

# STATE OF NEW YORK

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5198

2017-2018 Regular Sessions

## IN ASSEMBLY

February 6, 2017

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Introduced by M. of A. CRESPO -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to establishing a defense to administrative actions brought by the state liquor authority for providing alcoholic beverages to a person under twenty-one years of age

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

1 Section 1. Paragraph (b) of subdivision 6 of section 65 of the alco-  
2 holic beverage control law, as amended by chapter 435 of the laws of  
3 2010, is amended and a new paragraph (c) is added to read as follows:

4 (b) it shall be an affirmative defense that at the time of such  
5 violation such person who committed such alleged violation held a valid  
6 certificate of completion or renewal from an entity authorized to give  
7 and administer an alcohol training awareness program pursuant to subdi-  
8 vision twelve of section seventeen of this chapter. Such licensee shall  
9 have diligently implemented and complied with all of the provisions of  
10 the approved training program. In such proceeding to revoke, cancel or  
11 suspend a license pursuant to section one hundred eighteen of this chap-  
12 ter, the licensee must prove each element of such affirmative defense by  
13 a preponderance of the credible evidence. Evidence of three unlawful  
14 sales of alcoholic beverages by any employee of a licensee to persons  
15 under twenty-one years of age, within a two year period, shall be  
16 considered by the authority in determining whether the licensee had  
17 diligently implemented such an approved program[-]; and

18 (c) no such proceeding shall be brought against a licensee who can  
19 assert that (i) the licensee has an operating device capable of deci-  
20 phering any electronically readable format, as defined in paragraph (a)  
21 of subdivision one of section sixty-five-b of this article, upon the  
22 licensed premises; (ii) the licensee can demonstrate that it requires  
23 its agents and employees to conduct a transaction scan, as defined in

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

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1 paragraph (c) of subdivision one of section sixty-five-b of this arti-  
2 cle, of each written evidence of age presented prior to every sale or  
3 delivery of alcoholic beverages; (iii) the licensee holds a valid  
4 certificate of completion or renewal from an entity authorized to give  
5 and administer an alcohol awareness program pursuant to subdivision  
6 twelve of section seventeen of this chapter; and (iv) has had no  
7 violations of subdivision one of this section upon the licensed premises  
8 within the previous two years. For the purposes of this paragraph, the  
9 two year period shall be measured from the dates any violations  
10 occurred.

11 § 2. This act shall take effect on the first of January next succeed-  
12 ing the date on which it shall have become a law.