

STATE OF NEW YORK

2961

2023-2024 Regular Sessions

IN ASSEMBLY

February 1, 2023

Introduced by M. of A. WOERNER, BUTTENSCHON, TAPIA, DICKENS, SAYEGH, SMULLEN, McDONOUGH, BRABENEC, STECK, SILLITTI, RAMOS -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to establishing a license to sell liquor at retail for consumption on premises in a cigar lounge; and to amend the labor law, in relation to requiring cigar lounges to provide written notification warning employees of the dangers of exposure to tobacco smoke

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

Section 1. Section 3 of the alcoholic beverage control law is amended by adding a new subdivision 7-e to read as follows:

7-e. "Cigar lounge" means any bona fide retail store that: (a) caters to patrons who purchase and smoke cigars; (b) generates sixty percent or more of its quarterly adjusted gross revenue from the sale of cigar-related products, which is limited to cigars, humidors, cigar cutters, cigar cases, lighters and ashtrays. Revenue from state lottery, mail order, and internet sales, as well as revenue generated from other tobacco sales in store, including cigarettes and loose tobacco sales, shall not be used to determine whether an establishment satisfies the definition of a cigar lounge; (c) has a humidor on the premises; (d) is open to the public on a regular basis; (e) has capacity for a minimum of fifteen patrons; (f) does not allow any person under the age of twenty-one on the premises unless accompanied by a parent, legal guardian, or adult spouse; (g) does not allow service of food and the smoking of cigarettes, e-cigarettes, hookah or shisha; and (h) holds a current New York retail dealer certificate of registration for cigarettes and tobacco products and such business was issued their first certificate prior to June first, two thousand eighteen at any address. A cigar lounge shall be a permanent structure where stock is displayed and offered for

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

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1 sale and that has facilities to properly secure any stock of alcoholic
2 beverages.

3 § 2. The alcoholic beverage control law is amended by adding a new
4 section 64-f to read as follows:

5 § 64-f. License to sell liquor at retail for consumption on premises
6 in a cigar lounge. 1. A cigar lounge means a business which meets the
7 requirements of a cigar lounge as defined in section three of this chap-
8 ter.

9 2. Any person currently licensed in New York with a retail dealer
10 certificate of registration for cigarettes and tobacco products who was
11 first issued such certificate prior to June first, two thousand eighteen
12 may make an application to the authority for a license to sell liquor at
13 retail to be consumed on the premises where sold and such license shall
14 be issued to all applicants except for good cause shown.

15 3. Such application shall be in such form and shall contain such
16 information as shall be required by the rules of the liquor authority
17 and shall be accompanied by a check or draft in the amount required by
18 this article for such license.

19 4. Such license shall, in form and in substance, be a license to the
20 person specifically licensed to sell liquor at retail to be consumed
21 upon the premises. Such license shall also be deemed to include a
22 license to sell wine and beer at retail to be consumed under the same
23 terms and conditions without the payment of any additional fee.

24 5. Food cannot be prepared or served by a licensee.

25 6. Such license shall require that a cigar lounge stock liquor, wine,
26 beer, cider, and wine products produced in New York state as at least
27 five percent of its liquor, beer and wine selections.

28 7. All applicants for employment at a cigar lounge shall be presented
29 with a written notice that states that working in a cigar lounge has
30 serious and permanent negative health effects, including, but not limit-
31 ed to, an increased risk of cancer and heart disease, and that no level
32 of exposure to second-hand smoke is safe.

33 8. Section fifty-four of this chapter shall control the procedure, so
34 far as applicable, in connection with such application.

35 9.(a) No cigar lounge license shall be granted for any premises which
36 shall be:

37 (i) on the same street or avenue and within two hundred feet of a
38 building occupied exclusively as a school, church, synagogue or other
39 place of worship; or

40 (ii) in a city, town or village having a population of twenty thousand
41 or more within five hundred feet of three or more existing premises
42 licensed and operating pursuant to provisions of this section and
43 sections sixty-four, sixty-four-b, sixty-four-c, sixty-four-d, and/or
44 sixty-four-e of this article.

45 (b) The measurements in subparagraphs (i) and (ii) of paragraph (a) of
46 this subdivision are to be taken in straight lines from the center of
47 the nearest entrance of the premises sought to be licensed to the center
48 of the nearest entrance of such school, church, synagogue or other place
49 of worship or to the center of the nearest entrance of each such prem-
50 ises licensed and operating pursuant to this section and sections
51 sixty-four, sixty-four-b, sixty-four-c, sixty-four-d and/or sixty-four-e
52 of this article; except that no license shall be denied to any premises
53 at which a license under this chapter has been in existence continuously
54 from a date prior to the date when a building on the same street or
55 avenue and within two hundred feet of said premises has been occupied
56 exclusively as a school, church, synagogue or other place of worship;

1 and except that no license shall be denied to any premises, which is
2 within five hundred feet of three or more existing premises licensed and
3 operating pursuant to this section and sections sixty-four,
4 sixty-four-b, sixty-four-c, and/or sixty-four-d of this article, at
5 which a license under this chapter has been in existence continuously on
6 or prior to November first, nineteen hundred ninety-three. The liquor
7 authority, in its discretion, may authorize the removal of any such
8 licensed premises to a different location on the same street or avenue,
9 within two hundred feet of said school, church, synagogue or other place
10 of worship, provided that such new location is not within a closer
11 distance to such school, church, synagogue or other place of worship.

12 (c) Within the context of this subdivision, the word "entrance" shall
13 mean a door of a school, of a house of worship, or of premises licensed
14 and operating pursuant to this section and sections sixty-four, sixty-
15 four-b, sixty-four-c, and/or sixty-four-d of this article or of the
16 premises sought to be licensed, regularly used to give ingress to
17 students of the school, to the general public attending the place of
18 worship, and to patrons or guests of the premises licensed and operating
19 pursuant to this section and sections sixty-four, sixty-four-b, sixty-
20 four-c, and/or sixty-four-d of this article or of the premises sought to
21 be licensed, except that where a school or house of worship or premises
22 licensed and operating pursuant to this section and sections sixty-four,
23 sixty-four-b, sixty-four-c, sixty-four-d, and/or sixty-four-e of this
24 article or the premises sought to be licensed is set back from a public
25 thoroughfare, the walkway or stairs leading to any such door shall be
26 deemed an entrance; and the measurement shall be taken to the center of
27 the walkway or stairs at the point where it meets the building line or
28 public thoroughfare. A door which has no exterior hardware, or which is
29 used solely as an emergency or fire exit, or for maintenance purposes,
30 or which leads directly to a part of a building not regularly used by
31 the general public or patrons, is not deemed an "entrance".

32 § 3. Section 66 of the alcoholic beverage control law is amended by
33 adding a new subdivision 11 to read as follows:

34 11. The annual fee for a license to sell liquor at retail for consump-
35 tion on premises in a cigar lounge shall be one thousand seven hundred
36 ninety-two dollars per year.

37 § 4. The labor law is amended by adding a new section 202-n to read as
38 follows:

39 § 202-n. Cigar lounge employees; tobacco smoke exposure notification.
40 A cigar lounge, as defined in section three of the alcoholic beverage
41 control law, shall provide written notice to all employees and appli-
42 cants for employment that working in a cigar lounge may cause serious
43 negative health effects, including an increased risk of cancer and heart
44 disease and that no level of exposure to environmental tobacco smoke is
45 safe.

46 § 5. This act shall take effect immediately.