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

4004--A

2013-2014 Regular Sessions

I N A S S E M B L Y

January 30, 2013

Introduced by M. of A. CRESPO, COOK, JAFFEE, ROBINSON, MONTESANO, RIVERA, COLTON, FINCH, BOYLAND, GOODELL, ROBERTS -- Multi-Sponsored by -- M. of A. ARROYO, CROUCH, GABRYSZAK, GIBSON, HOOPER, THIELE -- read once and referred to the Committee on Economic Development -- 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 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 SUCH LICENSEE, WRITTEN EVIDENCE OF AGE WHICH, SUCH LICENSEE, AGENT OR EMPLOYEE REASONABLY BELIEVES TO BE FALSE, FRAUDULENT OR NOT ACTUALLY SUCH PERSON'S, FOR THE PURPOSE OF PURCHASING OR ATTEMPTING TO PURCHASE AN 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 SUCH WRITTEN EVIDENCE OF AGE, 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 SUCH WRITTEN EVIDENCE OF AGE PURSUANT TO THIS PARAGRAPH SHALL DETERMINE 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

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

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BY FIRST CLASS MAIL. IF 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, IN WRITING, THE LAW ENFORCEMENT AGENCY HAVING POSSESSION THEREOF FOR ITS RETURN. THE LAW ENFORCEMENT AGENCY SHALL ACCEPT SUCH AN APPLICATION FOR RETURNING SUCH WRITTEN EVIDENCE AND RENDER A DETERMINATION ON SUCH APPLICATION WITHIN THIRTY DAYS OF THE RECEIPT OF SUCH APPLICATION.

(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.