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

5064

2009-2010 Regular Sessions

I N  A S S E M B L Y

February 10, 2009

Introduced by M. of A. BRODSKY, DINOWITZ -- Multi-Sponsored by -- M. of A. GOTTFRIED, HOOPER -- 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 the sale of alcoholic beverages at certain sports facilities, to amend the criminal procedure law, in relation to the designation of special patrolpersons for sports facilities as peace officers, and to amend chapter 694 of the laws of 1988 amending the alcoholic beverage control law and the criminal procedure law relating to regulating the sale of alcoholic beverages at sports facilities, in relation to extending the effective period of the provisions of such chapter

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

Section 1. Subdivisions 3, 4, 5, 8, and 9 of section 106-b of the alcoholic beverage control law, subdivisions 3, 8, and 9 as added by chapter 694 of the laws of 1988, subdivision 4 as amended by chapter 695 of the laws of 1988, and subdivision 5 as amended by chapter 696 of the laws of 1988, are amended to read as follows:

3. (a) [Immediately upon the effective date of this section] ON JANUARY FIRST, TWO THOUSAND TEN, each facility operator shall designate not less than ten percentum of all non-season ticket seating as either nonalcohol seating accommodations [or], nonvending seating accommodations, or both, and [that] such designations shall thereafter remain in effect up to and until the commencement of designations pursuant to paragraph (b) of this subdivision[,] or designations pursuant to subdivision four of this section.

(b) The establishment of seating accommodations pursuant to subdivisions one and two of this section may be implemented over a period of three years from [the effective date of this section] JANUARY FIRST, TWO THOUSAND TEN, and in a combination of nonalcoholic seating accommo-

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

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dations and nonvending seating accommodations[,] that is consistent with the provisions of this section[,]; provided that:

(i) designations of not less than one-third of the total seating accommodations required pursuant to subdivisions one and two of this section are made within one year of [the effective date of this section] JANUARY FIRST, TWO THOUSAND TEN; PROVIDED, however, such designation up to the first one-third of the total nonalcohol seating accommodation may be designated in any ticket price area, and

(ii) designations of an additional one-third of the total seating accommodations required pursuant to subdivisions one and two of this section are made by January first, [nineteen hundred ninety-one] TWO THOUSAND ELEVEN; PROVIDED, however, such designation up to the second one-third of the total nonalcohol seating accommodation may be designated in any ticket price area, and

(iii) designations of a final one-third of the total seating accommodations required pursuant to subdivisions one and two of this section are made by January first, [nineteen hundred ninety-two] TWO THOUSAND TWELVE.

(c) A facility operator may petition the [state liquor] authority for an exemption from the provisions of subparagraphs (ii) and (iii) of paragraph (b) [hereof] OF THIS SUBDIVISION as they relate to nonalcohol seating if it can be shown that the demand for such seating does not exceed the availability under subparagraph (i) of paragraph (b) [hereof] OF THIS SUBDIVISION. The [state liquor] authority, in evaluating such petition, shall consider, among other things, the availability of such seating, the promotion of such seating, the method of merchandising tickets for such seating, and the location of such seating sections within the overall seating available in a given facility. In addition, the [state liquor] authority shall consider any voluntarily instituted alcohol reduction plan which includes, but is not necessarily limited to, the provision of low alcohol beer, the limitation on the number of servings of alcoholic beverages, or limitations on the size of such servings.

(d) Nothing in this section shall be construed as prohibiting facility operators from relocating designated nonvending or nonalcohol seating accommodations in each year[,]; provided that each facility maintains the levels of nonalcohol and nonvending seating accommodations provided for in this section.

4. Notwithstanding any provision of this section to the contrary, a facility operator shall be exempt from the provisions of subdivisions one, two, and three [hereof,] OF THIS SECTION upon the filing of certification with the [state liquor] authority that said operator prohibits the vending of alcoholic beverages in all seating areas of such facility, and furthermore provides non-alcohol seating accommodations in not less than two percentum of the total permanent seating accommodations.

5. (a) For the purposes of preserving order and preventing offenses against the laws of the state during the course of a sporting event, and when otherwise authorized pursuant to the provisions of the criminal procedure law and appropriate local legislation, the trustees or directors of any corporation acting in the capacity of facility operator and licensed to do business in New York[,] may apply from time to time to the commissioner of police of the municipality within which the facility is located for the appointment of special [patrolmen] PATROLPERSONS, who, when appointed, shall be peace officers with the same powers within such facility as are set forth in section 2.20 of the criminal procedure law, whose duty, when appointed, shall be to preserve order within the

facility operated by the applicant corporation, to protect the property within said facility, with the authority to eject or arrest all persons who shall be improperly within the facility or who shall be guilty of disorderly conduct, or who shall neglect or refuse to pay the fees prescribed by said corporation; and it shall be the further duty of said special [patrolmen] PATROLPERSONS, when appointed, to prevent all violations of law and arrest any and all persons violating such provisions[,] and to process such persons in accordance with the criminal procedure law. The appointment of special [patrolmen] PATROLPERSONS pursuant to this section shall not supersede in any way the authority of peace officers or police officers of the jurisdiction within which such facility is located, nor shall any [patrolmen] PATROLPERSONS be deemed by virtue of such employment an employee of said municipality, or be entitled to any of the benefits arising from such employment, and such special [patrolmen] PATROLPERSONS may be terminated by the commissioner at any time, without assigning cause [therefore] THEREFOR.

(b) The special [patrolmen] PATROLPERSONS appointed and approved pursuant to the provisions of this subdivision shall be the sole responsibility of the applying corporate entity, and such entity shall indemnify and defend the municipality for any and all liability arising from the acts or omissions of such officers. In consideration of their appointment, special [patrolmen] PATROLPERSONS shall sign an agreement in writing releasing and waiving all claim whatsoever against the police department or the municipality for pay, salary or compensation for their services, or for any other expenses connected thereto.

8. The [state liquor] authority shall promulgate rules and regulations no later than January first, [nineteen hundred eighty-nine,] TWO THOUSAND TEN that provide for notification of facility operators of such facilities and sellers of alcoholic beverages at such facilities of the provisions of this section [and], that provide for the conspicuous posting at such facilities OF notices informing the public of the provisions of this section, indicating the nonalcohol and nonvending seating accommodations designated pursuant to this section, and the penalty for violating this section[,] and shall promulgate BY SAID DATE such other rules and regulations in furtherance of the provisions of this section AS THE AUTHORITY DEEMS NECESSARY.

9. The [state liquor] authority shall report to the governor and legislature no later than February first, [nineteen hundred ninety-three] TWO THOUSAND THIRTEEN on the compliance with the provisions of this section, any and all administrative or enforcement actions taken under the authority vested in it by the provisions of this section and the effectiveness of the provisions of this section in reducing the occurrence of alcohol-related incidents.

S 2. Subdivision 55 of section 2.10 of the criminal procedure law, as amended by chapter 695 of the laws of 1988, is amended to read as follows:

55. Special [patrolmen] PATROLPERSONS for sports facilities in the performance of sporting events, pursuant to the provisions of section one hundred six-b of the alcoholic beverage control law; provided, however, that nothing in this section shall be deemed to authorize such officer to carry, possess, repair, or dispose of a firearm unless such officer is required pursuant to his OR HER status as a police officer within this state.

S 3. Section 4 of chapter 694 of the laws of 1988 amending the alcoholic beverage control law and the criminal procedure law relating to

regulating the sale of alcoholic beverages at sports facilities is amended to read as follows:

S 4. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law, and shall expire on the first day of July, [nineteen hundred ninety-three] 1993; PROVIDED, HOWEVER THAT THE PROVISIONS OF SECTION 106-B OF THE ALCOHOLIC BEVERAGE CONTROL LAW AND SUBDIVISION 55 OF SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW SHALL CONTINUE AND BE REVIVED ON JANUARY 1, 2010 AND AS CONTINUED AND REVIVED SHALL EXPIRE ON JANUARY 1, 2014.

S 4. This act shall take effect January 1, 2010; provided, however, that the amendments to section 106-b of the alcoholic beverage control law made by section one of this act and the amendments to subdivision 55 of section 2.10 of the criminal procedure law made by section two of this act shall not affect the expiration of such section and subdivision, respectively, and shall be deemed to expire therewith and provided, further that the state liquor authority is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.