

2912

2009-2010 Regular Sessions

I N S E N A T E

March 5, 2009

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the alcoholic beverage control law, in relation to the siting of certain premises licensed to sell liquor for consumption on the premises

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

1 Section 1. Paragraphs (c), (d) and (d-1) of subdivision 7 of section
2 64 of the alcoholic beverage control law, paragraphs (c) and (d) as
3 amended by chapter 177 of the laws of 1996 and paragraph (d-1) as added
4 by chapter 406 of the laws of 2007, are amended to read as follows:
5 (c) the measurements in paragraphs (a) and (b) of this subdivision are
6 to be taken in straight lines from the [center of the nearest entrance]
7 POINT ON THE PROPERTY BOUNDARY LINE of the premises sought to be
8 licensed to [the center of the nearest entrance] THAT IS CLOSEST TO THE
9 PROPERTY BOUNDARY LINE of such school, church, synagogue or other place
10 of worship [or] to the [center of the nearest entrance] CLOSEST POINT ON
11 THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
12 PLACE OF WORSHIP OR FROM THE POINT ON THE PROPERTY BOUNDARY LINE OF THE
13 PREMISES SOUGHT TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY
14 LINE OF A PREMISES LICENSED AND OPERATING PURSUANT TO THIS SECTION TO
15 THE CLOSEST POINT ON THE BOUNDARY LINE of each such premises licensed
16 and operating pursuant to the provisions of this section; except, howev-
17 er, that no renewal license shall be denied because of such restriction
18 to any premises so located which were maintained as a bona fide hotel,
19 restaurant, catering establishment or club on or prior to December
20 fifth, nineteen hundred thirty-three; and, except that no license shall
21 be denied to any premises at which a license under this chapter has been
22 in existence continuously from a date prior to the date when a building
23 on the same street or avenue and within two hundred feet of said prem-

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

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1 ises has been occupied exclusively as a school, church, synagogue or
2 other place of worship; AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF
3 SHALL BE DENIED TO ANY PREMISES PURSUANT TO THIS SECTION AT WHICH A
4 LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A
5 DATE PRIOR TO DECEMBER THIRTY-FIRST, TWO THOUSAND NINE; and except that
6 no license shall be denied to any premises, which is within five hundred
7 feet of three or more existing premises licensed and operating pursuant
8 to the provisions of this section, at which a license under this chapter
9 has been in existence continuously on or prior to November first, nine-
10 teen hundred ninety-three; and except that this subdivision shall not be
11 deemed to restrict the issuance of a hotel liquor license to a building
12 used as a hotel and in which a restaurant liquor license currently
13 exists for premises which serve as a dining room for guests of the hotel
14 and a caterer's license to a person using the permanent catering facili-
15 ties of a church, synagogue or other place of worship pursuant to a
16 written agreement between such person and the authorities in charge of
17 such facilities. The liquor authority, in its discretion, may authorize
18 the removal of any such licensed premises to a different location on the
19 same street or avenue, within two hundred feet of said school, church,
20 synagogue or other place of worship, provided that such new location is
21 not within a closer distance to such school, church, synagogue or other
22 place of worship.

23 (d) [Within the context of this subdivision, the word "entrance" shall
24 mean a door of a school, of a house of worship, or premises licensed and
25 operating pursuant to the provisions of this section or of the premises
26 sought to be licensed, regularly used to give ingress to students of the
27 school, to the general public attending the place of worship, and to
28 patrons or guests of the premises licensed and operating pursuant to the
29 provisions of this section or of the premises sought to be licensed,
30 except that where a school or house of worship or premises licensed and
31 operating pursuant to the provisions of this section is set back from a
32 public thoroughfare, the walkway or stairs leading to any such door
33 shall be deemed an entrance; and the measurement shall be taken to the
34 center of the walkway or stairs at the point where it meets the building
35 line or public thoroughfare. A door which has no exterior hardware, or
36 which is used solely as an emergency or fire exit, or for maintenance
37 purposes, or which leads directly to a part of a building not regularly
38 used by the general public or patrons, is not deemed an "entrance".

39 (d-1)] Within the context of this subdivision, a building occupied as
40 a place of worship does not cease to be "exclusively" occupied as a
41 place of worship by incidental uses that are not of a nature to detract
42 from the predominant character of the building as a place of worship,
43 such uses which include, but which are not limited to: the conduct of
44 legally authorized games of bingo or other games of chance held as a
45 means of raising funds for the not-for-profit religious organization
46 which conducts services at the place of worship or for other not-for-
47 profit organizations or groups; use of the building for fund-raising
48 performances by or [benefitting] BENEFITING the not-for-profit religious
49 organization which conducts services at the place of worship or other
50 not-for-profit organizations or groups; the use of the building by other
51 religious organizations or groups for religious services or other
52 purposes; the conduct of social activities by or for the benefit of the
53 congregants; the use of the building for meetings held by organizations
54 or groups providing bereavement counseling to persons having suffered
55 the loss of a loved one, or providing advice or support for conditions
56 or diseases including, but not limited to, alcoholism, drug addiction,

1 cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the
2 use of the building for blood drives, health screenings, health informa-
3 tion meetings, yoga classes, exercise classes or other activities
4 intended to promote the health of the congregants or other persons; and
5 use of the building by non-congregant members of the community for
6 private social functions. The building occupied as a place of worship
7 does not cease to be "exclusively" occupied as a place of worship where
8 the not-for-profit religious organization occupying the place of worship
9 accepts the payment of funds to defray costs related to another party's
10 use of the building.

11 S 2. Subdivision 7 of section 64-a of the alcoholic beverage control
12 law, as amended by chapter 177 of the laws of 1996 and paragraph (e) as
13 added by chapter 406 of the laws of 2007, is amended to read as follows:

14 7. (a) No special on-premises license shall be granted for any prem-
15 ises which shall be

16 (i) on the same street or avenue and within two hundred feet of a
17 building occupied exclusively as a school, church, synagogue or other
18 place of worship or

19 (ii) in a city, town or village having a population of twenty thousand
20 or more within five hundred feet of three or more existing premises
21 licensed and operating pursuant to the provisions of this section;

22 (iii) the measurements in subparagraphs (i) and (ii) of this paragraph
23 are to be taken in straight lines from the [center of the nearest
24 entrance of the premises sought to be licensed to the center of the
25 nearest entrance of such school, church, synagogue or other place of
26 worship or to the center of the nearest entrance] POINT ON THE PROPERTY
27 BOUNDARY LINE OF THE PREMISES SOUGHT TO BE LICENSED THAT IS CLOSEST TO
28 THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
29 PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF
30 SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE
31 POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES SOUGHT TO BE
32 LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF A PREMISES
33 LICENSED AND OPERATING PURSUANT TO THIS SECTION TO THE CLOSEST POINT ON
34 THE BOUNDARY LINE of each such premises licensed and operating pursuant
35 to the provisions of this section; except that no license shall be
36 denied to any premises at which a license under this chapter has been in
37 existence continuously from a date prior to the date when a building on
38 the same street or avenue and within two hundred feet of said premises
39 has been occupied exclusively as a school, church, synagogue or other
40 place of worship; AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE
41 DENIED TO ANY PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER
42 THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO
43 DECEMBER THIRTY-FIRST, TWO THOUSAND NINE; and except that no license
44 shall be denied to any premises, which is within five hundred feet of
45 three or more existing premises licensed and operating pursuant to the
46 provisions of this section, at which a license under this chapter has
47 been in existence continuously on or prior to November first, nineteen
48 hundred ninety-three.

49 (b) [Within the context of this subdivision, the word "entrance" shall
50 mean a door of a school, of a house of worship, or premises licensed and
51 operating pursuant to the provisions of this section or of the premises
52 sought to be licensed, regularly used to give ingress to students of the
53 school, to the general public attending the place of worship, and to
54 patrons or guests of the premises licensed and operating pursuant to the
55 provisions of this section or of the premises sought to be licensed,
56 except that where a school or house of worship or premises licensed and

1 operating pursuant to the provisions of this section is set back from a
2 public thoroughfare, the walkway or stairs leading to any such door
3 shall be deemed an entrance; and the measurement shall be taken to the
4 center of the walkway or stairs at the point where it meets the building
5 line or public thoroughfare. A door which has no exterior hardware, or
6 which is used solely as an emergency or fire exit, or for maintenance
7 purposes, or which leads directly to a part of a building not regularly
8 used by the general public or patrons, is not deemed an "entrance".

9 (c)] Notwithstanding paragraph (a) of this subdivision, a special
10 on-premises license for a premises in which the principal business shall
11 be the operation of a legitimate theater by a corporation organized
12 pursuant to the not-for-profit corporation law may be granted notwith-
13 standing the proximity of such premises to any school, provided that the
14 availability of alcoholic beverages on such premises shall not be adver-
15 tised in any way at such premises in any manner visible from such street
16 or avenue.

17 [(d)] (C) Notwithstanding the provisions of subparagraph (ii) of para-
18 graph (a) of this subdivision, the authority may issue a retail license
19 for on-premises consumption for a premises which shall be within five
20 hundred feet of three or more existing premises licensed and operating
21 pursuant to the provisions of this section if, after consultation with
22 the municipality or community board, it determines that granting such
23 license would be in the public interest. Before it may issue any such
24 license, the authority shall conduct a hearing, upon notice to the
25 applicant and the municipality or community board, and shall state and
26 file in its office its reasons therefor. No premises having been granted
27 a license pursuant to this section shall be denied a renewal of such
28 license upon the grounds that such premises are within five hundred feet
29 of a building or buildings wherein three or more premises are operating
30 and licensed pursuant to this section.

31 [(e)] (D) Within the context of this subdivision, a building occupied
32 as a place of worship does not cease to be "exclusively" occupied as a
33 place of worship by incidental uses that are not of a nature to detract
34 from the predominant character of the building as a place of worship,
35 such uses which include, but which are not limited to: the conduct of
36 legally authorized games of bingo or other games of chance held as a
37 means of raising funds for the not-for-profit religious organization
38 which conducts services at the place of worship or for other not-for-
39 profit organizations or groups; use of the building for fund-raising
40 performances by or benefitting the not-for-profit religious organization
41 which conducts services at the place of worship or other not-for-profit
42 organizations or groups; the use of the building by other religious
43 organizations or groups for religious services or other purposes; the
44 conduct of social activities by or for the benefit of the congregants;
45 the use of the building for meetings held by organizations or groups
46 providing bereavement counseling to persons having suffered the loss of
47 a loved one, or providing advice or support for conditions or diseases
48 including, but not limited to, alcoholism, drug addiction, cancer, cere-
49 bral palsy, Parkinson's disease, or Alzheimer's disease; the use of the
50 building for blood drives, health screenings, health information meet-
51 ings, yoga classes, exercise classes or other activities intended to
52 promote the health of the congregants or other persons; and use of the
53 building by non-congregant members of the community for private social
54 functions. The building occupied as a place of worship does not cease to
55 be "exclusively" occupied as a place of worship where the not-for-profit
56 religious organization occupying the place of worship accepts the

1 payment of funds to defray costs related to another party's use of the
2 building.

3 S 3. Paragraph (a) of subdivision 5 of section 64-b of the alcoholic
4 beverage control law, as amended by chapter 406 of the laws of 2007, is
5 amended to read as follows:

6 (a) No bottle club license shall be granted for any premises which
7 shall be on the same street or avenue and within two hundred feet of a
8 building occupied exclusively as a school, church, synagogue or other
9 place of worship; the measurements to be taken in a straight line from
10 the [center of the nearest entrance of such school, church, synagogue or
11 other place of worship to the center of the nearest entrance] POINT ON
12 THE PROPERTY BOUNDARY LINE of the premises to be licensed THAT IS CLOS-
13 EST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR
14 OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY BOUNDARY
15 LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; except
16 that no license shall be denied to any premises at which a license under
17 this chapter has been in existence continuously from a date prior to the
18 date when a building on the same street or avenue and within two hundred
19 feet of said premises has been occupied exclusively as a school, church,
20 synagogue or other place of worship; AND EXCEPT THAT NO LICENSE OR
21 RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES PURSUANT TO THIS SECTION
22 AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY
23 FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST, TWO THOUSAND NINE.

24 S 4. Subparagraph (iii) of paragraph (a) and paragraphs (b), (c) and
25 (d) of subdivision 11 of section 64-c of the alcoholic beverage control
26 law, subparagraph (iii) of paragraph (a), paragraphs (b) and (c) as
27 added by chapter 538 of the laws of 1997 and paragraph (d) as added by
28 chapter 406 of the laws of 2007, are amended to read as follows:

29 (iii) the measurements in subparagraphs (i) and (ii) of this paragraph
30 are to be taken in straight lines from the [center of the nearest
31 entrance of the premises sought to be licensed to the center of the
32 nearest entrance of such school, church, synagogue or other place of
33 worship or to the center of the nearest entrance] POINT ON THE PROPERTY
34 BOUNDARY LINE OF THE PREMISES SOUGHT TO BE LICENSED THAT IS CLOSEST TO
35 THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
36 PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF
37 SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE
38 POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES SOUGHT TO BE
39 LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF A PREMISES
40 LICENSED AND OPERATING PURSUANT TO THIS SECTION TO THE CLOSEST POINT ON
41 THE BOUNDARY LINE of each such premises licensed and operating pursuant
42 to the provisions of this section; except that no license shall be
43 denied to any premises at which a license under this chapter has been in
44 existence continuously from a date prior to the date when a building on
45 the same street or avenue and within two hundred feet of said premises
46 has been occupied exclusively as a school, church, synagogue or other
47 place of worship; AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE
48 DENIED TO ANY PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER
49 THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO
50 DECEMBER THIRTY-FIRST, TWO THOUSAND NINE; and except that no license
51 shall be denied to any premises, which is within five hundred feet of
52 three or more existing premises licensed and operating pursuant to the
53 provisions of this section or section sixty-four or sixty-four-a of this
54 article, at which a license under this chapter has been in existence
55 continuously on or prior to November first, nineteen hundred ninety-
56 three.

1 (b) [Within the context of this subdivision, the word "entrance" shall
2 mean a door of a school, of a house of worship, or premises licensed and
3 operating pursuant to the provisions of this section or of the premises
4 sought to be licensed, regularly used to give ingress to students of the
5 school, to the general public attending the place of worship, and to
6 patrons or guests of the premises licensed and operating pursuant to the
7 provisions of this section or of the premises sought to be licensed,
8 except that where a school or house of worship or premises licensed and
9 operating pursuant to the provisions of this section is set back from a
10 public thoroughfare, the walkway or stairs leading to any such door
11 shall be deemed an entrance; and the measurement shall be taken to the
12 center of the walkway or stairs at the point where it meets the building
13 line or public thoroughfare. A door which has no exterior hardware, or
14 which is used solely as an emergency or fire exit, or for maintenance
15 purposes, or which leads directly to a part of a building not regularly
16 used by the general public or patrons, is not deemed an "entrance".

17 (c) [Notwithstanding the provisions of subparagraph (ii) of paragraph
18 (a) of this subdivision, the authority may issue a license pursuant to
19 this section which shall be within five hundred feet of three or more
20 existing premises licensed and operating pursuant to the provisions of
21 this section or section sixty-four or sixty-four-a of this article if,
22 after consultation with the municipality or community board, it deter-
23 mines that granting such license would be in the public interest.
24 Before it may issue any such license, the authority shall conduct a
25 hearing, upon notice to the applicant and the municipality or community
26 board, and shall state and file in its office its reasons therefor. No
27 premises having been granted a license pursuant to this section shall be
28 denied a renewal of such license upon the grounds that such premises are
29 within five hundred feet of a building or buildings where three or more
30 premises are operating and licensed pursuant to this section or section
31 sixty-four or sixty-four-a of this article.

32 [(d)] (C) Within the context of this subdivision, a building occupied
33 as a place of worship does not cease to be "exclusively" occupied as a
34 place of worship by incidental uses that are not of a nature to detract
35 from the predominant character of the building as a place of worship,
36 such uses which include, but which are not limited to: the conduct of
37 legally authorized games of bingo or other games of chance held as a
38 means of raising funds for the not-for-profit religious organization
39 which conducts services at the place of worship or for other not-for-
40 profit organizations or groups; use of the building for fund-raising
41 performances by or benefitting the not-for-profit religious organization
42 which conducts services at the place of worship or other not-for-profit
43 organizations or groups; the use of the building by other religious
44 organizations or groups for religious services or other purposes; the
45 conduct of social activities by or for the benefit of the congregants;
46 the use of the building for meetings held by organizations or groups
47 providing bereavement counseling to persons having suffered the loss of
48 a loved one, or providing advice or support for conditions or diseases
49 including, but not limited to, alcoholism, drug addiction, cancer, cere-
50 bral palsy, Parkinson's disease, or Alzheimer's disease; the use of the
51 building for blood drives, health screenings, health information meet-
52 ings, yoga classes, exercise classes or other activities intended to
53 promote the health of the congregants or other persons; and use of the
54 building by non-congregant members of the community for private social
55 functions. The building occupied as a place of worship does not cease to
56 be "exclusively" occupied as a place of worship where the not-for-profit

1 religious organization occupying the place of worship accepts the
2 payment of funds to defray costs related to another party's use of the
3 building.

4 S 5. Subdivision 3 of section 105 of the alcoholic beverage control
5 law, as amended by chapter 406 of the laws of 2007, is amended to read
6 as follows:

7 3. (a) No retail license to sell liquor and/or wine for off-premises
8 consumption shall be granted for any premises which shall be located on
9 the same street or avenue, and within two hundred feet of a building
10 occupied exclusively as a school, church, synagogue or other place of
11 worship; the measurements to be taken in a straight line from the
12 [center of the nearest entrance to the building used for such school,
13 church, synagogue or other place of worship to the center of the nearest
14 entrance] POINT ON THE PROPERTY BOUNDARY LINE of the premises to be
15 licensed THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL,
16 CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE
17 PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE
18 OF WORSHIP; except, however, that no license shall be denied to any
19 premises at which a license under this chapter has been in existence
20 continuously from a date prior to the date when a building on the same
21 street or avenue and within two hundred feet of said premises has been
22 occupied exclusively as a school, church, synagogue or other place of
23 worship; AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED
24 TO ANY PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS
25 CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER
26 THIRTY-FIRST, TWO THOUSAND NINE.

27 (b) [Within the context of this subdivision, the word "entrance" shall
28 mean a door of a school, of a house of worship, or of the premises
29 sought to be licensed, regularly used to give ingress to students of the
30 school, to the general public attending the place of worship, and to
31 patrons or guests of the premises proposed to be licensed, except that
32 where a school or house of worship is set back from a public thorough-
33 fare, the walkway or stairs leading to any such door shall be deemed an
34 entrance; and the measurement shall be taken to the center of the walk-
35 way or stairs at the point where it meets the building line or public
36 thoroughfare. A door which has no exterior hardware, or which is used
37 solely as an emergency or fire exit, or for maintenance purposes, or
38 which leads directly to a part of a building not regularly used by the
39 general public or patrons, is not deemed an "entrance".

40 (c) [Within the context of this subdivision, a building occupied as a
41 place of worship does not cease to be "exclusively" occupied as a place
42 of worship by incidental uses that are not of a nature to detract from
43 the predominant character of the building as a place of worship, such
44 uses which include, but which are not limited to: the conduct of legally
45 authorized games of bingo or other games of chance held as a means of
46 raising funds for the not-for-profit religious organization which
47 conducts services at the place of worship or for other not-for-profit
48 organizations or groups; use of the building for fund-raising perform-
49 ances by or benefitting the not-for-profit religious [organizations]
50 ORGANIZATION which conducts services at the place of worship or other
51 not-for-profit organizations or groups; the use of the building by other
52 religious organizations or groups for religious services or other
53 purposes; the conduct of social activities by or for the benefit of the
54 congregants; the use of the building for meetings held by organizations
55 or groups providing bereavement counseling to persons having suffered
56 the loss of a loved one, or providing advice or support for conditions

1 or diseases including, but not limited to, alcoholism, drug addiction,
2 cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the
3 use of the building for blood drives, health screenings, health informa-
4 tion meetings, yoga classes, exercise classes or other activities
5 intended to promote the health of the congregants or other persons; and
6 use of the building by non-congregant members of the community for
7 private social functions. The building occupied as a place of worship
8 does not cease to be "exclusively" occupied as a place of worship where
9 the not-for-profit religious organization occupying the place of worship
10 accepts the payment of funds to defray costs related to another party's
11 use of the building.

12 S 6. This act shall take effect December 31, 2009.