

6782

2009-2010 Regular Sessions

I N A S S E M B L Y

March 12, 2009

Introduced by M. of A. SCHIMMINGER -- (at request of the State Liquor Authority) -- 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 changing the types of applicants eligible for a temporary retail permit

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

1 Section 1. Section 97-a of the alcoholic beverage control law, as  
2 added by chapter 366 of the laws of 1991, paragraph d of subdivision 1  
3 and subdivision 2 as amended by section 20 of part Z of chapter 85 of  
4 the laws of 2002, is amended to read as follows:

5 S 97-a. Temporary retail permit. 1. The liquor authority is hereby  
6 authorized to issue a temporary retail permit to the [transferee of]  
7 APPLICANT FOR a retail license [to continue the operation of a retail  
8 premises during the period a transfer application for the license from  
9 person to person at the same premises] DURING THE PERIOD THE APPLICATION  
10 is pending and when all the following conditions exist:

11 (a) The [premises shall have been operated under a retail license  
12 within thirty days of the date of filing the application for a temporary  
13 permit] APPLICANT HAS FULLY COMPLIED WITH THE PROVISIONS OF SECTION ONE  
14 HUNDRED TEN OF THIS CHAPTER;

15 (b) [The] AT THE TIME THE PERMIT IS ISSUED, ANY EXISTING retail  
16 license for said premises shall have been surrendered TO, OR PLACED into  
17 safekeeping [pursuant to rules of the authority] WITH, THE AUTHORITY OR  
18 OTHERWISE DEEMED ABANDONED BY THE AUTHORITY;

19 (c) The applicant for the temporary permit shall have filed with the  
20 authority an application for [transfer of] the retail license at such  
21 premises; and

22 (d) The application for the temporary permit shall be accompanied by a  
23 nonrefundable temporary permit filing fee of one hundred twenty-eight

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

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1 dollars for all retail beer licenses; all other temporary permit appli-  
2 cations shall be accompanied by a filing fee of six hundred forty  
3 dollars.

4 2. NO SUCH PERMIT SHALL BE ISSUED TO AN APPLICANT FOR A LICENSE  
5 ISSUED PURSUANT TO SECTION SIXTY-THREE OR SECTION SEVENTY-NINE OF THIS  
6 CHAPTER UNLESS THE PREMISES HAS BEEN OPEN AND OPERATING UNDER A LICENSE  
7 ISSUED PURSUANT TO THE SAME SECTION OF THIS CHAPTER AS THAT BEING SOUGHT  
8 BY THE APPLICANT WITHIN THIRTY DAYS OF THE FILING OF THE APPLICATION.

9 3. NO SUCH PERMIT SHALL BE ISSUED TO AN APPLICANT FOR THE LICENSE THAT  
10 IS SUBJECT TO THE PROVISIONS OF SUBDIVISION SEVEN OF SECTION SIXTY-FOUR,  
11 SUBDIVISION SEVEN OF SECTION SIXTY-FOUR-A, SUBDIVISION ELEVEN OF SECTION  
12 SIXTY-FOUR-C, OR SUBDIVISION EIGHT OF SECTION SIXTY-FOUR-D OF THIS CHAP-  
13 TER UNLESS THE PREMISES HAS BEEN OPEN AND OPERATING UNDER A LICENSE  
14 ISSUED PURSUANT TO THE SAME SECTION OF THIS CHAPTER AS THAT BEING SOUGHT  
15 BY THE APPLICANT AT THE TIME THE PERMIT IS ISSUED.

16 4. A temporary permit issued by the authority pursuant to this section  
17 shall be for a period not to exceed ninety days. A temporary permit may  
18 be extended at the discretion of the authority, for an additional thirty  
19 day period upon payment of an additional fee of sixty-four dollars for  
20 all retail beer licenses and ninety-six dollars for all other temporary  
21 permits and upon compliance with all conditions required herein. THE  
22 AUTHORITY MAY, IN ITS DISCRETION, ISSUED MULTIPLE THIRTY DAY EXTENSIONS.

23 5. A temporary RETAIL permit is a conditional permit and authorizes  
24 the holder thereof to purchase and sell such alcoholic beverages as  
25 would be permitted to be purchased and sold under the privileges of the  
26 retail license for [which transfer] THE application WHICH has been  
27 filed; to sell such alcoholic beverages to consumers only and not for  
28 resale; and to purchase such alcoholic beverages only by payment in  
29 currency or check for such alcoholic beverages on or before they are  
30 delivered to the premises.

31 [3.] 6. Provided, however, that the holder of a temporary permit  
32 PURSUANT TO THIS SECTION who also holds one or more retail licenses and  
33 is operating under such retail license or licenses in addition to the  
34 temporary permit, and who is not delinquent [under the provisions of  
35 section one hundred one-a of this chapter] as to any retail license  
36 under which he operates, may purchase alcoholic beverages on credit  
37 under the temporary permit.

38 [4.] 7. Notwithstanding any other provision of law, a temporary permit  
39 may be summarily cancelled or suspended at any time if the authority  
40 determines that good cause for such cancellation or suspension exists.  
41 The authority shall promptly notify the holder of a temporary permit in  
42 writing of such cancellation or suspension and shall set forth the  
43 reasons for such action.

44 [5.] 8. Application for a temporary permit shall be on such form as  
45 the authority shall prescribe.

46 [6.] 9. Notwithstanding any inconsistent provision of law to the  
47 contrary, the authority may promulgate such rules and regulations as may  
48 be necessary to carry out the provisions of this section.

49 S 2. This act shall take effect on the one hundred eightieth day  
50 after it shall have become a law.