

584--A

Cal. No. 498

2011-2012 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 5, 2011

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Introduced by M. of A. LENTOL, V. LOPEZ -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the alcoholic beverage control law, in relation to procedures associated with issuing retail, special retail, bottle club, restaurant-brewer and cabaret licenses to sell liquor for on-premises consumption regarding premises located within five hundred feet of three or more existing premises in cities, towns and villages having a population of twenty thousand or more

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

1     Section 1. Paragraph (f) 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 to read as follows:  
4     (f) Notwithstanding the provisions of paragraph (b) of this subdivi-  
5     sion, the authority may issue a license pursuant to this section for a  
6     premises which shall be within five hundred feet of three or more exist-  
7     ing premises licensed and operating pursuant to this section and  
8     sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d  
9     of this article if, after consultation with the municipality or communi-  
10    ty board, it determines that granting such license would be in the  
11    public interest. Before it may issue any such license, the authority  
12    shall conduct a hearing, upon notice to the applicant and the munici-  
13    pality or community board, and shall state and file in its office its  
14    reasons therefor. THE HEARING MAY BE RESCHEDULED, ADJOURNED OR CONTIN-  
15    UED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNI-  
16    CIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR  
17    CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE  
18    AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION

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

LBD03488-04-2

1 TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING  
2 REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICI-  
3 PALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED,  
4 ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE  
5 APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHED-  
6 ULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality  
7 or community board shall mean written notice mailed by the authority to  
8 such municipality or community board at least fifteen days in advance of  
9 any hearing scheduled pursuant to this paragraph. Upon the request of  
10 the authority, any municipality or community board may waive the fifteen  
11 day notice requirement. No premises having been granted a license pursu-  
12 ant to this section shall be denied a renewal of such license upon the  
13 grounds that such premises are within five hundred feet of a building or  
14 buildings wherein three or more premises are licensed and operating  
15 pursuant to this section and sections sixty-four-a, sixty-four-b,  
16 sixty-four-c, and/or sixty-four-d of this article.

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

20 (d) Notwithstanding the provisions of subparagraph (ii) of paragraph  
21 (a) of this subdivision, the authority may issue a license pursuant to  
22 this section for a premises which shall be within five hundred feet of  
23 three or more existing premises licensed and operating pursuant to this  
24 section and sections sixty-four, sixty-four-b, sixty-four-c, and/or  
25 sixty-four-d of this article if, after consultation with the munici-  
26 pality or community board, it determines that granting such license  
27 would be in the public interest. Before it may issue any such license,  
28 the authority shall conduct a hearing, upon notice to the applicant and  
29 the municipality or community board, and shall state and file in its  
30 office its reasons therefor. Notice to the municipality or community  
31 board shall mean written notice mailed by the authority to such munici-  
32 pality or community board at least fifteen days in advance of any hear-  
33 ing scheduled pursuant to this paragraph. Upon the request of the  
34 authority, any municipality or community board may waive the fifteen day  
35 notice requirement. THE HEARING MAY BE RESCHEDULED, ADJOURNED OR  
36 CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE  
37 MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR  
38 CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE  
39 AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION  
40 TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING  
41 REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICI-  
42 PALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED,  
43 ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE  
44 APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHED-  
45 ULED, ADJOURNED OR CONTINUED PUBLIC MEETING. No premises having been  
46 granted a license pursuant to this section shall be denied a renewal of  
47 such license upon the grounds that such premises are within five hundred  
48 feet of a building or buildings wherein three or more premises are  
49 licensed and operating pursuant to this section and sections sixty-four,  
50 sixty-four-b, sixty-four-c, and/or sixty-four-d of this article.

51 S 3. Paragraph (c) of subdivision 5 of section 64-b of the alcoholic  
52 beverage control law, as amended by chapter 463 of the laws of 2009, is  
53 amended to read as follows:

54 (c) Notwithstanding the provisions of subparagraph (ii) of paragraph  
55 (a) of this subdivision, the authority may issue a license pursuant to  
56 this section for a premises which shall be within five hundred feet of

1 three or more existing premises licensed and operating pursuant to this  
2 section and sections sixty-four, sixty-four-a, sixty-four-c, and/or  
3 sixty-four-d of this article if, after consultation with the munici-  
4 pality or community board, it determines that granting such license  
5 would be in the public interest. Before it may issue any such license,  
6 the authority shall conduct a hearing, upon notice to the applicant and  
7 the municipality or community board, and shall state and file in its  
8 office its reasons therefor. THE HEARING MAY BE RESCHEDULED, ADJOURNED  
9 OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND  
10 THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED  
11 OR CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE  
12 AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION  
13 TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING  
14 REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICI-  
15 PALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED,  
16 ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE  
17 APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHED-  
18 ULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality  
19 or community board shall mean written notice mailed by the authority to  
20 such municipality or community board at least fifteen days in advance of  
21 any hearing scheduled pursuant to this paragraph. Upon the request of  
22 the authority, any municipality or community board may waive the fifteen  
23 day notice requirement. No premises having been granted a license pursu-  
24 ant to this section shall be denied a renewal of such license upon the  
25 grounds that such premises are within five hundred feet of a building or  
26 buildings wherein three or more premises are licensed and operating  
27 pursuant to this section and sections sixty-four, sixty-four-a, sixty-  
28 four-c, and/or sixty-four-d of this article.

29 S 4. Paragraph (c) of subdivision 11 of section 64-c of the alcoholic  
30 beverage control law, as amended by chapter 463 of the laws of 2009, is  
31 amended to read as follows:

32 (c) Notwithstanding the provisions of subparagraph (ii) of paragraph  
33 (a) of this subdivision, the authority may issue a license pursuant to  
34 this section for a premises which shall be within five hundred feet of  
35 three or more existing premises licensed and operating pursuant to this  
36 section and sections sixty-four, sixty-four-a, sixty-four-b and/or  
37 sixty-four-d of this article if, after consultation with the munici-  
38 pality or community board, it determines that granting such license  
39 would be in the public interest. Before it may issue any such license,  
40 the authority shall conduct a hearing, upon notice to the applicant and  
41 the municipality or community board, and shall state and file in its  
42 office its reasons therefor. THE HEARING MAY BE RESCHEDULED, ADJOURNED  
43 OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND  
44 THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED  
45 OR CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE  
46 AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION  
47 TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING  
48 REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICI-  
49 PALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED,  
50 ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE  
51 APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHED-  
52 ULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality  
53 or community board shall mean written notice mailed by the authority to  
54 such municipality or community board at least fifteen days in advance of  
55 any hearing scheduled pursuant to this paragraph. Upon the request of  
56 the authority, any municipality or community board may waive the fifteen

1 day notice requirement. 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 operating and licensed pursuant to this section or sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article.

7 S 5. Paragraph (e) of subdivision 8 of section 64-d of the alcoholic beverage control law, as amended by chapter 463 of the laws of 2009, is amended to read as follows:

10 (e) 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 an existing premises licensed and operating pursuant to the provisions of this section or within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c 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. THE HEARING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED HEARING. BEFORE THE AUTHORITY ISSUES ANY SAID LICENSE, THE AUTHORITY OR ONE OR MORE OF THE COMMISSIONERS THEREOF MAY, IN ADDITION TO THE HEARING REQUIRED BY THIS PARAGRAPH, ALSO CONDUCT A PUBLIC MEETING REGARDING SAID LICENSE, UPON NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD. THE PUBLIC MEETING MAY BE RESCHEDULED, ADJOURNED OR CONTINUED, AND THE AUTHORITY SHALL GIVE NOTICE TO THE APPLICANT AND THE MUNICIPALITY OR COMMUNITY BOARD OF ANY SUCH RESCHEDULED, ADJOURNED OR CONTINUED PUBLIC MEETING. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen 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 day notice requirement. 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 an existing premises licensed and operating pursuant to the provisions of this section or 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, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article.

44 S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to all applications for a retail license, special retail license, bottle club license, restaurant-brewer license or cabaret license, for on-premises consumption of alcoholic beverages for premises within five hundred feet of existing licensed premises that are pending before or filed with the state liquor authority on or after such effective date. Effective immediately any rules or regulations necessary or convenient to implement the provisions of this act are authorized to be promulgated on or before such effective date.