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

1544--A

2015-2016 Regular Sessions

I N S E N A T E

January 13, 2015

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse -- recommitted to the Committee on Alcoholism and Drug Abuse in accordance with Senate Rule 6, sec. 8 -- 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 OR FRAUDULENT, 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.

(II) WITHIN TWENTY-FOUR 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 AUTHENTICITY OF THE WRITTEN EVIDENCE. IF SUCH WRITTEN EVIDENCE OF AGE IS DETERMINED TO BE BONA FIDE AND AUTHENTIC, IT SHALL BE RETURNED TO THE RIGHTFUL HOLDER THEREOF, IN PERSON OR BY FIRST CLASS MAIL WITHIN TWENTY-FOUR HOURS OF SUCH DETERMINATION. IF IT IS DETERMINED TO BE FALSE OR

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

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FRAUDULENT, THE WRITTEN EVIDENCE OF AGE SHALL BE RETAINED BY SUCH LAW ENFORCEMENT AGENCY AND MAY BE DESTROYED NO EARLIER THAN ONE YEAR AFTER RECEIPT OF SUCH WRITTEN EVIDENCE.

(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 FORTY-EIGHT HOURS OF THE RECEIPT OF SUCH APPLICATION. IF SUCH WRITTEN EVIDENCE IS DETERMINED TO BE BONA FIDE AND AUTHENTIC, IT SHALL BE RETURNED TO THE OWNER THEREOF WITHIN TWENTY-FOUR HOURS OF SUCH DETERMINATION.

(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 IT IS ESTABLISHED THAT SUCH CONFISCATION CONSTITUTED GROSS NEGLIGENCE BY THE LICENSEE, AGENT OR EMPLOYEE.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.