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

2064--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Economic Development -- recommitted to the Committee on Economic Development in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the alcoholic beverage control law, in relation to making the provisions governing the various on-premises liquor licenses consistent with respect to public interest factors that may be considered by the state liquor authority when evaluating the merits of a license application

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

Section 1. Subdivision 6-a of section 64 of the alcoholic beverage control law, as added by chapter 670 of the laws of 1993, is amended to read as follows:

6-a. The authority may consider [any or] all of the following in determining whether public convenience and advantage and the public interest will be promoted by the granting of licenses and permits for the sale of alcoholic beverages at a particular unlicensed location:

(a) [The] THE number, classes and character of licenses in proximity to the location and in the particular municipality or subdivision thereof[.];

(b) [Evidence] EVIDENCE that all necessary licenses and permits have been obtained from the state and all other governing bodies[.];

(c) [Effect] EFFECT of the grant of the license on vehicular traffic and parking in proximity to the location[.];

(d) [The] THE existing noise level at the location and any increase in noise level that would be generated by the proposed premises[.];

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

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(e) [The] THE history of liquor violations and reported criminal activity at the proposed premises[.];
(f) HISTORY OF BUILDING AND FIRE VIOLATIONS AT ANY BUSINESSES OWNED AND/OR OPERATED BY THE APPLICANT;
(G) HISTORY OF FORMAL COMMUNICATION FROM THE MUNICIPALITY OR COMMUNITY BOARD MADE PURSUANT TO THIS CHAPTER FOR BUSINESSES OWNED AND/OR OPERATED BY THE APPLICANT; AND
(H) [Any] ANY other factors specified by law or regulation that are relevant to determine the public convenience and advantage [and public interest of the community] AND NECESSARY TO FIND THAT THE GRANTING OF SUCH LICENSE SHALL BE IN THE PUBLIC INTEREST.

S 2. Section 64-a of the alcoholic beverage control law is amended by adding a new subdivision 6-a to read as follows:

6-A. THE AUTHORITY MAY CONSIDER ALL OF THE FOLLOWING IN DETERMINING WHETHER PUBLIC CONVENIENCE AND ADVANTAGE AND THE PUBLIC INTEREST WILL BE PROMOTED BY THE GRANTING OF LICENSES AND PERMITS FOR THE SALE OF ALCOHOLIC BEVERAGES AT A PARTICULAR UNLICENSED LOCATION:
(A) THE NUMBER, CLASSES AND CHARACTER OF LICENSES IN PROXIMITY TO THE LOCATION AND IN THE PARTICULAR MUNICIPALITY OR SUBDIVISION THEREOF;
(B) EVIDENCE THAT APPLICANTS HAVE SECURED ALL NECESSARY LICENSES AND PERMITS FROM THE STATE AND ALL OTHER GOVERNING BODIES;
(C) THE EFFECT THAT THE GRANTING OF THE LICENSE WILL HAVE ON VEHICULAR TRAFFIC AND PARKING IN THE PROXIMITY OF THE LOCATION;
(D) THE EXISTING NOISE LEVEL AT THE LOCATION AND ANY INCREASE IN NOISE LEVEL THAT WOULD BE GENERATED BY THE PROPOSED PREMISES;
(E) THE HISTORY OF LIQUOR VIOLATIONS AND REPORTED CRIMINAL ACTIVITY AT THE PROPOSED PREMISES;
(F) HISTORY OF BUILDING AND FIRE VIOLATIONS AT ANY BUSINESSES OWNED AND/OR OPERATED BY THE APPLICANT;
(G) HISTORY OF FORMAL COMMUNICATION FROM THE MUNICIPALITY OR COMMUNITY BOARD MADE PURSUANT TO THIS CHAPTER FOR BUSINESSES OWNED AND/OR OPERATED BY THE APPLICANT; AND
(H) ANY OTHER FACTORS SPECIFIED BY LAW OR REGULATION THAT ARE RELEVANT TO DETERMINE THE PUBLIC CONVENIENCE OR ADVANTAGE AND NECESSARY TO FIND THAT THE GRANTING OF SUCH LICENSE SHALL BE IN THE PUBLIC INTEREST.

S 3. Section 64-b of the alcoholic beverage control law is amended by adding a new subdivision 4-a to read as follows:

4-A. THE AUTHORITY MAY CONSIDER ALL OF THE FOLLOWING IN DETERMINING WHETHER PUBLIC CONVENIENCE AND ADVANTAGE AND THE PUBLIC INTEREST WILL BE PROMOTED BY THE GRANTING OF LICENSES AND PERMITS FOR THE SALE OF ALCOHOLIC BEVERAGES AT A PARTICULAR UNLICENSED LOCATION:
(A) THE NUMBER, CLASSES AND CHARACTER OF LICENSES IN PROXIMITY TO THE LOCATION AND IN THE PARTICULAR MUNICIPALITY OR SUBDIVISION THEREOF;
(B) EVIDENCE THAT APPLICANTS HAVE SECURED ALL NECESSARY LICENSES AND PERMITS FROM THE STATE AND ALL OTHER GOVERNING BODIES;
(C) THE EFFECT THAT THE GRANTING OF THE LICENSE WILL HAVE ON VEHICULAR TRAFFIC AND PARKING IN THE PROXIMITY OF THE LOCATION;
(D) THE EXISTING NOISE LEVEL AT THE LOCATION AND ANY INCREASE IN NOISE LEVEL THAT WOULD BE GENERATED BY THE PROPOSED PREMISES;
(E) THE HISTORY OF LIQUOR VIOLATIONS AND REPORTED CRIMINAL ACTIVITY AT THE PROPOSED PREMISES;
(F) HISTORY OF BUILDING AND FIRE VIOLATIONS AT ANY BUSINESSES OWNED AND/OR OPERATED BY THE APPLICANT;
(G) HISTORY OF FORMAL COMMUNICATION FROM THE MUNICIPALITY OR COMMUNITY BOARD MADE PURSUANT TO THIS CHAPTER FOR BUSINESSES OWNED AND/OR OPERATED BY THE APPLICANT; AND

(H) ANY OTHER FACTORS SPECIFIED BY LAW OR REGULATION THAT ARE RELEVANT TO DETERMINE THE PUBLIC CONVENIENCE OR ADVANTAGE AND NECESSARY TO FIND THAT THE GRANTING OF SUCH LICENSE SHALL BE IN THE PUBLIC INTEREST.

S 4. Section 64-c of the alcoholic beverage control law is amended by adding a new subdivision 10-a to read as follows:

10-A. THE AUTHORITY MAY CONSIDER ALL OF THE FOLLOWING IN DETERMINING WHETHER PUBLIC CONVENIENCE AND ADVANTAGE AND THE PUBLIC INTEREST WILL BE PROMOTED BY THE GRANTING OF LICENSES AND PERMITS FOR THE SALE OF ALCOHOLIC BEVERAGES AT A PARTICULAR UNLICENSED LOCATION:

(A) THE NUMBER, CLASSES AND CHARACTER OF LICENSES IN PROXIMITY TO THE LOCATION AND IN THE PARTICULAR MUNICIPALITY OR SUBDIVISION THEREOF;

(B) EVIDENCE THAT APPLICANTS HAVE SECURED ALL NECESSARY LICENSES AND PERMITS FROM THE STATE AND ALL OTHER GOVERNING BODIES;

(C) THE EFFECT THAT THE GRANTING OF THE LICENSE WILL HAVE ON VEHICULAR TRAFFIC AND PARKING IN THE PROXIMITY OF THE LOCATION;

(D) THE EXISTING NOISE LEVEL AT THE LOCATION AND ANY INCREASE IN NOISE LEVEL THAT WOULD BE GENERATED BY THE PROPOSED PREMISES;

(E) THE HISTORY OF LIQUOR VIOLATIONS AND REPORTED CRIMINAL ACTIVITY AT THE PROPOSED PREMISES;

(F) HISTORY OF BUILDING AND FIRE VIOLATIONS AT ANY BUSINESSES OWNED AND/OR OPERATED BY THE APPLICANT;

(G) HISTORY OF FORMAL COMMUNICATION FROM THE MUNICIPALITY OR COMMUNITY BOARD MADE PURSUANT TO THIS CHAPTER FOR BUSINESSES OWNED AND/OR OPERATED BY THE APPLICANT; AND

(H) ANY OTHER FACTORS SPECIFIED BY LAW OR REGULATION THAT ARE RELEVANT TO DETERMINE THE PUBLIC CONVENIENCE OR ADVANTAGE AND NECESSARY TO FIND THAT THE GRANTING OF SUCH LICENSE SHALL BE IN THE PUBLIC INTEREST.

S 5. Paragraph (f) of subdivision 7 of section 64 of the alcoholic beverage control law, as amended by chapter 185 of the laws of 2012, is amended to read as follows:

(f) Notwithstanding the provisions of paragraph (b) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, AND DUE CONSIDERATION OF FORMAL COMMUNICATION FROM THE MUNICIPALITY OR COMMUNITY BOARD, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen

day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article.

S 6. Paragraph (d) of subdivision 7 of section 64-a of the alcoholic beverage control law, as amended by chapter 185 of the laws of 2012, is amended to read as follows:

(d) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, AND DUE CONSIDERATION OF FORMAL COMMUNICATION FROM THE MUNICIPALITY OR COMMUNITY BOARD, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article.

S 7. Paragraph (c) of subdivision 5 of section 64-b of the alcoholic beverage control law, as amended by chapter 185 of the laws of 2012, is amended to read as follows:

(c) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, AND DUE CONSIDERATION OF FORMAL COMMUNICATION FROM THE MUNICIPALITY OR COMMUNITY BOARD, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled,

adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article.

S 8. Paragraph (c) of subdivision 11 of section 64-c of the alcoholic beverage control law, as amended by chapter 185 of the laws of 2012, is amended to read as follows:

(c) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article if, after consultation with the municipality or community board, AND DUE CONSIDERATION OF FORMAL COMMUNICATION FROM THE MUNICIPALITY OR COMMUNITY BOARD, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are operating and licensed pursuant to this section or sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article.

S 9. This act shall take effect immediately.