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

S. 304 A. 372

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2009

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

IN ASSEMBLY -- 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 villages the local option to prohibit the sale of alcoholic beverages

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 141-a to read as follows:

S 141-A. LOCAL OPTION FOR VILLAGES. 1. NOT LESS THAN SIXTY DAYS NOR MORE THAN SEVENTY-FIVE DAYS BEFORE THE GENERAL ELECTION IN ANY VILLAGE AT WHICH THE SUBMISSION OF THE QUESTIONS HEREINAFTER STATED IS AUTHORIZED BY THIS ARTICLE, A PETITION SIGNED BY ELECTORS OF THE VILLAGE TO A NUMBER AMOUNTING TO TWENTY-FIVE PER CENTUM OF THE VOTES CAST IN THE VILLAGE FOR GOVERNOR AT THE THEN LAST PRECEDING GUBERNATORIAL ELECTION, REQUESTING THE SUBMISSION AT SUCH ELECTION TO THE ELECTORS OF THE VILLAGE OF THE QUESTIONS CONTAINED IN EITHER GROUP A OR GROUP B OF SECTION ONE HUNDRED FORTY-ONE OF THIS ARTICLE, SUBSTITUTING HOWEVER THE WORD "VILLAGE" FOR "TOWN," MAY BE FILED WITH THE VILLAGE CLERK. IF PETITIONS PRAYING FOR THE SUBMISSION OF THE QUESTIONS CONTAINED IN BOTH GROUP A AND GROUP B ARE FILED, ONLY THE QUESTIONS OF THE GROUP MENTIONED IN THE PETITION FIRST FILED SHALL BE SUBMITTED.

(A) OPPOSITE AND ON THE RIGHT OF THE NAME OF EACH ELECTOR SIGNING SUCH PETITION SHALL BE WRITTEN HIS OR HER RESIDENCE ADDRESS BY HOUSE NUMBER AND STREET NAME, IF ANY, AND OTHERWISE BY AN APPROPRIATE DESIGNATION,

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

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AND THE DATE OF HIS OR HER SIGNING. EACH SIGNATURE SHALL BE MADE PERSONALLY BY THE ONE WHOSE NAME IS SIGNED AND NOT BY ANOTHER. NO SIGNATURE SHALL BE VALID OR COUNTED AS TO WHICH ANY OF SUCH REQUIREMENTS IS NOT COMPLIED WITH, NOR AS TO WHICH THE DATE OF SIGNING IS MORE THAN FOUR MONTHS PRIOR TO THE DAY OF THE ELECTION. NO SIGNATURE SHALL BE WITHDRAWN AFTER THE PETITION IS FILED.

(B) AT THE BOTTOM OF EACH SHEET OF THE PETITION SHALL BE A STATEMENT, SIGNED BY A DULY QUALIFIED ELECTOR OF THE VILLAGE, WITH HIS OR HER RESIDENCE ADDRESS, STATING THAT EVERY SIGNATURE ON THAT SHEET OF THE PETITION IS GENUINE AND THAT TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF EVERY PERSON SO SIGNING WAS AT THE TIME THEREOF A QUALIFIED ELECTOR OF SUCH VILLAGE, THAT THEIR RESPECTIVE RESIDENCES ARE CORRECTLY STATED THEREIN AND THAT EACH SIGNER SIGNED THE SAME ON THE DATE SET OPPOSITE HIS OR HER NAME. SUCH STATEMENT SHALL BE SWORN TO BEFORE AN OFFICER AUTHORIZED TO ADMINISTER OATHS WITHIN SUCH VILLAGE.

(C) THE SAME PETITION MAY BE EITHER IN ONE DOCUMENT OR PREPARED AND SIGNED IN TWO OR MORE DOCUMENTS. SUCH DOCUMENTS SHALL CONSTITUTE ONE PETITION AND BE FILED AS A WHOLE.

(D) THE PETITION SHALL ALSO APPOINT A COMMITTEE UPON WHOM OR ANY OF ITS MEMBERS A SUMMONS, ORDER OR NOTICE MAY BE SERVED IN ANY PROCEEDING RESPECTING THE VALIDITY OF THE PETITION OR OF AN ELECTION HELD PURSUANT THERETO, AND SHALL ALSO DESIGNATE THE CHAIRMAN OF SUCH COMMITTEE. THE RESIDENCE ADDRESS OF EACH MEMBER OF THE COMMITTEE SHALL BE STATED. SUCH COMMITTEE MAY FILL A VACANCY IN ITS CHAIRMANSHIP OR IN ITS MEMBERSHIP, AND NOTICE OF ANY SUCH CHANGE SHALL PROMPTLY BE FILED WITH THE OFFICER WITH WHOM THE PETITION IS REQUIRED TO BE FILED; PROVIDED, HOWEVER, THAT FAILURE TO FILE SUCH NOTICE SHALL NOT INVALIDATE ANY PROCEEDING UNDER THIS CHAPTER.

(E) UPON THE DUE FILING OF SUCH A PETITION, COMPLYING WITH THE FOREGOING PROVISIONS, SUCH QUESTIONS SHALL BE SUBMITTED IN ACCORDANCE THEREWITH. IF THE PETITION BE FILED WITH THE VILLAGE CLERK, HE OR SHE SHALL WITHIN FIVE DAYS FROM THE FILING THEREOF, PREPARE AND FILE IN THE OFFICE OF THE BOARD OF ELECTIONS OF THE COUNTY, AS DEFINED BY THE ELECTION LAW, A CERTIFIED COPY THEREOF.

2. THE METHOD AND MANNER OF SUBMISSION, PREPARATION AND PROVISION OF BALLOT LABELS, BALLOTING BY VOTING MACHINE AND CONDUCTING THE ELECTION, CANVASSING THE RESULT AND MAKING AND FILING THE RETURNS AND ALL OTHER PROCEDURES WITH REFERENCE TO THE SUBMISSION OF AND ACTION UPON ANY SUCH QUESTION SHALL BE THE SAME AS IN THE CASE OF ANY OTHER PROPOSITION TO BE SUBMITTED TO THE ELECTORS OF A VILLAGE AT A GENERAL ELECTION AS PROVIDED BY LAW.

3. IF A MAJORITY OF THE VOTES CAST SHALL BE IN THE NEGATIVE ON ANY OR ALL OF THE QUESTIONS, NO PERSON SHALL, AFTER SUCH ELECTION, SELL ALCOHOLIC BEVERAGES IN SUCH VILLAGE CONTRARY TO SUCH VOTE OR TO THE PROVISIONS OF THIS CHAPTER; PROVIDED, HOWEVER, THAT THE RESULT OF SUCH VOTE SHALL NOT SHORTEN THE TERM FOR WHICH ANY LICENSE MAY HAVE BEEN LAWFULLY ISSUED UNDER THIS CHAPTER OR AFFECT THE RIGHTS OF THE LICENSEE THEREUNDER; AND NO PERSON SHALL AFTER SUCH VOTE APPLY FOR OR RECEIVE A LICENSE TO SELL ALCOHOLIC BEVERAGES AT RETAIL IN SUCH VILLAGE CONTRARY TO SUCH VOTE, UNTIL, BY REFERENDUM AS HEREINAFTER PROVIDED FOR, SUCH SALE SHALL AGAIN BECOME LAWFUL.

4. IF AT SUCH ELECTION THE VOTES CAST ON QUESTION NUMBER ONE OF EITHER GROUP BE EQUAL OR A MAJORITY THEREOF BE IN THE AFFIRMATIVE AND A MAJORITY OF THE VOTES CAST ON QUESTION NUMBER TWO OF EITHER GROUP BE IN THE NEGATIVE, ALCOHOLIC BEVERAGES OR BEER ONLY, AS THE CASE MAY BE, MAY NEVERTHELESS BE SOLD IN SUCH VILLAGE AT RETAIL NOT TO BE CONSUMED ON THE

PREMISES BY THE HOLDER OF A LICENSE TO SELL SUCH BEVERAGES IN SUCH VILLAGE AT RETAIL TO BE CONSUMED UPON THE PREMISES.

S 2. Section 140 of the alcoholic beverage control law, as amended by chapter 810 of the laws of 1981, is amended to read as follows:

S 140. Applicability of chapter before local option. Until such time as it shall become unlawful to sell alcoholic beverages in any town, VILLAGE or city by the vote of the voters in such town, VILLAGE or city in the manner provided in this article, all of the provisions of this chapter shall apply throughout the entire state. This article shall not apply to the Whiteface mountain ski center, owned by the state and located in the town of Wilmington, county of Essex.

S 3. Section 143 of the alcoholic beverage control law is amended to read as follows:

S 143. Filing certificate of result with liquor authority. Whenever at an election a vote shall be taken on the local option questions pursuant to [sections] SECTION one hundred forty-one, ONE HUNDRED FORTY-ONE-A or one hundred forty-two OF THIS ARTICLE in any town, VILLAGE or city, the officer or board charged by law with the duty of filing a statement of the result and certificate of determination of such election shall file a duplicate thereof with the liquor authority.

S 4. Subdivision 1 of section 147 of the alcoholic beverage control law, as amended by chapter 319 of the laws of 2007, is amended to read as follows:

1. In any town, VILLAGE or city in which a vote shall be taken on any one or more of the local option questions provided for in this article, no further vote shall be submitted upon any local option question that was presented to the voters before the second general election thereafter.

S 5. This act shall take effect on the thirtieth day after it shall have become a law.