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

3796

2013-2014 Regular Sessions

I N S E N A T E

February 15, 2013

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to special permits to remain open during certain hours of the morning

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

Section 1. Section 99 of the alcoholic beverage control law, as amended by chapter 204 of the laws of 1963, subdivisions 1 and 2 as amended by section 22 of part Z of chapter 85 of the laws of 2002, is amended to read as follows:

S 99. Special permit to remain open during certain hours of the morning. 1. Any person licensed to sell alcoholic beverages for consumption on the premises pursuant to this chapter may apply to the liquor authority for a special permit to remain open on any week day between the hours of four o'clock a.m. or the closing hour prescribed by a rule adopted in a county on or before April first, nineteen hundred ninety-five or pursuant to subdivision eleven of section seventeen of this chapter, and eight o'clock a.m. The fee for such permit shall be fifty-one dollars per day.

2. NOT LESS THAN THIRTY DAYS BEFORE FILING AN APPLICATION FOR A SPECIAL PERMIT PURSUANT TO THIS SECTION, AN APPLICANT SHALL NOTIFY THE MUNICIPALITY IN WHICH THE PREMISES IS LOCATED OF SUCH APPLICANT'S INTENT TO FILE SUCH AN APPLICATION. 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 JURIS-

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

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DICTION OVER THE AREA IN WHICH THE PREMISES IS LOCATED SHALL BE CONSIDERED THE APPROPRIATE PUBLIC BODY TO WHICH NOTIFICATION SHALL BE GIVEN.

3. NOT LESS THAN THIRTY DAYS BEFORE FILING AN APPLICATION FOR A SPECIAL PERMIT PURSUANT TO THIS SECTION, AN APPLICANT SHALL NOTIFY THE LOCAL POLICE DEPARTMENT, OR IF NO LOCAL POLICE DEPARTMENT EXISTS, THE SHERIFF'S DEPARTMENT OF THE COUNTY IN WHICH THE PREMISES IS LOCATED.

4. 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 AND THE LOCAL POLICE DEPARTMENT OR COUNTY SHERIFF'S DEPARTMENT.

5. THE APPLICANT MUST INCLUDE, WITH THE APPLICATION FOR A SPECIAL PERMIT, PROOF THAT NOTICE WAS MAILED OR DELIVERED TO THE OFFICES OF THE CLERK OR COMMUNITY BOARD AND THE LOCAL POLICE DEPARTMENT OR COUNTY SHERIFF'S DEPARTMENT. ACCEPTABLE PROOF THAT NOTICE WAS MAILED OR DELIVERED INCLUDES:

(A) A COPY OF THE NOTICE AND A CERTIFIED MAIL RECEIPT CARD;

(B) A COPY OF THE NOTICE AND A PROOF OF MAILING VIA OVERNIGHT DELIVERY SERVICE; OR

(C) THE ORIGINAL NOTICE OR A COPY OF THE NOTICE, STAMPED AND SIGNED BY THE CLERK OR COMMUNITY BOARD AND THE LOCAL POLICE DEPARTMENT OR COUNTY SHERIFF'S DEPARTMENT.

6. A MUNICIPALITY OR COMMUNITY BOARD 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.

7. The liquor authority may, in its discretion, issue to any such licensed person, whose premises are located within a trade area, a special permit to remain open during such hours of the morning on weekdays. The fee for such permit shall be at the rate of two hundred fifty-six dollars per annum.

[3.] 8. Such permits and the exercise of the privileges granted thereunder may be subjected by the liquor authority to such rules as it may deem necessary.

S 2. This act shall take effect immediately.