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

1042

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. PHEFFER, MARKEY, DINOWITZ, GOTTFRIED, LANCMAN -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, COLTON, COOK, JACOBS, MAYERSOHN, MILLMAN, ROSENTHAL, TOWNS -- 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 authorizing the creation of an alcoholic beverage control board in and by the city of New York

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

Section 1. Declaration of legislative findings and intent. The legislature hereby finds, determines and declares that it is a matter of state concern and in the interest of the people of the state to authorize the establishment of a city liquor authority in and by the city of New York. The need for self-regulation of the sale of alcoholic beverages by the city of New York is well documented. There are too many establishments in close proximity to each other that engage in the sale of alcoholic beverages. This has resulted in an increase in noise, traffic, litter, and criminal activities, especially late at night. Consequently, the quality of life in neighborhoods within the city of New York has deteriorated. Therefore, the legislature finds and declares that the creation of a city liquor authority would enable the city of New York to more effectively and efficiently monitor these establishments and enforce the alcoholic beverage control law. The legislature further finds and declares that the creation of a city liquor authority will help improve the quality of life in the city of New York as well as insure compliance with other applicable laws.

It is the intent of the legislature to hereby authorize the establishment of a city liquor authority in and by the city of New York in order to provide proper and adequate enforcement of the alcoholic beverage control law.

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

LBD00377-01-1

S 2. The alcoholic beverage control law is amended by adding a new article 3 to read as follows:

ARTICLE 3

NEW YORK CITY LIQUOR AUTHORITY

SECTION 30. DEFINITIONS.
31. AUTHORITY; COMMISSIONER.
32. DEPUTIES.
33. OFFICERS; EMPLOYEES; OFFICES.
34. DISQUALIFICATION OF COMMISSIONER AND EMPLOYEES OF THE AUTHORITY.
35. FUNCTIONS, POWERS, AND DUTIES OF THE AUTHORITY.
36. NOTICE TO COMMUNITY BOARDS.
37. POWERS AND DUTIES OF THE COMMISSIONER.
38. NECESSARY PARTY.

S 30. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "AUTHORITY" SHALL MEAN THE NEW YORK CITY LIQUOR AUTHORITY.

2. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF THE NEW YORK CITY LIQUOR AUTHORITY.

S 31. AUTHORITY; COMMISSIONER. THE CITY OF NEW YORK IS HEREBY AUTHORIZED TO ESTABLISH AND MAINTAIN AN AUTHORITY TO REGULATE THE SALE OF ALCOHOLIC BEVERAGES WITHIN ITS JURISDICTION AND ENFORCE LAWS AND REGULATIONS THEREFOR, THE HEAD OF WHICH SHALL BE THE COMMISSIONER.

S 32. DEPUTIES. THE COMMISSIONER MAY APPOINT THREE DEPUTIES, ONE OF WHOM MAY PERFORM ALL DUTIES AND EXERCISE ALL OF THE POWERS OF THE COMMISSIONER WHEN SO AUTHORIZED BY INSTRUMENT IN WRITING TO BE FILED IN THE OFFICES OF THE MAYOR AND THE COMPTROLLER OF THE CITY OF NEW YORK.

S 33. OFFICERS; EMPLOYEES; OFFICES. THE AUTHORITY SHALL HAVE THE POWER TO APPOINT ANY NECESSARY COUNSELS, ASSISTANTS, INVESTIGATORS, HEARING OFFICERS, AND OTHER EMPLOYEES. INVESTIGATORS SO EMPLOYED BY THE AUTHORITY SHALL BE DEEMED TO BE PEACE OFFICERS FOR THE PURPOSE OF ENFORCING THE PROVISIONS OF THIS CHAPTER OR JUDGMENTS OR ORDERS OBTAINED FOR VIOLATION THEREOF, WITH ALL THE POWERS SET FORTH IN SECTION 2.20 OF THE CRIMINAL PROCEDURE LAW. THE COUNSEL, SECRETARY, CHIEF EXECUTIVE OFFICER, COMMISSIONERS, AND DEPUTIES SHALL BE IN THE EXEMPT CLASS OF THE CIVIL SERVICE. THE OTHER ASSISTANTS, HEARING OFFICERS, INVESTIGATORS, AND EMPLOYEES OF THE AUTHORITY SHALL ALL BE IN THE COMPETITIVE CLASS OF THE CIVIL SERVICE.

S 34. DISQUALIFICATION OF COMMISSIONER AND EMPLOYEES OF THE AUTHORITY. NO COMMISSIONER OF THE AUTHORITY OR ANY OFFICER, DEPUTY, HEARING OFFICER, ASSISTANT, INSPECTOR, OR EMPLOYEE THEREOF SHALL HAVE AN INTEREST, DIRECT OR INDIRECT, EITHER PROPRIETARY OR BY MEANS OF ANY LOAN, MORTGAGE OR LIEN, OR IN ANY OTHER MANNER, IN ANY PREMISES WHERE ALCOHOLIC BEVERAGES ARE MANUFACTURED OR SOLD; NOR SHALL HAVE ANY INTEREST, DIRECT OR INDIRECT, IN ANY BUSINESS WHOLLY OR PARTIALLY DEVOTED TO THE MANUFACTURE, SALE, TRANSPORTATION, OR STORAGE OF ALCOHOLIC BEVERAGES, OR OWN ANY STOCK IN ANY CORPORATION WHICH HAS ANY INTEREST, PROPRIETARY OR OTHERWISE, DIRECT OR INDIRECT, IN ANY PREMISES WHERE ALCOHOLIC BEVERAGES ARE MANUFACTURED OR SOLD, OR IN ANY BUSINESS WHOLLY OR PARTIALLY DEVOTED TO THE MANUFACTURE, SALE, TRANSPORTATION OR STORAGE OF ALCOHOLIC BEVERAGES, OR RECEIVE ANY PROFIT WHATSOEVER, DIRECT OR INDIRECT, FROM ANY PERSON APPLYING FOR OR RECEIVING ANY LICENSE OR PERMIT PROVIDED FOR IN THIS CHAPTER, OR HOLD ANY OTHER PUBLIC OFFICE IN THE CITY OR IN ANY POLITICAL SUBDIVISION, EXCEPT UPON WRITTEN PERMISSION OF THE NEW YORK CITY CONFLICTS OF INTEREST BOARD.

S 35. FUNCTIONS, POWERS, AND DUTIES OF THE AUTHORITY. THE AUTHORITY SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS, AND DUTIES:

1. TO ISSUE OR REFUSE TO ISSUE ANY LICENSE OR PERMIT FOR THE SALE OF ALCOHOLIC BEVERAGES AT RETAIL.

2. TO LIMIT, IN ITS DISCRETION, THE NUMBER OF LICENSES OF EACH CLASS TO BE ISSUED WITHIN THE CITY OR ANY POLITICAL SUBDIVISION THEREOF AND, IN CONNECTION THEREWITH, TO PROHIBIT THE ACCEPTANCE OF APPLICATIONS FOR SUCH CLASS OR CLASSES OF LICENSES WHICH HAVE BEEN SO LIMITED.

3. TO REVOKE, CANCEL, OR SUSPEND FOR CAUSE ANY LICENSE OR PERMIT ISSUED PURSUANT TO THIS CHAPTER AND/OR IMPOSE A CIVIL PENALTY FOR CAUSE AGAINST ANY HOLDER OF A LICENSE OR PERMIT ISSUED PURSUANT TO THIS CHAPTER.

4. TO REMOVE ANY EMPLOYEE FOR CAUSE, CONSISTENT WITH APPLICABLE COLLECTIVE BARGAINING AGREEMENTS OR LOCAL AND STATE LAWS, AFTER GIVING SUCH EMPLOYEE A COPY OF THE CHARGES AGAINST HIM OR HER, IN WRITING, AND AN OPPORTUNITY TO BE HEARD THEREON.

5. TO HOLD HEARINGS, SUBPOENA WITNESSES, COMPEL THEIR ATTENDANCE, ADMINISTER OATHS, AND TO EXAMINE ANY PERSON UNDER OATH IN RELATION TO ANY MATTERS, DETERMINATIONS, OR PROCEEDINGS PURSUANT TO THIS SECTION. A SUBPOENA ISSUED PURSUANT TO THIS SECTION SHALL BE REGULATED BY THE CIVIL PRACTICE LAW AND RULES.

6. TO MAKE AN ANNUAL REPORT TO THE MAYOR, THE CITY COUNCIL, AND EACH BOROUGH PRESIDENT OF THE CITY OF NEW YORK OF ITS ACTIVITIES FOR THE PRECEDING YEAR.

7. TO APPOINT SUCH ADVISORY GROUPS AND COMMITTEES AS IT DEEMS NECESSARY TO PROVIDE ASSISTANCE TO THE AUTHORITY TO CARRY OUT THE PURPOSES AND OBJECTIVES OF THIS CHAPTER.

8. UPON RECEIPT OF A RESOLUTION ADOPTED BY THE COUNCIL OF THE CITY OF NEW YORK REQUESTING FURTHER RESTRICTION OF HOURS OF SALE OF ALCOHOLIC BEVERAGES WITHIN SUCH CITY, AND UPON NOTICE AND HEARING WITHIN THE CITY OF NEW YORK, TO APPROVE OR DISAPPROVE SUCH HOURS WITHIN THE CITY OF NEW YORK.

9. THE AUTHORITY SHALL EXERCISE ITS POWERS AND DUTIES IN A MANNER CONSISTENT WITH ALL APPLICABLE LAWS.

S 36. NOTICE TO COMMUNITY BOARDS. AMONG OTHER INFORMATION THAT THE AUTHORITY SHALL CONSIDER IN GRANTING OR REVOKING LICENSES, WHICH SHALL BE DETAILED IN THE RULES AND REGULATIONS PROMULGATED PURSUANT TO SUBDIVISION SEVEN OF SECTION THIRTY-SEVEN OF THIS ARTICLE, THE AUTHORITY SHALL NOTIFY LOCAL COMMUNITY BOARDS OF ANY PENDING ACTIONS, HEARINGS, OR DETERMINATIONS WITHIN OR AFFECTING AREAS WITHIN SUCH COMMUNITY BOARD'S JURISDICTION. SUCH NOTICE SHALL BE MADE IN WRITING AT LEAST FIFTEEN DAYS PRIOR TO SUCH ACTION, HEARING, OR DETERMINATION. RESPONSES SUBMITTED BY THE AFFECTED COMMUNITY BOARD SHALL BE CONSIDERED BY THE AUTHORITY WHERE APPLICABLE.

S 37. POWERS AND DUTIES OF THE COMMISSIONER. THE COMMISSIONER SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS AND DUTIES:

1. TO EXERCISE THE POWERS AND PERFORM THE DUTIES IN RELATION TO THE ADMINISTRATION OF THE AUTHORITY.

2. TO PERFORM THE ADMINISTRATIVE FUNCTIONS OF THE AUTHORITY.

3. TO KEEP RECORDS IN SUCH FORM AS HE OR SHE MAY PRESCRIBE OF ALL LICENSES AND PERMITS ISSUED AND REVOKED WITHIN THE CITY OF NEW YORK; SUCH RECORDS SHALL BE SO KEPT AS TO PROVIDE READY INFORMATION AS TO THE IDENTITY OF ALL LICENSEES, INCLUDING THE NAMES OF THE OFFICERS AND DIRECTORS OF CORPORATE LICENSEES AND THE LOCATION OF ALL LICENSED PREMISES.

4. TO INSPECT OR PROVIDE FOR THE INSPECTION OF ANY PREMISES WHERE ALCOHOLIC BEVERAGES ARE MANUFACTURED OR SOLD.

5. TO PRESCRIBE FORMS OF APPLICATIONS FOR LICENSES AND PERMITS UNDER THIS CHAPTER AND OF ALL REPORTS DEEMED NECESSARY BY THE AUTHORITY.

6. TO DELEGATE TO THE OFFICERS AND EMPLOYEES OF THE AUTHORITY SUCH OF HIS OR HER POWERS AND DUTIES AS HE OR SHE MAY DETERMINE.

7. TO FORMULATE, ADOPT, PROMULGATE, AND ENFORCE, PURSUANT TO THE CITY ADMINISTRATIVE PROCEDURE ACT, COMPLETE RULES, REGULATIONS, ORDERS, AND DIRECTIONS FOR THE SECURITY OF LIFE AND HEALTH IN THE CITY, WHICH SHALL NOT BE INCONSISTENT WITH THE STATE'S ALCOHOLIC BEVERAGE CONTROL LAWS.

S 38. NECESSARY PARTY. THE AUTHORITY SHALL BE A PARTY TO ALL ACTIONS AND PROCEEDINGS AFFECTING IN ANY MANNER THE ISSUANCE OR REVOCATION OF LICENSES TO RETAILERS AND TO ALL INJUNCTION PROCEEDINGS AGAINST LICENSED RETAILERS WITHIN ITS JURISDICTION.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to all licenses issued, renewed, modified, or altered on or after such effective date.