

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. SQUADRON -- 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 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-
14 ization which conducts services at the place of worship or other not-
15 for-profit organizations or groups; the use of the building by other
16 religious organizations or groups for religious services or other
17 purposes; the conduct of social activities by or for the benefit of the
18 congregants; the use of the building for meetings held by organizations
19 or groups providing bereavement counseling to persons having suffered
20 the loss of a loved one, or providing advice or support for conditions
21 or diseases including, but not limited to, alcoholism, drug addiction,

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

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1 cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the
2 use of the building for blood drives, health screenings, health informa-
3 tion meetings, yoga classes, exercise classes or other activities
4 intended to promote the health of the congregants or other persons; and
5 use of the building by non-congregant members of the community for
6 private social functions. The building occupied as a place of worship
7 does not cease to be "exclusively" occupied as a place of worship where
8 the not-for-profit religious organization occupying the place of worship
9 accepts the payment of funds to defray costs related to another party's
10 use of the building.

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

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

55 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-
56 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES

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

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

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

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

50 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-
51 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES
52 HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN
53 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION ARE TO
54 BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY LINE
55 OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY
56 LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE

1 CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
2 SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE POINT ON THE PROPERTY
3 BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE
4 PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND OPERATING PURSUANT TO
5 THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY LINE OF EACH SUCH
6 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
7 SECTION; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT WHICH
8 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A
9 DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR AVENUE AND
10 WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED EXCLUSIVELY
11 AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT
12 THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES
13 PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN
14 IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST,
15 TWO THOUSAND ELEVEN; AND EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY
16 PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE EXISTING
17 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
18 SECTION OR SECTION SIXTY-FOUR OR SIXTY-FOUR-A OF THIS ARTICLE, AT WHICH
19 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY ON OR
20 PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED NINETY-THREE.

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

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

52 (B-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS
53 SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE
54 MILLION PEOPLE, NO RETAIL LICENSE TO SELL LIQUOR AND/OR WINE FOR
55 OFF-PREMISES CONSUMPTION SHALL BE GRANTED FOR ANY PREMISES WHICH SHALL
56 BE LOCATED ON THE SAME STREET OR AVENUE, AND WITHIN TWO HUNDRED FEET OF

1 A BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER
2 PLACE OF WORSHIP; THE MEASUREMENTS TO BE TAKEN IN A STRAIGHT LINE FROM
3 THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED
4 THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
5 SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY
6 BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF
7 WORSHIP; EXCEPT, HOWEVER, THAT NO LICENSE SHALL BE DENIED TO ANY PREM-
8 ISES AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTIN-
9 UOUSLY FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET
10 OR AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
11 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
12 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
13 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
14 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
15 TY-FIRST, TWO THOUSAND ELEVEN.

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

44 S 6. This act shall take effect on the one hundred eightieth day after
45 it shall have become a law.