

2064--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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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:

1     Section 1. Subdivision 6-a of section 64 of the alcoholic beverage  
2     control law, as added by chapter 670 of the laws of 1993, is amended to  
3     read as follows:  
4     6-a. The authority may consider [any or] all of the following in  
5     determining whether public convenience and advantage and the public  
6     interest will be promoted by the granting of licenses and permits for  
7     the sale of alcoholic beverages at a particular unlicensed location:  
8     (a) [The] THE number, classes and character of licenses in proximity  
9     to the location and in the particular municipality or subdivision there-  
10    of[.];  
11    (b) [Evidence] EVIDENCE that all necessary licenses and permits have  
12    been obtained from the state and all other governing bodies[.];  
13    (c) [Effect] EFFECT of the grant of the license on vehicular traffic  
14    and parking in proximity to the location[.];  
15    (d) [The] THE existing noise level at the location and any increase in  
16    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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1 (e) [The] THE history of liquor violations and reported criminal  
2 activity at the proposed premises[.];

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

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

8 (H) [Any] ANY other factors specified by law or regulation that are  
9 relevant to determine the public convenience and advantage [and public  
10 interest of the community] AND NECESSARY TO FIND THAT THE GRANTING OF  
11 SUCH LICENSE SHALL BE IN THE PUBLIC INTEREST.

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

14 6-A. THE AUTHORITY MAY CONSIDER ALL OF THE FOLLOWING IN DETERMINING  
15 WHETHER PUBLIC CONVENIENCE AND ADVANTAGE AND THE PUBLIC INTEREST WILL BE  
16 PROMOTED BY THE GRANTING OF LICENSES AND PERMITS FOR THE SALE OF ALCO-  
17 HOLIC BEVERAGES AT A PARTICULAR UNLICENSED LOCATION:

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

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

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

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

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

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

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

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

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

38 4-A. THE AUTHORITY MAY CONSIDER ALL OF THE FOLLOWING IN DETERMINING  
39 WHETHER PUBLIC CONVENIENCE AND ADVANTAGE AND THE PUBLIC INTEREST WILL BE  
40 PROMOTED BY THE GRANTING OF LICENSES AND PERMITS FOR THE SALE OF ALCO-  
41 HOLIC BEVERAGES AT A PARTICULAR UNLICENSED LOCATION:

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

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

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

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

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

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

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

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

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

6 10-A. THE AUTHORITY MAY CONSIDER ALL OF THE FOLLOWING IN DETERMINING  
7 WHETHER PUBLIC CONVENIENCE AND ADVANTAGE AND THE PUBLIC INTEREST WILL BE  
8 PROMOTED BY THE GRANTING OF LICENSES AND PERMITS FOR THE SALE OF ALCO-  
9 HOLIC BEVERAGES AT A PARTICULAR UNLICENSED LOCATION:

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

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

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

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

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

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

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

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

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

31 (f) Notwithstanding the provisions of paragraph (b) of this subdivi-  
32 sion, the authority may issue a license pursuant to this section for a  
33 premises which shall be within five hundred feet of three or more exist-  
34 ing premises licensed and operating pursuant to this section and  
35 sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d  
36 of this article if, after consultation with the municipality or communi-  
37 ty board, AND DUE CONSIDERATION OF FORMAL COMMUNICATION FROM THE MUNICI-  
38 PALITY OR COMMUNITY BOARD, it determines that granting such license  
39 would be in the public interest. Before it may issue any such license,  
40 the authority shall conduct a hearing, upon notice to the applicant and  
41 the municipality or community board, and shall state and file in its  
42 office its reasons therefor. The hearing may be rescheduled, adjourned  
43 or continued, and the authority shall give notice to the applicant and  
44 the municipality or community board of any such rescheduled, adjourned  
45 or continued hearing. Before the authority issues any said license, the  
46 authority or one or more of the commissioners thereof may, in addition  
47 to the hearing required by this paragraph, also conduct a public meeting  
48 regarding said license, upon notice to the applicant and the munici-  
49 pality or community board. The public meeting may be rescheduled,  
50 adjourned or continued, and the authority shall give notice to the  
51 applicant and the municipality or community board of any such resched-  
52 uled, adjourned or continued public meeting. Notice to the municipality  
53 or community board shall mean written notice mailed by the authority to  
54 such municipality or community board at least fifteen days in advance of  
55 any hearing scheduled pursuant to this paragraph. Upon the request of  
56 the authority, any municipality or community board may waive the fifteen

1 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.

7 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:

10 (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.

42 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:

45 (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,

1 adjourned or continued, and the authority shall give notice to the  
2 applicant and the municipality or community board of any such resched-  
3 uled, adjourned or continued hearing. Before the authority issues any  
4 said license, the authority or one or more of the commissioners thereof  
5 may, in addition to the hearing required by this paragraph, also conduct  
6 a public meeting regarding said license, upon notice to the applicant  
7 and the municipality or community board. The public meeting may be  
8 rescheduled, adjourned or continued, and the authority shall give notice  
9 to the applicant and the municipality or community board of any such  
10 rescheduled, adjourned or continued public meeting. Notice to the muni-  
11 cipality or community board shall mean written notice mailed by the  
12 authority to such municipality or community board at least fifteen days  
13 in advance of any hearing scheduled pursuant to this paragraph. Upon the  
14 request of the authority, any municipality or community board may waive  
15 the fifteen day notice requirement. No premises having been granted a  
16 license pursuant to this section shall be denied a renewal of such  
17 license upon the grounds that such premises are within five hundred feet  
18 of a building or buildings wherein three or more premises are licensed  
19 and operating pursuant to this section and sections sixty-four, sixty-  
20 four-a, sixty-four-c, and/or sixty-four-d of this article.

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

24 (c) Notwithstanding the provisions of subparagraph (ii) of paragraph  
25 (a) of this subdivision, the authority may issue a license pursuant to  
26 this section for a premises which shall be within five hundred feet of  
27 three or more existing premises licensed and operating pursuant to this  
28 section and sections sixty-four, sixty-four-a, sixty-four-b and/or  
29 sixty-four-d of this article if, after consultation with the munici-  
30 pality or community board, AND DUE CONSIDERATION OF FORMAL COMMUNICATION  
31 FROM THE MUNICIPALITY OR COMMUNITY BOARD, it determines that granting  
32 such license would be in the public interest. Before it may issue any  
33 such license, the authority shall conduct a hearing, upon notice to the  
34 applicant and the municipality or community board, and shall state and  
35 file in its office its reasons therefor. The hearing may be rescheduled,  
36 adjourned or continued, and the authority shall give notice to the  
37 applicant and the municipality or community board of any such resched-  
38 uled, adjourned or continued hearing. Before the authority issues any  
39 said license, the authority or one or more of the commissioners thereof  
40 may, in addition to the hearing required by this paragraph, also conduct  
41 a public meeting regarding said license, upon notice to the applicant  
42 and the municipality or community board. The public meeting may be  
43 rescheduled, adjourned or continued, and the authority shall give notice  
44 to the applicant and the municipality or community board of any such  
45 rescheduled, adjourned or continued public meeting. Notice to the muni-  
46 cipality or community board shall mean written notice mailed by the  
47 authority to such municipality or community board at least fifteen days  
48 in advance of any hearing scheduled pursuant to this paragraph. Upon the  
49 request of the authority, any municipality or community board may waive  
50 the fifteen day notice requirement. No premises having been granted a  
51 license pursuant to this section shall be denied a renewal of such  
52 license upon the grounds that such premises are within five hundred feet  
53 of a building or buildings wherein three or more premises are operating  
54 and licensed pursuant to this section or sections sixty-four, sixty-  
55 four-a, sixty-four-b and/or sixty-four-d of this article.

56 S 9. This act shall take effect immediately.