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

6062

2009-2010 Regular Sessions

I N A S S E M B L Y

February 24, 2009

Introduced by M. of A. LENTOL -- 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 granting of retail licenses for on-premises consumption

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

Section 1. Subdivision 7 of section 64 of the alcoholic beverage control law, as amended by chapter 177 of the laws of 1996, paragraph (d-1) as added by chapter 406 of the laws of 2007, paragraph (e-1) as added by chapter 497 of the laws of 2003, paragraph (e-2) as added by chapter 21 of the laws of 2005, paragraph (e-3) as added by chapter 76 of the laws of 2007 and paragraph (f) as amended by chapter 602 of the laws of 1999, is amended to read as follows:

7. No retail license for on-premises consumption shall be granted for any premises which shall be

(a) on the same street or avenue and within [two] THREE hundred FIFTY feet of a building occupied exclusively as a school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship or

(b) in a city, town or village having a population of twenty thousand or more within [five] SIX hundred FIFTY feet of three or more existing premises licensed and operating pursuant to the provisions of this section;

(c) the measurements in paragraphs (a) and (b) of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to the provisions of this section; except, however, that no renewal license shall be denied because of such restriction to any premises so located which were maintained as a bona fide hotel, restaurant, catering establishment or

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

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club on or prior to December fifth, nineteen hundred thirty-three; and, except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship; and except that no license shall be denied to any premises, which is within five hundred feet of three or more existing premises licensed and operating pursuant to the provisions of this section, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three; and except that this subdivision shall not be deemed to restrict the issuance of a hotel liquor license to a building used as a hotel and in which a restaurant liquor license currently exists for premises which serve as a dining room for guests of the hotel and a caterer's license to a person using the permanent catering facilities of a church, synagogue or other place of worship pursuant to a written agreement between such person and the authorities in charge of such facilities. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship, provided that such new location is not within a closer distance to such school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship.

(d) Within the context of this subdivision, the word "entrance" shall mean a door of a school, OF A COMMUNITY CENTER, OF A SENIOR CITIZENS' CENTER, of a house of worship, or premises licensed and operating pursuant to the provisions of this section or of the premises sought to be licensed, regularly used to give ingress to students of the school, TO THE GENERAL PUBLIC VISITING THE COMMUNITY CENTER OR SENIOR CITIZENS' CENTER, to the general public attending the place of worship, and to patrons or guests of the premises licensed and operating pursuant to the provisions of this section or of the premises sought to be licensed, except that where a school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER or house of worship or premises licensed and operating pursuant to the provisions of this section is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

(d-1) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organiza-

tions or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building.

(e) Notwithstanding the provisions of this chapter to the contrary, the authority may issue a license to sell liquor at retail to be consumed on premises to a club as such term is defined in subdivision nine of section three of this chapter whether or not the building in which the premises for which such license is to be issued is used exclusively for club purposes and whether or not such premises is within [two] THREE hundred FIFTY feet of a building used exclusively as a school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or place of worship if such club is affiliated or associated with such school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or place of worship and the governing body of such school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship has filed written notice with the authority that it has no objection to the issuance of such license.

(e-1) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises and/or an overnight lodging facility located wholly within the boundaries of the borough of Manhattan in the city and county of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of 49th Street, distant 160 feet easterly from the corner formed by the intersection of the southerly side of 49th Street with the easterly side of 8th Avenue; running thence southerly, parallel with 8th Avenue and part of the distance through a party wall, 100 feet 5 inches to the center line of the block between 48th and 49th Streets; thence easterly along the center line of the block, 40 feet; thence northerly, parallel with 8th Avenue and part of the distance through a party wall, 100 feet 5 inches to the southerly side of 49th Street; thence westerly along the southerly side of 49th Street, 40 feet to the point or place of beginning. Premises known as 240 and 242 West 49th Street, New York City. Being the same premises described in deed made by Hotel Mayfair Inc. to Harry Etkin and Freda Rubin, dated 1/23/50 and recorded 1/27/50 in liber 4657 Cp. 250.

(e-2) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a church, synagogue or other place of worship,

provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the county of Ulster, bounded and described as follows:

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, with the buildings and improvements erected thereon, situated in the Village of Ellenville, Town of Wawarsing, County of Ulster and State of New York, being further bounded and described as follows:

Beginning at a three-quarter inch diameter iron rod found on the southwesterly bounds of Canal Street, marking the northeasterly corner of the lands, now or formerly, John Georges, as described in liber 2645 of deeds at page 278.

Thence along the southeasterly bounds of the lands of John Georges, passing 1.42 feet northwesterly from the southwesterly corner of the building situated on the premises described herein, South thirty-nine degrees, forty-one minutes, fifty-two seconds West, one hundred fifty and zero hundredths feet (S 39-41-52 W, 150.00') to the northeasterly bounds of the lands, now or formerly, Thomas Powers, as described in liber 1521 of deeds at page 749. Thence along the northeasterly bounds of the lands of Thomas Powers, South fifty degrees, thirty-nine minutes, sixteen seconds East, twenty-eight and zero hundredths feet (S 50-39-16 E, 28.00').

Thence passing 1.92 feet southeasterly from the southeasterly corner of the building situated on the premises described herein. North thirty-nine degrees, forty-one minutes, fifty-two seconds East, one hundred fifty and zero hundredths feet (N 39-41-52 E, 150.00') to the southwesterly bounds of Canal Street.

Thence along the southwesterly bounds of Canal Street, North fifty degrees, thirty-nine minutes, sixteen seconds West, twenty-eight and zero hundredths feet (N 50-39-16 W, 28.00') to the point of beginning.

Containing 4,199.92 square feet of land or 0.0996 of an acre of land.

Being the same premises as conveyed by deed dated September 2, 1999 from Chris M. Camio as Executor of the Last Will and Testament of Alice Manzo to Bill Lelbach, John Eckert, Jeffrey Schneider, Jack Harris and Alfred S. Dannhauser and recorded in the Ulster County Clerk's Office on September 15, 1999 in Liber 2966 at page 291.

The undivided interests of John Harris and Alfred S. Dannhauser having been conveyed to Bill Lelbach by deed dated August 21, 2001 and recorded in the Ulster County Clerk's Office in Liber 3213 p 65.

(e-3) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within [two] THREE hundred FIFTY feet of a building occupied exclusively as a school, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises and/or an overnight lodging facility located wholly within the boundaries of the borough of Manhattan in the city and county of New York, bounded and described as follows:

Beginning at a point on the southerly side of 46th street, distant three hundred fifty (350) feet westerly from the corner formed by the intersection of the westerly side of Sixth Avenue with the said southerly side of 46th street. Running thence southerly parallel with the said westerly side of Sixth Avenue and for part of the distance through a party wall, one hundred (100) feet four (4) inches; thence westerly parallel with the southerly side of 46th street, eighty (80) feet; thence northerly again parallel with the westerly side of Sixth Avenue, one hundred (100) feet four (4) inches to the southerly side of 46th

street; and thence easterly along the said southerly side of 46th street, eighty (80) feet to the point or place of beginning. Premises known as 130 West 46th Street, New York City. Being the same premises described in deed made by Massachusetts Mutual Life Insurance Company to West 46th Street Hotel, LLC, dated 12/22/06 and recorded 2/06/07 in the Office of the City Register, New York County, on February 6, 2007 as CFRN 2007000069808.

(f) Notwithstanding the provisions of paragraph (b) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within [five] SIX hundred FIFTY feet of three or more existing premises licensed and operating pursuant to the provisions of this section if, after consultation with the municipality or community board AND AN ON-SITE VISIT TO INVESTIGATE THE PREMISES SEEKING THE LICENSE AND THE SURROUNDING NEIGHBORHOOD, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within [five] SIX hundred FIFTY feet of a building or buildings wherein three or more premises are operating and licensed pursuant to this section.

S 2. This act shall take effect immediately.