

STATE OF NEW YORK

4394

2017-2018 Regular Sessions

IN ASSEMBLY

February 2, 2017

Introduced by M. of A. SCHIMMINGER, CRESPO, STIRPE, COOK, HOOPER, HAWLEY, MONTESANO, DiPIETRO, GIGLIO -- Multi-Sponsored by -- M. of A. ABBATE, BARCLAY, GALEF, HEVESI, LOPEZ, MAGEE, McDONOUGH, RA, RIVERA, THIELE -- read once and referred to the Committee on Economic Development

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:

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

3 7. In the event a person charged with a violation of this section does
4 not answer within the time specified, the court having jurisdiction,
5 other than a court in a city over one million population may, in addi-
6 tion to any other action authorized by law, enter a plea of guilty on
7 behalf of the defendant and render a default judgment of a fine deter-
8 mined by the court within the amount authorized by law. Any judgment
9 entered pursuant to default shall be civil in nature, and shall be
10 treated as a determination sustaining such charge for the purposes of
11 this section. However, at least thirty days after the expiration of the
12 original date prescribed for entering a plea and before a plea of guilty
13 and a default judgment may be rendered, the clerk of the court shall
14 notify the defendant by certified mail: (a) of the violation charged;
15 (b) of the impending plea of guilty and default judgment; (c) that such
16 judgment will be filed with the county clerk of the county in which the
17 operator or registrant is located; and (d) that a default or plea of
18 guilty may be avoided by entering a plea or making an appearance within
19 thirty days of the sending of such notice. Pleas entered within that
20 period shall be in a manner prescribed in the notice. In no case shall a

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

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1 default judgment and plea of guilty be rendered more than two years
2 after the expiration of the time prescribed for originally entering a
3 plea. When a person has entered a plea of not guilty and has demanded a
4 hearing, no fine or penalty shall be imposed for any reason, prior to
5 the holding of the hearing which shall be scheduled by the court of such
6 city, village or town within thirty days of such demand.

7 8. The filing of the default judgment with the county clerk shall have
8 the full force and effect of a judgment duly docketed in the office of
9 such clerk and may be enforced in the same manner and with the same
10 effect as that provided by law in respect to executions issued against
11 property upon judgments of a court of record and such judgment shall
12 remain in full force and effect for eight years notwithstanding any
13 other provision of law.

14 9. Notwithstanding the provisions of subdivision seven of this
15 section, the clerk of the court, shall have two years from the effective
16 date of this subdivision to serve notice upon the person charged with a
17 violation of this section who has not answered within the time specified
18 and prior to the effective date of this subdivision.

19 § 2. This act shall take effect immediately.