

3775

2009-2010 Regular Sessions

I N S E N A T E

March 31, 2009

Introduced by Sen. SQUADRON -- 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 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

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

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1 use of the building for blood drives, health screenings, health informa-
2 tion meetings, yoga classes, exercise classes or other activities
3 intended to promote the health of the congregants or other persons; and
4 use of the building by non-congregant members of the community for
5 private social functions. The building occupied as a place of worship
6 does not cease to be "exclusively" occupied as a place of worship where
7 the not-for-profit religious organization occupying the place of worship
8 accepts the payment of funds to defray costs related to another party's
9 use of the building.

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

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

54 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-
55 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO COUN-
56 TIES HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASURE-

MENTS IN SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) 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 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.

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

(A-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, WITH RESPECT TO COUNTIES HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, NO BOTTLE CLUB LICENSE SHALL BE GRANTED FOR ANY PREMISES WHICH SHALL BE ON THE SAME STREET OR AVENUE AND WITHIN TWO HUNDRED FEET OF A BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; THE MEASUREMENTS TO BE TAKEN IN A STRAIGHT LINE 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; 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.

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

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

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

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

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

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

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

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