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

3883

2009-2010 Regular Sessions

I N  S E N A T E

April 2, 2009

Introduced by Sens. C. JOHNSON, DIAZ, DILAN, SAVINO -- (at request of the State Liquor Authority) -- 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 changing the types of applicants eligible for a temporary retail permit

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, as added by chapter 366 of the laws of 1991, paragraph d of subdivision 1 and subdivision 2 as amended by section 20 of part Z of chapter 85 of the laws of 2002, is amended to read as follows:

S 97-a. Temporary retail permit. 1. The liquor authority is hereby authorized to issue a temporary retail permit to the [transferee of] APPLICANT FOR a retail license [to continue the operation of a retail premises during the period a transfer application for the license from person to person at the same premises] DURING THE PERIOD THE APPLICATION is pending and when all the following conditions exist:

(a) The [premises shall have been operated under a retail license within thirty days of the date of filing the application for a temporary permit] APPLICANT HAS FULLY COMPLIED WITH THE PROVISIONS OF SECTION ONE HUNDRED TEN OF THIS CHAPTER;

(b) [The] AT THE TIME THE PERMIT IS ISSUED, ANY EXISTING retail license for said premises shall have been surrendered TO, OR PLACED into safekeeping [pursuant to rules of the authority] WITH, THE AUTHORITY OR OTHERWISE DEEMED ABANDONED BY THE AUTHORITY;

(c) The applicant for the temporary permit shall have filed with the authority an application for [transfer of] the retail license at such premises; and

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

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(d) The application for the temporary permit shall be accompanied by a nonrefundable temporary permit filing fee of one hundred twenty-eight dollars for all retail beer licenses; all other temporary permit applications shall be accompanied by a filing fee of six hundred forty dollars.

2. NO SUCH PERMIT SHALL BE ISSUED TO AN APPLICANT FOR A LICENSE ISSUED PURSUANT TO SECTION SIXTY-THREE OR SECTION SEVENTY-NINE OF THIS CHAPTER UNLESS THE PREMISES HAS BEEN OPEN AND OPERATING UNDER A LICENSE ISSUED PURSUANT TO THE SAME SECTION OF THIS CHAPTER AS THAT BEING SOUGHT BY THE APPLICANT WITHIN THIRTY DAYS OF THE FILING OF THE APPLICATION.

3. NO SUCH PERMIT SHALL BE ISSUED TO AN APPLICANT FOR THE LICENSE THAT IS SUBJECT TO THE PROVISIONS OF SUBDIVISION SEVEN OF SECTION SIXTY-FOUR, SUBDIVISION SEVEN OF SECTION SIXTY-FOUR-A, SUBDIVISION ELEVEN OF SECTION SIXTY-FOUR-C, OR SUBDIVISION EIGHT OF SECTION SIXTY-FOUR-D OF THIS CHAPTER UNLESS THE PREMISES HAS BEEN OPEN AND OPERATING UNDER A LICENSE ISSUED PURSUANT TO THE SAME SECTION OF THIS CHAPTER AS THAT BEING SOUGHT BY THE APPLICANT AT THE TIME THE PERMIT IS ISSUED.

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 upon payment of an additional fee of sixty-four dollars for all retail beer licenses and ninety-six dollars for all other temporary permits and upon compliance with all conditions required herein. THE AUTHORITY MAY, IN ITS DISCRETION, ISSUED MULTIPLE THIRTY DAY EXTENSIONS.

5. A temporary RETAIL permit is a conditional permit and authorizes the holder thereof 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 transfer] THE application WHICH has been filed; to sell such alcoholic beverages to consumers only and not for resale; and to purchase such alcoholic beverages only by payment in currency or check for such alcoholic beverages on or before they are delivered to the premises.

[3.] 6. Provided, however, that the holder of a temporary permit PURSUANT TO THIS SECTION who also holds one or more retail licenses and is operating under such retail license or licenses in addition to the temporary permit, and who is not delinquent [under the provisions of section one hundred one-a of this chapter] as to any retail license under which he operates, may purchase alcoholic beverages on credit under the temporary permit.

[4.] 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.

[5.] 8. Application for a temporary permit shall be on such form as the authority shall prescribe.

[6.] 9. 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 on the one hundred eightieth day after it shall have become a law.