

5078--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 20, 2013

Introduced by M. of A. MILLMAN -- read once and referred to the Committee on Economic Development -- recommitted to the Committee on Economic Development, Job Creation, Commerce and Industry in accordance with Assembly Rule 3, sec. 2 -- 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 the siting of certain premises licensed to sell liquor for consumption on the premises, which premises are located in cities with populations in excess of one million people

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

1 Section 1. Paragraph (d-1) of subdivision 7 of section 64 of the alco-
2 holic beverage control law, as amended by chapter 463 of the laws of
3 2009, is amended and a new paragraph (d-2) is added to read as follows:
4 (d-1) Within the context of this subdivision, a building occupied as a
5 place of worship does not cease to be "exclusively" occupied as a place
6 of worship by incidental uses that are not of a nature to detract from
7 the predominant character of the building as a place of worship, such
8 uses which include, but which are not limited to: the conduct of legally
9 authorized games of bingo or other games of chance held as a means of
10 raising funds for the not-for-profit religious organization which
11 conducts services at the place of worship or for other not-for-profit
12 organizations or groups; use of the building for fund-raising perform-
13 ances by or [benefitting] BENEFITING the not-for-profit religious organ-
14 ization which conducts services at the place of worship or other not-
15 for-profit organizations or groups; the use of the building by other
16 religious organizations or groups for religious services or other
17 purposes; the conduct of social activities by or for the benefit of the
18 congregants; the use of the building for meetings held by organizations
19 or groups providing bereavement counseling to persons having suffered
20 the loss of a loved one, or providing advice or support for conditions

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

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1 or diseases including, but not limited to, alcoholism, drug addiction,
2 cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the
3 use of the building for blood drives, health screenings, health informa-
4 tion meetings, yoga classes, exercise classes or other activities
5 intended to promote the health of the congregants or other persons; and
6 use of the building by non-congregant members of the community for
7 private social functions. The building occupied as a place of worship
8 does not cease to be "exclusively" occupied as a place of worship where
9 the not-for-profit religious organization occupying the place of worship
10 accepts the payment of funds to defray costs related to another party's
11 use of the building.

12 (D-2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (C) AND (D) OF THIS
13 SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE
14 MILLION PEOPLE, THE MEASUREMENTS IN PARAGRAPHS (A) AND (B) OF THIS
15 SUBDIVISION ARE TO BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE
16 PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO
17 THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
18 PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF
19 SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP OR FROM THE
20 POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT
21 IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND
22 OPERATING PURSUANT TO THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY
23 LINE OF EACH SUCH PREMISES LICENSED AND OPERATING PURSUANT TO THE
24 PROVISIONS OF THIS SECTION; EXCEPT, HOWEVER, THAT NO RENEWAL LICENSE
25 SHALL BE DENIED BECAUSE OF SUCH RESTRICTION TO ANY PREMISES SO LOCATED
26 WHICH WERE MAINTAINED AS A BONA FIDE HOTEL, RESTAURANT, CATERING ESTAB-
27 LISHMENT OR CLUB ON OR PRIOR TO DECEMBER FIFTH, NINETEEN HUNDRED THIR-
28 TY-THREE; AND, EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT
29 WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY
30 FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR
31 AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
32 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
33 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
34 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
35 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
36 TY-FIRST, TWO THOUSAND FOURTEEN; AND EXCEPT THAT NO LICENSE SHALL BE
37 DENIED TO ANY PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR
38 MORE EXISTING PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS
39 OF THIS SECTION, AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN
40 EXISTENCE CONTINUOUSLY ON OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED
41 NINETY-THREE; AND EXCEPT THAT THIS SUBDIVISION SHALL NOT BE DEEMED TO
42 RESTRICT THE ISSUANCE OF A HOTEL LIQUOR LICENSE TO A BUILDING USED AS A
43 HOTEL AND IN WHICH A RESTAURANT LIQUOR LICENSE CURRENTLY EXISTS FOR
44 PREMISES WHICH SERVE AS A DINING ROOM FOR GUESTS OF THE HOTEL AND A
45 CATERER'S LICENSE TO A PERSON USING THE PERMANENT CATERING FACILITIES OF
46 A CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP PURSUANT TO A WRITTEN
47 AGREEMENT BETWEEN SUCH PERSON AND THE AUTHORITIES IN CHARGE OF SUCH
48 FACILITIES. THE LIQUOR AUTHORITY, IN ITS DISCRETION, MAY AUTHORIZE THE
49 REMOVAL OF ANY SUCH LICENSED PREMISES TO A DIFFERENT LOCATION ON THE
50 SAME STREET OR AVENUE, WITHIN TWO HUNDRED FEET OF SAID SCHOOL, CHURCH,
51 SYNAGOGUE OR OTHER PLACE OF WORSHIP, PROVIDED THAT SUCH NEW LOCATION IS
52 NOT WITHIN A CLOSER DISTANCE TO SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER
53 PLACE OF WORSHIP.

54 S 2. Subdivision 7 of section 64-a of the alcoholic beverage control
55 law is amended by adding a new paragraph (b-1) to read as follows:

1 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-
2 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES
3 HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN
4 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION ARE TO
5 BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY LINE
6 OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY
7 LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE
8 CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
9 SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE POINT ON THE PROPERTY
10 BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE
11 PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND OPERATING PURSUANT TO
12 THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY LINE OF EACH SUCH
13 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
14 SECTION; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT WHICH
15 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A
16 DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR AVENUE AND
17 WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED EXCLUSIVELY
18 AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT
19 THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES
20 PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN
21 IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST,
22 TWO THOUSAND FOURTEEN; AND EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY
23 PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE EXISTING
24 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
25 SECTION, AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE
26 CONTINUOUSLY ON OR PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED
27 NINETY-THREE.

28 S 3. Subdivision 5 of section 64-b of the alcoholic beverage control
29 law is amended by adding a new paragraph (a-1) to read as follows:

30 (A-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
31 SION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE MILLION
32 PEOPLE, NO BOTTLE CLUB LICENSE SHALL BE GRANTED FOR ANY PREMISES WHICH
33 SHALL BE ON THE SAME STREET OR AVENUE AND WITHIN TWO HUNDRED FEET OF A
34 BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER
35 PLACE OF WORSHIP; THE MEASUREMENTS TO BE TAKEN IN A STRAIGHT LINE FROM
36 THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED
37 THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
38 SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY
39 BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF
40 WORSHIP; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT WHICH
41 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A
42 DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR AVENUE AND
43 WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED EXCLUSIVELY
44 AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT
45 THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES
46 PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN
47 IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST,
48 TWO THOUSAND FOURTEEN.

49 S 4. Paragraph (d) of subdivision 11 of section 64-c of the alcoholic
50 beverage control law, as amended by chapter 463 of the laws of 2009, is
51 amended and a new paragraph (b-1) is added to read as follows:

52 (B-1) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARA-
53 GRAPH (A) AND PARAGRAPH (B) OF THIS SUBDIVISION, WITH RESPECT TO CITIES
54 HAVING POPULATIONS IN EXCESS OF ONE MILLION PEOPLE, THE MEASUREMENTS IN
55 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION ARE TO
56 BE TAKEN IN STRAIGHT LINES FROM THE POINT ON THE PROPERTY BOUNDARY LINE

1 OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE PROPERTY BOUNDARY
2 LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE
3 CLOSEST POINT ON THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
4 SYNAGOGUE OR OTHER PLACE OF WORSHIP, OR FROM THE POINT ON THE PROPERTY
5 BOUNDARY LINE OF THE PREMISES TO BE LICENSED THAT IS CLOSEST TO THE
6 PROPERTY BOUNDARY LINE OF A PREMISES LICENSED AND OPERATING PURSUANT TO
7 THIS SECTION TO THE CLOSEST POINT ON THE BOUNDARY LINE OF EACH SUCH
8 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
9 SECTION; EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY PREMISES AT WHICH
10 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A
11 DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET OR AVENUE AND
12 WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED EXCLUSIVELY
13 AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP; AND EXCEPT
14 THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY PREMISES
15 PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN
16 IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIRTY-FIRST,
17 TWO THOUSAND FOURTEEN; AND EXCEPT THAT NO LICENSE SHALL BE DENIED TO ANY
18 PREMISES, WHICH IS WITHIN FIVE HUNDRED FEET OF THREE OR MORE EXISTING
19 PREMISES LICENSED AND OPERATING PURSUANT TO THE PROVISIONS OF THIS
20 SECTION OR SECTION SIXTY-FOUR OR SIXTY-FOUR-A OF THIS ARTICLE, AT WHICH
21 A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTINUOUSLY ON OR
22 PRIOR TO NOVEMBER FIRST, NINETEEN HUNDRED NINETY-THREE.

23 (d) Within the context of this subdivision, a building occupied as a
24 place of worship does not cease to be "exclusively" occupied as a place
25 of worship by incidental uses that are not of a nature to detract from
26 the predominant character of the building as a place of worship, such
27 uses which include, but which are not limited to: the conduct of legally
28 authorized games of bingo or other games of chance held as a means of
29 raising funds for the not-for-profit religious organization which
30 conducts services at the place of worship or for other not-for-profit
31 organizations or groups; use of the building for fund-raising perform-
32 ances by or [benefitting] BENEFITING the not-for-profit religious organ-
33 ization which conducts services at the place of worship or other not-
34 for-profit organizations or groups; the use of the building by other
35 religious organizations or groups for religious services or other
36 purposes; the conduct of social activities by or for the benefit of the
37 congregants; the use of the building for meetings held by organizations
38 or groups providing bereavement counseling to persons having suffered
39 the loss of a loved one, or providing advice or support for conditions
40 or diseases including, but not limited to, alcoholism, drug addiction,
41 cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the
42 use of the building for blood drives, health screenings, health informa-
43 tion meetings, yoga classes, exercise classes or other activities
44 intended to promote the health of the congregants or other persons; and
45 use of the building by non-congregant members of the community for
46 private social functions. The building occupied as a place of worship
47 does not cease to be "exclusively" occupied as a place of worship where
48 the not-for-profit religious organization occupying the place of worship
49 accepts the payment of funds to defray costs related to another party's
50 use of the building.

51 S 5. Paragraph (c) of subdivision 3 of section 105 of the alcoholic
52 beverage control law, as added by chapter 406 of the laws of 2007, is
53 amended and a new paragraph (b-1) is added to read as follows:

54 (B-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS
55 SUBDIVISION, WITH RESPECT TO CITIES HAVING POPULATIONS IN EXCESS OF ONE
56 MILLION PEOPLE, NO RETAIL LICENSE TO SELL LIQUOR AND/OR WINE FOR

1 OFF-PREMISES CONSUMPTION SHALL BE GRANTED FOR ANY PREMISES WHICH SHALL
2 BE LOCATED ON THE SAME STREET OR AVENUE, AND WITHIN TWO HUNDRED FEET OF
3 A BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER
4 PLACE OF WORSHIP; THE MEASUREMENTS TO BE TAKEN IN A STRAIGHT LINE FROM
5 THE POINT ON THE PROPERTY BOUNDARY LINE OF THE PREMISES TO BE LICENSED
6 THAT IS CLOSEST TO THE PROPERTY BOUNDARY LINE OF SUCH SCHOOL, CHURCH,
7 SYNAGOGUE OR OTHER PLACE OF WORSHIP TO THE CLOSEST POINT ON THE PROPERTY
8 BOUNDARY LINE OF SUCH SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF
9 WORSHIP; EXCEPT, HOWEVER, THAT NO LICENSE SHALL BE DENIED TO ANY PREM-
10 ISES AT WHICH A LICENSE UNDER THIS CHAPTER HAS BEEN IN EXISTENCE CONTIN-
11 UOUSLY FROM A DATE PRIOR TO THE DATE WHEN A BUILDING ON THE SAME STREET
12 OR AVENUE AND WITHIN TWO HUNDRED FEET OF SAID PREMISES HAS BEEN OCCUPIED
13 EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP;
14 AND EXCEPT THAT NO LICENSE OR RENEWAL THEREOF SHALL BE DENIED TO ANY
15 PREMISES PURSUANT TO THIS SECTION AT WHICH A LICENSE UNDER THIS CHAPTER
16 HAS BEEN IN EXISTENCE CONTINUOUSLY FROM A DATE PRIOR TO DECEMBER THIR-
17 TY-FIRST, TWO THOUSAND FOURTEEN.

18 (c) Within the context of this subdivision, a building occupied as a
19 place of worship does not cease to be "exclusively" occupied as a place
20 of worship by incidental uses that are not of a nature to detract from
21 the predominant character of the building as a place of worship, such
22 uses which include, but which are not limited to: the conduct of legally
23 authorized games of bingo or other games of chance held as a means of
24 raising funds for the not-for-profit religious organization which
25 conducts services at the place of worship or for other not-for-profit
26 organizations or groups; use of the building for fund-raising perform-
27 ances by or [benefitting] BENEFITING the not-for-profit religious
28 [organizations] ORGANIZATION which conducts services at the place of
29 worship or other not-for-profit organizations or groups; the use of the
30 building by other religious organizations or groups for religious
31 services or other purposes; the conduct of social activities by or for
32 the benefit of the congregants; the use of the building for meetings
33 held by organizations or groups providing bereavement counseling to
34 persons having suffered the loss of a loved one, or providing advice or
35 support for conditions or diseases including, but not limited to, alco-
36 holism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or
37 Alzheimer's disease; the use of the building for blood drives, health
38 screenings, health information meetings, yoga classes, exercise classes
39 or other activities intended to promote the health of the congregants or
40 other persons; and use of the building by non-congregant members of the
41 community for private social functions. The building occupied as a place
42 of worship does not cease to be "exclusively" occupied as a place of
43 worship where the not-for-profit religious organization occupying the
44 place of worship accepts the payment of funds to defray costs related to
45 another party's use of the building.

46 S 6. This act shall take effect on the one hundred eightieth day after
47 it shall have become a law.