

6231--C

2009-2010 Regular Sessions

I N S E N A T E

October 16, 2009

Introduced by Sens. C. JOHNSON, LITTLE, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the alcoholic beverage control law, in relation to liquidator's permits and temporary retail permits; to repeal section 97-a of such law relating thereto; and providing for the repeal of certain provisions upon expiration thereof

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 ELEVEN, THE REPORT
4 PROVIDED FOR IN SUBDIVISION EIGHT OF THIS SECTION SHALL INCLUDE INFORMA-
5 TION RELATED TO THE NUMBER OF LICENSES APPLIED FOR AND THE LENGTH OF
6 TIME REQUIRED FOR THE APPROVAL OR DENIAL OF SUCH RETAIL LICENSE APPLIED
7 FOR PURSUANT TO SUBDIVISION TWO-C OF SECTION SIXTY-ONE, SECTION
8 SIXTY-FOUR, SECTION SEVENTY-SIX, SECTION SEVENTY-SIX-A, SECTION SEVEN-
9 TY-SIX-C, SECTION SEVENTY-SIX-D, AND SECTION SEVENTY-SIX-F OF THIS CHAP-
10 TER.
11 S 2. Section 97-a of the alcoholic beverage control law is REPEALED
12 and a new section 97-a is added to read as follows:
13 S 97-A. TEMPORARY RETAIL PERMIT. 1. THE AUTHORITY IS HEREBY AUTHORIZED
14 TO ISSUE A TEMPORARY RETAIL PERMIT:

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

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

4 (B) TO THE APPLICANT FOR A NEW RETAIL LICENSE WHERE THE PROSPECTIVE
5 LICENSED PREMISES IS LOCATED IN A MUNICIPALITY WITH A POPULATION OF LESS
6 THAN ONE MILLION DURING THE PERIOD THAT THE APPLICATION IS PENDING.

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

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

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

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

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

22 3. A TEMPORARY RETAIL PERMIT UNDER PARAGRAPH (B) OF SUBDIVISION ONE OF
23 THIS SECTION MAY NOT BE ISSUED FOR ANY PREMISES THAT IS SUBJECT TO THE
24 PROVISIONS OF SECTION SIXTY-THREE, PARAGRAPH (B) OF SUBDIVISION SEVEN OF
25 SECTION SIXTY-FOUR, SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION
26 SEVEN OF SECTION SIXTY-FOUR-A, SUBPARAGRAPH (II) OF PARAGRAPH (A) OF
27 SUBDIVISION ELEVEN OF SECTION SIXTY-FOUR-C, PARAGRAPH (B) OF SUBDIVISION
28 EIGHT OF SECTION SIXTY-FOUR-D, OR SECTION SEVENTY-NINE OF THIS CHAPTER.

29 4. A TEMPORARY RETAIL PERMIT ISSUED BY THE AUTHORITY PURSUANT TO THIS
30 SECTION SHALL BE FOR A PERIOD NOT TO EXCEED NINETY DAYS. A TEMPORARY
31 PERMIT MAY BE EXTENDED AT THE DISCRETION OF THE AUTHORITY, FOR AN ADDI-
32 TIONAL THIRTY DAY PERIOD UPON PAYMENT OF AN ADDITIONAL FEE OF SIXTY-FOUR
33 DOLLARS FOR ALL RETAIL BEER LICENSES AND NINETY-SIX DOLLARS FOR ALL
34 OTHER TEMPORARY PERMITS AND UPON COMPLIANCE WITH ALL CONDITIONS REQUIRED
35 IN THIS SECTION. THE AUTHORITY MAY, IN ITS DISCRETION, ISSUE ADDITIONAL
36 THIRTY DAY EXTENSIONS UPON PAYMENT OF THE APPROPRIATE FEE.

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

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

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

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

48 6. THE HOLDER OF A TEMPORARY RETAIL PERMIT SHALL PURCHASE ALCOHOLIC
49 BEVERAGES ONLY BY PAYMENT IN CURRENCY OR CHECK FOR SUCH ALCOHOLIC BEVER-
50 AGES ON OR BEFORE THE DAY SUCH ALCOHOLIC BEVERAGES ARE DELIVERED,
51 PROVIDED, HOWEVER, THAT THE HOLDER OF A TEMPORARY PERMIT ISSUED PURSUANT
52 TO THIS SECTION WHO ALSO HOLDS ONE OR MORE RETAIL LICENSES AND IS OPER-
53 ATING UNDER SUCH RETAIL LICENSE OR LICENSES IN ADDITION TO THE TEMPORARY
54 RETAIL PERMIT, AND WHO IS NOT DELINQUENT UNDER THE PROVISIONS OF SECTION
55 ONE HUNDRED ONE-AA OF THIS CHAPTER AS TO ANY RETAIL LICENSE UNDER WHICH

1 HE OPERATES, MAY PURCHASE ALCOHOLIC BEVERAGES ON CREDIT UNDER THE TEMPO-
2 RARY PERMIT.

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

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

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

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

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

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

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

31 30-A. "TRANSFER" MEANS THE ADMINISTRATIVE PROCESSES INVOLVED IN ISSU-
32 ING A LICENSE TO A NEW APPLICANT FOR AN EXISTING LICENSED BUSINESS.
33 TRANSFER APPLICANTS SHALL BE UNDER CONTRACT WITH THE EXISTING LICENSEE
34 FOR PURCHASE OF THE EXISTING LICENSED BUSINESS.

35 S 5. This act shall take effect on the sixtieth day after it shall
36 have become a law, provided that paragraph (b) of subdivision 1 of
37 section 97-a of the alcoholic beverage control law as added by section
38 two of this act shall expire and be deemed repealed one year after such
39 effective date.