

6231--A

2009-2010 Regular Sessions

I N S E N A T E

October 16, 2009

Introduced by Sens. C. JOHNSON, LITTLE, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- 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 liquidator's permits and 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 17 of the alcoholic beverage control law is amended
2 by adding a new subdivision 8-b to read as follows:
3 8-B. ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, THE REPORT
4 PROVIDED FOR IN SUBDIVISION EIGHT OF THIS SECTION SHALL INCLUDE INFORMA-
5 TION RELATED TO THE NUMBER OF LICENSES APPLIED FOR AND THE LENGTH OF
6 TIME REQUIRED FOR THE APPROVAL OR DENIAL OF SUCH RETAIL LICENSE APPLIED
7 FOR PURSUANT TO SUBDIVISION TWO-C OF SECTION SIXTY-ONE, SECTION
8 SIXTY-FOUR, SECTION SEVENTY-SIX, SECTION SEVENTY-SIX-A, SECTION SEVEN-
9 TY-SIX-C, SECTION SEVENTY-SIX-D, AND SECTION SEVENTY-SIX-F OF THIS CHAP-
10 TER.
11 S 2. Section 97-a of the alcoholic beverage control law is REPEALED
12 and a new section 97-a is added to read as follows:
13 S 97-A. TEMPORARY RETAIL PERMIT. 1. THE AUTHORITY IS HEREBY AUTHORIZED
14 TO ISSUE A TEMPORARY RETAIL PERMIT:
15 (A) TO THE TRANSFEREE OF A RETAIL LICENSE TO CONTINUE THE OPERATIONS
16 OF A RETAIL PREMISES DURING THE PERIOD THAT THE TRANSFER APPLICATION FOR
17 THE LICENSE FROM PERSON TO PERSON AT THE SAME PREMISES IS PENDING; OR
18 (B) TO THE APPLICANT FOR A NEW RETAIL LICENSE WHERE THE PROSPECTIVE
19 LICENSED PREMISES IS LOCATED IN A MUNICIPALITY WITH A POPULATION OF LESS
20 THAN ONE MILLION DURING THE PERIOD THAT THE APPLICATION IS PENDING.

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

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1 2. SUCH A PERMIT MAY BE ISSUED IF ALL OF THE FOLLOWING CONDITIONS ARE
2 MET:

3 (A) THE APPLICANT FOR THE TEMPORARY PERMIT SHALL HAVE FILED WITH THE
4 AUTHORITY AN APPLICATION FOR A RETAIL LICENSE AT SUCH PREMISES, TOGETHER
5 WITH ALL REQUIRED FILING AND LICENSE FEES;

6 (B) THE APPLICANT SHALL HAVE FILED WITH THE AUTHORITY AN APPLICATION
7 FOR A TEMPORARY RETAIL PERMIT, ACCOMPANIED BY A NONREFUNDABLE FILING FEE
8 OF ONE HUNDRED TWENTY-EIGHT DOLLARS FOR ALL RETAIL BEER LICENSES OR SIX
9 HUNDRED FORTY DOLLARS FOR ALL OTHER RETAIL LICENSES;

10 (C) IN THE CASE OF A TRANSFER APPLICATION, THE PREMISES SHALL HAVE
11 BEEN OPERATED UNDER A RETAIL LICENSE WITHIN THIRTY DAYS OF THE DATE OF
12 FILING THE APPLICATION FOR A TEMPORARY PERMIT;

13 (D) AT THE TIME THE PERMIT IS ISSUED THE CURRENT LICENSE, IF ANY, IN
14 EFFECT FOR SAID PREMISES SHALL HAVE BEEN SURRENDERED TO, PLACED INTO
15 SAFEKEEPING WITH, OR OTHERWISE DEEMED ABANDONED BY THE AUTHORITY;

16 3. A TEMPORARY RETAIL PERMIT UNDER PARAGRAPH (B) OF SUBDIVISION ONE OF
17 THIS SECTION MAY NOT BE ISSUED FOR ANY PREMISES THAT IS SUBJECT TO THE
18 PROVISIONS OF SECTION SIXTY-THREE, PARAGRAPH (B) OF SUBDIVISION SEVEN OF
19 SECTION SIXTY-FOUR, SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION
20 SEVEN OF SECTION SIXTY-FOUR-A, SUBPARAGRAPH (II) OF PARAGRAPH (A) OF
21 SUBDIVISION ELEVEN OF SECTION SIXTY-FOUR-C, PARAGRAPH (B) OF SUBDIVISION
22 EIGHT OF SECTION SIXTY-FOUR-D, OR SECTION SEVENTY-NINE OF THIS CHAPTER.

23 4. A TEMPORARY RETAIL PERMIT ISSUED BY THE AUTHORITY PURSUANT TO THIS
24 SECTION SHALL BE FOR A PERIOD NOT TO EXCEED NINETY DAYS. A TEMPORARY
25 PERMIT MAY BE EXTENDED AT THE DISCRETION OF THE AUTHORITY, FOR AN ADDI-
26 TIONAL THIRTY DAY PERIOD UPON PAYMENT OF AN ADDITIONAL FEE OF SIXTY-FOUR
27 DOLLARS FOR ALL RETAIL BEER LICENSES AND NINETY-SIX DOLLARS FOR ALL
28 OTHER TEMPORARY PERMITS AND UPON COMPLIANCE WITH ALL CONDITIONS REQUIRED
29 IN THIS SECTION. THE AUTHORITY MAY, IN ITS DISCRETION, ISSUE ADDITIONAL
30 THIRTY DAY EXTENSIONS UPON PAYMENT OF THE APPROPRIATE FEE.

31 5. A TEMPORARY RETAIL PERMIT IS A CONDITIONAL PERMIT AND AUTHORIZES
32 THE HOLDER THEREOF:

33 (A) IN THE CASE OF A TRANSFER APPLICATION TO PURCHASE AND SELL SUCH
34 ALCOHOLIC BEVERAGES AS WOULD BE PERMITTED TO BE PURCHASED AND SOLD UNDER
35 THE PRIVILEGES OF THE RETAIL LICENSE FOR WHICH THE TRANSFER APPLICATION
36 HAS BEEN FILED;

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

40 (C) TO SELL SUCH ALCOHOLIC BEVERAGES TO CONSUMERS ONLY AND NOT FOR
41 RESALE.

42 6. THE HOLDER OF A TEMPORARY RETAIL PERMIT SHALL PURCHASE ALCOHOLIC
43 BEVERAGES ONLY BY PAYMENT IN CURRENCY OR CHECK FOR SUCH ALCOHOLIC BEVER-
44 AGES ON OR BEFORE THE DAY SUCH ALCOHOLIC BEVERAGES ARE DELIVERED,
45 PROVIDED, HOWEVER, THAT THE HOLDER OF A TEMPORARY PERMIT ISSUED PURSUANT
46 TO THIS SECTION WHO ALSO HOLDS ONE OR MORE RETAIL LICENSES AND IS OPER-
47 ATING UNDER SUCH RETAIL LICENSE OR LICENSES IN ADDITION TO THE TEMPORARY
48 RETAIL PERMIT, AND WHO IS NOT DELINQUENT UNDER THE PROVISIONS OF SECTION
49 ONE HUNDRED ONE-AA OF THIS CHAPTER AS TO ANY RETAIL LICENSE UNDER WHICH
50 HE OPERATES, MAY PURCHASE ALCOHOLIC BEVERAGES ON CREDIT UNDER THE TEMPO-
51 RARY PERMIT.

52 7. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A TEMPORARY RETAIL
53 PERMIT MAY BE SUMMARILY CANCELLED OR SUSPENDED AT ANY TIME IF THE
54 AUTHORITY DETERMINES THAT GOOD CAUSE FOR SUCH CANCELLATION OR SUSPENSION
55 EXISTS. THE AUTHORITY SHALL PROMPTLY NOTIFY THE HOLDER OF A TEMPORARY

1 RETAIL PERMIT IN WRITING OF SUCH CANCELLATION OR SUSPENSION AND SHALL
2 SET FORTH THE REASONS FOR SUCH ACTION.

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

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

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

10 S 3. Paragraph f of subdivision 1 of section 99-b of the alcoholic
11 beverage control law, as added by chapter 486 of the laws of 1941, is
12 amended to read as follows:

13 f. A licensee who is liquidating or selling [his] ITS business, or a
14 former licensee whose license [was] HAS BEEN surrendered, REVOKED,
15 CANCELLED or HAS expired, to sell [his] ITS entire stock of alcoholic
16 beverages to other licensees, PROVIDED, HOWEVER, THAT NO SUCH PERMIT
17 SHALL BE ISSUED TO A LICENSEE OR FORMER LICENSEE WHO IS DELINQUENT UNDER
18 THE PROVISIONS OF SECTION ONE HUNDRED ONE-AA OR SECTION ONE HUNDRED
19 ONE-AAA OF THIS CHAPTER. A FORMER LICENSEE WHOSE LICENSE HAS BEEN
20 SURRENDERED, REVOKED, CANCELLED, OR HAS EXPIRED, MAY NOT TRANSFER ITS
21 STOCK OF ALCOHOLIC BEVERAGES TO ANY OTHER PERSON UNLESS IT OBTAINS SUCH
22 A PERMIT.

23 S 4. Section 3 of the alcoholic beverage control law is amended by
24 adding a new subdivision 30-a to read as follows:

25 30-A. "TRANSFER" MEANS THE ADMINISTRATIVE PROCESSES INVOLVED IN ISSU-
26 ING A LICENSE TO A NEW APPLICANT FOR AN EXISTING LICENSED BUSINESS.
27 TRANSFER APPLICANTS SHALL BE UNDER CONTRACT WITH THE EXISTING LICENSEE
28 FOR PURCHASE OF THE EXISTING LICENSED BUSINESS.

29 S 5. This act shall take effect on the one hundred eightieth day after
30 it shall have become a law.