STATE OF NEW YORK

249

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse

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:

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

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

(c) no such proceeding shall be brought against a licensee who can assert that (i) the licensee has an operating device capable of deciphering any electronically readable format, as defined in paragraph (a) of subdivision one of section sixty-five-b of this article, upon the licensed premises; (ii) the licensee can demonstrate that it requires

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

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its agents and employees to conduct a transaction scan, as defined in paragraph (c) of subdivision one of section sixty-five-b of this article, of each written evidence of age presented prior to every sale or delivery of alcoholic beverages; (iii) the licensee holds a valid certificate of completion or renewal from an entity authorized to give and administer an alcohol awareness program pursuant to subdivision twelve of section seventeen of this chapter; and (iv) has had no violations of subdivision one of this section upon the licensed premises within the previous two years. For the purposes of this paragraph, the two year period shall be measured from the dates any violations occurred.

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