

6231

2009-2010 Regular Sessions

I N   S E N A T E

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Introduced by Sens. C. JOHNSON, LITTLE, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the alcoholic beverage control law, in relation to liquidator's permits and 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:

1     Section 1. Section 17 of the alcoholic beverage control law is amended  
2     by adding a new subdivision 8-b to read as follows:  
3     8-B. ON AND AFTER JANUARY FIRST, TWO THOUSAND TEN, THE REPORT PROVIDED  
4     FOR IN SUBDIVISION EIGHT OF THIS SECTION SHALL INCLUDE INFORMATION  
5     RELATED TO THE NUMBER OF LICENSES APPLIED FOR AND THE LENGTH OF TIME  
6     REQUIRED FOR THE APPROVAL OR DENIAL OF SUCH RETAIL LICENSE APPLIED FOR  
7     PURSUANT TO SUBDIVISION TWO-C OF SECTION SIXTY-ONE, SECTION SIXTY-FOUR,  
8     SECTION SEVENTY-SIX, SECTION SEVENTY-SIX-A, SECTION SEVENTY-SIX-C,  
9     SECTION SEVENTY-SIX-D, AND SECTION SEVENTY-SIX-F OF THIS CHAPTER.  
10    S 2. Section 97-a of the alcoholic beverage control law is REPEALED  
11    and a new section 97-a is added to read as follows:  
12    S 97-A. TEMPORARY RETAIL PERMIT. 1. THE AUTHORITY IS HEREBY AUTHORIZED  
13    TO ISSUE A TEMPORARY RETAIL PERMIT:  
14    (A) TO THE TRANSFEREE OF A RETAIL LICENSE TO CONTINUE THE OPERATIONS  
15    OF A RETAIL PREMISES DURING THE PERIOD THAT THE TRANSFER APPLICATION FOR  
16    THE LICENSE FROM PERSON TO PERSON AT THE SAME PREMISES IS PENDING; OR  
17    (B) TO THE APPLICANT FOR A NEW RETAIL LICENSE WHERE THE PROSPECTIVE  
18    LICENSED PREMISES IS LOCATED IN A MUNICIPALITY WITH A POPULATION OF LESS  
19    THAN ONE MILLION DURING THE PERIOD THAT THE APPLICATION IS PENDING.  
20    2. SUCH A PERMIT MAY BE ISSUED IF ALL OF THE FOLLOWING CONDITIONS ARE  
21    MET:

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

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

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

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

11 (D) AT THE TIME THE PERMIT IS ISSUED THE CURRENT LICENSE, IF ANY, IN  
12 EFFECT FOR SAID PREMISES SHALL HAVE BEEN SURRENDERED TO, PLACED INTO  
13 SAFEKEEPING WITH, OR OTHERWISE DEEMED ABANDONED BY THE AUTHORITY;

14 3. A TEMPORARY RETAIL PERMIT UNDER PARAGRAPH (B) OF SUBDIVISION ONE OF  
15 THIS SECTION MAY NOT BE ISSUED FOR ANY PREMISES THAT IS SUBJECT TO THE  
16 PROVISIONS OF SECTION SIXTY-THREE, PARAGRAPH (B) OF SUBDIVISION SEVEN OF  
17 SECTION SIXTY-FOUR, SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION  
18 SEVEN OF SECTION SIXTY-FOUR-A, SUBPARAGRAPH (II) OF PARAGRAPH (A) OF  
19 SUBDIVISION ELEVEN OF SECTION SIXTY-FOUR-C, PARAGRAPH (B) OF SUBDIVISION  
20 EIGHT OF SECTION SIXTY-FOUR-D, OR SECTION SEVENTY-NINE OF THIS CHAPTER.

21 4. A TEMPORARY RETAIL PERMIT ISSUED BY THE AUTHORITY PURSUANT TO THIS  
22 SECTION SHALL BE FOR A PERIOD NOT TO EXCEED NINETY DAYS. A TEMPORARY  
23 PERMIT MAY BE EXTENDED AT THE DISCRETION OF THE AUTHORITY, FOR AN ADDI-  
24 TIONAL THIRTY DAY PERIOD UPON PAYMENT OF AN ADDITIONAL FEE OF SIXTY-FOUR  
25 DOLLARS FOR ALL RETAIL BEER LICENSES AND NINETY-SIX DOLLARS FOR ALL  
26 OTHER TEMPORARY PERMITS AND UPON COMPLIANCE WITH ALL CONDITIONS REQUIRED  
27 IN THIS SECTION. THE AUTHORITY MAY, IN ITS DISCRETION, ISSUE ADDITIONAL  
28 THIRTY DAY EXTENSIONS UPON PAYMENT OF THE APPROPRIATE FEE.

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

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

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

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

40 6. THE HOLDER OF A TEMPORARY RETAIL PERMIT SHALL PURCHASE ALCOHOLIC  
41 BEVERAGES ONLY BY PAYMENT IN CURRENCY OR CHECK FOR SUCH ALCOHOLIC BEVER-  
42 AGES ON OR BEFORE THE DAY SUCH ALCOHOLIC BEVERAGES ARE DELIVERED,  
43 PROVIDED, HOWEVER, THAT THE HOLDER OF A TEMPORARY PERMIT ISSUED PURSUANT  
44 TO THIS SECTION WHO ALSO HOLDS ONE OR MORE RETAIL LICENSES AND IS OPER-  
45 ATING UNDER SUCH RETAIL LICENSE OR LICENSES IN ADDITION TO THE TEMPORARY  
46 RETAIL PERMIT, AND WHO IS NOT DELINQUENT UNDER THE PROVISIONS OF SECTION  
47 ONE HUNDRED ONE-AA OF THIS CHAPTER AS TO ANY RETAIL LICENSE UNDER WHICH  
48 HE OPERATES, MAY PURCHASE ALCOHOLIC BEVERAGES ON CREDIT UNDER THE TEMPO-  
49 RARY PERMIT.

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

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

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

5 10. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY,  
6 THE AUTHORITY MAY PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECES-  
7 SARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

8 S 3. Paragraph f of subdivision 1 of section 99-b of the alcoholic  
9 beverage control law, as added by chapter 486 of the laws of 1941, is  
10 amended to read as follows:

11 f. A licensee who is liquidating or selling [his] ITS business, or a  
12 former licensee whose license [was] HAS BEEN surrendered, REVOKED,  
13 CANCELLED or HAS expired, to sell [his] ITS entire stock of alcoholic  
14 beverages to other licensees, PROVIDED, HOWEVER, THAT NO SUCH PERMIT  
15 SHALL BE ISSUED TO A LICENSEE OR FORMER LICENSEE WHO IS DELINQUENT UNDER  
16 THE PROVISIONS OF SECTION ONE HUNDRED ONE-AA OR SECTION ONE HUNDRED  
17 ONE-AAA OF THIS CHAPTER. A FORMER LICENSEE WHOSE LICENSE HAS BEEN  
18 SURRENDERED, REVOKED, CANCELLED, OR HAS EXPIRED, MAY NOT TRANSFER ITS  
19 STOCK OF ALCOHOLIC BEVERAGES TO ANY OTHER PERSON UNLESS IT OBTAINS SUCH  
20 A PERMIT.

21 S 4. Section 3 of the alcoholic beverage control law is amended by  
22 adding a new subdivision 30-a to read as follows:

23 30-A. "TRANSFER" MEANS THE ADMINISTRATIVE PROCESSES INVOLVED IN ISSU-  
24 ING A LICENSE TO A NEW APPLICANT FOR AN EXISTING LICENSED BUSINESS.  
25 TRANSFER APPLICANTS SHALL BE UNDER CONTRACT WITH THE EXISTING LICENSEE  
26 FOR PURCHASE OF THE EXISTING LICENSED BUSINESS.

27 S 5. This act shall take effect on the one hundred eightieth day after  
28 it shall have become a law.