

3124

2009-2010 Regular Sessions

I N S E N A T E

March 11, 2009

Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the alcoholic beverage control law, in relation to community board involvement in the licensing of establishments serving alcohol for on-premise consumption

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

1 Section 1. Subdivision 2-a of section 64 of the alcoholic beverage
2 control law, as amended by chapter 83 of the laws of 1995, is amended to
3 read as follows:
4 2-a. Notwithstanding any other provision of this chapter, upon receipt
5 of an application for a license under this section, an application for
6 renewal under section one hundred nine of this chapter, or an applica-
7 tion for an alteration to a premises licensed for consumption on the
8 premises under section ninety-nine-d of this chapter, the applicant
9 shall notify the clerk of the village, town or city, as the case may be,
10 by certified mail, return receipt requested, wherein the prospective
11 licensed premises is to be located or, in the case of an application for
12 renewal, or alteration where it is presently located not less than
13 [thirty] SIXTY days prior to the submission of its application for a
14 license under this section or for a renewal thereof pursuant to section
15 one hundred nine of this chapter. For the purposes of the preceding
16 sentence notification need only be given to the clerk of a village when
17 such premises is to be located within the boundaries of the village.
18 SUCH MUNICIPALITY MAY EXPRESS AN OPINION FOR OR AGAINST THE GRANTING OF
19 SUCH LICENSE. ANY SUCH OPINION SHALL BE DEEMED PART OF THE RECORD UPON
20 WHICH THE LIQUOR BOARD MAKES ITS DETERMINATION TO GRANT OR DENY SUCH
21 LICENSE.
22 2-B. In the city of New York, the community board established pursuant
23 to section twenty-eight hundred of the New York city charter with juris-

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

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1 diction over the area in which such licensed premises is to be located
2 shall be considered the appropriate public body to which notification
3 REQUIRED IN SUBDIVISION TWO-A OF THIS SECTION shall be given. THE LIQUOR
4 AUTHORITY SHALL PROVIDE A LIAISON TO THE LOCAL COMMUNITY BOARDS AND
5 PROVIDE SUCH LOCAL COMMUNITY BOARDS WITH WRITTEN NOTICE OF ALL NEW AND
6 RENEWAL APPLICATIONS FOR LICENSES WITHIN THE COMMUNITY BOARD'S DISTRICT.
7 NOTICE TO THE COMMUNITY BOARD SHALL MEAN WRITTEN NOTICE MAILED BY THE
8 AUTHORITY TO SUCH COMMUNITY BOARD AT LEAST THIRTY DAYS IN ADVANCE OF ANY
9 HEARING SCHEDULED PURSUANT TO THIS SUBDIVISION. THE LOCAL COMMUNITY
10 BOARD SHALL HAVE A MEANINGFUL OPPORTUNITY TO BE HEARD BEFORE ANY LIQUOR
11 AUTHORITY HEARING IS CALENDARED OR LICENSE ISSUED. MEANINGFUL OPPORTU-
12 NITY SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RIGHT OF COMMUNITY BOARD
13 REPRESENTATIVES TO ATTEND AND TO TESTIFY AT A LIQUOR AUTHORITY HEARING
14 REGARDING A NEW OR EXISTING LICENSE WITHIN THAT COMMUNITY BOARD'S
15 DISTRICT. Such [municipality or] community board[, as the case may be,]
16 may express [an] A WRITTEN opinion for or against the granting of such
17 license WITHIN SIXTY DAYS OF RECEIPT OF SUCH HEARING NOTIFICATION. THE
18 COMMUNITY BOARD MAY WAIVE THE THIRTY DAY NOTICE` REQUIREMENT. Any such
19 STIPULATIONS AGREED UPON BY THE APPLICANT AND THE LOCAL COMMUNITY BOARD
20 AND ANY SUCH COMMUNITY BOARD'S opinion shall be deemed part of the
21 record upon which the liquor board makes its determination to grant or
22 deny such license. SUCH STIPULATIONS SHALL BE ENFORCED BY THE LIQUOR
23 AUTHORITY. A LIQUOR AUTHORITY DECISION WHICH IS CONTRARY TO A COMMUNITY
24 BOARD'S OPINION SHALL SET FORTH IN WRITING THE REASONS FOR SUCH DECISION
25 AND A COPY SHALL BE FORWARDED TO SUCH COMMUNITY BOARD.

26 S 2. Paragraph (f) of subdivision 7 of section 64 of the alcoholic
27 beverage control law, as amended by chapter 602 of the laws of 1999, is
28 amended to read as follows:

29 (f) Notwithstanding the provisions of paragraph (b) of this subdivi-
30 sion, the authority may issue a retail license for on-premises consump-
31 tion for a premises which shall be within five hundred feet of three or
32 more existing premises licensed and operating pursuant to the provisions
33 of this section if, after consultation with the municipality or communi-
34 ty board, it determines that granting such license would be in the
35 public interest. Before it may issue any such license, the authority
36 shall conduct a hearing, upon notice to the applicant and the municipi-
37 pality or community board[, and shall state and file in its office its
38 reasons therefor]. Notice to the municipality or community board shall
39 mean written notice mailed by the authority to such municipality or
40 community board at least [fifteen] THIRTY days in advance of any hearing
41 scheduled pursuant to this paragraph. Upon the request of the authority,
42 any municipality or community board may waive the [fifteen] THIRTY day
43 notice requirement. SUCH MUNICIPALITY OR COMMUNITY BOARD SHALL HAVE A
44 MEANINGFUL OPPORTUNITY TO BE HEARD. MEANINGFUL OPPORTUNITY SHALL INCLUDE
45 THE RIGHT OF COMMUNITY BOARD REPRESENTATIVES TO ATTEND AND TESTIFY AT
46 ANY PRE-LICENSING HEARING AND THE RIGHT TO FILE WITH THE LIQUOR AUTHORI-
47 TY A WRITTEN OPINION FOR OR AGAINST THE GRANTING OF SUCH LICENSE WITHIN
48 SIXTY DAYS OF RECEIPT OF NOTICE OF A HEARING. SUCH OPINION SHALL BE
49 DEEMED PART OF THE LIQUOR AUTHORITY'S RECORD UPON WHICH THE LIQUOR
50 AUTHORITY MAKES ITS DETERMINATION. THE LIQUOR AUTHORITY SHALL STATE AND
51 FILE ITS REASONS FOR ITS DETERMINATION IN ITS OFFICE AND FORWARD A COPY
52 OF SUCH DETERMINATION TO THE MUNICIPALITY OR COMMUNITY BOARD. No prem-
53 ises having been granted a license pursuant to this section shall be
54 denied a renewal of such license upon the grounds that such premises are
55 within five hundred feet of a building or buildings wherein three or
56 more premises are operating and licensed pursuant to this section.

1 S 3. This act shall take effect on the one hundred twentieth day after
2 it shall have become a law; provided, however, that effective immediate-
3 ly, the addition, amendment and/or repeal of any rule or regulation
4 necessary for the implementation of this act on its effective date are
5 authorized and directed to be made and completed on or before such
6 effective date.