

# STATE OF NEW YORK

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2777--A

2017-2018 Regular Sessions

## IN ASSEMBLY

January 23, 2017

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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:

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

12 Therefore the legislature determines that the establishment of a  
13 demonstration program authorizing the community board for community  
14 board district 12 of the city of New York to petition the state liquor  
15 authority to temporarily deny the issuance of new licenses for the sale  
16 of alcoholic beverages for on-premises consumption to certain premises  
17 located in select areas that have a high and over concentration of simi-  
18 lar 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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1 demonstration program provides the legislature, the state liquor author-  
2 ity, the mayor of the city of New York and the community board for  
3 community district 12 of the city of New York with the opportunity to  
4 analyze issues surrounding the over concentration of bars in certain  
5 select areas within the community board district 12, and to establish  
6 statutory and regulatory solutions to such issues.

7 § 2. For the purposes of this act:

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

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

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

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

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

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

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

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

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