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

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I N A S S E M B L Y

January 28, 2016

Introduced by M. of A. SEPULVEDA, MONTESANO -- 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 the definition of "for cause" revocation of licenses

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

Section 1. Subdivision 3 of section 118 of the alcoholic beverage control law, as added by chapter 536 of the laws of 1996, is amended to read as follows:

3. (A) As used in this section, the term "for cause" shall also include the existence of a sustained and continuing pattern of noise, disturbance, misconduct, or disorder on or about the licensed premises, related to the operation of the premises or the conduct of its patrons, which adversely affects the health, welfare or safety of the inhabitants of the area in which such licensed premises are located.

(B) AS USED IN THIS SECTION, THE TERM "FOR CAUSE" SHALL ALSO INCLUDE, FOR LICENSEES THAT SELL ALCOHOLIC BEVERAGES FOR ON PREMISES CONSUMPTION: (I) (A) DELIBERATELY MISLEADING THE AUTHORITY AS TO THE NATURE AND CHARACTER OF THE BUSINESS TO BE OPERATED ON THE LICENSED PREMISES, (B) MAKING ANY SUBSTANTIAL ALTERATION TO A LICENSED PREMISES WITHOUT OBTAINING THE APPROPRIATE PERMISSION AND APPROVALS PURSUANT TO SECTION NINETY-NINE-D OF THIS CHAPTER, OR (C) SUBSTANTIALLY ALTERING THE NATURE OR CHARACTER OF SUCH BUSINESS AT THE LICENSED PREMISES DURING THE LICENSING PERIOD WITHOUT SEEKING APPROPRIATE PRIOR APPROVALS FROM THE AUTHORITY, OR IF SUCH SUBSTANTIAL ALTERATION DOES NOT SATISFY, MEET OR CONFORM TO THE UNDERLYING CONDITIONS OR STIPULATIONS TO OPERATE SUCH LICENSED PREMISES UNDER THE TERMS OF THE LICENSE THEREFOR; AND

(II) CAUSES SIGNIFICANT INCREASES IN THE INCIDENTS OF PUBLIC DISORDERLY CONDUCT, EITHER INSIDE OR OUTSIDE THAT LICENSED PREMISES, OR ENCOURAGES OR CONDONES A SUBSTANTIAL OR CONTINUING PATTERN OF NOISE, DISTURBANCES, MISCONDUCT, DISORDER, OR COMMISSION OF CRIMINAL ACTIVITY THAT ADVERSELY AFFECTS THE HEALTH, WELFARE AND SAFETY OF THE INHABITANTS OF

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

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THE AREA OR THE GENERAL PUBLIC THAT PATRONIZE OR VISIT SUCH AREA IN WHICH SUCH LICENSED PREMISES IS LOCATED.

(C) AS USED IN THIS SUBDIVISION, THE TERM "SUBSTANTIALLY ALTERING THE NATURE OR CHARACTER" OF SUCH BUSINESS SHALL MEAN ANY SIGNIFICANT ENLARGEMENT IN THE SCOPE OF BUSINESS CONDUCTED AT A LICENSED PREMISES OR SUBSTANTIAL INCREASE IN THE NUMBER OF PATRONS THAT PATRONIZE THE BUSINESS CONDUCTED AT A LICENSED PREMISES.

(D) ANY TOWN BOARD, BOARD OF TRUSTEES OR CITY COUNCIL OF A MUNICIPALITY, OUTSIDE A CITY HAVING A POPULATION OF ONE MILLION OR MORE, AND ANY COMMUNITY BOARD IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE CAN REQUEST A REVOCATION, CANCELLATION OR SUSPENSION OF A LICENSEE'S LICENSE, OR THE IMPOSITION OF A CIVIL PENALTY PURSUANT TO THIS SECTION FOR ANY VIOLATION DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION, AND THE AUTHORITY SHALL CONDUCT, UPON THE SATISFACTION OF THE AUTHORITY AS TO THE MERIT OF SUCH APPLICATION, A HEARING OR ENFORCEMENT ACTION TO REVOKE, CANCEL OR SUSPEND THE LICENSEE'S LICENSE, OR TO IMPOSE A CIVIL PENALTY ON THE LICENSEE. A DENIAL BY THE AUTHORITY OF SUCH A REQUEST FROM A MUNICIPALITY OR COMMUNITY BOARD FOR A HEARING, PROCEEDING OR ENFORCEMENT ACTION SHALL BE SENT TO THE MUNICIPALITY OR COMMUNITY BOARD IN WRITING, AND SHALL SPECIFY THE REASONS WHY SUCH APPLICATION WAS DENIED. SUCH ACCEPTANCE OR DENIAL OF A REQUEST FOR A HEARING SHALL BE ISSUED BY THE AUTHORITY WITHIN NINETY DAYS OF RECEIPT OF AN APPLICATION. DURING ANY HEARING, PROCEEDING OR ENFORCEMENT ACTION CONDUCTED PURSUANT TO THIS PARAGRAPH, A MUNICIPALITY OR COMMUNITY BOARD MAY OFFER ITS COMMENTS AND RELEVANT INFORMATION IN SUPPORT OF ITS REQUEST FOR REVOCATION, CANCELLATION OR SUSPENSION OF THE LICENSEE'S LICENSE, OR IMPOSITION OF A CIVIL PENALTY. SHOULD SUCH HEARING, PROCEEDING OR ENFORCEMENT ACTION BE DENIED, A MUNICIPALITY OR COMMUNITY BOARD SHALL NOT REQUEST A HEARING OR PROCEEDING AGAINST THE SAME LICENSED PREMISES FOR EIGHTEEN MONTHS.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.