person using the permanent cater-
9 ing facilities of a church, synagogue or other place of worship pursuant
10 to a written agreement between such person and the authorities in charge
11 of such facilities. The liquor authority, in its discretion, may author-
12 ize the removal of any such licensed premises to a different location on
13 the same street or avenue, within two hundred feet of said school,
14 church, synagogue or other place of worship, provided that such new
15 location is not within a closer distance to such school, church, syna-
16 gogue or other place of worship.

17 S 2. Paragraph (d) of subdivision 7 of section 64 of the alcoholic
18 beverage control law is REPEALED.

19 S 3. Subparagraphs (i) and (iii) of paragraph (a) of subdivision 7 of
20 section 64-a of the alcoholic beverage control law, as amended by chap-
21 ter 177 of the laws of 1996, are amended to read as follows:

22 (i) on the same street or avenue and within [two] FIVE hundred feet of
23 a building occupied [exclusively] as a school, church, synagogue or
24 other place of worship or

25 (iii) the measurements in subparagraphs (i) and (ii) of this paragraph
26 are to be taken in straight lines from the center of the nearest
27 entrance of the premises sought to be licensed to [the center of the
28 nearest entrance] ANY POINT of such school, church, synagogue or other
29 place of worship or to [the center of the nearest entrance] ANY POINT of
30 each such premises licensed and operating pursuant to the provisions of
31 this section; except that no license shall be denied to any premises at
32 which a license under this chapter has been in existence continuously
33 from a date prior to the date when a building on the same street or
34 avenue and within two hundred feet of said premises has been occupied
35 exclusively as a school, church, synagogue or other place of worship and
36 except that no license shall be denied to any premises, which is within
37 five hundred feet of three or more existing premises licensed and oper-
38 ating pursuant to the provisions of this section, at which a license
39 under this chapter has been in existence continuously on or prior to
40 November first, nineteen hundred ninety-three.

41 S 4. Paragraph (b) of subdivision 7 of section 64-a of the alcoholic
42 beverage control law is REPEALED.

43 S 5. Paragraph (a) of subdivision 5 of section 64-b of the alcoholic
44 beverage control law, as amended by chapter 406 of the laws of 2007, is
45 amended to read as follows:

46 (a) No bottle club license shall be granted for any premises which
47 shall be on the same street or avenue and within [two] FIVE hundred feet
48 of a building occupied [exclusively] as a school, church, synagogue or
49 other place of worship; the measurements to be taken in a straight line
50 from [the center of the nearest entrance] ANY POINT of such school,
51 church, synagogue or other place of worship to [the center of the near-
52 est entrance] ANY POINT of the premises to be licensed; except that no
53 license shall be denied to any premises at which a license under this
54 chapter has been in existence continuously from a date prior to the date
55 when a building on the same street or avenue and within two hundred feet

1 of said premises has been occupied exclusively as a school, church,
2 synagogue or other place of worship.

3 S 6. Subparagraphs (i) and (iii) of paragraph (a) of subdivision 11 of
4 section 64-c of the alcoholic beverage control law, as added by chapter
5 538 of the laws of 1997, are amended to read as follows:

6 (i) on the same street or avenue and within [two] FIVE hundred feet of
7 a building occupied [exclusively] as a school, church, synagogue or
8 other place of worship; or

9 (iii) the measurements in subparagraphs (i) and (ii) of this paragraph
10 are to be taken in straight lines from the center of the nearest
11 entrance of the premises sought to be licensed to [the center of the
12 nearest entrance] ANY POINT of such school, church, synagogue or other
13 place of worship or to [the center of the nearest entrance] ANY POINT of
14 each such premises licensed and operating pursuant to the provisions of
15 this section; except that no license shall be denied to any premises at
16 which a license under this chapter has been in existence continuously
17 from a date prior to the date when a building on the same street or
18 avenue and within two hundred feet of said premises has been occupied
19 exclusively as a school, church, synagogue or other place of worship and
20 except that no license shall be denied to any premises, which is within
21 five hundred feet of three or more existing premises licensed and oper-
22 ating pursuant to the provisions of this section or section sixty-four
23 or sixty-four-a of this article, at which a license under this chapter
24 has been in existence continuously on or prior to November first, nine-
25 teen hundred ninety-three.

26 S 7. Paragraph (b) of subdivision 11 of section 64-c of the alcoholic
27 beverage control law is REPEALED.

28 S 8. Paragraph (a) of subdivision 8 of section 64-d of the alcoholic
29 beverage control law, as amended by chapter 406 of the laws of 2007, is
30 amended to read as follows:

31 (a) on the same street or avenue and within [two] FIVE hundred feet of
32 a building occupied [exclusively] as a school, church, synagogue or
33 other place of worship or

34 S 9. Paragraphs (a) and (b) of subdivision 3 of section 105 of the
35 alcoholic beverage control law, as amended by chapter 406 of the laws of
36 2007, is amended to read as follows:

37 (a) No retail license to sell liquor and/or wine for off-premises
38 consumption shall be granted for any premises which shall be located on
39 the same street or avenue, and within [two] FIVE 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 center of the nearest entrance] ANY POINT to the building used for
43 such school, church, synagogue or other place of worship to [the center
44 of the nearest entrance] ANY POINT of the premises to be licensed;
45 except, however, that no license shall be denied to any premises at
46 which a license under this chapter has been in existence continuously
47 from a date prior to the date when a building on the same street or
48 avenue and within two hundred feet of said premises has been occupied
49 exclusively as a school, church, synagogue or other place of worship.

50 [(b) Within the context of this subdivision, the word "entrance" shall
51 mean a door of a school, of a house of worship, or of the premises
52 sought to be licensed, regularly used to give ingress to students of the
53 school, to the general public attending the place of worship, and to
54 patrons or guests of the premises proposed to be licensed, except that
55 where a school or house of worship is set back from a public thorough-
56 fare, the walkway or stairs leading to any such door shall be deemed an

1 entrance; and the measurement shall be taken to the center of the walk-
2 way or stairs at the point where it meets the building line or public
3 thoroughfare. A door which has no exterior hardware, or which is used
4 solely as an emergency or fire exit, or for maintenance purposes, or
5 which leads directly to a part of a building not regularly used by the
6 general public or patrons, is not deemed an "entrance".]

7 S 10. This act shall take effect immediately.