

2532

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 16, 2013

---

Introduced by M. of A. CRESPO -- read once and referred to the Committee  
on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to  
establishing a defense to administrative actions brought by the state  
liquor authority for providing alcoholic beverages to a person under  
twenty-one years of age

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

1     Section 1. Paragraph (b) of subdivision 6 of section 65 of the alco-  
2     holic beverage control law, as amended by chapter 435 of the laws of  
3     2010, is amended and a new paragraph (c) is added to read as follows:  
4     (b) it shall be an affirmative defense that at the time of such  
5     violation such person who committed such alleged violation held a valid  
6     certificate of completion or renewal from an entity authorized to give  
7     and administer an alcohol training awareness program pursuant to subdi-  
8     vision twelve of section seventeen of this chapter. Such licensee shall  
9     have diligently implemented and complied with all of the provisions of  
10    the approved training program. In such proceeding to revoke, cancel or  
11    suspend a license pursuant to section one hundred eighteen of this chap-  
12    ter, the licensee must prove each element of such affirmative defense by  
13    a preponderance of the credible evidence. Evidence of three unlawful  
14    sales of alcoholic beverages by any employee of a licensee to persons  
15    under twenty-one years of age, within a two year period, shall be  
16    considered by the authority in determining whether the licensee had  
17    diligently implemented such an approved program[.]; AND  
18    (C) NO SUCH PROCEEDING SHALL BE BROUGHT AGAINST A LICENSEE WHO CAN  
19    ASSERT THAT (I) THE LICENSEE HAS AN OPERATING DEVICE CAPABLE OF DECI-  
20    PHERING ANY ELECTRONICALLY READABLE FORMAT, AS DEFINED IN PARAGRAPH (A)  
21    OF SUBDIVISION ONE OF SECTION SIXTY-FIVE-B OF THIS ARTICLE, UPON THE  
22    LICENSED PREMISES; (II) THE LICENSEE CAN DEMONSTRATE THAT IT REQUIRES  
23    ITS AGENTS AND EMPLOYEES TO CONDUCT A TRANSACTION SCAN, AS DEFINED IN

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

LBD00975-01-3

1 PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION SIXTY-FIVE-B OF THIS ARTI-  
2 CLE, OF EACH WRITTEN EVIDENCE OF AGE PRESENTED PRIOR TO EVERY SALE OR  
3 DELIVERY OF ALCOHOLIC BEVERAGES; (III) THE LICENSEE HOLDS A VALID  
4 CERTIFICATE OF COMPLETION OR RENEWAL FROM AN ENTITY AUTHORIZED TO GIVE  
5 AND ADMINISTER AN ALCOHOL AWARENESS PROGRAM PURSUANT TO SUBDIVISION  
6 TWELVE OF SECTION SEVENTEEN OF THIS CHAPTER; AND (IV) HAS HAD NO  
7 VIOLATIONS OF SUBDIVISION ONE OF THIS SECTION UPON THE LICENSED PREMISES  
8 WITHIN THE PREVIOUS TWO YEARS. FOR THE PURPOSES OF THIS PARAGRAPH, THE  
9 TWO YEAR PERIOD SHALL BE MEASURED FROM THE DATES ANY VIOLATIONS  
10 OCCURRED.

11 S 2. This act shall take effect on the first of January next succeed-  
12 ing the date on which it shall have become a law.