STATE OF NEW YORK

2777--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. SEPULVEDA -- 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 establish a demonstration program authorizing the community board for community board district 12 in the city of New York to apply to the state liquor authority for the establishment of an up to 1 year moratorium during which no licenses for sale of alcoholic beverages for on-premises consumption shall be issued to certain premises within certain areas of such district; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative intent. The legislature hereby finds that the increasingly high concentration of bars located within portions of community board district 12, in the borough of Manhattan and city of New York, an area north of 155th Street in such borough, and the rapidly increasing number of such establishments being located in portions of such district that are near residential and other non-commercial areas is detrimental to the quality of life of residents of that district. Further, that the establishment of such bars has substantially increased the incidence of violent crime, personal injuries, the level of property damage and vandalism, reduced quality of life within the community, and created a shortage of parking for local residents.

Therefore the legislature determines that the establishment of a demonstration program authorizing the community board for community board district 12 of the city of New York to petition the state liquor authority to temporarily deny the issuance of new licenses for the sale of alcoholic beverages for on-premises consumption to certain premises located in select areas that have a high and over concentration of similar premises in such district. Furthermore, the establishment of such

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

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demonstration program provides the legislature, the state liquor authority, the mayor of the city of New York and the community board for community district 12 of the city of New York with the opportunity to analyze issues surrounding the over concentration of bars in certain select areas within the community board district 12, and to establish statutory and regulatory solutions to such issues.

§ 2. For the purposes of this act:

(a) "Authority" means the state liquor authority as continued pursuant to section 10 of the alcoholic beverage control law.

(b) "Board" means the community board for community board district 12 in the city of New York.

(c) "District" means community board district 12 in the city of New York.

(d) "License applicant" means an applicant for an initial license to sell alcoholic beverages for on-premises consumption in the district where the premises to be licensed is within 400 feet of two or more premises that are so licensed, and where 65 percent or less of the anticipated receipts from the operation of the premises are to be derived from the sale of food or such premises has a legal occupancy capacity of 75 persons or more.

§ 3. There shall be established a demonstration program providing, at the option of the board, for the institution of an up to one year moratorium prohibiting the initial issuance of licenses to sell alcoholic beverages for on-premises consumption in certain select areas of the district to license applicants. Such moratorium shall not apply to any other applicant for a license pursuant to the alcoholic beverage control law.

§ 4. The board shall only commence action to petition the authority for an up to one year moratorium on the granting licenses to sell alcoholic beverages for on-premises consumption to license applicants upon receipt of a petition therefor signed by not less than 1,000 residents of the district. Upon receipt of such residents' petition, the board shall review it as to form and completeness, and then may accept the petition if it is deemed to be valid. Upon acceptance of the residents' petition, the board shall within 90 days consider such petition for an up to one year moratorium, and shall either approve or reject it. If the petition is approved and adopted, the board shall file a copy of the petition with an accompanying resolution from the board requesting such moratorium with the authority and the authority shall for a period of up to one year following such filing, deny the applications of license applicants in those select areas identified in such resolution. Provided that notwithstanding such moratorium all applications for licenses under the alcoholic beverage control law shall continue to be accepted by the board pursuant to section 110-b of such law during such moratorium. Provided, further, that upon the expiration of a moratorium pursuant to this section, a second up to one year moratorium may be imposed utilizing the same process established by this section.

§ 5. Upon the establishment of a moratorium pursuant to section four of this act, the board, in conjunction with the authority shall conduct public hearings and community forums in the district and shall accept comments and testimony on the issue of the over concentration of bars in those select areas identified in the district. Such comments and testimony may include issues surrounding the problems arising therefrom and the types of premises licensed to sell alcoholic beverages which cause problems within the district, the affect of current land use law on the over concentration of bars within the areas which are the subject of

such hearing and community forums, and other courses of action that the authority and the city of New York may take to help mitigate the adverse affects caused by the over concentration of such bars. Upon the conclusion of all such hearings and forums, the board shall compile a report on the testimony and comments made during the hearing and forums, and the board's findings and recommendations on necessary changes to state law, rules and regulations, the administrative code of the city of New York, and in local and land use laws to address the problems in the district related to the over concentration of such bars in the areas within the district identified. Such report shall be filed with the governor, the temporary president of the senate, the speaker of the assembly, the mayor of the city of New York and the authority. Such moratorium shall remain in effect until 180 days after such report has been so filed, or 550 days after the start of the moratorium, whichever shall be later.

§ 6. This act shall take effect immediately, and shall expire and be deemed repealed June 30, 2020.