S T A T E O F N E W Y O R K

783

2009-2010 Regular Sessions

I N S E N A T E

January 15, 2009

Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to serving alcoholic beverages on certain premises while persons under the age of twenty-one are present

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

Section 1. Legislative intent. The legislature hereby finds that many bars and clubs promote "under/over nights" where individuals under twenty-one years of age (i.e., the legal drinking age) may attend but not drink alcoholic beverages. At these events, underage patrons are typically charged a cover charge and given a bracelet or some other marking to distinguish them from the patrons who are legally able to drink. The legislature further finds that permitting underage persons to patronize bars or clubs often makes it easier for younger teenagers to gain admission, and in some cases obtain alcoholic beverages once inside the bar or club, either by being served directly or having "legal" friends purchase alcoholic beverages for them. In addition, the legislature finds that there have been complaints of disruptive and violent behavior at some of these establishments. Consequently, the legislature finds that those establishments that permit patrons under the legal drinking age for "under/over nights" should do so only when alcoholic beverages are not being served.

S 2. Section 106 of the alcoholic beverage control law is amended by adding a new subdivision 16 to read as follows:

16. NO RETAIL LICENSEE FOR ON-PREMISES CONSUMPTION WHICH IS A BAR OR CLUB AND WHICH ADVERTISES, PROMOTES OR HOLDS ANY EVENT WHICH IS TARGETED TO PERSONS UNDER TWENTY-ONE YEARS OF AGE, SHALL SERVE ANY ALCOHOLIC BEVERAGE ON SUCH LICENSED PREMISES WHILE ANY PERSON UNDER THE AGE OF TWENTY-ONE SHALL BE PRESENT ON SUCH PREMISES, EXCEPT IF SUCH PERSON IS

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

LBD01752-01-9

AN EMPLOYEE OF SUCH BAR OR CLUB ACTING IN HIS OR HER CAPACITY AS AN EMPLOYEE. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO A BONA FIDE HOTEL, A RESTAURANT-BREWER LICENSED IN ACCORDANCE WITH SECTION SIXTY-FOUR-C OF THIS CHAPTER, OR A CABARET LICENSED IN ACCORDANCE WITH SECTION SIXTY-FOUR-D OF THIS CHAPTER.

FOR THE PURPOSES OF THIS SUBDIVISION THE TERMS "BAR" AND "CLUB" SHALL INCLUDE ANY BUSINESS ESTABLISHMENT OPEN TO THE PUBLIC DEVOTED TO THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION AND WHERE THE SERVICE OF FOOD IS ONLY INCIDENTAL TO THE CONSUMPTION OF SUCH BEVERAGES. SERVICES OF FOOD SHALL BE CONSIDERED INCIDENTAL IF THE FOOD SERVICE GENERATES LESS THAN FORTY PERCENT OF TOTAL ANNUAL GROSS SALES. THE TERM "BAR" SHALL NOT INCLUDE A BAR IN A RESTAURANT OPEN TO THE PUBLIC WHICH IS DEVOTED TO THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION AND SUCH RESTAURANT GENERATES FORTY PERCENT OR MORE OF ITS TOTAL ANNUAL GROSS SALES FROM THE SALE OF FOOD FOR ON-PREMISES CONSUMPTION.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.