

5578

2009-2010 Regular Sessions

I N S E N A T E

May 19, 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 making consistent the standards and procedures governing the various on-premises liquor licenses with respect to 500-foot hearings

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

1 Section 1. Subdivision 7 of section 64 of the alcoholic beverage
2 control law, as amended by chapter 177 of the laws of 1996, paragraph
3 (d-1) as added by chapter 406 of the laws of 2007, paragraph (e-1) as
4 added by chapter 497 of the laws of 2003, paragraph (e-2) as added by
5 chapter 21 of the laws of 2005, paragraph (e-3) as added by chapter 76
6 of the laws of 2007 and paragraph (f) as amended by chapter 602 of the
7 laws of 1999, is amended to read as follows:
8 7. No retail license for on-premises consumption shall be granted for
9 any premises which shall be
10 (a) on the same street or avenue and within two hundred feet of a
11 building occupied exclusively as a school, church, synagogue or other
12 place of worship or
13 (b) in a city, town or village having a population of twenty thousand
14 or more within five hundred feet of three or more existing premises
15 licensed and operating pursuant to [the provisions of] this section AND
16 SECTIONS SIXTY-FOUR-A, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D
17 OF THIS ARTICLE;
18 (c) the measurements in paragraphs (a) and (b) of this subdivision are
19 to be taken in straight lines from the center of the nearest entrance of
20 the premises sought to be licensed to the center of the nearest entrance
21 of such school, church, synagogue or other place of worship or to the
22 center of the nearest entrance of each such premises licensed and oper-
23 ating pursuant to [the provisions of] this section AND SECTIONS

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

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1 SIXTY-FOUR-A, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS
2 ARTICLE; except, however, that no renewal license shall be denied
3 because of such restriction to any premises so located which were main-
4 tained as a bona fide hotel, restaurant, catering establishment or club
5 on or prior to December fifth, nineteen hundred thirty-three; and,
6 except that no license shall be denied to any premises at which a
7 license under this chapter has been in existence continuously from a
8 date prior to the date when a building on the same street or avenue and
9 within two hundred feet of said premises has been occupied exclusively
10 as a school, church, synagogue or other place of worship; and except
11 that no license shall be denied to any premises, which is within five
12 hundred feet of three or more existing premises licensed and operating
13 pursuant to [the provisions of] this section AND SECTIONS SIXTY-FOUR-A,
14 SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS ARTICLE, at
15 which a license under this chapter has been in existence continuously on
16 or prior to November first, nineteen hundred ninety-three; and except
17 that this subdivision shall not be deemed to restrict the issuance of a
18 hotel liquor license to a building used as a hotel and in which a
19 restaurant liquor license currently exists for premises which serve as a
20 dining room for guests of the hotel and a caterer's license to a person
21 using the permanent catering facilities of a church, synagogue or other
22 place of worship pursuant to a written agreement between such person and
23 the authorities in charge of such facilities. The liquor authority, in
24 its discretion, may authorize the removal of any such licensed premises
25 to a different location on the same street or avenue, within two hundred
26 feet of said school, church, synagogue or other place of worship,
27 provided that such new location is not within a closer distance to such
28 school, church, synagogue or other place of worship.

29 (d) Within the context of this subdivision, the word "entrance" shall
30 mean a door of a school, of a house of worship, or OF premises licensed
31 and operating pursuant to [the provisions of] this section AND SECTIONS
32 SIXTY-FOUR-A, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS
33 ARTICLE or of the premises sought to be licensed, regularly used to give
34 ingress to students of the school, to the general public attending the
35 place of worship, and to patrons or guests of the premises licensed and
36 operating pursuant to [the provisions of] this section AND SECTIONS
37 SIXTY-FOUR-A, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS
38 ARTICLE or of the premises sought to be licensed, except that where a
39 school or house of worship or premises licensed and operating pursuant
40 to [the provisions of] this section AND SECTIONS SIXTY-FOUR-A,
41 SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS ARTICLE OR THE
42 PREMISES SOUGHT TO BE LICENSED is set back from a public thoroughfare,
43 the walkway or stairs leading to any such door shall be deemed an
44 entrance; and the measurement shall be taken to the center of the walk-
45 way or stairs at the point where it meets the building line or public
46 thoroughfare. A door which has no exterior hardware, or which is used
47 solely as an emergency or fire exit, or for maintenance purposes, or
48 which leads directly to a part of a building not regularly used by the
49 general public or patrons, is not deemed an "entrance".

50 (d-1) Within the context of this subdivision, a building occupied as a
51 place of worship does not cease to be "exclusively" occupied as a place
52 of worship by incidental uses that are not of a nature to detract from
53 the predominant character of the building as a place of worship, such
54 uses which include, but which are not limited to: the conduct of legally
55 authorized games of bingo or other games of chance held as a means of
56 raising funds for the not-for-profit religious organization which

1 conducts services at the place of worship or for other not-for-profit
2 organizations or groups; use of the building for fund-raising perform-
3 ances by or benefitting the not-for-profit religious organization which
4 conducts services at the place of worship or other not-for-profit organ-
5 izations or groups; the use of the building by other religious organiza-
6 tions or groups for religious services or other purposes; the conduct of
7 social activities by or for the benefit of the congregants; the use of
8 the building for meetings held by organizations or groups providing
9 bereavement counseling to persons having suffered the loss of a loved
10 one, or providing advice or support for conditions or diseases includ-
11 ing, but not limited to, alcoholism, drug addiction, cancer, cerebral
12 palsy, Parkinson's disease, or Alzheimer's disease; the use of the
13 building for blood drives, health screenings, health information meet-
14 ings, yoga classes, exercise classes or other activities intended to
15 promote the health of the congregants or other persons; and use of the
16 building by non-congregant members of the community for private social
17 functions. The building occupied as a place of worship does not cease to
18 be "exclusively" occupied as a place of worship where the not-for-profit
19 religious organization occupying the place of worship accepts the
20 payment of funds to defray costs related to another party's use of the
21 building.

22 (e) Notwithstanding the provisions of this chapter to the contrary,
23 the authority may issue a license to sell liquor at retail to be
24 consumed on premises to a club as such term is defined in subdivision
25 nine of section three of this chapter whether or not the building in
26 which the premises for which such license is to be issued is used exclu-
27 sively for club purposes and whether or not such premises is within two
28 hundred feet of a building used exclusively as a school, church, syna-
29 gogue or place of worship if such club is affiliated or associated with
30 such school, church, synagogue or place of worship and the governing
31 body of such school, church, synagogue or other place of worship has
32 filed written notice with the authority that it has no objection to the
33 issuance of such license.

34 (e-1) Notwithstanding the provisions of paragraph (a) of this subdivi-
35 sion, the authority may issue a retail license for on-premises consump-
36 tion for a premises which shall be within two hundred feet of a building
37 occupied exclusively as a church, synagogue or other place of worship,
38 provided such premises constitutes a premises for the sale of food or
39 beverages at retail for consumption on the premises and/or an overnight
40 lodging facility located wholly within the boundaries of the borough of
41 Manhattan in the city and county of New York, bounded and described as
42 follows:

43 BEGINNING at a point on the southerly side of 49th Street, distant 160
44 feet easterly from the corner formed by the intersection of the souther-
45 ly side of 49th Street with the easterly side of 8th Avenue; running
46 thence southerly, parallel with 8th Avenue and part of the distance
47 through a party wall, 100 feet 5 inches to the center line of the block
48 between 48th and 49th Streets; thence easterly along the center line of
49 the block, 40 feet; thence northerly, parallel with 8th Avenue and part
50 of the distance through a party wall, 100 feet 5 inches to the southerly
51 side of 49th Street; thence westerly along the southerly side of 49th
52 Street, 40 feet to the point or place of beginning. Premises known as
53 240 and 242 West 49th Street, New York City. Being the same premises
54 described in deed made by Hotel Mayfair Inc. to Harry Etkin and Freda
55 Rubin, dated 1/23/50 and recorded 1/27/50 in liber 4657 Cp. 250.

(e-2) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the county of Ulster, bounded and described as follows:

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, with the buildings and improvements erected thereon, situated in the Village of Ellenville, Town of Wawarsing, County of Ulster and State of New York, being further bounded and described as follows:

Beginning at a three-quarter inch diameter iron rod found on the southwesterly bounds of Canal Street, marking the northeasterly corner of the lands, now or formerly, John Georges, as described in liber 2645 of deeds at page 278.

Thence along the southeasterly bounds of the lands of John Georges, passing 1.42 feet northwesterly from the southwesterly corner of the building situated on the premises described herein, South thirty-nine degrees, forty-one minutes, fifty-two seconds West, one hundred fifty and zero hundredths feet (S 39-41-52 W, 150.00') to the northeasterly bounds of the lands, now or formerly, Thomas Powers, as described in liber 1521 of deeds at page 749. Thence along the northeasterly bounds of the lands of Thomas Powers, South fifty degrees, thirty-nine minutes, sixteen seconds East, twenty-eight and zero hundredths feet (S 50-39-16 E, 28.00').

Thence passing 1.92 feet southeasterly from the southeasterly corner of the building situated on the premises described herein. North thirty-nine degrees, forty-one minutes, fifty-two seconds East, one hundred fifty and zero hundredths feet (N 39-41-52 E, 150.00') to the southwesterly bounds of Canal Street.

Thence along the southwesterly bounds of Canal Street, North fifty degrees, thirty-nine minutes, sixteen seconds West, twenty-eight and zero hundredths feet (N 50-39-16 W, 28.00') to the point of beginning.

Containing 4,199.92 square feet of land or 0.0996 of an acre of land.

Being the same premises as conveyed by deed dated September 2, 1999 from Chris M. Camio as Executor of the Last Will and Testament of Alice Manzo to Bill Lelbach, John Eckert, Jeffrey Schneider, Jack Harris and Alfred S. Dannhauser and recorded in the Ulster County Clerk's Office on September 15, 1999 in Liber 2966 at page 291.

The undivided interests of John Harris and Alfred S. Dannhauser having been conveyed to Bill Lelbach by deed dated August 21, 2001 and recorded in the Ulster County Clerk's Office in Liber 3213 p 65.

(e-3) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises and/or an overnight lodging facility located wholly within the boundaries of the borough of Manhattan in the city and county of New York, bounded and described as follows:

Beginning at a point on the southerly side of 46th street, distant three hundred fifty (350) feet westerly from the corner formed by the intersection of the westerly side of Sixth Avenue with the said southerly side of 46th street. Running thence southerly parallel with the said westerly side of Sixth Avenue and for part of the distance through a

1 party wall, one hundred (100) feet four (4) inches; thence westerly
2 parallel with the southerly side of 46th street, eighty (80) feet;
3 thence northerly again parallel with the westerly side of Sixth Avenue,
4 one hundred (100) feet four (4) inches to the southerly side of 46th
5 street; and thence easterly along the said southerly side of 46th
6 street, eighty (80) feet to the point or place of beginning. Premises
7 known as 130 West 46th Street, New York City. Being the same premises
8 described in deed made by Massachusetts Mutual Life Insurance Company to
9 West 46th Street Hotel, LLC, dated 12/22/06 and recorded 2/06/07 in the
10 Office of the City Register, New York County, on February 6, 2007 as
11 CFRN 2007000069808.

12 (f) Notwithstanding the provisions of paragraph (b) of this subdivi-
13 sion, the authority may issue a [retail license for on-premises consump-
14 tion] LICENSE PURSUANT TO THIS SECTION for a premises which shall be
15 within five hundred feet of three or more existing premises licensed and
16 operating pursuant to [the provisions of] this section AND SECTIONS
17 SIXTY-FOUR-A, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS
18 ARTICLE if, after consultation with the municipality or community board,
19 it determines that granting such license would be in the public inter-
20 est. Before it may issue any such license, the authority shall conduct a
21 hearing, upon notice to the applicant and the municipality or community
22 board, and shall state and file in its office its reasons therefor.
23 Notice to the municipality or community board shall mean written notice
24 mailed by the authority to such municipality or community board at least
25 fifteen days in advance of any hearing scheduled pursuant to this para-
26 graph. Upon the request of the authority, any municipality or community
27 board may waive the fifteen day notice requirement. No premises having
28 been granted a license pursuant to this section shall be denied a
29 renewal of such license upon the grounds that such premises are within
30 five hundred feet of a building or buildings wherein three or more prem-
31 ises are [operating and licensed pursuant to this section] LICENSED AND
32 OPERATING PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR-A,
33 SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS ARTICLE.

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

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

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

42 (ii) in a city, town or village having a population of twenty thousand
43 or more within five hundred feet of three or more existing premises
44 licensed and operating pursuant to [the provisions of] this section AND
45 SECTIONS SIXTY-FOUR, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF
46 THIS ARTICLE;

47 (iii) the measurements in subparagraphs (i) and (ii) of this paragraph
48 are to be taken in straight lines from the center of the nearest
49 entrance of the premises sought to be licensed to the center of the
50 nearest entrance of such school, church, synagogue or other place of
51 worship or to the center of the nearest entrance of each such premises
52 licensed and operating pursuant to [the provisions of] this section AND
53 SECTIONS SIXTY-FOUR, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF
54 THIS ARTICLE; except that no license shall be denied to any premises at
55 which a license under this chapter has been in existence continuously
56 from a date prior to the date when a building on the same street or

1 avenue and within two hundred feet of said premises has been occupied
2 exclusively as a school, church, synagogue or other place of worship;
3 and except that no license shall be denied to any premises, which is
4 within five hundred feet of three or more existing premises licensed and
5 operating pursuant to [the provisions of] this section AND SECTIONS
6 SIXTY-FOUR, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS
7 ARTICLE, at which a license under this chapter has been in existence
8 continuously on or prior to November first, nineteen hundred ninety-
9 three. THE LIQUOR AUTHORITY, IN ITS DISCRETION, MAY AUTHORIZE THE
10 REMOVAL OF ANY SUCH LICENSED PREMISES TO A DIFFERENT LOCATION ON THE
11 SAME STREET OR AVENUE, WITHIN TWO HUNDRED FEET OF SAID SCHOOL, CHURCH,
12 SYNAGOGUE OR OTHER PLACE OF WORSHIP, PROVIDED THAT SUCH NEW LOCATION IS
13 NOT WITHIN A CLOSER DISTANCE TO SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
14 PLACE OF WORSHIP.

15 (b) Within the context of this subdivision, the word "entrance" shall
16 mean a door of a school, of a house of worship, or OF premises licensed
17 and operating pursuant to [the provisions of] this section AND SECTIONS
18 SIXTY-FOUR, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS
19 ARTICLE or of the premises sought to be licensed, regularly used to give
20 ingress to students of the school, to the general public attending the
21 place of worship, and to patrons or guests of the premises licensed and
22 operating pursuant to [the provisions of] this section AND SECTIONS
23 SIXTY-FOUR, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS
24 ARTICLE or of the premises sought to be licensed, except that where a
25 school or house of worship or premises licensed and operating pursuant
26 to [the provisions of] this section AND SECTIONS SIXTY-FOUR,
27 SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS ARTICLE OR THE
28 PREMISES SOUGHT TO BE LICENSED is set back from a public thoroughfare,
29 the walkway or stairs leading to any such door shall be deemed an
30 entrance; and the measurement shall be taken to the center of the walk-
31 way or stairs at the point where it meets the building line or public
32 thoroughfare. A door which has no exterior hardware, or which is used
33 solely as an emergency or fire exit, or for maintenance purposes, or
34 which leads directly to a part of a building not regularly used by the
35 general public or patrons, is not deemed an "entrance".

36 (c) Notwithstanding paragraph (a) of this subdivision, a special
37 on-premises license for a premises in which the principal business shall
38 be the operation of a legitimate theater by a corporation organized
39 pursuant to the not-for-profit corporation law may be granted notwith-
40 standing the proximity of such premises to any school, provided that the
41 availability of alcoholic beverages on such premises shall not be adver-
42 tised in any way at such premises in any manner visible from such street
43 or avenue.

44 (d) Notwithstanding the provisions of subparagraph (ii) of paragraph
45 (a) of this subdivision, the authority may issue a [retail license for
46 on-premises consumption] LICENSE PURSUANT TO THIS SECTION for a premises
47 which shall be within five hundred feet of three or more existing prem-
48 ises licensed and operating pursuant to [the provisions of] this section
49 AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D
50 OF THIS ARTICLE if, after consultation with the municipality or communi-
51 ty board, it determines that granting such license would be in the
52 public interest. Before it may issue any such license, the authority
53 shall conduct a hearing, upon notice to the applicant and the municipi-
54 pality or community board, and shall state and file in its office its
55 reasons therefor. NOTICE TO THE MUNICIPALITY OR COMMUNITY BOARD SHALL
56 MEAN WRITTEN NOTICE MAILED BY THE AUTHORITY TO SUCH MUNICIPALITY OR

1 COMMUNITY BOARD AT LEAST FIFTEEN DAYS IN ADVANCE OF ANY HEARING SCHED-
2 ULED PURSUANT TO THIS PARAGRAPH. UPON THE REQUEST OF THE AUTHORITY, ANY
3 MUNICIPALITY OR COMMUNITY BOARD MAY WAIVE THE FIFTEEN DAY NOTICE
4 REQUIREMENT. No premises having been granted a license pursuant to this
5 section shall be denied a renewal of such license upon the grounds that
6 such premises are within five hundred feet of a building or buildings
7 wherein three or more premises are [operating and licensed pursuant to
8 this section] LICENSED AND OPERATING PURSUANT TO THIS SECTION AND
9 SECTIONS SIXTY-FOUR, SIXTY-FOUR-B, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF
10 THIS ARTICLE.

11 (e) Within the context of this subdivision, a building occupied as a
12 place of worship does not cease to be "exclusively" occupied as a place
13 of worship by incidental uses that are not of a nature to detract from
14 the predominant character of the building as a place of worship, such
15 uses which include, but which are not limited to: the conduct of legally
16 authorized games of bingo or other games of chance held as a means of
17 raising funds for the not-for-profit religious organization which
18 conducts services at the place of worship or for other not-for-profit
19 organizations or groups; use of the building for fund-raising perform-
20 ances by or benefitting the not-for-profit religious organization which
21 conducts services at the place of worship or other not-for-profit organ-
22 izations or groups; the use of the building by other religious organiza-
23 tions or groups for religious services or other purposes; the conduct of
24 social activities by or for the benefit of the congregants; the use of
25 the building for meetings held by organizations or groups providing
26 bereavement counseling to persons having suffered the loss of a loved
27 one, or providing advice or support for conditions or diseases includ-
28 ing, but not limited to, alcoholism, drug addiction, cancer, cerebral
29 palsy, Parkinson's disease, or Alzheimer's disease; the use of the
30 building for blood drives, health screenings, health information meet-
31 ings, yoga classes, exercise classes or other activities intended to
32 promote the health of the congregants or other persons; and use of the
33 building by non-congregant members of the community for private social
34 functions. The building occupied as a place of worship does not cease to
35 be "exclusively" occupied as a place of worship where the not-for-profit
36 religious organization occupying the place of worship accepts the
37 payment of funds to defray costs related to another party's use of the
38 building.

39 S 3. Subdivision 5 of section 64-b of the alcoholic beverage control
40 law, as amended by chapter 406 of the laws of 2007, is amended to read
41 as follows:

42 5. (a) No bottle club license shall be granted for any premises which
43 shall be

44 (I) on the same street or avenue and within two hundred feet of a
45 building occupied exclusively as a school, church, synagogue or other
46 place of worship; [the measurements to be taken in a straight line from
47 the center of the nearest entrance of such school, church, synagogue or
48 other place of worship to the center of the nearest entrance of the
49 premises to be licensed;] OR

50 (II) IN A CITY, TOWN OR VILLAGE HAVING A POPULATION OF TWENTY THOUSAND
51 OR MORE WITHIN FIVE HUNDRED FEET OF THREE OR MORE EXISTING PREMISES
52 LICENSED AND OPERATING PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR,
53 SIXTY-FOUR-A, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS ARTICLE;

54 (III) THE MEASUREMENTS IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH
55 ARE TO BE TAKEN IN STRAIGHT LINES FROM THE CENTER OF THE NEAREST
56 ENTRANCE OF THE PREMISES SOUGHT TO BE LICENSED TO THE CENTER OF THE

1 NEAREST ENTRANCE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF
2 WORSHIP OR TO THE CENTER OF THE NEAREST ENTRANCE OF EACH SUCH PREMISES
3 LICENSED AND OPERATING PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR,
4 SIXTY-FOUR-A, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS ARTICLE; except
5 that no license shall be denied to any premises at which a license under
6 this chapter has been in existence continuously from a date prior to the
7 date when a building on the same street or avenue and within two hundred
8 feet of said premises has been occupied exclusively as a school, church,
9 synagogue or other place of worship; AND EXCEPT THAT NO LICENSE SHALL BE
10 DENIED TO ANY PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR
11 MORE EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THIS SECTION
12 AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D
13 OF THIS ARTICLE, AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN
14 EXISTENCE CONTINUOUSLY ON OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED
15 NINETY-THREE. THE LIQUOR AUTHORITY, IN ITS DISCRETION, MAY AUTHORIZE THE
16 REMOVAL OF ANY SUCH LICENSED PREMISES TO A DIFFERENT LOCATION ON THE
17 SAME STREET OR AVENUE, WITHIN TWO HUNDRED FEET OF SAID SCHOOL, CHURCH,
18 SYNAGOGUE OR OTHER PLACE OF WORSHIP, PROVIDED THAT SUCH NEW LOCATION IS
19 NOT WITHIN A CLOSER DISTANCE TO SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
20 PLACE OF WORSHIP.

21 (B) WITHIN THE CONTEXT OF THIS SUBDIVISION, THE WORD "ENTRANCE" SHALL
22 MEAN A DOOR OF A SCHOOL, OF A HOUSE OF WORSHIP, OR OF PREMISES LICENSED
23 AND OPERATING PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR,
24 SIXTY-FOUR-A, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS ARTICLE OR OF
25 THE PREMISES SOUGHT TO BE LICENSED, REGULARLY USED TO GIVE INGRESS TO
26 STUDENTS OF THE SCHOOL, TO THE GENERAL PUBLIC ATTENDING THE PLACE OF
27 WORSHIP, AND TO PATRONS OR GUESTS OF THE PREMISES LICENSED AND OPERATING
28 PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A,
29 SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS ARTICLE OR OF THE PREMISES
30 SOUGHT TO BE LICENSED, EXCEPT THAT WHERE A SCHOOL OR HOUSE OF WORSHIP OR
31 PREMISES LICENSED AND OPERATING PURSUANT TO THIS SECTION AND SECTIONS
32 SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS
33 ARTICLE OR THE PREMISES SOUGHT TO BE LICENSED IS SET BACK FROM A PUBLIC
34 THOROUGHFARE, THE WALKWAY OR STAIRS LEADING TO ANY SUCH DOOR SHALL BE
35 DEEMED AN ENTRANCE; AND THE MEASUREMENT SHALL BE TAKEN TO THE CENTER OF
36 THE WALKWAY OR STAIRS AT THE POINT WHERE IT MEETS THE BUILDING LINE OR
37 PUBLIC THOROUGHFARE. A DOOR WHICH HAS NO EXTERIOR HARDWARE, OR WHICH IS
38 USED SOLELY AS AN EMERGENCY OR FIRE EXIT, OR FOR MAINTENANCE PURPOSES,
39 OR WHICH LEADS DIRECTLY TO A PART OF A BUILDING NOT REGULARLY USED BY
40 THE GENERAL PUBLIC OR PATRONS, IS NOT DEEMED AN "ENTRANCE".

41 (C) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (II) OF PARAGRAPH
42 (A) OF THIS SUBDIVISION, THE AUTHORITY MAY ISSUE A LICENSE PURSUANT TO
43 THIS SECTION FOR A PREMISES WHICH SHALL BE WITHIN FIVE HUNDRED FEET OF
44 THREE OR MORE EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THIS
45 SECTION AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-C, AND/OR
46 SIXTY-FOUR-D OF THIS ARTICLE IF, AFTER CONSULTATION WITH THE MUNICI-
47 PALITY OR COMMUNITY BOARD, IT DETERMINES THAT GRANTING SUCH LICENSE
48 WOULD BE IN THE PUBLIC INTEREST. BEFORE IT MAY ISSUE ANY SUCH LICENSE,
49 THE AUTHORITY SHALL CONDUCT A HEARING, UPON NOTICE TO THE APPLICANT AND
50 THE MUNICIPALITY OR COMMUNITY BOARD, AND SHALL STATE AND FILE IN ITS
51 OFFICE ITS REASONS THEREFOR. NOTICE TO THE MUNICIPALITY OR COMMUNITY
52 BOARD SHALL MEAN WRITTEN NOTICE MAILED BY THE AUTHORITY TO SUCH MUNICI-
53 PALITY OR COMMUNITY BOARD AT LEAST FIFTEEN DAYS IN ADVANCE OF ANY HEAR-
54 ING SCHEDULED PURSUANT TO THIS PARAGRAPH. UPON THE REQUEST OF THE
55 AUTHORITY, ANY MUNICIPALITY OR COMMUNITY BOARD MAY WAIVE THE FIFTEEN DAY
56 NOTICE REQUIREMENT. NO PREMISES HAVING BEEN GRANTED A LICENSE PURSUANT

TO THIS SECTION SHALL BE DENIED A RENEWAL OF SUCH LICENSE UPON THE GROUNDS THAT SUCH PREMISES ARE WITHIN FIVE HUNDRED FEET OF A BUILDING OR BUILDINGS WHEREIN THREE OR MORE PREMISES ARE LICENSED AND OPERATING PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-C, AND/OR SIXTY-FOUR-D OF THIS ARTICLE.

[(b)] (D) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building.

S 4. Subdivision 11 of section 64-c of the alcoholic beverage control law, as added by chapter 538 of the laws of 1997 and paragraph (d) as added by chapter 406 of the laws of 2007, is amended to read as follows:

11. (a) No restaurant-brewer license shall be granted for any premises which shall be:

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

(ii) in a city, town or village having a population of twenty thousand or more within five hundred feet of three or more existing premises licensed and operating pursuant to the provisions of this section or [section] SECTIONS sixty-four [or], sixty-four-a, SIXTY-FOUR-B AND/OR SIXTY-FOUR-D of this article; or

(iii) the measurements in subparagraphs (i) and (ii) of this paragraph are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to [the provisions of] this section AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B AND/OR SIXTY-FOUR-D OF THIS ARTICLE; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or

1 avenue and within two hundred feet of said premises has been occupied
2 exclusively as a school, church, synagogue or other place of worship and
3 except that no license shall be denied to any premises, which is within
4 five hundred feet of three or more existing premises licensed and oper-
5 ating pursuant to [the provisions of] this section [or section] AND
6 SECTIONS sixty-four [or], sixty-four-a, SIXTY-FOUR-B AND/OR SIXTY-FOUR-D
7 of this article, at which a license under this chapter has been in
8 existence continuously on or prior to November first, nineteen hundred
9 ninety-three.

10 (b) Within the context of this subdivision, the word "entrance" shall
11 mean a door of a school, of a house of worship, or premises licensed and
12 operating pursuant to [the provisions of] this section AND SECTIONS
13 SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B AND/OR SIXTY-FOUR-D OF THIS ARTI-
14 CLE or of the premises sought to be licensed, regularly used to give
15 ingress to students of the school, to the general public attending the
16 place of worship, and to patrons or guests of the premises licensed and
17 operating pursuant to [the provisions of] this section AND SECTIONS
18 SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B AND/OR SIXTY-FOUR-D OF THIS ARTI-
19 CLE or of the premises sought to be licensed, except that where a school
20 or house of worship or premises licensed and operating pursuant to [the
21 provisions of] this section AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A,
22 SIXTY-FOUR-B AND/OR SIXTY-FOUR-D OF THIS ARTICLE is set back from a
23 public thoroughfare, the walkway or stairs leading to any such door
24 shall be deemed an entrance; and the measurement shall be taken to the
25 center of the walkway or stairs at the point where it meets the building
26 line or public thoroughfare. A door which has no exterior hardware, or
27 which is used solely as an emergency or fire exit, or for maintenance
28 purposes, or which leads directly to a part of a building not regularly
29 used by the general public or patrons, is not deemed an "entrance".

30 (c) Notwithstanding the provisions of subparagraph (ii) of paragraph
31 (a) of this subdivision, the authority may issue a license pursuant to
32 this section FOR A PREMISES which shall be within five hundred feet of
33 three or more existing premises licensed and operating pursuant to [the
34 provisions of] this section [or section sixty-four or sixty-four-a] AND
35 SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B AND/OR SIXTY-FOUR-D of
36 this article if, after consultation with the municipality or community
37 board, it determines that granting such license would be in the public
38 interest. Before it may issue any such license, the authority shall
39 conduct a hearing, upon notice to the applicant and the municipality or
40 community board, and shall state and file in its office its reasons
41 therefor. NOTICE TO THE MUNICIPALITY OR COMMUNITY BOARD SHALL MEAN
42 WRITTEN NOTICE MAILED BY THE AUTHORITY TO SUCH MUNICIPALITY OR COMMUNITY
43 BOARD AT LEAST FIFTEEN DAYS IN ADVANCE OF ANY HEARING SCHEDULED PURSUANT
44 TO THIS PARAGRAPH. UPON THE REQUEST OF THE AUTHORITY, ANY MUNICIPALITY
45 OR COMMUNITY BOARD MAY WAIVE THE FIFTEEN DAY NOTICE REQUIREMENT. No
46 premises having been granted a license pursuant to this section shall be
47 denied a renewal of such license upon the grounds that such premises are
48 within five hundred feet of a building or buildings [where] WHEREIN
49 three or more premises are operating and licensed pursuant to this
50 section or [section] SECTIONS sixty-four [or], sixty-four-a,
51 SIXTY-FOUR-B AND/OR SIXTY-FOUR-D of this article.

52 (d) Within the context of this subdivision, a building occupied as a
53 place of worship does not cease to be "exclusively" occupied as a place
54 of worship by incidental uses that are not of a nature to detract from
55 the predominant character of the building as a place of worship, such
56 uses which include, but which are not limited to: the conduct of legally

1 authorized games of bingo or other games of chance held as a means of
2 raising funds for the not-for-profit religious organization which
3 conducts services at the place of worship or for other not-for-profit
4 organizations or groups; use of the building for fund-raising perform-
5 ances by or benefitting the not-for-profit religious organization which
6 conducts services at the place of worship or other not-for-profit organ-
7 izations or groups; the use of the building by other religious organiza-
8 tions or groups for religious services or other purposes; the conduct of
9 social activities by or for the benefit of the congregants; the use of
10 the building for meetings held by organizations or groups providing
11 bereavement counseling to persons having suffered the loss of a loved
12 one, or providing advice or support for conditions or diseases includ-
13 ing, but not limited to, alcoholism, drug addiction, cancer, cerebral
14 palsy, Parkinson's disease, or Alzheimer's disease; the use of the
15 building for blood drives, health screenings, health information meet-
16 ings, yoga classes, exercise classes or other activities intended to
17 promote the health of the congregants or other persons; and use of the
18 building by non-congregant members of the community for private social
19 functions. The building occupied as a place of worship does not cease to
20 be "exclusively" occupied as a place of worship where the not-for-profit
21 religious organization occupying the place of worship accepts the
22 payment of funds to defray costs related to another party's use of the
23 building.

24 S 5. Subdivision 8 of section 64-d of the alcoholic beverage control
25 law, as amended by chapter 406 of the laws of 2007, is amended to read
26 as follows:

27 8. No cabaret license shall be granted for any premises which shall
28 be:

29 (a) on the same street or avenue and within two hundred feet of a
30 building occupied exclusively as a school, church, synagogue or other
31 place of worship or

32 (b) in a city, town or village having a population of twenty thousand
33 or more within five hundred feet of an existing premises licensed and
34 operating pursuant to the provisions of this section, or within five
35 hundred feet of three or more existing premises licensed and operating
36 pursuant to THIS SECTION AND sections sixty-four [and sixty-four-c of
37 this article], SIXTY-FOUR-A, SIXTY-FOUR-B, AND/OR SIXTY-FOUR-C OF THIS
38 ARTICLE.

39 (c) [The measurements in paragraphs (a) and (b) of this subdivision
40 shall be taken in accordance with the provisions of subdivision seven of
41 section sixty-four of this article.] THE MEASUREMENTS IN PARAGRAPHS (A)
42 AND (B) OF THIS SUBDIVISION ARE TO BE TAKEN IN STRAIGHT LINES FROM THE
43 CENTER OF THE NEAREST ENTRANCE OF THE PREMISES SOUGHT TO BE LICENSED TO
44 THE CENTER OF THE NEAREST ENTRANCE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR
45 OTHER PLACE OF WORSHIP OR TO THE CENTER OF THE NEAREST ENTRANCE OF EACH
46 SUCH PREMISES LICENSED AND OPERATING PURSUANT TO THIS SECTION AND
47 SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B, AND/OR SIXTY-FOUR-C OF
48 THIS ARTICLE; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT
49 WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY
50 FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR
51 AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
52 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
53 AND EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES, WHICH IS
54 WITHIN FIVE HUNDRED FEET OF AN EXISTING PREMISES LICENSED AND OPERATING
55 PURSUANT TO THE PROVISIONS OF THIS SECTION OR WHICH IS WITHIN FIVE
56 HUNDRED FEET OF THREE OR MORE EXISTING PREMISES LICENSED AND OPERATING

PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B, AND/OR SIXTY-FOUR-C OF THIS ARTICLE, AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY ON OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED NINETY-THREE. THE LIQUOR AUTHORITY, IN ITS DISCRETION, MAY AUTHORIZE THE REMOVAL OF ANY SUCH LICENSED PREMISES TO A DIFFERENT LOCATION ON THE SAME STREET OR AVENUE, WITHIN TWO HUNDRED FEET OF SAID SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP, PROVIDED THAT SUCH NEW LOCATION IS NOT WITHIN A CLOSER DISTANCE TO SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP.

(D) WITHIN THE CONTEXT OF THIS SUBDIVISION, THE WORD "ENTRANCE" SHALL MEAN A DOOR OF A SCHOOL, OF A HOUSE OF WORSHIP, OR OF PREMISES LICENSED AND OPERATING PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B, AND/OR SIXTY-FOUR-C OF THIS ARTICLE OR OF THE PREMISES SOUGHT TO BE LICENSED, REGULARLY USED TO GIVE INGRESS TO STUDENTS OF THE SCHOOL, TO THE GENERAL PUBLIC ATTENDING THE PLACE OF WORSHIP, AND TO PATRONS OR GUESTS OF THE PREMISES LICENSED AND OPERATING PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B, AND/OR SIXTY-FOUR-C OF THIS ARTICLE OR OF THE PREMISES SOUGHT TO BE LICENSED, EXCEPT THAT WHERE A SCHOOL OR HOUSE OF WORSHIP OR PREMISES LICENSED AND OPERATING PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B, AND/OR SIXTY-FOUR-C OF THIS ARTICLE OR THE PREMISES SOUGHT TO BE LICENSED IS SET BACK FROM A PUBLIC THOROUGHFARE, THE WALKWAY OR STAIRS LEADING TO ANY SUCH DOOR SHALL BE DEEMED AN ENTRANCE; AND THE MEASUREMENT SHALL BE TAKEN TO THE CENTER OF THE WALKWAY OR STAIRS AT THE POINT WHERE IT MEETS THE BUILDING LINE OR PUBLIC THOROUGHFARE. A DOOR WHICH HAS NO EXTERIOR HARDWARE, OR WHICH IS USED SOLELY AS AN EMERGENCY OR FIRE EXIT, OR FOR MAINTENANCE PURPOSES, OR WHICH LEADS DIRECTLY TO A PART OF A BUILDING NOT REGULARLY USED BY THE GENERAL PUBLIC OR PATRONS, IS NOT DEEMED AN "ENTRANCE".

(E) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION, THE AUTHORITY MAY ISSUE A LICENSE PURSUANT TO THIS SECTION FOR A PREMISES WHICH SHALL BE WITHIN FIVE HUNDRED FEET OF AN EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS SECTION OR WITHIN FIVE HUNDRED FEET OF THREE OR MORE EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B, AND/OR SIXTY-FOUR-C OF THIS ARTICLE IF, AFTER CONSULTATION WITH THE MUNICIPALITY OR COMMUNITY BOARD, IT DETERMINES THAT GRANTING SUCH LICENSE WOULD BE IN THE PUBLIC INTEREST. BEFORE IT MAY ISSUE ANY SUCH LICENSE, THE AUTHORITY SHALL CONDUCT A HEARING, UPON NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD, AND SHALL STATE AND FILE IN ITS OFFICE ITS REASONS THEREFOR. NOTICE TO THE MUNICIPALITY OR COMMUNITY BOARD SHALL MEAN WRITTEN NOTICE MAILED BY THE AUTHORITY TO SUCH MUNICIPALITY OR COMMUNITY BOARD AT LEAST FIFTEEN DAYS IN ADVANCE OF ANY HEARING SCHEDULED PURSUANT TO THIS PARAGRAPH. UPON THE REQUEST OF THE AUTHORITY, ANY MUNICIPALITY OR COMMUNITY BOARD MAY WAIVE THE FIFTEEN DAY NOTICE REQUIREMENT. NO PREMISES HAVING BEEN GRANTED A LICENSE PURSUANT TO THIS SECTION SHALL BE DENIED A RENEWAL OF SUCH LICENSE UPON THE GROUNDS THAT SUCH PREMISES ARE WITHIN FIVE HUNDRED FEET OF AN EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS SECTION OR WITHIN FIVE HUNDRED FEET OF A BUILDING OR BUILDINGS WHEREIN THREE OR MORE PREMISES ARE LICENSED AND OPERATING PURSUANT TO THIS SECTION AND SECTIONS SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-B, AND/OR SIXTY-FOUR-C OF THIS ARTICLE.

[(d)] (F) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract

1 from the predominant character of the building as a place of worship,
2 such uses which include, but which are not limited to: the conduct of
3 legally authorized games of bingo or other games of chance held as a
4 means of raising funds for the not-for-profit religious organization
5 which conducts services at the place of worship or for other not-for-
6 profit organizations or groups; use of the building for fund-raising
7 performances by or benefitting the not-for-profit religious organization
8 which conducts services at the place of worship or other not-for-profit
9 organizations or groups; the use of the building by other religious
10 organizations or groups for religious services or other purposes; the
11 conduct of social activities by or for the benefit of the congregants;
12 the use of the building for meetings held by organizations or groups
13 providing bereavement counseling to persons having suffered the loss of
14 a loved one, or providing advice or support for conditions or diseases
15 including, but not limited to, alcoholism, drug addiction, cancer, cere-
16 bral palsy, Parkinson's disease, or Alzheimer's disease; the use of the
17 building for blood drives, health screenings, health information meet-
18 ings, yoga classes, exercise classes or other activities intended to
19 promote the health of the congregants or other persons; and use of the
20 building by non-congregant members of the community for private social
21 functions. The building occupied as a place of worship does not cease to
22 be "exclusively" occupied as a place of worship where the not-for-profit
23 religious organization occupying the place of worship accepts the
24 payment of funds to defray costs related to another party's use of the
25 building.

26 S 6. This act shall take effect immediately.