

6735--A

2015-2016 Regular Sessions

I N A S S E M B L Y

April 1, 2015

Introduced by M. of A. CRESPO -- Multi-Sponsored by -- M. of A. ARROYO, COLTON, COOK, CROUCH, FINCH, GOODELL, HOOPER, JAFFEE, MONTESANO, RIVERA, ROBINSON, THIELE -- read once and referred to the Committee on Economic Development -- recommitted to the Committee on Economic Development 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 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:

1 Section 1. Subdivision 2 of section 65-b of the alcoholic beverage
2 control law is amended by adding a new paragraph (d) to read as follows:
3 (D) (I) IN ANY INSTANCE IN WHICH A PERSON PRESENTS OR OFFERS, TO A
4 LICENSEE, OR TO AN AGENT OR EMPLOYEE OF SUCH LICENSEE, WRITTEN EVIDENCE
5 OF AGE WHICH, SUCH LICENSEE, AGENT OR EMPLOYEE REASONABLY BELIEVES TO BE
6 FALSE OR FRAUDULENT, FOR THE PURPOSE OF PURCHASING OR ATTEMPTING TO
7 PURCHASE AN ALCOHOLIC BEVERAGE, SUCH LICENSEE, AGENT OR EMPLOYEE MAY
8 IMMEDIATELY CONFISCATE AND TAKE POSSESSION OF SUCH WRITTEN EVIDENCE OF
9 AGE.
10 (II) WITHIN TWENTY-FOUR HOURS OF TAKING POSSESSION OF SUCH WRITTEN
11 EVIDENCE OF AGE, A LICENSEE SHALL DELIVER SUCH WRITTEN EVIDENCE OF AGE
12 TO A LAW ENFORCEMENT AGENCY HAVING JURISDICTION OVER THE LOCATION OF THE
13 LICENSED PREMISES.
14 (III) EACH LAW ENFORCEMENT AGENCY TAKING POSSESSION OF SUCH WRITTEN
15 EVIDENCE OF AGE PURSUANT TO THIS PARAGRAPH SHALL DETERMINE THE AUTHEN-
16 TICITY OF THE WRITTEN EVIDENCE. IF SUCH WRITTEN EVIDENCE OF AGE IS
17 DETERMINED TO BE BONA FIDE AND AUTHENTIC, IT SHALL BE RETURNED TO THE
18 RIGHTFUL HOLDER THEREOF, IN PERSON OR BY FIRST CLASS MAIL WITHIN TWEN-

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

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1 TY-FOUR HOURS OF SUCH DETERMINATION. IF IT IS DETERMINED TO BE FALSE OR
2 FRAUDULENT, THE WRITTEN EVIDENCE OF AGE SHALL BE RETAINED BY SUCH LAW
3 ENFORCEMENT AGENCY AND MAY BE DESTROYED NO EARLIER THAN ONE YEAR AFTER
4 RECEIPT OF SUCH WRITTEN EVIDENCE.

5 (IV) ANY PERSON WHO HAS HAD HIS OR HER WRITTEN EVIDENCE OF AGE CONFIS-
6 CATED PURSUANT TO THIS PARAGRAPH MAY PETITION, IN WRITING, THE LAW
7 ENFORCEMENT AGENCY HAVING POSSESSION THEREOF FOR ITS RETURN. THE LAW
8 ENFORCEMENT AGENCY SHALL ACCEPT SUCH AN APPLICATION FOR RETURNING SUCH
9 WRITTEN EVIDENCE AND RENDER A DETERMINATION ON SUCH APPLICATION WITHIN
10 FORTY-EIGHT HOURS OF THE RECEIPT OF SUCH APPLICATION. IF SUCH WRITTEN
11 EVIDENCE IS DETERMINED TO BE BONA FIDE AND AUTHENTIC, IT SHALL BE
12 RETURNED TO THE OWNER THEREOF WITHIN TWENTY-FOUR HOURS OF SUCH DETERMI-
13 NATION.

14 (V) NO LICENSEE, OR AGENT OR EMPLOYEE THEREOF, SHALL INCUR ANY CIVIL
15 OR CRIMINAL LIABILITY FOR THE CONFISCATION OF ANY WRITTEN EVIDENCE OF
16 AGE PURSUANT TO THIS PARAGRAPH, UNLESS IT IS ESTABLISHED THAT SUCH
17 CONFISCATION CONSTITUTED GROSS NEGLIGENCE BY THE LICENSEE, AGENT OR
18 EMPLOYEE.

19 S 2. This act shall take effect on the first of January next succeed-
20 ing the date on which it shall have become a law.