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

121

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

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:

Section 1. Subdivision 2-a of section 64 of the alcoholic beverage control law, as amended by chapter 213 of the laws of 2010, is amended to read as follows:

2-a. Notwithstanding any other provision of this chapter, upon receipt of an application for a license under this section, an application for renewal under section one hundred nine of this chapter, or an application for an alteration to a premises licensed for consumption on the premises under section ninety-nine-d of this chapter, the applicant shall notify the clerk of the village, town or city, as the case may be, by certified mail return receipt requested, overnight delivery service with proof of mailing, or personal service, wherein the prospective licensed premises is to be located or, in the case of an application for renewal, or alteration where it is presently located not less than [thirty] SIXTY days prior to the submission of its application for a license under this section or for a renewal thereof pursuant to section one hundred nine of this chapter. For the purposes of the preceding sentence notification need only be given to the clerk of a village when such premises is to be located within the boundaries of the village. SUCH MUNICIPALITY MAY EXPRESS AN OPINION FOR OR AGAINST THE GRANTING OF SUCH LICENSE. ANY SUCH OPINION SHALL BE DEEMED PART OF THE RECORD UPON WHICH THE LIQUOR BOARD MAKES ITS DETERMINATION TO GRANT OR DENY SUCH LICENSE.

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

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2-B. In the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which such licensed premises is to be located shall be considered the appropriate public body to which notification REQUIRED IN SUBDIVISION TWO-A OF THIS SECTION shall be given. THE LIQUOR AUTHORITY SHALL PROVIDE A LIAISON TO THE LOCAL COMMUNITY BOARDS AND PROVIDE SUCH LOCAL COMMUNITY BOARDS WITH WRITTEN NOTICE OF ALL NEW AND RENEWAL APPLICATIONS FOR LICENSES WITHIN THE COMMUNITY BOARD'S DISTRICT. NOTICE TO THE COMMUNITY BOARD SHALL MEAN WRITTEN NOTICE MAILED BY THE AUTHORITY TO SUCH COMMUNITY BOARD AT LEAST THIRTY DAYS IN ADVANCE OF ANY HEARING SCHEDULED PURSUANT TO THIS SUBDIVISION. THE LOCAL COMMUNITY BOARD SHALL HAVE A MEANINGFUL OPPORTUNITY TO BE HEARD BEFORE ANY LIQUOR AUTHORITY HEARING IS CALENDARED OR LICENSE ISSUED. MEANINGFUL OPPORTUNITY SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RIGHT OF COMMUNITY BOARD REPRESENTATIVES TO ATTEND AND TO TESTIFY AT A LIQUOR AUTHORITY HEARING REGARDING A NEW OR EXISTING LICENSE WITHIN THAT COMMUNITY BOARD'S DISTRICT. Such [municipality or] community board[, as the case may be,] may express [an] A WRITTEN opinion for or against the granting of such license WITHIN SIXTY DAYS OF RECEIPT OF SUCH HEARING NOTIFICATION. THE COMMUNITY BOARD MAY WAIVE THE THIRTY DAY NOTICE REQUIREMENT. Any such STIPULATIONS AGREED UPON BY THE APPLICANT AND THE LOCAL COMMUNITY BOARD AND ANY SUCH COMMUNITY BOARD'S opinion shall be deemed part of the record upon which the liquor board makes its determination to grant or deny such license. SUCH STIPULATIONS SHALL BE ENFORCED BY THE LIQUOR AUTHORITY. A LIQUOR AUTHORITY DECISION WHICH IS CONTRARY TO A COMMUNITY BOARD'S OPINION SHALL SET FORTH IN WRITING THE REASONS FOR SUCH DECISION AND A COPY SHALL BE FORWARDED TO SUCH COMMUNITY BOARD.

S 2. Paragraph (f) of subdivision 7 of section 64 of the alcoholic beverage control law, as amended by chapter 463 of the laws of 2009, is amended to read as follows:

(f) Notwithstanding the provisions of paragraph (b) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board[, and shall state and file in its office its reasons therefor]. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least [fifteen] THIRTY days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the [fifteen] THIRTY day notice requirement. SUCH MUNICIPALITY OR COMMUNITY BOARD SHALL HAVE A MEANINGFUL OPPORTUNITY TO BE HEARD. MEANINGFUL OPPORTUNITY SHALL INCLUDE THE RIGHT OF COMMUNITY BOARD REPRESENTATIVES TO ATTEND AND TESTIFY AT ANY PRE-LICENSING HEARING AND THE RIGHT TO FILE WITH THE LIQUOR AUTHORITY A WRITTEN OPINION FOR OR AGAINST THE GRANTING OF SUCH LICENSE WITHIN SIXTY DAYS OF RECEIPT OF NOTICE OF A HEARING. SUCH OPINION SHALL BE DEEMED PART OF THE LIQUOR AUTHORITY'S RECORD UPON WHICH THE LIQUOR AUTHORITY MAKES ITS DETERMINATION. THE LIQUOR AUTHORITY SHALL STATE AND FILE ITS REASONS FOR ITS DETERMINATION IN ITS OFFICE AND FORWARD A COPY OF SUCH DETERMINATION TO THE MUNICIPALITY OR COMMUNITY BOARD. No premises having been granted a license pursuant to this section shall be

denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article.

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