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

11288

I N A S S E M B L Y

May 25, 2010

Introduced by M. of A. MILLMAN -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the alcoholic beverage control law, in relation to rooftop bars

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

Section 1. The alcoholic beverage control law is amended by adding a new section 99-h to read as follows:

S 99-H. REAR YARD AND ROOFTOP PERMIT IN CITIES WITH A POPULATION OF ONE MILLION OR MORE. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(A) "REAR YARD" SHALL MEAN THE SPACE IN THE REAR OF A BUILDING WHICH IS WITHIN FIVE HUNDRED FEET OF PROPERTY ZONED FOR RESIDENTIAL USE;

(B) "ROOFTOP" SHALL MEAN THE EXTERIOR SURFACE AT THE TOP OF A BUILDING NO FEWER THAN TEN STORIES ABOVE ANY RESIDENTIAL HOUSING.

2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, BEGINNING JANUARY FIRST, TWO THOUSAND ELEVEN, LICENSEES WITHIN A CITY WITH A POPULATION OF ONE MILLION OR MORE SHALL REQUIRE A REAR YARD AND ROOFTOP PERMIT TO SERVE ALCOHOL TO PATRONS IN A REAR YARD OR ON A ROOFTOP.

3. NO PERMIT SHALL BE GRANTED FOR THE CONSUMPTION OF ALCOHOL IN A REAR YARD OR ROOFTOP, UNLESS:

(A) THE LICENSEE ONLY PROVIDES WAITER OR WAITRESS SERVICE TO PATRONS SEATED AT TABLES IN SUCH AREAS;

(B) NO AMPLIFIED MUSIC SHALL BE PLAYED IN SUCH AREAS AND WINDOWS AND DOORS TO AREAS IN WHICH AMPLIFIED MUSIC IS PLAYED SHALL REMAIN CLOSED;

(C) AN APPLICANT FOR A REAR YARD AND ROOFTOP PERMIT SUBMITS A PLAN TO THE AUTHORITY WITH A DRAWING DONE TO SCALE SHOWING THE SIZE OF THE REAR YARD OR ROOFTOP, ITS PROXIMITY TO NEIGHBORING BUILDINGS, THE PLACEMENT OF TABLES AND CHAIRS, THE APPLICANT'S PLAN FOR LIGHTING, AND THE PLACEMENT OF FIRE ESCAPES, LADDERS AND DOORS TO ADJOINING PLACES OF REFUGE.

4. THE COMMUNITY BOARD WHERE THE APPLICANT IS LOCATED MAY EXPRESS AN OPINION FOR OR AGAINST THE GRANTING OF SUCH PERMIT. ANY SUCH OPINION SHALL BE DEEMED PART OF THE RECORD UPON WHICH THE LIQUOR BOARD MAKES ITS DETERMINATION TO GRANT OR DENY SUCH LICENSE.

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

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5. ALL REAR YARD OR ROOFTOP SPACES MUST BE CLOSED AND VACATED BY TEN IN THE EVENING ON SUNDAY, MONDAY, TUESDAY, WEDNESDAY AND THURSDAY, AND ELEVEN IN THE EVENING ON FRIDAY AND SATURDAY, UNLESS THE COMMUNITY BOARD WHERE THE PERMIT HOLDER IS LOCATED SHALL APPROVE AN EXTENDED CLOSING TIME.

6. THE COMMISSIONER, WITH THE CONSULTATION OF THE COMMUNITY BOARD OF A CITY WITH A POPULATION OF ONE MILLION OR MORE, SHALL ESTABLISH SUCH RULES, REGULATIONS, TERMS AND CONDITIONS IN RESPECT TO THE GRANTING AND ISSUANCE OF SUCH PERMIT, WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW.

S 2. This act shall take effect immediately.