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

10949

I N A S S E M B L Y

May 5, 2010

Introduced by M. of A. BALL -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring consideration, in the determination of rates for liability insurance taken by operators of premises licensed for on premises consumption of alcoholic beverages, of the provision of transportation to patrons; and to amend the general obligations law, in relation to immunity from liability for injury or damage caused by intoxication of another person when the operator of such a premises offers and provides, free of charge, transportation to patrons

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

Section 1. The insurance law is amended by adding a new section 2327 to read as follows:

S 2327. LIABILITY INSURANCE RATES FOR PREMISES LICENSED FOR ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES; PROVISION OF TRANSPORTATION. WHERE THE INSURED IS LICENSED TO SELL ANY ALCOHOLIC BEVERAGE AT RETAIL FOR ON PREMISES CONSUMPTION PURSUANT TO THE ALCOHOLIC BEVERAGE CONTROL LAW, THE RATES FOR THE LIABILITY INSURANCE RELATING TO INJURY OR DAMAGE CAUSED BY INTOXICATED PATRONS SHALL BE APPROPRIATELY REDUCED TO REFLECT THE INSURER'S REDUCED EXPOSURE TO LOSS WHEN THE INSURED:

(A) PERFORMS TRANSACTION SCANS FOR PROOF OF AGE, PURSUANT TO SECTION SIXTY-FIVE-B OF THE ALCOHOLIC BEVERAGE CONTROL LAW, UPON ALL PATRONS ATTEMPTING TO ACQUIRE AN ALCOHOLIC BEVERAGE; AND

(B) PROVIDES, FREE OF CHARGE, TRANSPORTATION, TO INTOXICATED AND POSSIBLY INTOXICATED PATRONS, TO THE PATRON'S RESIDENCE OR PLACE OF LODGING WITHIN TWENTY-FIVE MILES OF THE LICENSED PREMISES.

S 2. The general obligations law is amended by adding a new section 11-109 to read as follows:

S 11-109. IMMUNITY FROM LIABILITY FOR INJURY OR DAMAGE CAUSED BY INTOXICATION OF PATRONS. A PERSON LICENSED TO SELL ANY ALCOHOLIC BEVERAGE AT RETAIL FOR ON PREMISES CONSUMPTION PURSUANT TO THE ALCOHOLIC BEVERAGE CONTROL LAW, OR ANY AGENT OR EMPLOYEE THEREOF, SHALL BE IMMUNE

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

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FROM LIABILITY FOR INJURY OR DAMAGE CAUSED BY AN INTOXICATED PATRON AFTER HE OR SHE LEAVES THE LICENSED PREMISES, IF THE LICENSED PREMISES:

1. PERFORMS TRANSACTION SCANS FOR PROOF OF AGE, PURSUANT TO SECTION SIXTY-FIVE-B OF THE ALCOHOLIC BEVERAGE CONTROL LAW UPON ALL PATRONS ATTEMPTING TO ACQUIRE AN ALCOHOLIC BEVERAGE; AND

2. PROVIDES, FREE OF CHARGE, TRANSPORTATION, TO INTOXICATED AND POSSIBLY INTOXICATED PATRONS, TO THE PATRON'S RESIDENCE OR PLACE OF LODGING WITHIN TWENTY-FIVE MILES OF THE LICENSED PREMISES.

S 3. This act shall take effect immediately; provided that section one of this act shall apply to policies and contracts issued, renewed, modified, altered or amended on or after such effective date; and provided, further that section two of this act shall apply to causes of action commenced on or after such effective date.