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

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I N  S E N A T E

April 30, 2012

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the alcoholic beverage control law, in relation to authorizing licensees to confiscate any written evidence of age, which is false, fraudulent or not the presenter's own, offered for the purpose of purchasing an alcoholic beverage

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

Section 1. Subdivision 2 of section 65-b of the alcoholic beverage control law is amended by adding a new paragraph (d) to read as follows:

(D) (I) IN ANY INSTANCE IN WHICH A PERSON PRESENTS OR OFFERS, TO A LICENSEE, OR TO AN AGENT OR EMPLOYEE OF A LICENSEE, WRITTEN EVIDENCE OF AGE WHICH, AFTER BEING SUBJECTED TO A TRANSACTION SCAN PURSUANT TO THIS SECTION, SUCH LICENSEE, AGENT OR EMPLOYEE REASONABLY BELIEVES IS FALSE, FRAUDULENT OR NOT ACTUALLY SUCH PERSON'S, FOR THE PURPOSE OF PURCHASING OR ATTEMPTING TO PURCHASE ANY ALCOHOLIC BEVERAGE, SUCH LICENSEE, AGENT OR EMPLOYEE MAY IMMEDIATELY CONFISCATE AND TAKE POSSESSION OF SUCH WRITTEN EVIDENCE OF AGE. A SUCCESSFUL TRANSACTION SCAN SHALL NOT PRECLUDE THE REASONABLE CONFISCATION OF SUCH WRITTEN EVIDENCE OF AGE.

(II) WITHIN FORTY-EIGHT HOURS OF TAKING POSSESSION OF WRITTEN EVIDENCE OF AGE WHICH IS FALSE, FRAUDULENT OR NOT THE PRESENTER'S OWN, A LICENSEE SHALL DELIVER SUCH WRITTEN EVIDENCE OF AGE TO A LAW ENFORCEMENT AGENCY HAVING JURISDICTION OVER THE LOCATION OF THE LICENSED PREMISES.

(III) EACH LAW ENFORCEMENT AGENCY TAKING POSSESSION OF WRITTEN EVIDENCE OF AGE PURSUANT TO THIS PARAGRAPH SHALL CONDUCT AN ANALYSIS OF THE VALIDITY OF THE WRITTEN EVIDENCE WITH REGARD TO THE PERSON WHO PRESENTED IT TO THE LICENSEE, AGENT OR EMPLOYEE. IF SUCH WRITTEN EVIDENCE OF AGE IS VALID, IT SHALL BE RETURNED TO THE RIGHTFUL HOLDER THEREOF, IN PERSON OR BY FIRST CLASS MAIL. IT IT IS FALSE OR FRAUDULENT, THE WRITTEN EVIDENCE OF AGE SHALL BE DESTROYED.

(IV) ANY PERSON WHO HAS HAD HIS OR HER WRITTEN EVIDENCE OF AGE CONFISCATED PURSUANT TO THIS PARAGRAPH MAY PETITION, ORALLY OR IN WRITING, THE LAW ENFORCEMENT AGENCY HAVING POSSESSION THEREOF FOR ITS RETURN.

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

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(V) NO LICENSEE, OR AGENT OR EMPLOYEE THEREOF, SHALL INCUR ANY CIVIL OR CRIMINAL LIABILITY FOR THE CONFISCATION OF ANY WRITTEN EVIDENCE OF AGE PURSUANT TO THIS PARAGRAPH, UNLESS GROSS NEGLIGENCE SHALL BE PROVEN.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.