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

6732

2011-2012 Regular Sessions

I N A S S E M B L Y

March 28, 2011

Introduced by M. of A. BING, FARRELL, LANCMAN, P. RIVERA, GALEF, MARKEY, ROSENTHAL, COOK, JAFFEE, REILLY -- Multi-Sponsored by -- M. of A. BRENNAN, CAMARA, GABRYSZAK, GLICK, ROBINSON, SIMOTAS, WEISENBERG -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to notification requirements for applicants for licenses and licensees; and to repeal certain provisions of such law relating to local notification requirements for licensed premises

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

Section 1. Section 17-a of the alcoholic beverage control law, as added by chapter 101 of the laws of 2008, is amended to read as follows:

S [17-a] 110-B. Notification TO MUNICIPALITIES. [The notification required upon receipt of] 1. NOT LESS THAN THIRTY DAYS BEFORE FILING ANY OF THE FOLLOWING APPLICATIONS, AN APPLICANT SHALL NOTIFY THE MUNICIPALITY IN WHICH THE PREMISES IS LOCATED OF SUCH APPLICANT'S INTENT TO FILE SUCH an application:

(A) for a license ISSUED pursuant to [sections fifty-four, fifty-four-a,] SECTION fifty-five, [sixty-three] FIFTY-FIVE-A, sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, SIXTY-FOUR-D, eighty-one [and] OR eighty-one-a [or] OF THIS CHAPTER;

(B) for a renewal under section one hundred nine of this chapter OF A LICENSE ISSUED PURSUANT TO SECTION FIFTY-FIVE, FIFTY-FIVE-A, SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-C, SIXTY-FOUR-D, EIGHTY-ONE OR EIGHTY-ONE-A OF THIS CHAPTER IF THE PREMISES IS LOCATED WITHIN THE CITY OF NEW YORK;

(C) FOR APPROVAL OF AN ALTERATION UNDER SECTION NINETY-NINE-D OF THIS CHAPTER IF THE PREMISES IS LOCATED WITHIN THE CITY OF NEW YORK AND LICENSED PURSUANT TO SECTION FIFTY-FIVE, FIFTY-FIVE-A, SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-C, SIXTY-FOUR-D, EIGHTY-ONE OR EIGHTY-ONE-A OF THIS CHAPTER; OR

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

LBD08865-03-1

(D) FOR APPROVAL OF A SUBSTANTIAL CORPORATE CHANGE UNDER SECTION NINETY-NINE-D OF THIS CHAPTER IF THE PREMISES IS LOCATED WITHIN THE CITY OF NEW YORK AND LICENSED PURSUANT TO SECTION FIFTY-FIVE, FIFTY-FIVE-A, SIXTY-FOUR, SIXTY-FOUR-A, SIXTY-FOUR-C, SIXTY-FOUR-D, EIGHTY-ONE OR EIGHTY-ONE-A OF THIS CHAPTER.

2. SUCH NOTIFICATION SHALL BE MADE TO THE CLERK OF THE VILLAGE, TOWN OR CITY, AS THE CASE MAY BE, WHEREIN THE PREMISES IS LOCATED. FOR PURPOSES OF THIS SECTION:

(A) NOTIFICATION NEED ONLY BE GIVEN TO THE CLERK OF A VILLAGE WHEN THE PREMISES IS LOCATED WITHIN THE BOUNDARIES OF THE VILLAGE; AND

(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 THE PREMISES IS LOCATED SHALL BE CONSIDERED THE APPROPRIATE PUBLIC BODY TO WHICH NOTIFICATION SHALL BE GIVEN.

3. FOR PURPOSES OF THIS SECTION, "SUBSTANTIAL CORPORATE CHANGE" SHALL MEAN:

(A) FOR A CORPORATION, A CHANGE OF EIGHTY PERCENT OR MORE OF THE OFFICERS AND/OR DIRECTORS, OR A TRANSFER OF EIGHTY PERCENT OR MORE OF STOCK OF SUCH CORPORATION, OR AN EXISTING STOCKHOLDER OBTAINING EIGHTY PERCENT OR MORE OF THE STOCK OF SUCH CORPORATION; AND

(B) FOR A LIMITED LIABILITY COMPANY, A CHANGE OF EIGHTY PERCENT OR MORE OF THE MANAGING MEMBERS OF THE COMPANY, OR A TRANSFER OF EIGHTY PERCENT OR MORE OF OWNERSHIP INTEREST IN SAID COMPANY, OR AN EXISTING MEMBER OBTAINING A CUMULATIVE OF EIGHTY PERCENT OR MORE OF THE OWNERSHIP INTEREST IN SAID COMPANY.

4. SUCH NOTIFICATION shall be made in such form as shall be prescribed by the rules of the liquor authority.

5. A MUNICIPALITY MAY EXPRESS AN OPINION FOR OR AGAINST THE GRANTING OF SUCH APPLICATION. ANY SUCH OPINION SHALL BE DEEMED PART OF THE RECORD UPON WHICH THE LIQUOR AUTHORITY MAKES ITS DETERMINATION TO GRANT OR DENY THE APPLICATION.

6. SUCH NOTIFICATION SHALL BE MADE BY: CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OVERNIGHT DELIVERY SERVICE WITH PROOF OF MAILING; OR PERSONAL SERVICE UPON THE OFFICES OF THE CLERK OR COMMUNITY BOARD.

7. The liquor authority shall require such notification to be on a standardized form that can be obtained on the internet or from the liquor authority and such notification to include:

[1.] (A) the [full] TRADE name OR "DOING BUSINESS AS" NAME, IF ANY, of the establishment;

[2.] (B) the full name of the [owner and/or] applicant;

[3.] (C) the STREET address of the establishment, including the floor location or room number, if applicable;

[4.] (D) THE MAILING ADDRESS OF THE ESTABLISHMENT, IF DIFFERENT THAN THE STREET ADDRESS;

(e) the name, address and telephone number of the attorney OR REPRESENTATIVE of the applicant, IF ANY;

[5.] (F) a [line] STATEMENT indicating whether [it] THE APPLICATION is FOR:

(I) a new establishment [or];

(II) a transfer OF AN EXISTING LICENSED BUSINESS;

[6.] (III) A RENEWAL OF AN EXISTING LICENSE; OR

(IV) AN ALTERATION OF AN EXISTING LICENSED PREMISES;

(G) if the establishment is a transfer OR PREVIOUSLY LICENSED PREMISES, the name of the old establishment and such establishment's [previous] license SERIAL number;

[7. if the establishment is a licensed facility] (H) IN THE CASE OF A RENEWAL OR ALTERATION APPLICATION, the license SERIAL number of [such establishment] THE APPLICANT; and

[8.] (I) the type of license.

S 2. Subdivision 2-a of section 55 of the alcoholic beverage control law is REPEALED.

S 3. Subdivision 2-a of section 64 of the alcoholic beverage control law is REPEALED.

S 4. Subdivision 3 of section 64-c of the alcoholic beverage control law is REPEALED.

S 5. Subdivision 3 of section 64-d of the alcoholic beverage control law is REPEALED.

S 6. Subdivision 1-a of section 81 of the alcoholic beverage control law is REPEALED.

S 7. Subdivision 2 of section 99-d of the alcoholic beverage control law, as amended by chapter 259 of the laws of 1997, the opening paragraph as amended by section 24 of part Z of chapter 85 of the laws of 2002, is amended to read as follows:

2. Before any change in the members of a limited liability company or the transfer or assignment of a membership interest in a limited liability company or any corporate change in stockholders, stockholdings, alcoholic beverage officers, officers or directors, except officers and directors of a premises licensed as a club or a luncheon club under this chapter can be effectuated for the purposes of this chapter, there shall be filed with the liquor authority an application for permission to make such change and there shall be paid to the liquor authority in advance upon filing of the application a fee of one hundred twenty-eight dollars [where the license fee is five hundred dollars or more and thirteen dollars in all other instances including changes relating solely to officers and directors of corporations and the alcoholic beverage officer of a club or luncheon club].

(A) The [foregoing] provisions of this section shall not be applicable where there are ten or more stockholders and such change involves less than ten per centum of the stock of the corporation and the stock holdings of any stockholder are not increased thereby to ten per centum or more of the stock.

(B) Where the same corporation operates two or more premises separately licensed under this chapter a separate corporate change shall be filed for each such licensed premises, except as otherwise provided for by rule of the liquor authority. The corporate change fee provided for herein shall not be applicable to more than one license held by the same corporation.

(C) NOTWITHSTANDING ANY CORPORATE CHANGE APPROVED BY THE AUTHORITY, A LICENSED CORPORATION OR LIMITED LIABILITY COMPANY SHALL BE BOUND BY THE REPRESENTATIONS SET FORTH IN THE ORIGINAL APPLICATION AND ANY AMENDMENTS THERETO APPROVED BY THE AUTHORITY.

S 8. Subdivision 2 of section 109 of the alcoholic beverage control law is REPEALED and subdivision 1-a is renumbered subdivision 2.

S 9. This act shall take effect immediately.