STATE OF NEW YORK

5278

2019-2020 Regular Sessions

IN ASSEMBLY

February 8, 2019

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 authorizing licensees to confiscate any written evidence of age, which is false, fraudulent or not the presenter's own, offered for the purpose of purchasing an alcoholic beverage

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

Section 1. Subdivision 2 of section 65-b of the alcoholic beverage control law is amended by adding a new paragraph (d) to read as follows:

(d) (i) In an instance in which a person presents or offers, to a licensee, or to an agent or employee of such licensee, written evidence of age which, such licensee, agent or employee believes with moral certainty to be false or fraudulent, for the purpose of purchasing or attempting to purchase an alcoholic beverage, such licensee, agent or employee may immediately confiscate and take possession of such written evidence of age for a period of time up to two hours.

(ii) If such written evidence is not redeemed by such holder within forty-eight hours of taking possession of such written evidence of age, a licensee shall deliver such written evidence of age to the local law enforcement agency having jurisdiction over the location of the licensed premises.

(iii) Each law enforcement agency taking possession of such written evidence of age pursuant to this paragraph shall determine the authenticity of the written evidence. If such written evidence of age is determined to be bona fide and authentic, it shall be returned to the rightful holder thereof, in person or by first class mail within twenty-four hours of such determination. If it is determined to be false or fraudulent, the written evidence of age shall be retained by such law enforcement agency and may be destroyed no earlier than one year after receipt of such written evidence.

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

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(iv) Any person who has had his or her written evidence of age confiscated pursuant to this paragraph may petition, in writing, the law enforcement agency having possession thereof for its return. The law enforcement agency shall accept such an application for returning such written evidence and render a determination on such application within forty-eight hours of the receipt of such application. If such written evidence is determined to be bona fide and authentic, it shall be returned to the owner thereof within twenty-four hours of such determination.

(v) No licensee, or agent or employee thereof, shall incur any civil or criminal liability for the confiscation of any written evidence of age pursuant to this paragraph, unless it is established that such confiscation constituted gross negligence by the licensee, agent or employee.

§ 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.