

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sen. SQUADRON -- 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 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,

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

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1 cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the  
2 use of the building for blood drives, health screenings, health informa-  
3 tion meetings, yoga classes, exercise classes or other activities  
4 intended to promote the health of the congregants or other persons; and  
5 use of the building by non-congregant members of the community for  
6 private social functions. The building occupied as a place of worship  
7 does not cease to be "exclusively" occupied as a place of worship where  
8 the not-for-profit religious organization occupying the place of worship  
9 accepts the payment of funds to defray costs related to another party's  
10 use of the building.

11 (D-2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (C) AND (D) OF THIS  
12 SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE  
13 MILLION PEOPLE, THE MEASUREMENTS IN PARAGRAPHS (A) AND (B) OF THIS  
14 SUBDIVISION ARE TO BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE  
15 PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO  
16 THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER  
17 PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF  
18 SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP OR FROM THE  
19 POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT  
20 IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND  
21 OPERATING PURSUANT TO THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY  
22 LINE OF EACH SUCH PREMISES LICENSED AND OPERATING PURSUANT TO THE  
23 PROVISIONS OF THIS SECTION; EXCEPT, HOWEVER, THAT NO RENEWAL LICENSE  
24 SHALL BE DENIED BECAUSE OF SUCH RESTRICTION TO ANY PREMISES SO LOCATED  
25 WHICH WERE MAINTAINED AS A BONA FIDE HOTEL, RESTAURANT, CATERING ESTAB-  
26 LISHMENT OR CLUB ON OR PRIOR TO DECEMBER FIFTH, NINETEEN HUNDRED THIR-  
27 TY-THREE; AND, EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT  
28 WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY  
29 FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR  
30 AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED  
31 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;  
32 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY  
33 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER  
34 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-  
35 TY-FIRST, TWO THOUSAND ELEVEN; AND EXCEPT THAT NO LICENSE SHALL BE  
36 DENIED TO ANY PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR  
37 MORE EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS  
38 OF THIS SECTION, AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN  
39 EXISTENCE CONTINUOUSLY ON OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED  
40 NINETY-THREE; AND EXCEPT THAT THIS SUBDIVISION SHALL NOT BE DEEMED TO  
41 RESTRICT THE ISSUANCE OF A HOTEL LIQUOR LICENSE TO A BUILDING USED AS A  
42 HOTEL AND IN WHICH A RESTAURANT LIQUOR LICENSE CURRENTLY EXISTS FOR  
43 PREMISES WHICH SERVE AS A DINING ROOM FOR GUESTS OF THE HOTEL AND A  
44 CATERER'S LICENSE TO A PERSON USING THE PERMANENT CATERING FACILITIES OF  
45 A CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP PURSUANT TO A WRITTEN  
46 AGREEMENT BETWEEN SUCH PERSON AND THE AUTHORITIES IN CHARGE OF SUCH  
47 FACILITIES. THE LIQUOR AUTHORITY, IN ITS DISCRETION, MAY AUTHORIZE THE  
48 REMOVAL OF ANY SUCH LICENSED PREMISES TO A DIFFERENT LOCATION ON THE  
49 SAME STREET OR AVENUE, WITHIN TWO HUNDRED FEET OF SAID SCHOOL, CHURCH,  
50 SYNAGOGUE OR OTHER PLACE OF WORSHIP, PROVIDED THAT SUCH NEW LOCATION IS  
51 NOT WITHIN A CLOSER DISTANCE TO SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER  
52 PLACE OF WORSHIP.

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

55 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-  
56 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES

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

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

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

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

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

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

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

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

52 (B-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS  
53 SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE  
54 MILLION PEOPLE, NO RETAIL LICENSE TO SELL LIQUOR AND/OR WINE FOR  
55 OFF-PREMISES CONSUMPTION SHALL BE GRANTED FOR ANY PREMISES WHICH SHALL  
56 BE LOCATED ON THE SAME STREET OR AVENUE, AND WITHIN TWO HUNDRED FEET OF

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

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

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