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

1992

2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. THIELE -- 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 providing for summary suspension of a license or permit when operation of the licensed premises endangers the health, welfare or safety of the community

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 119-a to read as follows:

S 119-A. SUMMARY SUSPENSION OF A LICENSE OR PERMIT PENDING A FINAL DETERMINATION. 1. IN ANY CASE WHERE THE AUTHORITY RECEIVES WRITTEN INFORMATION FROM THE MAYOR, CHIEF OF POLICE, POLICE COMMISSIONER, SHERIFF, OR LOCAL LEGISLATIVE BODY OF ANY CITY, TOWN OR VILLAGE IN WHICH THE LICENSED PREMISES IN QUESTION ARE LOCATED, WHICH CERTIFIES THAT CONTINUED OPERATION OF THE PREMISES PRESENTS A SUBSTANTIAL LIKELIHOOD THAT DEATH OR SERIOUS PHYSICAL INJURY MAY RESULT TO THE PUBLIC FROM THE CONTINUED OPERATION OF THE PREMISES, THE AUTHORITY MAY ORDER THE IMMEDIATE SUSPENSION OF SUCH LICENSE PENDING A FINAL DETERMINATION IF THE AUTHORITY DETERMINES THAT BASED UPON THE CERTIFICATION AND THE AUTHORITY'S INDEPENDENT INVESTIGATION, THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE IMPERATIVELY REQUIRES EMERGENCY ACTION, AND INCORPORATES A FINDING TO THAT EFFECT IN ITS ORDER. AT THE TIME THE LOCALITY PROVIDES TO THE AUTHORITY A CERTIFICATION REGARDING A LICENSED PREMISE, THAT LOCALITY SHALL ALSO SEND, BY REGISTERED MAIL, A COPY OF SUCH CERTIFICATION TO THE LICENSEE. SUCH SUMMARY SUSPENSION SHALL BE EFFECTIVE ON THE DATE SPECIFIED IN SUCH ORDER OR UPON SERVICE OF A CERTIFIED COPY OF SUCH ORDER ON THE LICENSEE, WHICHEVER SHALL BE LATER, FOR A PERIOD OF NO MORE THAN THIRTY DAYS, PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION.

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

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2. (A) THE LICENSEE MAY REQUEST A HEARING TO BE CONDUCTED WITHIN THREE DAYS OF THE EFFECTIVE DATE OF SUCH ORDER. THE LICENSEE SHALL BE AFFORDED, AT SUCH HEARING, THE OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL IN REFERENCE TO THE SUMMARY SUSPENSION.

(B) THE AUTHORITY SHALL COMMENCE A HEARING PROCEEDING FOR REVOCATION PURSUANT TO THIS SECTION WITHIN TEN DAYS OF THE EFFECTIVE DATE OF SUCH ORDER. A COPY OF THE CHARGES AND NOTICE OF PLEADING AND HEARING, PURSUANT TO SECTION ONE HUNDRED NINETEEN OF THIS ARTICLE, SHALL BE SERVED UPON THE LICENSEE IN ACCORDANCE WITH THE RULES OF THE AUTHORITY.

(C) IF AFTER A HEARING, THE AUTHORITY SUBSEQUENTLY DETERMINES THAT CONTINUED OPERATION OF THE LICENSED PREMISES POSES NO IMPERATIVE THREAT TO THE PUBLIC HEALTH, SAFETY OR WELFARE, THEN THE AUTHORITY SHALL WITHDRAW SUCH SUMMARY SUSPENSION ORDER AND ALLOW OPERATION OF SUCH PREMISES TO CONTINUE PENDING A FINAL DETERMINATION ON THE MERITS.

3. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY MAY PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect immediately.