

7364--C

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, committed to Economic Development, Job Creation, Commerce and Industry -- committed to Economic Development, Job Creation, Commerce and Industry -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 cities 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 amended by chapter 463 of the laws of
3 2009, 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

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

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

16 (D-2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (C) AND (D) OF THIS
17 SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE
18 MILLION PEOPLE, THE MEASUREMENTS IN PARAGRAPHS (A) AND (B) OF THIS
19 SUBDIVISION ARE TO BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE
20 PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO
21 THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
22 PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF
23 SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP OR FROM THE
24 POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT
25 IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND
26 OPERATING PURSUANT TO THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY
27 LINE OF EACH SUCH PREMISES LICENSED AND OPERATING PURSUANT TO THE
28 PROVISIONS OF THIS SECTION; EXCEPT, HOWEVER, THAT NO RENEWAL LICENSE
29 SHALL BE DENIED BECAUSE OF SUCH RESTRICTION TO ANY PREMISES SO LOCATED
30 WHICH WERE MAINTAINED AS A BONA FIDE HOTEL, RESTAURANT, CATERING ESTAB-
31 LISHMENT OR CLUB ON OR PRIOR TO DECEMBER FIFTH, NINETEEN HUNDRED THIR-
32 TY-THREE; AND, EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT
33 WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY
34 FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR
35 AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
36 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
37 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
38 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
39 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
40 TY-FIRST, TWO THOUSAND TEN; AND EXCEPT THAT NO LICENSE SHALL BE DENIED
41 TO ANY PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE
42 EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF
43 THIS SECTION, AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXIST-
44 ENCE CONTINUOUSLY ON OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED NINE-
45 TY-THREE; AND EXCEPT THAT THIS SUBDIVISION SHALL NOT BE DEEMED TO
46 RESTRICT THE ISSUANCE OF A HOTEL LIQUOR LICENSE TO A BUILDING USED AS A
47 HOTEL AND IN WHICH A RESTAURANT LIQUOR LICENSE CURRENTLY EXISTS FOR
48 PREMISES WHICH SERVE AS A DINING ROOM FOR GUESTS OF THE HOTEL AND A
49 CATERER'S LICENSE TO A PERSON USING THE PERMANENT CATERING FACILITIES OF
50 A CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP PURSUANT TO A WRITTEN
51 AGREEMENT BETWEEN SUCH PERSON AND THE AUTHORITIES IN CHARGE OF SUCH
52 FACILITIES. THE LIQUOR AUTHORITY, IN ITS DISCRETION, MAY AUTHORIZE THE
53 REMOVAL OF ANY SUCH LICENSED PREMISES TO A DIFFERENT LOCATION ON THE
54 SAME STREET OR AVENUE, WITHIN TWO HUNDRED FEET OF SAID SCHOOL, CHURCH,
55 SYNAGOGUE OR OTHER PLACE OF WORSHIP, PROVIDED THAT SUCH NEW LOCATION IS

1 NOT WITHIN A CLOSER DISTANCE TO SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
2 PLACE OF WORSHIP.

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

5 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-
6 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES
7 HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN
8 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION ARE TO
9 BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY LINE
10 OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY
11 LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE
12 CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
13 SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE POINT ON THE PROPERTY
14 BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE
15 PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND OPERATING PURSUANT TO
16 THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY LINE OF EACH SUCH
17 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
18 SECTION; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT WHICH
19 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A
20 DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR AVENUE AND
21 WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED EXCLUSIVELY
22 AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT
23 THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES
24 PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN
25 IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST,
26 TWO THOUSAND TEN; AND EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY
27 PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE EXISTING
28 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
29 SECTION, AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE
30 CONTINUOUSLY ON OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED
31 NINETY-THREE.

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

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

53 S 4. Paragraph (d) of subdivision 11 of section 64-c of the alcoholic
54 beverage control law, as amended by chapter 463 of the laws of 2009, is
55 amended and a new paragraph (b-1) is added to read as follows:

1 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-
2 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES
3 HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN
4 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION ARE TO
5 BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY LINE
6 OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY
7 LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE
8 CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
9 SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE POINT ON THE PROPERTY
10 BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE
11 PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND OPERATING PURSUANT TO
12 THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY LINE OF EACH SUCH
13 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
14 SECTION; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT WHICH
15 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A
16 DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR AVENUE AND
17 WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED EXCLUSIVELY
18 AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT
19 THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES
20 PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN
21 IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST,
22 TWO THOUSAND TEN; AND EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY
23 PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE EXISTING
24 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
25 SECTION OR SECTION SIXTY-FOUR OR SIXTY-FOUR-A OF THIS ARTICLE, AT WHICH
26 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY ON OR
27 PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED NINETY-THREE.

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

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

4 (B-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS
5 SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE
6 MILLION PEOPLE, NO RETAIL LICENSE TO SELL LIQUOR AND/OR WINE FOR
7 OFF-PREMISES CONSUMPTION SHALL BE GRANTED FOR ANY PREMISES WHICH SHALL
8 BE LOCATED ON THE SAME STREET OR AVENUE, AND WITHIN TWO HUNDRED FEET OF
9 A BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER
10 PLACE OF WORSHIP; THE MEASUREMENTS TO BE TAKEN IN A STRAIGHT LINE FROM
11 THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED
12 THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
13 SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY
14 BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF
15 WORSHIP; EXCEPT, HOWEVER, THAT NO LICENSE SHALL BE DENIED TO ANY PREM-
16 ISES AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTIN-
17 UOUSLY FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET
18 OR AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
19 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
20 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
21 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
22 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
23 TY-FIRST, TWO THOUSAND TEN.

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

52 S 6. This act shall take effect December 31, 2010.