

# STATE OF NEW YORK

8699

## IN ASSEMBLY

January 10, 2022

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

AN ACT to amend the alcoholic beverage control law, in relation to the issuance of temporary retail permits

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs (c) and (d) of subdivision 1 of section 110-b of  
2 the alcoholic beverage control law, as added by chapter 560 of the laws  
3 of 2011, are amended and a new paragraph (e) is added to read as  
4 follows:

5 (c) for approval of an alteration under section ninety-nine-d of this  
6 chapter if the premises is located within the city of New York and  
7 licensed pursuant to section fifty-five, fifty-five-a, sixty-four,  
8 sixty-four-a, sixty-four-c, sixty-four-d, eighty-one or eighty-one-a of  
9 this chapter; ~~[e]~~

10 (d) for approval of a substantial corporate change under section nine-  
11 ty-nine-d of this chapter if the premises is located within the city of  
12 New York and licensed pursuant to section fifty-five, fifty-five-a,  
13 sixty-four, sixty-four-a, sixty-four-c, sixty-four-d, eighty-one or  
14 eighty-one-a of this chapter~~[-]~~; or

15 (e) for a temporary retail permit issued under paragraph (b) of subdivi-  
16 vision one of section ninety-seven-a of this chapter where the estab-  
17 lishment is to be licensed pursuant to section fifty-five, fifty-five-a,  
18 sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, sixty-four-d,  
19 eighty-one or eighty-one-a of this chapter located in a city with a  
20 population of one million or more people. If an applicant subject to  
21 this paragraph shall, after filing an application for a retail license  
22 and providing proper notice for such application pursuant to paragraph  
23 (a) of this subdivision, subsequently file an application for a tempo-  
24 rary retail permit pursuant to section ninety-seven-a of this chapter at  
25 the same premises, such applicant must file additional notice pursuant  
26 to this paragraph; provided, however, such notice will be effective at  
27 the later of its proper service under this section or thirty days from

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

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1 the date proper notice was served under paragraph (a) of this subdivi-  
2 sion for the license at the same premises.

3 § 2. Subdivision 3 of section 97-a of the alcoholic beverage control  
4 law, as added by chapter 396 of the laws of 2010, is amended to read as  
5 follows:

6 3. A temporary retail permit under paragraph (b) of subdivision one of  
7 this section may not be issued for any premises that is subject to the  
8 provisions of section sixty-three[7] or seventy-nine of this chapter; a  
9 temporary retail permit under paragraph (b) of subdivision one of this  
10 section shall not be issued for a premises subject to the provisions of  
11 paragraph (b) of subdivision seven of section sixty-four, subparagraph  
12 (ii) of paragraph (a) of subdivision seven of section sixty-four-a,  
13 subparagraph (ii) of paragraph (a) of subdivision eleven of section  
14 sixty-four-c, or paragraph (b) of subdivision eight of section sixty-  
15 four-d, [~~or section seventy-nine of this chapter~~] unless and until a  
16 recommendation that there be a finding of public interest has been made  
17 by an administrative law judge pursuant to paragraph (f) of subdivision  
18 seven of section sixty-four, paragraph (d) of subdivision seven of  
19 section sixty-four-a, paragraph (c) of subdivision five of section  
20 sixty-four-b, paragraph (c) of subdivision eleven of section  
21 sixty-four-c, or paragraph (e) of subdivision eight of section sixty-  
22 four-d of this chapter. Provided however, any premises granted a tempo-  
23 rary retail permit pursuant to this subdivision in a city with a popu-  
24 lation of one million or more people shall only be allowed to operate on  
25 the premises under the following conditions: an active retail license  
26 shall have existed at the location within the past two years, and such  
27 license shall not have been canceled, suspended, or revoked by the  
28 authority within the past two years; the closing time any day of the  
29 week shall be no later than midnight; provided however that the closing  
30 time of any outdoor space shall be no later than ten o'clock post-meri-  
31 dian Sunday through Thursday and eleven o'clock post-meridian Friday and  
32 Saturday; no outdoor music; indoors shall have recorded background music  
33 only, with no live music, DJ's, karaoke, or similar forms of music; and  
34 no dancing. The authority shall automatically lift such restrictions if  
35 the authority issues a retail license for the premises, and replace such  
36 restrictions with other restrictions, if any, imposed by the authority  
37 in accordance with the public interest standard.

38 § 3. Section 97-a of the alcoholic beverage control law is amended by  
39 adding a new subdivision 3-a to read as follows:

40 3-a. A notice for a public hearing pursuant to paragraph (f) of subdivi-  
41 vision seven of section sixty-four, paragraph (d) of subdivision seven  
42 of section sixty-four-a, paragraph (c) of subdivision five of section  
43 sixty-four-b, paragraph (c) of subdivision eleven of section  
44 sixty-four-c, or paragraph (e) of subdivision eight of section sixty-  
45 four-d of this chapter shall also include notification that a temporary  
46 retail permit may be issued to the premises by the authority after a  
47 recommendation that there be a finding of public interest has been made  
48 in proceedings conducted pursuant to subdivision three of this section.

49 § 4. This act shall take effect on the same date and in the same  
50 manner as a chapter of the laws of 2021 amending the alcoholic beverage  
51 control law relating to authorizing the issuance of a temporary retail  
52 permit by the state liquor authority to licensees located in a munici-  
53 pality having a population of one million or more persons, as proposed  
54 in legislative bills numbers S. 2743 and A. 3909, takes effect.