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

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2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to the issuing of temporary retail permits; and to repeal section 97-a of such law relating thereto

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

Section 1. Section 97-a of the alcoholic beverage control law is REPEALED and a new section 97-a is added to read as follows:

S 97-A. TEMPORARY RETAIL PERMIT. 1. THE AUTHORITY IS HEREBY AUTHORIZED TO ISSUE A TEMPORARY RETAIL PERMIT:

(A) TO THE TRANSFEREE OF A RETAIL LICENSE TO CONTINUE THE OPERATIONS OF A RETAIL PREMISES DURING THE PERIOD A TRANSFER APPLICATION FOR THE LICENSE FROM PERSON TO PERSON AT THE SAME PREMISES IS PENDING; OR

(B) TO AN APPLICANT FOR A PREMISES THAT IS NOT LICENSED IN A MUNICIPALITY WITH A POPULATION OF LESS THAN ONE MILLION.

2. SUCH A PERMIT MAY BE ISSUED IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(A) THE APPLICANT FOR THE TEMPORARY RETAIL PERMIT SHALL HAVE FILED WITH THE AUTHORITY AN APPLICATION FOR A RETAIL LICENSE AT SUCH PREMISES, TOGETHER WITH ALL REQUIRED FILING AND LICENSE FEES;

(B) THE APPLICANT SHALL HAVE FILED WITH THE AUTHORITY AN APPLICATION FOR A TEMPORARY RETAIL PERMIT, ACCOMPANIED BY A NONREFUNDABLE FILING FEE OF EITHER ONE HUNDRED TWENTY-EIGHT DOLLARS FOR ALL RETAIL BEER LICENSES OR SIX HUNDRED FORTY DOLLARS FOR ALL OTHER RETAIL LICENSES;

(C) IN THE CASE OF A TRANSFER APPLICATION, THE PREMISES SHALL HAVE BEEN OPERATED UNDER A RETAIL LICENSE WITHIN THIRTY DAYS OF THE DATE OF FILING THE APPLICATION FOR A TEMPORARY PERMIT; AND

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

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(D) IN THE CASE OF A TRANSFER APPLICATION, THE CURRENT LICENSE IN EFFECT AT SAID PREMISES MUST BE SURRENDERED OR PLACED IN SAFEKEEPING WITH THE AUTHORITY.

3. A TEMPORARY RETAIL PERMIT UNDER PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION MAY NOT BE ISSUED FOR ANY PREMISES THAT IS SUBJECT TO THE PROVISIONS OF SUBDIVISION SEVEN OF SECTION SIXTY-FOUR, SUBDIVISION SEVEN OF SECTION SIXTY-FOUR-A, SUBDIVISION FIVE OF SECTION SIXTY-FOUR-B, SUBDIVISION TWELVE OF SECTION SIXTY-FOUR-C, SUBDIVISION EIGHT OF SECTION SIXTY-FOUR-D OR SUBDIVISION THREE OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER.

4. A TEMPORARY PERMIT ISSUED BY THE AUTHORITY PURSUANT TO THIS SECTION SHALL BE FOR A PERIOD NOT TO EXCEED NINETY DAYS. A TEMPORARY PERMIT MAY BE EXTENDED AT THE DISCRETION OF THE AUTHORITY, FOR AN ADDITIONAL THIRTY DAY PERIOD.

5. A TEMPORARY RETAIL PERMIT IS A CONDITIONAL PERMIT AND AUTHORIZES THE HOLDER THEREOF:

(A) IN THE CASE OF A TRANSFER APPLICATION, TO PURCHASE AND SELL SUCH ALCOHOLIC BEVERAGES AS WOULD BE PERMITTED TO BE PURCHASED AND SOLD UNDER THE PRIVILEGES OF THE RETAIL LICENSE FOR WHICH THE TRANSFER APPLICATION HAS BEEN MADE;

(B) IN THE CASE OF ALL OTHER RETAIL APPLICATIONS, TO PURCHASE AND SELL SUCH ALCOHOLIC BEVERAGES AS WOULD BE PERMITTED TO BE PURCHASED AND SOLD UNDER THE PRIVILEGES OF THE LICENSE APPLIED FOR; AND

(C) TO SELL SUCH ALCOHOLIC BEVERAGES TO CONSUMERS ONLY AND NOT FOR RESALE.

6. THE HOLDER OF A TEMPORARY RETAIL PERMIT SHALL PURCHASE ALCOHOLIC BEVERAGES ONLY BY PAYMENT IN CURRENCY OR CHECK ON OR BEFORE THE DAY SUCH ALCOHOLIC BEVERAGES ARE DELIVERED, PROVIDED, HOWEVER, THAT THE HOLDER OF A TEMPORARY RETAIL PERMIT WHO ALSO HOLDS ONE OR MORE RETAIL LICENSES AND IS OPERATING UNDER SUCH RETAIL LICENSE OR LICENSES IN ADDITION TO THE TEMPORARY RETAIL PERMIT, AND WHO IS NOT DELINQUENT UNDER THE PROVISIONS OF SECTION ONE HUNDRED ONE-AA OR ONE HUNDRED ONE-AAA OF THIS CHAPTER AS TO ANY RETAIL LICENSE UNDER WHICH IT OPERATES, MAY PURCHASE ALCOHOLIC BEVERAGES ON CREDIT UNDER THE TEMPORARY PERMIT.

7. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A TEMPORARY PERMIT MAY BE SUMMARILY CANCELLED OR SUSPENDED AT ANY TIME IF THE AUTHORITY DETERMINES THAT GOOD CAUSE FOR SUCH CANCELLATION OR SUSPENSION EXISTS. THE AUTHORITY SHALL PROMPTLY NOTIFY THE HOLDER OF A TEMPORARY PERMIT IN WRITING OF SUCH CANCELLATION OR SUSPENSION AND SHALL SET FORTH THE REASONS FOR SUCH ACTION.

8. APPLICATION FOR A TEMPORARY PERMIT SHALL BE ON SUCH FORM AS THE AUTHORITY SHALL PRESCRIBE.

9. APPROVAL OF, OR EXTENSION OF, A TEMPORARY RETAIL PERMIT SHALL NOT BE DEEMED AS AN APPROVAL OF THE RETAIL APPLICATION.

10. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY MAY PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect immediately.