

7364

2009-2010 Regular Sessions

I N A S S E M B L Y

March 31, 2009

Introduced by M. of A. MILLMAN -- 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 siting of certain premises licensed to sell liquor for consumption on the premises, which premises are located in counties with populations in excess of one million people

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

1 Section 1. Paragraph (d-1) of subdivision 7 of section 64 of the alco-
2 holic beverage control law, as added by chapter 406 of the laws of 2007,
3 is amended and a new paragraph (d-2) is added to read as follows:
4 (d-1) Within the context of this subdivision, a building occupied as a
5 place of worship does not cease to be "exclusively" occupied as a place
6 of worship by incidental uses that are not of a nature to detract from
7 the predominant character of the building as a place of worship, such
8 uses which include, but which are not limited to: the conduct of legally
9 authorized games of bingo or other games of chance held as a means of
10 raising funds for the not-for-profit religious organization which
11 conducts services at the place of worship or for other not-for-profit
12 organizations or groups; use of the building for fund-raising perform-
13 ances by or [benefitting] BENEFITING the not-for-profit religious organ-
14 ization which conducts services at the place of worship or other not-
15 for-profit organizations or groups; the use of the building by other
16 religious organizations or groups for religious services or other
17 purposes; the conduct of social activities by or for the benefit of the
18 congregants; the use of the building for meetings held by organizations
19 or groups providing bereavement counseling to persons having suffered
20 the loss of a loved one, or providing advice or support for conditions
21 or diseases including, but not limited to, alcoholism, drug addiction,
22 cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the
23 use of the building for blood drives, health screenings, health informa-

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

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tion 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.

(D-2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (C) AND (D) OF THIS SUBDIVISION, WITH RESPECT TO COUNTIES HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION ARE TO BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP OR FROM THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND OPERATING PURSUANT TO THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY LINE 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 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, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST, TWO THOUSAND NINE; 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, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP, PROVIDED THAT SUCH NEW LOCATION IS NOT WITHIN A CLOSER DISTANCE TO SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP.

S 2. Subdivision 7 of section 64-a of the alcoholic beverage control law is amended by adding a new paragraph (b-1) to read as follows:

(B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARAGRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO COUNTIES HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION

1 ARE TO BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY
2 LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY
3 BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF
4 WORSHIP TO THE CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH
5 SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE POINT
6 ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS
7 CLOSEST TO THE PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND OPERAT-
8 ING PURSUANT TO THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY LINE
9 OF EACH SUCH PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS
10 OF THIS SECTION; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES
11 AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY
12 FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR
13 AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
14 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
15 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
16 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
17 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
18 TY-FIRST, TWO THOUSAND NINE; AND EXCEPT THAT NO LICENSE SHALL BE DENIED
19 TO ANY PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE
20 EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF
21 THIS SECTION, AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXIST-
22 ENCE CONTINUOUSLY ON OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED NINE-
23 TY-THREE.

24 S 3. Subdivision 5 of section 64-b of the alcoholic beverage control
25 law is amended by adding a new paragraph (a-1) to read as follows:

26 (A-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
27 SION, WITH RESPECT TO COUNTIES HAVING POPULATIONS IN EXCESS OF ONE
28 MILLION PEOPLE, NO BOTTLE CLUB LICENSE SHALL BE GRANTED FOR ANY PREMISES
29 WHICH SHALL BE ON THE SAME STREET OR AVENUE AND WITHIN TWO HUNDRED FEET
30 OF A BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR
31 OTHER PLACE OF WORSHIP; THE MEASUREMENTS TO BE TAKEN IN A STRAIGHT LINE
32 FROM THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE
33 LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL,
34 CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE
35 PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE
36 OF WORSHIP; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT
37 WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY
38 FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR
39 AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
40 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
41 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
42 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
43 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
44 TY-FIRST, TWO THOUSAND NINE.

45 S 4. Paragraph (d) of subdivision 11 of section 64-c of the alcoholic
46 beverage control law, as added by chapter 406 of the laws of 2007, is
47 amended and a new paragraph (b-1) is added to read as follows:

48 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-
49 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO COUN-
50 TIES HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASURE-
51 MENTS IN SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION
52 ARE TO BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY
53 LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY
54 BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF
55 WORSHIP TO THE CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH
56 SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE POINT

1 ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS
2 CLOSEST TO THE PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND OPERAT-
3 ING PURSUANT TO THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY LINE
4 OF EACH SUCH PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS
5 OF THIS SECTION; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES
6 AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY
7 FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR
8 AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
9 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
10 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
11 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
12 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
13 TY-FIRST, TWO THOUSAND NINE; AND EXCEPT THAT NO LICENSE SHALL BE DENIED
14 TO ANY PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE
15 EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF
16 THIS SECTION OR SECTION SIXTY-FOUR OR SIXTY-FOUR-A OF THIS ARTICLE, AT
17 WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY ON
18 OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED NINETY-THREE.

19 (d) Within the context of this subdivision, a building occupied as a
20 place of worship does not cease to be "exclusively" occupied as a place
21 of worship by incidental uses that are not of a nature to detract from
22 the predominant character of the building as a place of worship, such
23 uses which include, but which are not limited to: the conduct of legally
24 authorized games of bingo or other games of chance held as a means of
25 raising funds for the not-for-profit religious organization which
26 conducts services at the place of worship or for other not-for-profit
27 organizations or groups; use of the building for fund-raising perform-
28 ances by or [benefitting] BENEFITING the not-for-profit religious organ-
29 ization which conducts services at the place of worship or other not-
30 for-profit organizations or groups; the use of the building by other
31 religious organizations or groups for religious services or other
32 purposes; the conduct of social activities by or for the benefit of the
33 congregants; the use of the building for meetings held by organizations
34 or groups providing bereavement counseling to persons having suffered
35 the loss of a loved one, or providing advice or support for conditions
36 or diseases including, but not limited to, alcoholism, drug addiction,
37 cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the
38 use of the building for blood drives, health screenings, health informa-
39 tion meetings, yoga classes, exercise classes or other activities
40 intended to promote the health of the congregants or other persons; and
41 use of the building by non-congregant members of the community for
42 private social functions. The building occupied as a place of worship
43 does not cease to be "exclusively" occupied as a place of worship where
44 the not-for-profit religious organization occupying the place of worship
45 accepts the payment of funds to defray costs related to another party's
46 use of the building.

47 S 5. Paragraph (c) of subdivision 3 of section 105 of the alcoholic
48 beverage control law, as added by chapter 406 of the laws of 2007, is
49 amended and a new paragraph (b-1) is added to read as follows:

50 (B-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS
51 SUBDIVISION, WITH RESPECT TO COUNTIES HAVING POPULATIONS IN EXCESS OF
52 ONE MILLION PEOPLE, NO RETAIL LICENSE TO SELL LIQUOR AND/OR WINE FOR
53 OFF-PREMISES CONSUMPTION SHALL BE GRANTED FOR ANY PREMISES WHICH SHALL
54 BE LOCATED ON THE SAME STREET OR AVENUE, AND WITHIN TWO HUNDRED FEET OF
55 A BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER
56 PLACE OF WORSHIP; THE MEASUREMENTS TO BE TAKEN IN A STRAIGHT LINE FROM

1 THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED
2 THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
3 SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY
4 BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF
5 WORSHIP; EXCEPT, HOWEVER, THAT NO LICENSE SHALL BE DENIED TO ANY PREM-
6 ISSES AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTIN-
7 UOUSLY FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET
8 OR AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
9 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
10 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
11 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
12 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
13 TY-FIRST, TWO THOUSAND NINE.

14 (c) Within the context of this subdivision, a building occupied as a
15 place of worship does not cease to be "exclusively" occupied as a place
16 of worship by incidental uses that are not of a nature to detract from
17 the predominant character of the building as a place of worship, such
18 uses which include, but which are not limited to: the conduct of legally
19 authorized games of bingo or other games of chance held as a means of
20 raising funds for the not-for-profit religious organization which
21 conducts services at the place of worship or for other not-for-profit
22 organizations or groups; use of the building for fund-raising perform-
23 ances by or [benefitting] BENEFITING the not-for-profit religious
24 [organizations] ORGANIZATION which conducts services at the place of
25 worship or other not-for-profit organizations or groups; the use of the
26 building by other religious organizations or groups for religious
27 services or other purposes; the conduct of social activities by or for
28 the benefit of the congregants; the use of the building for meetings
29 held by organizations or groups providing bereavement counseling to
30 persons having suffered the loss of a loved one, or providing advice or
31 support for conditions or diseases including, but not limited to, alco-
32 holism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or
33 Alzheimer's disease; the use of the building for blood drives, health
34 screenings, health information meetings, yoga classes, exercise classes
35 or other activities intended to promote the health of the congregants or
36 other persons; and use of the building by non-congregant members of the
37 community for private social functions. The building occupied as a place
38 of worship does not cease to be "exclusively" occupied as a place of
39 worship where the not-for-profit religious organization occupying the
40 place of worship accepts the payment of funds to defray costs related to
41 another party's use of the building.

42 S 6. This act shall take effect December 31, 2009.