

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:

1     Section 1. Subdivision 2-a of section 55 of the alcoholic beverage  
2     control law, as added by chapter 582 of the laws of 1999, is amended to  
3     read as follows:  
4     2-a. Notwithstanding any other provision of this chapter, upon receipt  
5     in the city of New York of an application for a license under this  
6     section, an application for renewal under section one hundred nine of  
7     this chapter, or an application for an alteration to a premises licensed  
8     for consumption on the premises under section ninety-nine-d of this  
9     chapter, the applicant shall notify the community board established  
10    pursuant to section twenty-eight hundred of the New York city charter  
11    with jurisdiction over the area in which such licensed premises is to be  
12    located by certified mail[, ] return receipt requested, OVERNIGHT DELIV-  
13    ERY SERVICE WITH PROOF OF MAILING, OR PERSONAL SERVICE, wherein the  
14    prospective licensed premises is to be located or, in the case of an  
15    application for renewal, or alteration where it is presently located not  
16    less than thirty days prior to the submission of its application for a  
17    license under this section or for a renewal thereof pursuant to section  
18    one hundred nine of this chapter. Such community board may express an  
19    opinion for or against the granting of such license. Any such opinion  
20    shall be deemed part of the record upon which the liquor board makes its  
21    determination to grant or deny such license.  
22    S 2. Subdivision 2-a of section 64 of the alcoholic beverage control  
23    law, as amended by chapter 83 of the laws of 1995, is amended to read as  
24    follows:

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

LBD15973-01-0

1 2-a. Notwithstanding any other provision of this chapter, upon receipt  
2 of an application for a license under this section, an application for  
3 renewal under section one hundred nine of this chapter, or an applica-  
4 tion for an alteration to a premises licensed for consumption on the  
5 premises under section ninety-nine-d of this chapter, the applicant  
6 shall notify the clerk of the village, town or city, as the case may be,  
7 by certified mail[, ] return receipt requested, OVERNIGHT DELIVERY  
8 SERVICE WITH PROOF OF MAILING, OR PERSONAL SERVICE, wherein the prospec-  
9 tive licensed premises is to be located or, in the case of an applica-  
10 tion for renewal, or alteration where it is presently located not less  
11 than thirty days prior to the submission of its application for a  
12 license under this section or for a renewal thereof pursuant to section  
13 one hundred nine of this chapter. For the purposes of the preceding  
14 sentence notification need only be given to the clerk of a village when  
15 such premises is to be located within the boundaries of the village. In  
16 the city of New York, the community board established pursuant to  
17 section twenty-eight hundred of the New York city charter with jurisdic-  
18 tion over the area in which such licensed premises is to be located  
19 shall be considered the appropriate public body to which notification  
20 shall be given. Such municipality or community board, as the case may  
21 be, may express an opinion for or against the granting of such license.  
22 Any such opinion shall be deemed part of the record upon which the  
23 liquor board makes its determination to grant or deny such license.

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

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

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

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

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

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

15 1-a. Notwithstanding any other provision of this chapter, upon receipt  
16 in the city of New York of an application for a license under this  
17 section, an application for renewal under section one hundred nine of  
18 this chapter, or an application for an alteration to a premises licensed  
19 for consumption on the premises under section ninety-nine-d of this  
20 chapter, the applicant shall notify the community board established  
21 pursuant to section twenty-eight hundred of the New York city charter  
22 with jurisdiction over the area in which such licensed premises is to be  
23 located by certified mail[, ] return receipt requested, OVERNIGHT DELIV-  
24 ERY SERVICE WITH PROOF OF MAILING, OR PERSONAL SERVICE, wherein the  
25 prospective licensed premises is to be located or, in the case of an  
26 application for renewal, or alteration where it is presently located not  
27 less than thirty days prior to the submission of its application for a  
28 license under this section or for a renewal thereof pursuant to section  
29 one hundred nine of this chapter. Such community board may express an  
30 opinion for or against the granting of such license. Any such opinion  
31 shall be deemed part of the record upon which the liquor board makes its  
32 determination to grant or deny such license.

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

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

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

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

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

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

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

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