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

3735

2015-2016 Regular Sessions

I N A S S E M B L Y

January 27, 2015

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to the granting of retail licenses for on-premises consumption

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

Section 1. Subdivision 7 of section 64 of the alcoholic beverage control law, as amended by chapter 463 of the laws of 2009, paragraph (e-4) as added by chapter 421 of the laws of 2012, paragraph (e-5) as added by chapter 110 of the laws of 2013, paragraph (e-5) as added by chapter 192 of the laws of 2013, paragraph (e-6) as added by chapter 100 of the laws of 2014, paragraph (e-6) as added by chapter 457 of the laws of 2014, and paragraph (f) as amended by chapter 185 of the laws of 2012, is amended to read as follows:

7. No retail license for on-premises consumption shall be granted for any premises which shall be

(a) on the same street or avenue and within [two] THREE hundred FIFTY feet of a building occupied exclusively as a school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship or

(b) in a city, town or village having a population of twenty thousand or more within [five] SIX hundred FIFTY 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;

(c) the measurements in paragraphs (a) and (b) of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-

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

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four-d of this article; except, however, that no renewal license shall be denied because of such restriction to any premises so located which were maintained as a bona fide hotel, restaurant, catering establishment or club on or prior to December fifth, nineteen hundred thirty-three; and, except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship; and except that no license shall be denied to any premises, which is 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, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three; and except that this subdivision shall not be deemed to restrict the issuance of a hotel liquor license to a building used as a hotel and in which a restaurant liquor license currently exists for premises which serve as a dining room for guests of the hotel and a caterer's license to a person using the permanent catering facilities of a church, synagogue or other place of worship pursuant to a written agreement between such person and the authorities in charge of such facilities. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship.

(d) Within the context of this subdivision, the word "entrance" shall mean a door of a school, OF A COMMUNITY CENTER, OF A SENIOR CITIZENS' CENTER, of a house of worship, or of 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 or of the premises sought to be licensed, regularly used to give ingress to students of the school, TO THE GENERAL PUBLIC VISITING THE COMMUNITY CENTER OR SENIOR CITIZENS' CENTER, to the general public attending the place of worship, and to patrons or guests of the 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 or of the premises sought to be licensed, except that where a school or house of worship or 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 or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

(d-1) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of

raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building.

(e) Notwithstanding the provisions of this chapter to the contrary, the authority may issue a license to sell liquor at retail to be consumed on premises to a club as such term is defined in subdivision nine of section three of this chapter whether or not the building in which the premises for which such license is to be issued is used exclusively for club purposes and whether or not such premises is within [two] THREE hundred FIFTY feet of a building used exclusively as a school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or place of worship if such club is affiliated or associated with such school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or place of worship and the governing body of such school, COMMUNITY CENTER, SENIOR CITIZENS' CENTER, church, synagogue or other place of worship has filed written notice with the authority that it has no objection to the issuance of such license.

(e-1) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises and/or an overnight lodging facility located wholly within the boundaries of the borough of Manhattan in the city and county of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of 49th Street, distant 160 feet easterly from the corner formed by the intersection of the southerly side of 49th Street with the easterly side of 8th Avenue; running thence southerly, parallel with 8th Avenue and part of the distance through a party wall, 100 feet 5 inches to the center line of the block between 48th and 49th Streets; thence easterly along the center line of the block, 40 feet; thence northerly, parallel with 8th Avenue and part of the distance through a party wall, 100 feet 5 inches to the southerly side of 49th Street; thence westerly along the southerly side of 49th Street, 40 feet to the point or place of beginning. Premises known as 240 and 242 West 49th Street, New York City. Being the same premises

described in deed made by Hotel Mayfair Inc. to Harry Etkin and Freda Rubin, dated 1/23/50 and recorded 1/27/50 in liber 4657 Cp. 250.

(e-2) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the county of Ulster, bounded and described as follows:

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, with the buildings and improvements erected thereon, situated in the Village of Ellenville, Town of Wawarsing, County of Ulster and State of New York, being further bounded and described as follows:

Beginning at a three-quarter inch diameter iron rod found on the southwesterly bounds of Canal Street, marking the northeasterly corner of the lands, now or formerly, John Georges, as described in liber 2645 of deeds at page 278.

Thence along the southeasterly bounds of the lands of John Georges, passing 1.42 feet northwesterly from the southwesterly corner of the building situated on the premises described herein, South thirty-nine degrees, forty-one minutes, fifty-two seconds West, one hundred fifty and zero hundredths feet (S 39-41-52 W, 150.00') to the northeasterly bounds of the lands, now or formerly, Thomas Powers, as described in liber 1521 of deeds at page 749. Thence along the northeasterly bounds of the lands of Thomas Powers, South fifty degrees, thirty-nine minutes, sixteen seconds East, twenty-eight and zero hundredths feet (S 50-39-16 E, 28.00').

Thence passing 1.92 feet southeasterly from the southeasterly corner of the building situated on the premises described herein. North thirty-nine degrees, forty-one minutes, fifty-two seconds East, one hundred fifty and zero hundredths feet (N 39-41-52 E, 150.00') to the southwesterly bounds of Canal Street.

Thence along the southwesterly bounds of Canal Street, North fifty degrees, thirty-nine minutes, sixteen seconds West, twenty-eight and zero hundredths feet (N 50-39-16 W, 28.00') to the point of beginning.

Containing 4,199.92 square feet of land or 0.0996 of an acre of land.

Being the same premises as conveyed by deed dated September 2, 1999 from Chris M. Camio as Executor of the Last Will and Testament of Alice Manzo to Bill Lelbach, John Eckert, Jeffrey Schneider, Jack Harris and Alfred S. Dannhauser and recorded in the Ulster County Clerk's Office on September 15, 1999 in Liber 2966 at page 291.

The undivided interests of John Harris and Alfred S. Dannhauser having been conveyed to Bill Lelbach by deed dated August 21, 2001 and recorded in the Ulster County Clerk's Office in Liber 3213 p 65.

(e-3) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within [two] THREE hundred FIFTY feet of a building occupied exclusively as a school, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises and/or an overnight lodging facility located wholly within the boundaries of the borough of Manhattan in the city and county of New York, bounded and described as follows:

Beginning at a point on the southerly side of 46th street, distant three hundred fifty (350) feet westerly from the corner formed by the intersection of the westerly side of Sixth Avenue with the said souther-

ly side of 46th street. Running thence southerly parallel with the said westerly side of Sixth Avenue and for part of the distance through a party wall, one hundred (100) feet four (4) inches; thence westerly parallel with the southerly side of 46th street, eighty (80) feet; thence northerly again parallel with the westerly side of Sixth Avenue, one hundred (100) feet four (4) inches to the southerly side of 46th street; and thence easterly along the said southerly side of 46th street, eighty (80) feet to the point or place of beginning. Premises known as 130 West 46th Street, New York City. Being the same premises described in deed made by Massachusetts Mutual Life Insurance Company to West 46th Street Hotel, LLC, dated 12/22/06 and recorded 2/06/07 in the Office of the City Register, New York County, on February 6, 2007 as CFRN 2007000069808.

(e-4) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be located within two hundred feet of a building occupied exclusively as a church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the county of Ulster, bounded and described as follows:

THOSE THREE BUILDING LOTS situate on the northeasterly side of Union Avenue in the city of Kingston, between Thomas and Cornell Streets, known and distinguished upon a map of the property of the estate of said Thomas Cornell made by B.B. Codwise, Civil Engineer, bearing date April 11th, 1888, as lot five (5) six (6) and seven (7) upon said map, and bounded and described as follows:

BEGINNING at the west corner of lot seven which is also the corner of Cornell Street, where it intersects with Union Avenue, and runs from thence in the southerly bounds of Cornell Street, N. 48 degrees 10' east the distance of one hundred and thirty-eight (138) feet, to the south bounds of lot (8) eight as laid down upon said map, thence along in the south bounds of lot (8) aforesaid S. 41 degrees 50' east along the rear of lots seven, six and five (7, 6 & 5) as aforesaid the distance of seventy-two (72) feet to a lot of land owned by Max Oppenheimer and known on said map as lot four (4); thence in the division line between lot four and five as laid down upon said map, south 48 degrees 10' W. one hundred and twenty-two (122) feet, and fifty-four hundredths of a foot (122 54/100 feet) to the northeasterly bounds of said Union Avenue; thence along in said northeasterly bounds of said Union Avenue north 53 degrees 57' west along the front of said lots five, six and seven (5, 6 & 7) the distance of seventy-three feet and sixty-five hundredths of a foot (73 65/100 feet) to the place of beginning; and a part of said premises being a part of the same that was conveyed to Thomas Cornell by Jansen Hasbrouck and wife bearing date March 3, 1877 and recorded in the office of the Clerk of Ulster County in book No. 204 of deeds at page 403 March 6th, 1877, the balance of the property hereinbefore described and herein intended to be conveyed was conveyed to Thomas Cornell by James E. Ostrander and wife by deed bearing date February 8th, 1869, and recorded in Ulster County Clerk's Office in book 175 of deeds at page 29, February 6th, 1872.

(e-5) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be located within two hundred feet of a building occupied exclusively as a school, provided such premises constitute a premises for the sale of food or beverages at retail for

consumption on the premises located wholly within the boundaries of the borough of Brooklyn in the county of Kings and the city of New York, bounded and described as follows:

Beginning at a point on the westerly side of Washington Avenue distant 636.45 feet southerly from the intersection of the southerly side of Eastern Parkway and westerly side of Washington Avenue, said point being the point of beginning; Running thence southerly along the westerly side of Washington Avenue, a distance of 345.43 feet; thence westerly along the line forming an interior angle with the previous course of 90 degrees 00 minutes 00 seconds, a distance of 122.68 feet; Thence northerly along the line forming an interior angle with the previous course of 58 degrees 50 minutes 53 seconds, a distance of 123.94 feet; Thence northerly along the line forming an exterior angle with the previous course of 159 degrees 18 minutes 33 seconds, a distance of 36.59 feet; Thence northerly along the line forming an exterior angle with the previous course of 169 degrees 36 minutes 23 seconds, a distance of 26.26 feet; Thence westerly along the line forming an exterior angle with the previous course of 123 degrees 49 minutes 33 seconds, a distance of 58.57 feet; Thence southwesterly along the line forming an exterior angle with the previous course of 129 degrees 53 minutes 13 seconds, a distance of 108.38 feet; Thence westerly, a distance of 84.05 feet along a curve to the right, which has a radius of 192.59 feet, and having a central angle of 25°00'14"; Thence westerly, a distance of 58.94 feet along a curve to the right, which has a radius of 181.42 feet, and having a central angle of 18°36'54". Thence westerly, a distance of 354.56 feet; Thence northerly along the line forming an interior angle with the previous course of 90 degrees 14 minutes 09 seconds, a distance of 114.49 feet; Thence easterly along the line forming an exterior angle with the previous course of 286 degrees 53 minutes 22 seconds, a distance of 7.54 feet; Thence easterly along the line forming an interior angle with the previous course of 195 degrees 07 minutes 53 seconds, a distance of 159.88 feet; Thence easterly along the line forming an interior angle with the previous course of 193 degrees 52 minutes 57 seconds, a distance of 161.51 feet; Thence westerly along the line forming an interior angle with the previous course of 257 degrees 31 minutes 43 seconds, a distance of 116.17 feet; Thence northeasterly, a distance of 7.07 feet along a non-tangent curve to the right, having a radius of 4.50 feet, a central angle of 89°59'10" and a chord of 6.36 feet, which chord makes an interior angle with the previous course of 135 degrees 01 minutes 12 seconds; Thence easterly along the line forming an interior angle with the chord of the above-referenced curve of 135 degrees 01 minutes 17 seconds, a distance of 135.59 feet; Thence easterly, a distance of 81.93 feet along a non-tangent curve to the left, having a radius of 272.93 feet, a central angle of 17°11'59" and a chord of 81.63 feet, which chord makes an interior angle with the previous course of 186 degrees 52 minutes 37 seconds; Thence easterly along the line forming an interior angle with the chord of the above-referenced curve of 192 degrees 21 minutes 11 seconds, a distance of 38.24 feet; Thence easterly along the line forming an interior angle with the previous course of 183 degrees 09 minutes 51 seconds, a distance of 21.53 feet to the point of beginning.

[(e-5)] (E-6) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be located within two hundred feet of a building occupied exclusively as a church, synagogue or other place of worship, provided such premises constitutes a premises for the

sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the county of Kings, bounded and described as follows:
ALL that certain plot, piece or parcel of land situate lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:
BEGINNING at the corner formed by the intersection of the southerly side of Synder Avenue, with the easterly side of Bedford Avenue;
THENCE easterly along the southerly side of Synder Avenue, 99 feet 10 inches;
THENCE southerly parallel with Medford Avenue, 80 feet 11 1/6 inches to the center line of Union Street, as shown on the Bergen Map;
THENCE westerly along the center line of Union Street, as aforesaid, 99 feet 10 inches to the easterly side of Bedford Avenue;
THENCE northerly along the easterly side of Bedford Avenue, 81 feet 1/8 inches to the point or place of BEGINNING.

[(e-6)] (E-7) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be located within two hundred feet of a building occupied as a church, synagogue or other place of worship, provided such premises constitute a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the county of Kings, bounded and described as follows:

BEGINNING at a point on the northerly side of Grand Street, distant three hundred and nineteen feet and three inches easterly from the corner formed by the intersection of the northerly of Grand Street with the easterly side of Berry (formerly Third) Street, which point of beginning is where a line drawn along the easterly wall of the house now or formerly owned by one Schaefer intersects the northerly side of Grand Street; running thence northerly along the easterly wall of the house now or formerly owned by one Schaefer, seventy one feet and six inches; thence easterly nearly parallel with Grand Street, eighteen feet and five inches; thence southerly, seventy feet and seven inches to the northerly side of Grand Street at a point, sixteen feet easterly from the point of beginning; thence westerly along the northerly side of Grand Street, sixteen feet.

[(e-6)] (E-8) Notwithstanding the provisions of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the borough of Manhattan in the city and county of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Fulton Street with the westerly side of Broadway;

RUNNING THENCE southerly along the westerly side of Broadway, 78 feet 11 1/2 inches to an angle point, in said westerly side of Broadway;

THENCE southerly still along the westerly side of Broadway, 75 feet 3 inches to the corner formed by the intersection of the westerly side of Broadway with the northerly side of Dey Street;

THENCE westerly along the northerly side of Dey Street, 275 feet 6 3/4 inches;

THENCE northerly along a line which forms an angle on its westerly side with the northerly side of Dey Street of 91 degrees 21 minutes 50 seconds, 77 feet 5 1/2 inches;

THENCE easterly along a line which forms an angle on its southerly side with the last described course of 91 degrees 21 minutes 50 seconds, 75 feet 4 5/8 inches;

THENCE northerly along a line which forms an angle on its westerly side with the last described course of 91 degrees 00 minutes 00 seconds, 77 feet 5 1/4 inches to the southerly side of Fulton Street;

THENCE easterly along the southerly side of Fulton Street, 99 feet 8 inches to an angle point on said southerly side of Fulton Street;

THENCE easterly still along the southerly side of Fulton Street, 100 feet 2 1/2 inches to the point or place of BEGINNING.

TOGETHER with benefits and subject to the terms contained in that certain Easement and License Agreement dated as of April 20, 1993 between Kalikow Fulton Church Realty Company and 195 Property Company and recorded on May 10, 1993 in Reel 1969 page 1310.

(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] SIX hundred FIFTY 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 AN ONSITE VISIT TO INVESTIGATE THE PREMISES SEEKING THE LICENSE AND THE SURROUNDING NEIGHBORHOOD 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 2. This act shall take effect immediately.