

7130--A

I N S E N A T E

April 30, 2012

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse -- 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 establishing a defense to administrative actions brought by the state liquor authority for providing alcoholic beverages to a person under twenty-one years of age

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

1 Section 1. Paragraph (b) of subdivision 6 of section 65 of the alco-
2 holic beverage control law, as amended by chapter 435 of the laws of
3 2010, is amended and a new paragraph (c) is added to read as follows:
4 (b) it shall be an affirmative defense that at the time of such
5 violation such person who committed such alleged violation held a valid
6 certificate of completion or renewal from an entity authorized to give
7 and administer an alcohol training awareness program pursuant to subdi-
8 vision twelve of section seventeen of this chapter. Such licensee shall
9 have diligently implemented and complied with all of the provisions of
10 the approved training program. In such proceeding to revoke, cancel or
11 suspend a license pursuant to section one hundred eighteen of this chap-
12 ter, the licensee must prove each element of such affirmative defense by
13 a preponderance of the credible evidence. Evidence of three unlawful
14 sales of alcoholic beverages by any employee of a licensee to persons
15 under twenty-one years of age, within a two year period, shall be
16 considered by the authority in determining whether the licensee had
17 diligently implemented such an approved program[.]; AND
18 (C) NO SUCH PROCEEDING SHALL BE BROUGHT AGAINST A LICENSEE WHO CAN
19 ASSERT THAT (I) THE LICENSEE HAS AN OPERATING DEVICE CAPABLE OF DECI-
20 PHERING ANY ELECTRONICALLY READABLE FORMAT, AS DEFINED IN PARAGRAPH (A)
21 OF SUBDIVISION ONE OF SECTION SIXTY-FIVE-B OF THIS ARTICLE, UPON THE
22 LICENSED PREMISES; (II) THE LICENSEE CAN DEMONSTRATE THAT IT REQUIRES
23 ITS AGENTS AND EMPLOYEES TO CONDUCT A TRANSACTION SCAN, AS DEFINED IN
24 PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION SIXTY-FIVE-B OF THIS ARTI-

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

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1 CLE, OF EACH WRITTEN EVIDENCE OF AGE PRESENTED PRIOR TO EVERY SALE OR
2 DELIVERY OF ALCOHOLIC BEVERAGES; (III) THE LICENSEE HOLDS A VALID
3 CERTIFICATE OF COMPLETION OR RENEWAL FROM AN ENTITY AUTHORIZED TO GIVE
4 AND ADMINISTER AN ALCOHOL AWARENESS PROGRAM PURSUANT TO SUBDIVISION
5 TWELVE OF SECTION SEVENTEEN OF THIS CHAPTER; AND (IV) HAS HAD NO
6 VIOLATIONS OF SUBDIVISION ONE OF THIS SECTION UPON THE LICENSED PREMISES
7 WITHIN THE PREVIOUS TWO YEARS. FOR THE PURPOSES OF THIS PARAGRAPH, THE
8 TWO YEAR PERIOD SHALL BE MEASURED FROM THE DATES ANY VIOLATIONS
9 OCCURRED.

10 S 2. This act shall take effect on the first of January next succeed-
11 ing the date on which it shall have become a law.