

# STATE OF NEW YORK

7079

## IN SENATE

(Prefiled)

January 3, 2018

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the alcoholic beverage control law, in relation to making the provisions governing the various on-premises liquor licenses consistent with respect to public interest factors that may be considered by the state liquor authority when evaluating the merits of a license application

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

1 Section 1. Subdivision 6-a of section 64 of the alcoholic beverage  
2 control law, as added by chapter 670 of the laws of 1993, is amended to  
3 read as follows:

4 6-a. The authority may consider [~~any or~~] all of the following in  
5 determining whether public convenience and advantage and the public  
6 interest will be promoted by the granting of licenses and permits for  
7 the sale of alcoholic beverages at a particular unlicensed location:

8 (a) [~~The~~] the number, classes and character of licenses in proximity  
9 to the location and in the particular municipality or subdivision there-  
10 of[~~-~~];

11 (b) [~~Evidence~~] evidence that all necessary licenses and permits have  
12 been obtained from the state and all other governing bodies[~~-~~];

13 (c) [~~Effect~~] effect of the grant of the license on vehicular traffic  
14 and parking in proximity to the location[~~-~~];

15 (d) [~~The~~] the existing noise level at the location and any increase in  
16 noise level that would be generated by the proposed premises[~~-~~];

17 (e) [~~The~~] the history of liquor violations and reported criminal  
18 activity at the proposed premises[~~-~~];

19 (f) history of building and fire violations at any businesses owned  
20 and/or operated by the applicant;

21 (g) history of formal communication from the municipality or community  
22 board made pursuant to this chapter for businesses owned and/or operated  
23 by the applicant; and

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

LBD01052-01-7

1     ~~(h) [Any] any~~ other factors specified by law or regulation that are  
2 relevant to determine the public convenience and advantage ~~[and public~~  
3 ~~interest of the community]~~ and necessary to find that the granting of  
4 such license shall be in the public interest.

5     § 2. Section 64-a of the alcoholic beverage control law is amended by  
6 adding a new subdivision 6-a to read as follows:

7     6-a. The authority may consider all of the following in determining  
8 whether public convenience and advantage and the public interest will be  
9 promoted by the granting of licenses and permits for the sale of alco-  
10 holic beverages at a particular unlicensed location:

11     (a) the number, classes and character of licenses in proximity to the  
12 location and in the particular municipality or subdivision thereof;

13     (b) evidence that applicants have secured all necessary licenses and  
14 permits from the state and all other governing bodies;

15     (c) the effect that the granting of the license will have on vehicular  
16 traffic and parking in the proximity of the location;

17     (d) the existing noise level at the location and any increase in noise  
18 level that would be generated by the proposed premises;

19     (e) the history of liquor violations and reported criminal activity at  
20 the proposed premises;

21     (f) history of building and fire violations at any businesses owned  
22 and/or operated by the applicant;

23     (g) history of formal communication from the municipality or community  
24 board made pursuant to this chapter for businesses owned and/or operated  
25 by the applicant; and

26     (h) any other factors specified by law or regulation that are relevant  
27 to determine the public convenience or advantage and necessary to find  
28 that the granting of such license shall be in the public interest.

29     § 3. Section 64-b of the alcoholic beverage control law is amended by  
30 adding a new subdivision 4-a to read as follows:

31     4-a. The authority may consider all of the following in determining  
32 whether public convenience and advantage and the public interest will be  
33 promoted by the granting of licenses and permits for the sale of alco-  
34 holic beverages at a particular unlicensed location:

35     (a) the number, classes and character of licenses in proximity to the  
36 location and in the particular municipality or subdivision thereof;

37     (b) evidence that applicants have secured all necessary licenses and  
38 permits from the state and all other governing bodies;

39     (c) the effect that the granting of the license will have on vehicular  
40 traffic and parking in the proximity of the location;

41     (d) the existing noise level at the location and any increase in noise  
42 level that would be generated by the proposed premises;

43     (e) the history of liquor violations and reported criminal activity at  
44 the proposed premises;

45     (f) history of building and fire violations at any businesses owned  
46 and/or operated by the applicant;

47     (g) history of formal communication from the municipality or community  
48 board made pursuant to this chapter for businesses owned and/or operated  
49 by the applicant; and

50     (h) any other factors specified by law or regulation that are relevant  
51 to determine the public convenience or advantage and necessary to find  
52 that the granting of such license shall be in the public interest.

53     § 4. Section 64-c of the alcoholic beverage control law is amended by  
54 adding a new subdivision 10-a to read as follows:

55     10-a. The authority may consider all of the following in determining  
56 whether public convenience and advantage and the public interest will be

1 promoted by the granting of licenses and permits for the sale of alco-  
2 holic beverages at a particular unlicensed location;

3 (a) the number, classes and character of licenses in proximity to the  
4 location and in the particular municipality or subdivision thereof;

5 (b) evidence that applicants have secured all necessary licenses and  
6 permits from the state and all other governing bodies;

7 (c) the effect that the granting of the license will have on vehicular  
8 traffic and parking in the proximity of the location;

9 (d) the existing noise level at the location and any increase in noise  
10 level that would be generated by the proposed premises;

11 (e) the history of liquor violations and reported criminal activity at  
12 the proposed premises;

13 (f) history of building and fire violations at any businesses owned  
14 and/or operated by the applicant;

15 (g) history of formal communication from the municipality or community  
16 board made pursuant to this chapter for businesses owned and/or operated  
17 by the applicant; and

18 (h) any other factors specified by law or regulation that are relevant  
19 to determine the public convenience or advantage and necessary to find  
20 that the granting of such license shall be in the public interest.

21 § 5. Paragraph (f) of subdivision 7 of section 64 of the alcoholic  
22 beverage control law, as amended by chapter 185 of the laws of 2012, is  
23 amended to read as follows:

24 (f) Notwithstanding the provisions of paragraph (b) of this subdivi-  
25 sion, the authority may issue a license pursuant to this section for a  
26 premises which shall be within five hundred feet of three or more exist-  
27 ing premises licensed and operating pursuant to this section and  
28 sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d  
29 of this article if, after consultation with the municipality or communi-  
30 ty board, and due consideration of formal communication from the munici-  
31 pality or community board, it determines that granting such license  
32 would be in the public interest. Before it may issue any such license,  
33 the authority shall conduct a hearing, upon notice to the applicant and  
34 the municipality or community board, and shall state and file in its  
35 office its reasons therefor. The hearing may be rescheduled, adjourned  
36 or continued, and the authority shall give notice to the applicant and  
37 the municipality or community board of any such rescheduled, adjourned  
38 or continued hearing. Before the authority issues any said license, the  
39 authority or one or more of the commissioners thereof may, in addition  
40 to the hearing required by this paragraph, also conduct a public meeting  
41 regarding said license, upon notice to the applicant and the munici-  
42 pality or community board. The public meeting may be rescheduled,  
43 adjourned or continued, and the authority shall give notice to the  
44 applicant and the municipality or community board of any such resched-  
45 uled, adjourned or continued public meeting. Notice to the municipality  
46 or community board shall mean written notice mailed by the authority to  
47 such municipality or community board at least fifteen days in advance of  
48 any hearing scheduled pursuant to this paragraph. Upon the request of  
49 the authority, any municipality or community board may waive the fifteen  
50 day notice requirement. No premises having been granted a license pursu-  
51 ant to this section shall be denied a renewal of such license upon the  
52 grounds that such premises are within five hundred feet of a building or  
53 buildings wherein three or more premises are licensed and operating  
54 pursuant to this section and sections sixty-four-a, sixty-four-b,  
55 sixty-four-c, and/or sixty-four-d of this article.

§ 6. Paragraph (d) of subdivision 7 of section 64-a of the alcoholic beverage control law, as amended by chapter 185 of the laws of 2012, is amended to read as follows:

(d) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, and due consideration of formal communication from the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article.

§ 7. Paragraph (c) of subdivision 5 of section 64-b of the alcoholic beverage control law, as amended by chapter 185 of the laws of 2012, is amended to read as follows:

(c) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, and due consideration of formal communication from the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant

1 and the municipality or community board. The public meeting may be  
2 rescheduled, adjourned or continued, and the authority shall give notice  
3 to the applicant and the municipality or community board of any such  
4 rescheduled, adjourned or continued public meeting. Notice to the muni-  
5 cipality or community board shall mean written notice mailed by the  
6 authority to such municipality or community board at least fifteen days  
7 in advance of any hearing scheduled pursuant to this paragraph. Upon the  
8 request of the authority, any municipality or community board may waive  
9 the fifteen day notice requirement. No premises having been granted a  
10 license pursuant to this section shall be denied a renewal of such  
11 license upon the grounds that such premises are within five hundred feet  
12 of a building or buildings wherein three or more premises are licensed  
13 and operating pursuant to this section and sections sixty-four, sixty-  
14 four-a, sixty-four-c, and/or sixty-four-d of this article.

15 § 8. Paragraph (c) of subdivision 11 of section 64-c of the alcoholic  
16 beverage control law, as amended by chapter 185 of the laws of 2012, is  
17 amended to read as follows:

18 (c) Notwithstanding the provisions of subparagraph (ii) of paragraph  
19 (a) of this subdivision, the authority may issue a license pursuant to  
20 this section for a premises which shall be within five hundred feet of  
21 three or more existing premises licensed and operating pursuant to this  
22 section and sections sixty-four, sixty-four-a, sixty-four-b and/or  
23 sixty-four-d of this article if, after consultation with the munici-  
24 pality or community board, and due consideration of formal communication  
25 from the municipality or community board, it determines that granting  
26 such license would be in the public interest. Before it may issue any  
27 such license, the authority shall conduct a hearing, upon notice to the  
28 applicant and the municipality or community board, and shall state and  
29 file in its office its reasons therefor. The hearing may be rescheduled,  
30 adjourned or continued, and the authority shall give notice to the  
31 applicant and the municipality or community board of any such resched-  
32 uled, adjourned or continued hearing. Before the authority issues any  
33 said license, the authority or one or more of the commissioners thereof  
34 may, in addition to the hearing required by this paragraph, also conduct  
35 a public meeting regarding said license, upon notice to the applicant  
36 and the municipality or community board. The public meeting may be  
37 rescheduled, adjourned or continued, and the authority shall give notice  
38 to the applicant and the municipality or community board of any such  
39 rescheduled, adjourned or continued public meeting. Notice to the muni-  
40 cipality or community board shall mean written notice mailed by the  
41 authority to such municipality or community board at least fifteen days  
42 in advance of any hearing scheduled pursuant to this paragraph. Upon the  
43 request of the authority, any municipality or community board may waive  
44 the fifteen day notice requirement. No premises having been granted a  
45 license pursuant to this section shall be denied a renewal of such  
46 license upon the grounds that such premises are within five hundred feet  
47 of a building or buildings wherein three or more premises are operating  
48 and licensed pursuant to this section or sections sixty-four, sixty-  
49 four-a, sixty-four-b and/or sixty-four-d of this article.

50 § 9. This act shall take effect immediately.