

4085--A

Cal. No. 49

2015-2016 Regular Sessions

I N S E N A T E

February 26, 2015

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

1 Section 1. Subdivision 3 of section 118 of the alcoholic beverage
2 control law, as added by chapter 536 of the laws of 1996, is amended to
3 read as follows:
4 3. (A) As used in this section, the term "for cause" shall also
5 include the existence of a sustained and continuing pattern of noise,
6 disturbance, misconduct, or disorder on or about the licensed premises,
7 related to the operation of the premises or the conduct of its patrons,
8 which adversely affects the health, welfare or safety of the inhabitants
9 of the area in which such licensed premises are located.
10 (B) AS USED IN THIS SECTION, THE TERM "FOR CAUSE" SHALL ALSO INCLUDE,
11 FOR LICENSEES THAT SELL ALCOHOLIC BEVERAGES FOR ON PREMISES CONSUMPTION:
12 (I) (A) DELIBERATELY MISLEADING THE AUTHORITY AS TO THE NATURE AND CHAR-
13 ACTER OF THE BUSINESS TO BE OPERATED ON THE LICENSED PREMISES, (B)
14 MAKING ANY SUBSTANTIAL ALTERATION TO A LICENSED PREMISES WITHOUT OBTAIN-
15 ING THE APPROPRIATE PERMISSION AND APPROVALS PURSUANT TO SECTION NINE-
16 TY-NINE-D OF THIS CHAPTER, OR (C) SUBSTANTIALLY ALTERING THE NATURE OR
17 CHARACTER OF SUCH BUSINESS AT THE LICENSED PREMISES DURING THE LICENSING
18 PERIOD WITHOUT SEEKING APPROPRIATE PRIOR APPROVALS FROM THE AUTHORITY,
19 OR IF SUCH SUBSTANTIAL ALTERATION DOES NOT SATISFY, MEET OR CONFORM TO

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

LBD03948-07-6

1 THE UNDERLYING CONDITIONS OR STIPULATIONS TO OPERATE SUCH LICENSED PREM-
2 ISES UNDER THE TERMS OF THE LICENSE THEREFOR; AND

3 (II) CAUSES SIGNIFICANT INCREASES IN THE INCIDENTS OF PUBLIC DISORDER-
4 LY CONDUCT, EITHER INSIDE OR OUTSIDE THAT LICENSED PREMISES, OR ENCOUR-
5 AGES OR CONDONE A SUBSTANTIAL OR CONTINUING PATTERN OF NOISE, DISTURB-
6 ANCES, MISCONDUCT, DISORDER, OR COMMISSION OF CRIMINAL ACTIVITY THAT
7 ADVERSELY AFFECTS THE HEALTH, WELFARE AND SAFETY OF THE INHABITANTS OF
8 THE AREA OR THE GENERAL PUBLIC THAT PATRONIZE OR VISIT SUCH AREA IN
9 WHICH SUCH LICENSED PREMISES IS LOCATED.

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

15 (D) ANY TOWN BOARD, BOARD OF TRUSTEES OR CITY COUNCIL OF A MUNICI-
16 PALITY, OUTSIDE A CITY HAVING A POPULATION OF ONE MILLION OR MORE, AND
17 ANY COMMUNITY BOARD IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE
18 CAN REQUEST A REVOCATION, CANCELLATION OR SUSPENSION OF A LICENSEE'S
19 LICENSE, OR THE IMPOSITION OF A CIVIL PENALTY PURSUANT TO THIS SECTION
20 FOR ANY VIOLATION DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION, AND THE
21 AUTHORITY SHALL CONDUCT, UPON THE SATISFACTION OF THE AUTHORITY AS TO
22 THE MERIT OF SUCH APPLICATION, A HEARING OR ENFORCEMENT ACTION TO
23 REVOKE, CANCEL OR SUSPEND THE LICENSEE'S LICENSE, OR TO IMPOSE A CIVIL
24 PENALTY ON THE LICENSEE. A DENIAL BY THE AUTHORITY OF SUCH A REQUEST
25 FROM A MUNICIPALITY OR COMMUNITY BOARD FOR A HEARING, PROCEEDING OR
26 ENFORCEMENT ACTION SHALL BE SENT TO THE MUNICIPALITY OR COMMUNITY BOARD
27 IN WRITING, AND SHALL SPECIFY THE REASONS WHY SUCH APPLICATION WAS
28 DENIED. SUCH ACCEPTANCE OR DENIAL OF A REQUEST FOR A HEARING SHALL BE
29 ISSUED BY THE AUTHORITY WITHIN NINETY DAYS OF RECEIPT OF AN APPLICATION.
30 DURING ANY HEARING, PROCEEDING OR ENFORCEMENT ACTION CONDUCTED PURSUANT
31 TO THIS PARAGRAPH, A MUNICIPALITY OR COMMUNITY BOARD MAY OFFER ITS
32 COMMENTS AND RELEVANT INFORMATION IN SUPPORT OF ITS REQUEST FOR REVOCATION,
33 CANCELLATION OR SUSPENSION OF THE LICENSEE'S LICENSE, OR IMPOSITION
34 OF A CIVIL PENALTY. SHOULD SUCH HEARING, PROCEEDING OR ENFORCEMENT
35 ACTION BE DENIED, A MUNICIPALITY OR COMMUNITY BOARD SHALL NOT REQUEST A
36 HEARING OR PROCEEDING AGAINST THE SAME LICENSED PREMISES FOR EIGHTEEN
37 MONTHS.

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