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

10856

I N A S S E M B L Y

April 26, 2010

Introduced by M. of A. SCHIMMINGER, CAHILL, PAULIN, KOON, DelMONTE, GALEF, PHEFFER -- Multi-Sponsored by -- M. of A. BING, GABRYSZAK, GUNTHER, REILLY -- (at request of the State Liquor Authority) -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the alcoholic beverage control law, in relation to expanding the types of notification that would satisfy various notification provisions

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

Section 1. Subdivision 2-a of section 55 of the alcoholic beverage control law, as added by chapter 582 of the laws of 1999, is amended to read as follows:

2-a. Notwithstanding any other provision of this chapter, upon receipt in the city of New York of an application for a license under this section, an application for renewal under section one hundred nine of this chapter, or an application for an alteration to a premises licensed for consumption on the premises under section ninety-nine-d of this chapter, the applicant shall notify the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which such licensed premises is to be located by certified mail[,] return receipt requested, OVERNIGHT DELIVERY SERVICE WITH PROOF OF MAILING, OR PERSONAL SERVICE, wherein the prospective licensed premises is to be located or, in the case of an application for renewal, or alteration where it is presently located not less than thirty days prior to the submission of its application for a license under this section or for a renewal thereof pursuant to section one hundred nine of this chapter. Such community board may express an opinion for or against the granting of such license. Any such opinion shall be deemed part of the record upon which the liquor board makes its determination to grant or deny such license.

S 2. Subdivision 2-a of section 64 of the alcoholic beverage control law, as amended by chapter 83 of the laws of 1995, is amended to read as follows:

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

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2-a. Notwithstanding any other provision of this chapter, upon receipt of an application for a license under this section, an application for renewal under section one hundred nine of this chapter, or an application for an alteration to a premises licensed for consumption on the premises under section ninety-nine-d of this chapter, the applicant shall notify the clerk of the village, town or city, as the case may be, by certified mail[,] return receipt requested, OVERNIGHT DELIVERY SERVICE WITH PROOF OF MAILING, OR PERSONAL SERVICE, wherein the prospective licensed premises is to be located or, in the case of an application for renewal, or alteration where it is presently located not less than thirty days prior to the submission of its application for a license under this section or for a renewal thereof pursuant to section one hundred nine of this chapter. For the purposes of the preceding sentence notification need only be given to the clerk of a village when such premises is to be located within the boundaries of the village. In the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which such licensed premises is to be located shall be considered the appropriate public body to which notification shall be given. Such municipality or community board, as the case may be, may express an opinion for or against the granting of such license. Any such opinion shall be deemed part of the record upon which the liquor board makes its determination to grant or deny such license.

S 3. Subdivision 3 of section 64-c of the alcoholic beverage control law, as added by chapter 538 of the laws of 1997, is amended to read as follows:

3. Upon receipt of an original or a renewal application for a license under this section, the applicant shall notify the clerk of the village, town or city, as the case may be, by certified mail[,] return receipt requested, OVERNIGHT DELIVERY SERVICE WITH PROOF OF MAILING, OR PERSONAL SERVICE, wherein the prospective licensed premises is to be located or, in the case of an application for renewal, where it is presently located not less than thirty days prior to the submission of its application for a license under this section or for a renewal thereof. For the purposes of the preceding sentence notification need only be given to the clerk of a village when such premises is to be located within the boundaries of the village. In the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which such licensed premises is to be located shall be considered the appropriate public body to which notification shall be given. Such municipality or community board, as the case may be, may express an opinion for or against the granting of such license. Any such opinion shall be deemed part of the record upon which the liquor authority makes its determination to grant or deny such license.

S 4. Subdivision 3 of section 64-d of the alcoholic beverage control law, as added by chapter 602 of the laws of 1999, is amended to read as follows:

3. Upon receipt of an original or a renewal application for a license under this section, the applicant shall notify the clerk of the village, town or city, as the case may be, by certified mail[,] return receipt requested, OVERNIGHT DELIVERY SERVICE WITH PROOF OF MAILING, OR PERSONAL SERVICE, wherein the prospective licensed premises is to be located or, in the case of an application for renewal, where it is presently located, not less than thirty days prior to the submission of its application for a license under this section or for a renewal thereof. For

the purposes of the preceding sentence notification need only be given to the clerk of a village when such premises is to be located within the boundaries of the village. In the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which such licensed premises is to be located shall be considered the appropriate public body to which notification shall be given. Such municipality or community board, as the case may be, may express an opinion for or against the granting of such license. Any such opinion shall be deemed part of the record upon which the liquor authority makes its determination to grant or deny such license.

S 5. Subdivision 1-a of section 81 of the alcoholic beverage control law, as added by chapter 582 of the laws of 1999, is amended to read as follows:

1-a. Notwithstanding any other provision of this chapter, upon receipt in the city of New York of an application for a license under this section, an application for renewal under section one hundred nine of this chapter, or an application for an alteration to a premises licensed for consumption on the premises under section ninety-nine-d of this chapter, the applicant shall notify the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which such licensed premises is to be located by certified mail[,] return receipt requested, OVERNIGHT DELIVERY SERVICE WITH PROOF OF MAILING, OR PERSONAL SERVICE, wherein the prospective licensed premises is to be located or, in the case of an application for renewal, or alteration where it is presently located not less than thirty days prior to the submission of its application for a license under this section or for a renewal thereof pursuant to section one hundred nine of this chapter. Such community board may express an opinion for or against the granting of such license. Any such opinion shall be deemed part of the record upon which the liquor board makes its determination to grant or deny such license.

S 6. Subdivision 1 of section 99-d of the alcoholic beverage control law, as amended by chapter 522 of the laws of 2003, is amended to read as follows:

1. Before any substantial alteration to a licensed premises may be undertaken by or on the behalf of any licensee except a micro-winery or a farm winery, the licensee shall make an application to the liquor authority for permission to effect such alteration. A substantial alteration shall include any enlargement or contraction of a licensed premises whether indoors or outdoors; any physical change that reduces the visibility that existed at the time of licensing; any other physical changes in the interior of a licensed premises that materially affect the character of the premises; and, in the case of establishments licensed for consumption on the premises, any material changes to the dining or kitchen facilities, or any change in the size or location of any bar within the contemplation of subdivision four of section one hundred of this chapter at which alcoholic beverages are dispensed. A minor alteration shall be deemed to be one costing and valued at less than ten thousand dollars, which does not materially affect the character of the premises or the physical structure that existed at the time of licensing. Before commencing work on the alteration, any licensee other than a micro-winery or a farm winery licensee, shall request permission to effect such minor alteration and shall submit an affidavit to the liquor authority by filing the same in person or by certified mail return receipt requested OR OVERNIGHT DELIVERY SERVICE WITH PROOF

OF MAILING on forms prescribed by the authority. A winery, micro-winery, or farm winery licensee is not required to obtain permission from the authority to make a minor alteration to its premises. The affidavit shall include but not be limited to a description of the proposed alteration, the cost and value of the alteration, and the source of money making the alteration possible. Upon receipt of such affidavit, the authority shall have twenty days in which to review the proposed alteration and notify the licensee of any objection to the same by certified mail return receipt requested. If no such objection is made within such period permission shall be deemed to have been granted. Work may commence on such alteration if no objection is received by the twenty-fifth day after filing such affidavit. The cost of an alteration, for purposes of this subdivision, shall be equal to the total sum expended to complete the proposed alteration excluding professional fees.

S 7. Subparagraph 1 of paragraph (c) of subdivision 4 of section 107-a of the alcoholic beverage control law, as amended by chapter 490 of the laws of 1993, is amended to read as follows:

(1) The application for registration of a brand or trade name label shall be filed by CERTIFIED MAIL RETURN RECEIPT REQUESTED, registered mail[,] return receipt requested, OR OVERNIGHT DELIVERY SERVICE WITH PROOF OF MAILING, on a form prescribed by the authority, and shall contain such information as the authority shall require. Such application shall be accompanied by the appropriate fee prescribed by paragraph (d) of this subdivision.

S 8. Clause (i) of subparagraph 2 of paragraph (c) of subdivision 4 of section 107-a of the alcoholic beverage control law, as amended by chapter 490 of the laws of 1993, is amended to read as follows:

(i) the applicant submits on a form prescribed by the authority, by CERTIFIED MAIL RETURN RECEIPT REQUESTED, registered mail[,] return receipt requested, OR OVERNIGHT DELIVERY SERVICE WITH PROOF OF MAILING, a true copy of the brand or trade name label approval issued by the federal bureau of alcohol, tobacco and firearms along with the appropriate fee as established in paragraph (d) of this subdivision; and

S 9. This act shall take effect on the one hundred eightieth day after it shall have become law; provided, however, that effective immediately, the state liquor authority may promulgate rules and regulations necessary for the implementation of this act on or before such date.