

8904

2009-2010 Regular Sessions

I N A S S E M B L Y

June 15, 2009

Introduced by M. of A. GORDON -- 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 issuing of temporary retail permits; and to repeal section 97-a of such law relating thereto

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 is
2 REPEALED and a new section 97-a is added to read as follows:
3 S 97-A. TEMPORARY RETAIL PERMIT. 1. THE AUTHORITY IS HEREBY AUTHORIZED
4 TO ISSUE A TEMPORARY RETAIL PERMIT:
5 (A) TO THE TRANSFEREE OF A RETAIL LICENSE TO CONTINUE THE OPERATIONS
6 OF A RETAIL PREMISES DURING THE PERIOD A TRANSFER APPLICATION FOR THE
7 LICENSE FROM PERSON TO PERSON AT THE SAME PREMISES IS PENDING; OR
8 (B) TO AN APPLICANT FOR A PREMISES THAT IS NOT LICENSED IN A MUNICI-
9 PALITY WITH A POPULATION OF LESS THAN ONE MILLION.
10 2. SUCH A PERMIT MAY BE ISSUED IF ALL OF THE FOLLOWING CONDITIONS ARE
11 MET:
12 (A) THE APPLICANT FOR THE TEMPORARY RETAIL PERMIT SHALL HAVE FILED
13 WITH THE AUTHORITY AN APPLICATION FOR A RETAIL LICENSE AT SUCH PREMISES,
14 TOGETHER WITH ALL REQUIRED FILING AND LICENSE FEES;
15 (B) THE APPLICANT SHALL HAVE FILED WITH THE AUTHORITY AN APPLICATION
16 FOR A TEMPORARY RETAIL PERMIT, ACCOMPANIED BY A NONREFUNDABLE FILING FEE
17 OF EITHER ONE HUNDRED TWENTY-EIGHT DOLLARS FOR ALL RETAIL BEER LICENSES
18 OR SIX HUNDRED FORTY DOLLARS FOR ALL OTHER RETAIL LICENSES;
19 (C) IN THE CASE OF A TRANSFER APPLICATION, THE PREMISES SHALL HAVE
20 BEEN OPERATED UNDER A RETAIL LICENSE WITHIN THIRTY DAYS OF THE DATE OF
21 FILING THE APPLICATION FOR A TEMPORARY PERMIT; AND
22 (D) IN THE CASE OF A TRANSFER APPLICATION, THE CURRENT LICENSE IN
23 EFFECT AT SAID PREMISES MUST BE SURRENDERED OR PLACED IN SAFEKEEPING
24 WITH THE AUTHORITY.

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

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1 3. A TEMPORARY RETAIL PERMIT UNDER PARAGRAPH (B) OF SUBDIVISION ONE OF
2 THIS SECTION MAY NOT BE ISSUED FOR ANY PREMISES THAT IS SUBJECT TO THE
3 PROVISIONS OF SUBDIVISION SEVEN OF SECTION SIXTY-FOUR, SUBDIVISION SEVEN
4 OF SECTION SIXTY-FOUR-A, SUBDIVISION FIVE OF SECTION SIXTY-FOUR-B,
5 SUBDIVISION TWELVE OF SECTION SIXTY-FOUR-C, SUBDIVISION EIGHT OF SECTION
6 SIXTY-FOUR-D OR SUBDIVISION THREE OF SECTION ONE HUNDRED FIVE OF THIS
7 CHAPTER.

8 4. A TEMPORARY PERMIT ISSUED BY THE AUTHORITY PURSUANT TO THIS SECTION
9 SHALL BE FOR A PERIOD NOT TO EXCEED NINETY DAYS. A TEMPORARY PERMIT MAY
10 BE EXTENDED AT THE DISCRETION OF THE AUTHORITY, FOR AN ADDITIONAL THIRTY
11 DAY PERIOD.

12 5. A TEMPORARY RETAIL PERMIT IS A CONDITIONAL PERMIT AND AUTHORIZES
13 THE HOLDER THEREOF:

14 (A) IN THE CASE OF A TRANSFER APPLICATION, TO PURCHASE AND SELL SUCH
15 ALCOHOLIC BEVERAGES AS WOULD BE PERMITTED TO BE PURCHASED AND SOLD UNDER
16 THE PRIVILEGES OF THE RETAIL LICENSE FOR WHICH THE TRANSFER APPLICATION
17 HAS BEEN MADE;

18 (B) IN THE CASE OF ALL OTHER RETAIL APPLICATIONS, TO PURCHASE AND SELL
19 SUCH ALCOHOLIC BEVERAGES AS WOULD BE PERMITTED TO BE PURCHASED AND SOLD
20 UNDER THE PRIVILEGES OF THE LICENSE APPLIED FOR; AND

21 (C) TO SELL SUCH ALCOHOLIC BEVERAGES TO CONSUMERS ONLY AND NOT FOR
22 RESALE.

23 6. THE HOLDER OF A TEMPORARY RETAIL PERMIT SHALL PURCHASE ALCOHOLIC
24 BEVERAGES ONLY BY PAYMENT IN CURRENCY OR CHECK ON OR BEFORE THE DAY SUCH
25 ALCOHOLIC BEVERAGES ARE DELIVERED, PROVIDED, HOWEVER, THAT THE HOLDER OF
26 A TEMPORARY RETAIL PERMIT WHO ALSO HOLDS ONE OR MORE RETAIL LICENSES AND
27 IS OPERATING UNDER SUCH RETAIL LICENSE OR LICENSES IN ADDITION TO THE
28 TEMPORARY RETAIL PERMIT, AND WHO IS NOT DELINQUENT UNDER THE PROVISIONS
29 OF SECTION ONE HUNDRED ONE-AA OR ONE HUNDRED ONE-AAA OF THIS CHAPTER AS
30 TO ANY RETAIL LICENSE UNDER WHICH IT OPERATES, MAY PURCHASE ALCOHOLIC
31 BEVERAGES ON CREDIT UNDER THE TEMPORARY PERMIT.

32 7. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A TEMPORARY PERMIT MAY
33 BE SUMMARILY CANCELLED OR SUSPENDED AT ANY TIME IF THE AUTHORITY DETER-
34 MINES THAT GOOD CAUSE FOR SUCH CANCELLATION OR SUSPENSION EXISTS. THE
35 AUTHORITY SHALL PROMPTLY NOTIFY THE HOLDER OF A TEMPORARY PERMIT IN
36 WRITING OF SUCH CANCELLATION OR SUSPENSION AND SHALL SET FORTH THE
37 REASONS FOR SUCH ACTION.

38 8. APPLICATION FOR A TEMPORARY PERMIT SHALL BE ON SUCH FORM AS THE
39 AUTHORITY SHALL PRESCRIBE.

40 9. APPROVAL OF, OR EXTENSION OF, A TEMPORARY RETAIL PERMIT SHALL NOT
41 BE DEEMED AS AN APPROVAL OF THE RETAIL APPLICATION.

42 10. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY,
43 THE AUTHORITY MAY PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECES-
44 SARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

45 S 2. This act shall take effect immediately.