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

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I N S E N A T E

May 3, 2016

Introduced by Sen. AMEDORE -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the alcoholic beverage control law, in relation to authorizing courts to render default judgments in cases of failure to answer for unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of twenty-one years

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

Section 1. Section 65-c of the alcoholic beverage control law is amended by adding three new subdivisions 7, 8 and 9 to read as follows:

7. IN THE EVENT A PERSON CHARGED WITH A VIOLATION OF THIS SECTION DOES NOT ANSWER WITHIN THE TIME SPECIFIED, THE COURT HAVING JURISDICTION, OTHER THAN A COURT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, IN ADDITION TO ANY OTHER ACTION AUTHORIZED BY LAW, ENTER A PLEA OF GUILTY ON BEHALF OF THE DEFENDANT AND RENDER A DEFAULT JUDGMENT IN AN AMOUNT TO BE DETERMINED BY THE COURT WITHIN THE AMOUNT AUTHORIZED BY LAW. ANY SUCH DEFAULT JUDGMENT SHALL BE CIVIL IN NATURE. HOWEVER, AT LEAST THIRTY DAYS AFTER THE EXPIRATION OF THE ORIGINAL DATE PRESCRIBED FOR ENTERING A PLEA AND BEFORE A PLEA OF GUILTY AND A DEFAULT JUDGMENT MAY BE RENDERED, THE CLERK OF THE COURT SHALL NOTIFY THE DEFENDANT BY CERTIFIED MAIL: (A) OF THE VIOLATION CHARGED; (B) OF THE IMPENDING PLEAS OF GUILTY AND DEFAULT JUDGMENT; (C) THAT SUCH JUDGMENT WILL BE FILED WITH THE COUNTY CLERK OF THE COURT IN WHICH THE OPERATOR OR REGISTRANT IS LOCATED; AND (D) THAT A DEFAULT OR PLEA OF GUILTY MAY BE AVOIDED BY ENTERING A PLEA OR MAKING AN APPEARANCE WITHIN THIRTY DAYS OF THE SENDING OF SUCH NOTICE. PLEAS ENTERED WITHIN THAT PERIOD SHALL BE IN A MANNER PRESCRIBED IN THE NOTICE. IN NO CASE SHALL A DEFAULT JUDGMENT AND PLEA OF GUILTY BE RENDERED MORE THAN TWO YEARS AFTER THE EXPIRATION OF THE TIME PRESCRIBED FOR ORIGINALLY ENTERING A PLEA. WHEN A PERSON HAS ENTERED A PLEA OF NOT GUILTY AND HAS DEMANDED A HEARING, NO FINE OR PENALTY SHALL BE IMPOSED FOR ANY REASON, PRIOR TO THE HOLDING OF THE HEARING WHICH SHALL BE SCHEDULED BY THE COURT WITHIN THIRTY DAYS OF SUCH DEMAND.

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

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8. THE FILING OF THE DEFAULT JUDGMENT WITH THE COUNTY CLERK SHALL HAVE THE FULL FORCE AND EFFECT OF A JUDGMENT DULY DOCKETED IN THE OFFICE OF SUCH CLERK AND MAY BE ENFORCED IN THE SAME MANNER AND WITH THE SAME EFFECT AS THAT PROVIDED BY LAW IN RESPECT TO EXECUTIONS ISSUED AGAINST PROPERTY UPON JUDGMENTS OF A COURT OF RECORD AND SUCH DEFAULT JUDGMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR EIGHT YEARS NOTWITHSTANDING ANY OTHER PROVISION OF LAW.

9. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION SEVEN OF THIS SECTION, THE CLERK OF THE COURT SHALL HAVE TWO YEARS FROM THE EFFECTIVE DATE OF THIS SUBDIVISION TO SERVE NOTICE OF THE IMPENDING PLEA OF GUILTY AND DEFAULT JUDGMENT UPON THE PERSON CHARGED WITH A VIOLATION OF THIS SECTION WHO HAS NOT ANSWERED WITHIN THE TIME SPECIFIED AND PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply where the acts constituting unlawful possession of an alcoholic beverage with intent to consume for the offense of which the person is convicted occurred on or after such effective date.