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2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. DIAZ -- 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 community board involvement in the licensing of establishments serving alcohol for on-premise consumption

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

1 Section 1. Subdivision 2-a of section 64 of the alcoholic beverage
2 control law, as amended by chapter 213 of the laws of 2010, is amended
3 to read as follows:
4 2-a. Notwithstanding any other provision of this chapter, upon receipt
5 of an application for a license under this section, an application for
6 renewal under section one hundred nine of this chapter, or an applica-
7 tion for an alteration to a premises licensed for consumption on the
8 premises under section ninety-nine-d of this chapter, the applicant
9 shall notify the clerk of the village, town or city, as the case may be,
10 by certified mail return receipt requested, overnight delivery service
11 with proof of mailing, or personal service, wherein the prospective
12 licensed premises is to be located or, in the case of an application for
13 renewal, or alteration where it is presently located not less than
14 [thirty] SIXTY days prior to the submission of its application for a
15 license under this section or for a renewal thereof pursuant to section
16 one hundred nine of this chapter. For the purposes of the preceding
17 sentence notification need only be given to the clerk of a village when
18 such premises is to be located within the boundaries of the village.
19 SUCH MUNICIPALITY MAY EXPRESS AN OPINION FOR OR AGAINST THE GRANTING OF
20 SUCH LICENSE. ANY SUCH OPINION SHALL BE DEEMED PART OF THE RECORD UPON
21 WHICH THE LIQUOR BOARD MAKES ITS DETERMINATION TO GRANT OR DENY SUCH
22 LICENSE.

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

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1 2-B. In the city of New York, the community board established pursuant
2 to section twenty-eight hundred of the New York city charter with juris-
3 diction over the area in which such licensed premises is to be located
4 shall be considered the appropriate public body to which notification
5 REQUIRED IN SUBDIVISION TWO-A OF THIS SECTION shall be given. THE
6 LIQUOR AUTHORITY SHALL PROVIDE A LIAISON TO THE LOCAL COMMUNITY BOARDS
7 AND PROVIDE SUCH LOCAL COMMUNITY BOARDS WITH WRITTEN NOTICE OF ALL NEW
8 AND RENEWAL APPLICATIONS FOR LICENSES WITHIN THE COMMUNITY BOARD'S
9 DISTRICT. NOTICE TO THE COMMUNITY BOARD SHALL MEAN WRITTEN NOTICE MAILED
10 BY THE AUTHORITY TO SUCH COMMUNITY BOARD AT LEAST THIRTY DAYS IN ADVANCE
11 OF ANY HEARING SCHEDULED PURSUANT TO THIS SUBDIVISION. THE LOCAL COMMU-
12 NITY BOARD SHALL HAVE A MEANINGFUL OPPORTUNITY TO BE HEARD BEFORE ANY
13 LIQUOR AUTHORITY HEARING IS CALENDARED OR LICENSE ISSUED. MEANINGFUL
14 OPPORTUNITY SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RIGHT OF COMMUNITY
15 BOARD REPRESENTATIVES TO ATTEND AND TO TESTIFY AT A LIQUOR AUTHORITY
16 HEARING REGARDING A NEW OR EXISTING LICENSE WITHIN THAT COMMUNITY
17 BOARD'S DISTRICT. Such [municipality or] community board[, as the case
18 may be,] may express [an] A WRITTEN opinion for or against the granting
19 of such license WITHIN SIXTY DAYS OF RECEIPT OF SUCH HEARING NOTIFICA-
20 TION. THE COMMUNITY BOARD MAY WAIVE THE THIRTY DAY NOTICE REQUIREMENT.
21 Any such STIPULATIONS AGREED UPON BY THE APPLICANT AND THE LOCAL COMMU-
22 NITY BOARD AND ANY SUCH COMMUNITY BOARD'S opinion shall be deemed part
23 of the record upon which the liquor board makes its determination to
24 grant or deny such license. SUCH STIPULATIONS SHALL BE ENFORCED BY THE
25 LIQUOR AUTHORITY. A LIQUOR AUTHORITY DECISION WHICH IS CONTRARY TO A
26 COMMUNITY BOARD'S OPINION SHALL SET FORTH IN WRITING THE REASONS FOR
27 SUCH DECISION AND A COPY SHALL BE FORWARDED TO SUCH COMMUNITY BOARD.

28 S 2. Paragraph (f) of subdivision 7 of section 64 of the alcoholic
29 beverage control law, as amended by chapter 463 of the laws of 2009, is
30 amended to read as follows:

31 (f) Notwithstanding the provisions of paragraph (b) of this subdivi-
32 sion, the authority may issue a license pursuant to this section for a
33 premises which shall be within five hundred feet of three or more exist-
34 ing premises licensed and operating pursuant to this section and
35 sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d
36 of this article if, after consultation with the municipality or communi-
37 ty board, it determines that granting such license would be in the
38 public interest. Before it may issue any such license, the authority
39 shall conduct a hearing, upon notice to the applicant and the municip-
40 ality or community board[, and shall state and file in its office its
41 reasons therefor]. Notice to the municipality or community board shall
42 mean written notice mailed by the authority to such municipality or
43 community board at least [fifteen] THIRTY days in advance of any hearing
44 scheduled pursuant to this paragraph. Upon the request of the authority,
45 any municipality or community board may waive the [fifteen] THIRTY day
46 notice requirement. SUCH MUNICIPALITY OR COMMUNITY BOARD SHALL HAVE A
47 MEANINGFUL OPPORTUNITY TO BE HEARD. MEANINGFUL OPPORTUNITY SHALL INCLUDE
48 THE RIGHT OF COMMUNITY BOARD REPRESENTATIVES TO ATTEND AND TESTIFY AT
49 ANY PRE-LICENSING HEARING AND THE RIGHT TO FILE WITH THE LIQUOR AUTHORI-
50 TY A WRITTEN OPINION FOR OR AGAINST THE GRANTING OF SUCH LICENSE WITHIN
51 SIXTY DAYS OF RECEIPT OF NOTICE OF A HEARING. SUCH OPINION SHALL BE
52 DEEMED PART OF THE LIQUOR AUTHORITY'S RECORD UPON WHICH THE LIQUOR
53 AUTHORITY MAKES ITS DETERMINATION. THE LIQUOR AUTHORITY SHALL STATE AND
54 FILE ITS REASONS FOR ITS DETERMINATION IN ITS OFFICE AND FORWARD A COPY
55 OF SUCH DETERMINATION TO THE MUNICIPALITY OR COMMUNITY BOARD. No prem-
56 ises having been granted a license pursuant to this section shall be

1 denied a renewal of such license upon the grounds that such premises are
2 within five hundred feet of a building or buildings wherein three or
3 more premises are licensed and operating pursuant to this section and
4 sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d
5 of this article.
6 S 3. This act shall take effect on the one hundred twentieth day after
7 it shall have become a law; provided, however, that effective immediate-
8 ly, the addition, amendment and/or repeal of any rule or regulation
9 necessary for the implementation of this act on its effective date are
10 authorized and directed to be made and completed on or before such
11 effective date.