

S. 3448

A. 5495

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

February 22, 2011

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

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to providing villages the local option to prohibit the sale of alcoholic beverages

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

1     Section 1. The alcoholic beverage control law is amended by adding a  
2     new section 141-a to read as follows:  
3     S 141-A. LOCAL OPTION FOR VILLAGES. 1. NOT LESS THAN SIXTY DAYS NOR  
4     MORE THAN SEVENTY-FIVE DAYS BEFORE THE GENERAL ELECTION IN ANY VILLAGE  
5     AT WHICH THE SUBMISSION OF THE QUESTIONS HEREINAFTER STATED IS AUTHOR-  
6     IZED BY THIS ARTICLE, A PETITION SIGNED BY ELECTORS OF THE VILLAGE TO A  
7     NUMBER AMOUNTING TO TWENTY-FIVE PER CENTUM OF THE VOTES CAST IN THE  
8     VILLAGE FOR GOVERNOR AT THE THEN LAST PRECEDING GUBERNATORIAL ELECTION,  
9     REQUESTING THE SUBMISSION AT SUCH ELECTION TO THE ELECTORS OF THE  
10    VILLAGE OF THE QUESTIONS CONTAINED IN EITHER GROUP A OR GROUP B OF  
11    SECTION ONE HUNDRED FORTY-ONE OF THIS ARTICLE, SUBSTITUTING HOWEVER THE  
12    WORD "VILLAGE" FOR "TOWN," MAY BE FILED WITH THE VILLAGE CLERK. IF  
13    PETITIONS PRAYING FOR THE SUBMISSION OF THE QUESTIONS CONTAINED IN BOTH  
14    GROUP A AND GROUP B ARE FILED, ONLY THE QUESTIONS OF THE GROUP MENTIONED  
15    IN THE PETITION FIRST FILED SHALL BE SUBMITTED.  
16    (A) OPPOSITE AND ON THE RIGHT OF THE NAME OF EACH ELECTOR SIGNING SUCH  
17    PETITION SHALL BE WRITTEN HIS OR HER RESIDENCE ADDRESS BY HOUSE NUMBER  
18    AND STREET NAME, IF ANY, AND OTHERWISE BY AN APPROPRIATE DESIGNATION,  
19    AND THE DATE OF HIS OR HER SIGNING. EACH SIGNATURE SHALL BE MADE  
20    PERSONALLY BY THE ONE WHOSE NAME IS SIGNED AND NOT BY ANOTHER. NO SIGNA-

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

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1 TURE SHALL BE VALID OR COUNTED AS TO WHICH ANY OF SUCH REQUIREMENTS IS  
2 NOT COMPLIED WITH, NOR AS TO WHICH THE DATE OF SIGNING IS MORE THAN FOUR  
3 MONTHS PRIOR TO THE DAY OF THE ELECTION. NO SIGNATURE SHALL BE WITHDRAWN  
4 AFTER THE PETITION IS FILED.

5 (B) AT THE BOTTOM OF EACH SHEET OF THE PETITION SHALL BE A STATEMENT,  
6 SIGNED BY A DULY QUALIFIED ELECTOR OF THE VILLAGE, WITH HIS OR HER RESI-  
7 DENCE ADDRESS, STATING THAT EVERY SIGNATURE ON THAT SHEET OF THE PETI-  
8 TION IS GENUINE AND THAT TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF  
9 EVERY PERSON SO SIGNING WAS AT THE TIME THEREOF A QUALIFIED ELECTOR OF  
10 SUCH VILLAGE, THAT THEIR RESPECTIVE RESIDENCES ARE CORRECTLY STATED  
11 THEREIN AND THAT EACH SIGNER SIGNED THE SAME ON THE DATE SET OPPOSITE  
12 HIS OR HER NAME. SUCH STATEMENT SHALL BE SWORN TO BEFORE AN OFFICER  
13 AUTHORIZED TO ADMINISTER OATHS WITHIN SUCH VILLAGE.

14 (C) THE SAME PETITION MAY BE EITHER IN ONE DOCUMENT OR PREPARED AND  
15 SIGNED IN TWO OR MORE DOCUMENTS. SUCH DOCUMENTS SHALL CONSTITUTE ONE  
16 PETITION AND BE FILED AS A WHOLE.

17 (D) THE PETITION SHALL ALSO APPOINT A COMMITTEE UPON WHOM OR ANY OF  
18 ITS MEMBERS A SUMMONS, ORDER OR NOTICE MAY BE SERVED IN ANY PROCEEDING  
19 RESPECTING THE VALIDITY OF THE PETITION OR OF AN ELECTION HELD PURSUANT  
20 THERETO, AND SHALL ALSO DESIGNATE THE CHAIRMAN OF SUCH COMMITTEE. THE  
21 RESIDENCE ADDRESS OF EACH MEMBER OF THE COMMITTEE SHALL BE STATED. SUCH  
22 COMMITTEE MAY FILL A VACANCY IN ITS CHAIRMANSHIP OR IN ITS MEMBERSHIP,  
23 AND NOTICE OF ANY SUCH CHANGE SHALL PROMPTLY BE FILED WITH THE OFFICER  
24 WITH WHOM THE PETITION IS REQUIRED TO BE FILED; PROVIDED, HOWEVER, THAT  
25 FAILURE TO FILE SUCH NOTICE SHALL NOT INVALIDATE ANY PROCEEDING UNDER  
26 THIS CHAPTER.

27 (E) UPON THE DUE FILING OF SUCH A PETITION, COMPLYING WITH THE FOREGO-  
28 ING PROVISIONS, SUCH QUESTIONS SHALL BE SUBMITTED IN ACCORDANCE THERE-  
29 WITH. IF THE PETITION BE FILED WITH THE VILLAGE CLERK, HE OR SHE SHALL  
30 WITHIN FIVE DAYS FROM THE FILING THEREOF, PREPARE AND FILE IN THE OFFICE  
31 OF THE BOARD OF ELECTIONS OF THE COUNTY, AS DEFINED BY THE ELECTION LAW,  
32 A CERTIFIED COPY THEREOF.

33 2. THE METHOD AND MANNER OF SUBMISSION, PREPARATION AND PROVISION OF  
34 BALLOT LABELS, BALLOTING BY VOTING MACHINE AND CONDUCTING THE ELECTION,  
35 CANVASSING THE RESULT AND MAKING AND FILING THE RETURNS AND ALL OTHER  
36 PROCEDURES WITH REFERENCE TO THE SUBMISSION OF AND ACTION UPON ANY SUCH  
37 QUESTION SHALL BE THE SAME AS IN THE CASE OF ANY OTHER PROPOSITION TO BE  
38 SUBMITTED TO THE ELECTORS OF A VILLAGE AT A GENERAL ELECTION AS PROVIDED  
39 BY LAW.

40 3. IF A MAJORITY OF THE VOTES CAST SHALL BE IN THE NEGATIVE ON ANY OR  
41 ALL OF THE QUESTIONS, NO PERSON SHALL, AFTER SUCH ELECTION, SELL ALCO-  
42 HOLIC BEVERAGES IN SUCH VILLAGE CONTRARY TO SUCH VOTE OR TO THE  
43 PROVISIONS OF THIS CHAPTER; PROVIDED, HOWEVER, THAT THE RESULT OF SUCH  
44 VOTE SHALL NOT SHORTEN THE TERM FOR WHICH ANY LICENSE MAY HAVE BEEN  
45 LAWFULLY ISSUED UNDER THIS CHAPTER OR AFFECT THE RIGHTS OF THE LICENSEE  
46 THEREUNDER; AND NO PERSON SHALL AFTER SUCH VOTE APPLY FOR OR RECEIVE A  
47 LICENSE TO SELL ALCOHOLIC BEVERAGES AT RETAIL IN SUCH VILLAGE CONTRARY  
48 TO SUCH VOTE, UNTIL, BY REFERENDUM AS HEREINAFTER PROVIDED FOR, SUCH  
49 SALE SHALL AGAIN BECOME LAWFUL.

50 4. IF AT SUCH ELECTION THE VOTES CAST ON QUESTION NUMBER ONE OF EITHER  
51 GROUP BE EQUAL OR A MAJORITY THEREOF BE IN THE AFFIRMATIVE AND A MAJORI-  
52 TY OF THE VOTES CAST ON QUESTION NUMBER TWO OF EITHER GROUP BE IN THE  
53 NEGATIVE, ALCOHOLIC BEVERAGES OR BEER ONLY, AS THE CASE MAY BE, MAY  
54 NEVERTHELESS BE SOLD IN SUCH VILLAGE AT RETAIL NOT TO BE CONSUMED ON THE  
55 PREMISES BY THE HOLDER OF A LICENSE TO SELL SUCH BEVERAGES IN SUCH  
56 VILLAGE AT RETAIL TO BE CONSUMED UPON THE PREMISES.

1 S 2. Section 140 of the alcoholic beverage control law, as amended by  
2 chapter 810 of the laws of 1981, is amended to read as follows:

3 S 140. Applicability of chapter before local option. Until such time  
4 as it shall become unlawful to sell alcoholic beverages in any town,  
5 VILLAGE or city by the vote of the voters in such town, VILLAGE or city  
6 in the manner provided in this article, all of the provisions of this  
7 chapter shall apply throughout the entire state. This article shall not  
8 apply to the Whiteface mountain ski center, owned by the state and  
9 located in the town of Wilmington, county of Essex.

10 S 3. Section 143 of the alcoholic beverage control law is amended to  
11 read as follows:

12 S 143. Filing certificate of result with liquor authority. Whenever  
13 at an election a vote shall be taken on the local option questions  
14 pursuant to [sections] SECTION one hundred forty-one, ONE HUNDRED  
15 FORTY-ONE-A or one hundred forty-two OF THIS ARTICLE in any town,  
16 VILLAGE or city, the officer or board charged by law with the duty of  
17 filing a statement of the result and certificate of determination of  
18 such election shall file a duplicate thereof with the liquor authority.

19 S 4. Subdivision 1 of section 147 of the alcoholic beverage control  
20 law, as amended by chapter 319 of the laws of 2007, is amended to read  
21 as follows:

22 1. In any town, VILLAGE or city in which a vote shall be taken on any  
23 one or more of the local option questions provided for in this article,  
24 no further vote shall be submitted upon any local option question that  
25 was presented to the voters before the second general election thereaft-  
26 er.

27 S 5. This act shall take effect on the thirtieth day after it shall  
28 have become a law.