

1917

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 12, 2011

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Introduced by M. of A. MILLMAN -- 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 siting of certain premises licensed to sell liquor for consumption on the premises, which premises are located in cities 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 amended by chapter 463 of the laws of  
3     2009, 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  
23    use of the building for blood drives, health screenings, health informa-

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

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

(D-2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (C) AND (D) OF THIS SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN PARAGRAPHS (A) AND (B) 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, HOWEVER, THAT NO RENEWAL LICENSE SHALL BE DENIED BECAUSE OF SUCH RESTRICTION TO ANY PREMISES SO LOCATED WHICH WERE MAINTAINED AS A BONA FIDE HOTEL, RESTAURANT, CATERING ESTABLISHMENT OR CLUB ON OR PRIOR TO DECEMBER FIFTH, NINETEEN HUNDRED THIRTY-THREE; AND, 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 ELEVEN; 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; AND EXCEPT THAT THIS SUBDIVISION SHALL NOT BE DEEMED TO RESTRICT THE ISSUANCE OF A HOTEL LIQUOR LICENSE TO A BUILDING USED AS A HOTEL AND IN WHICH A RESTAURANT LIQUOR LICENSE CURRENTLY EXISTS FOR PREMISES WHICH SERVE AS A DINING ROOM FOR GUESTS OF THE HOTEL AND A CATERER'S LICENSE TO A PERSON USING THE PERMANENT CATERING FACILITIES OF A CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP PURSUANT TO A WRITTEN AGREEMENT BETWEEN SUCH PERSON AND THE AUTHORITIES IN CHARGE OF SUCH FACILITIES. THE LIQUOR AUTHORITY, IN ITS DISCRETION, MAY AUTHORIZE THE REMOVAL OF ANY SUCH LICENSED PREMISES TO A DIFFERENT LOCATION ON THE SAME STREET OR AVENUE, WITHIN TWO HUNDRED FEET OF SAID SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP, PROVIDED THAT SUCH NEW LOCATION IS NOT WITHIN A CLOSER DISTANCE TO SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP.

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

(B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARAGRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION ARE TO

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

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

26 (A-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-  
27 SION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE MILLION  
28 PEOPLE, NO BOTTLE CLUB LICENSE SHALL BE GRANTED FOR ANY PREMISES WHICH  
29 SHALL BE ON THE SAME STREET OR AVENUE AND WITHIN TWO HUNDRED FEET OF A  
30 BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER  
31 PLACE OF WORSHIP; THE MEASUREMENTS TO BE TAKEN IN A STRAIGHT LINE FROM  
32 THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED  
33 THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,  
34 SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY  
35 BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF  
36 WORSHIP; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT WHICH  
37 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A  
38 DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR AVENUE AND  
39 WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED EXCLUSIVELY  
40 AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT  
41 THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES  
42 PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN  
43 IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST,  
44 TWO THOUSAND ELEVEN.

45 S 4. Paragraph (d) of subdivision 11 of section 64-c of the alcoholic  
46 beverage control law, as amended by chapter 463 of the laws of 2009, is  
47 amended and a new paragraph (b-1) is added to read as follows:

48 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-  
49 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES  
50 HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN  
51 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION ARE TO  
52 BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY LINE  
53 OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY  
54 LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE  
55 CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,  
56 SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE POINT ON THE PROPERTY

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

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

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

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

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

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

42 S 6. This act shall take effect on the one hundred eightieth day after  
43 it shall have become a law.