S T A T E O F N E W Y O R K

575

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KLEIN, HASSELL-THOMPSON, KRUEGER -- 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 procedures associated with issuing retail, special retail, bottle club, restaurant-brewer and cabaret licenses to sell liquor for on-premises consumption regarding premises located within five hundred feet of three or more existing premises in cities, towns and villages having a population of twenty thousand or more

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

Section 1. Paragraph (f) of subdivision 7 of section 64 of the alcoholic beverage control law, as amended by chapter 463 of the laws of 2009, is amended to read as follows:

(f) Notwithstanding the provisions of paragraph (b) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. THE HEARING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING

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

LBD03488-02-1

REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article.

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

(d) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. THE HEARING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED PUBLIC MEETING. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article.

S 3. Paragraph (c) of subdivision 5 of section 64-b of the alcoholic beverage control law, as amended by chapter 463 of the laws of 2009, is amended to read as follows:

(c) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this

section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. THE HEARING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article.

S 4. Paragraph (c) of subdivision 11 of section 64-c of the alcoholic beverage control law, as amended by chapter 463 of the laws of 2009, is amended to read as follows:

(c) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. THE HEARING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursu-

ant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are operating and licensed pursuant to this section or sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article.

S 5. Paragraph (e) of subdivision 8 of section 64-d of the alcoholic beverage control law, as amended by chapter 463 of the laws of 2009, is amended to read as follows:

(e) notwithstanding the provisions of paragraph (b) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. THE HEARING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article.

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to all applications for a retail license, special retail license, bottle club license, restaurant-brewer license or cabaret license, for on-premises consumption of alcoholic beverages for premises within five hundred feet of existing licensed premises that are pending before or filed with the state liquor authority on or after such effective date. Effective immediately any rules or regulations necessary or convenient to implement the provisions of this act are authorized to be promulgated on or before such effective date.