STATE OF NEW YORK

1271

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

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

AN ACT to amend the alcoholic beverage control law, in relation to extending the two hundred foot rule to certain treatment facilities

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

Section 1. Paragraphs (a), (c), (d) and (e) of subdivision 7 of section 64 of the alcoholic beverage control law, as amended by chapter 463 of the laws of 2009, are amended to read as follows:

(a) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship **or as a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or

(c) the measurements in paragraphs (a) and (b) of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship **or such treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article; except, however, that no renewal license shall be denied because of such restriction to any premises so located which were maintained as a bona fide hotel, restaurant, catering establishment or club on or prior to December fifth, nineteen hundred thirty-three; and, except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other

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

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place of worship **or as a treatment facility**; and except that no license shall be denied to any premises, which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three; and except that this subdivision shall not be deemed to restrict the issuance of a hotel liquor license to a building used as a hotel and in which a restaurant liquor license currently exists for premises which serve as a dining room for guests of the hotel and a caterer's license to a person using the permanent catering facilities of a church, synagogue or other place of worship pursuant to a written agreement between such person and the authorities in charge of such facilities. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship **or treatment facility**, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship **or such treatment facility**.

(d) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, **of a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or of premises licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, **to patients and visitors of a treatment facility** and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, except that where a school or house of worship **or treatment facility** or premises licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

(e) Notwithstanding the provisions of this chapter to the contrary, the authority may issue a license to sell liquor at retail to be consumed on premises to a club as such term is defined in subdivision nine of section three of this chapter whether or not the building in which the premises for which such license is to be issued is used exclusively for club purposes and whether or not such premises is within two hundred feet of a building used exclusively as a school, church, synagogue or place of worship **or as a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** if such club is affiliated or associated with such school, church, synagogue or place of worship **or such treatment facility** and the governing body of such school, church, synagogue or other place of worship **or treatment facility** has filed written notice with the authority that it has no objection to the issuance of such license.

§ 2. Subparagraphs (i) and (iii) of paragraph (a) and paragraph (b) of subdivision 7 of section 64-a of the alcoholic beverage control law, as amended by chapter 463 of the laws of 2009, are amended to read as follows:

(i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship **or as a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or

(iii) the measurements in subparagraphs (i) and (ii) of this paragraph are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship **or such treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or to the center of the nearest entrance of each such 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; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship **or as a treatment facility**; and except that no license shall be denied to any premises, which is 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, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship **or treatment facility**, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship **or such treatment facility**.

(b) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, **or of a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or of 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 or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, **to patients or visitors of the treatment facility** and to patrons or guests of the 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 or of the premises sought to be licensed, except that where a school or house of worship **or treatment facility** or 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 or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads

directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

§ 3. Subparagraphs (i) and (iii) of paragraph (a) and paragraph (b) of subdivision 5 of section 64-b of the alcoholic beverage control law, subparagraphs (i) and (iii) of paragraph (a) as amended and paragraph (b) as added by chapter 463 of the laws of 2009, are amended to read as follows:

(i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship **or as a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law**; or

(iii) the measurements in subparagraphs (i) and (ii) of this paragraph are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship **or such treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or to the center of the nearest entrance of each such 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; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship **or as a treatment facility**; and except that no license shall be denied to any premises, which is 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, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship **or said treatment facility**, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship **or such treatment facility**.

(b) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, **of a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or of 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 or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, **to patients and visitors of a treatment facility** and to patrons or guests of the 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 or of the premises sought to be licensed, except that where a school or house of worship **or treatment facility** or 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 or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or

stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

§ 4. Subparagraphs (i) and (iii) of paragraph (a) and paragraph (b) of subdivision 11 of section 64-c of the alcoholic beverage control law, as amended by chapter 463 of the laws of 2009, are amended to read as follows:

(i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship **or as a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law**; or

(iii) the measurements in subparagraphs (i) and (ii) of this paragraph are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship **or such treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship **or as a treatment facility** and except that no license shall be denied to any premises, which is 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-b and/or sixty-four-d of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three.

(b) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, **of a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, **to patients or visitors of the treatment facility** and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article or of the premises sought to be licensed, except that where a school or house of worship **or treatment facility** or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

§ 5. Paragraphs (a), (c) and (d) of subdivision 8 of section 64-d of the alcoholic beverage control law, paragraphs (a) and (c) as amended and paragraph (d) as added by chapter 463 of the laws of 2009, are amended to read as follows:

(a) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship **or as a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or

(c) the measurements in paragraphs (a) and (b) of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship **or such treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship **or as a treatment facility**; and except that no license shall be denied to any premises, which is within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or which is 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-b, and/or sixty-four-c of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship **or said treatment facility**, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship **or such treatment facility**.

(d) within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, **of a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or of premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, **to patients and visitors of the treatment facility** and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article or of the premises sought to be licensed, except that where a school or house of worship **or treatment facility** or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thorough-

fare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

§ 6. Paragraphs (a) and (b) of subdivision 3 of section 105 of the alcoholic beverage control law, as amended by chapter 406 of the laws of 2007, are amended to read as follows:

(a) No retail license to sell liquor and/or wine for off-premises consumption shall be granted for any premises which shall be located on the same street or avenue, and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship **or as a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law**; the measurements to be taken in a straight line from the center of the nearest entrance to the building used for such school, church, synagogue or other place of worship **or such treatment facility** to the center of the nearest entrance of the premises to be licensed; except, however, that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship **or treatment facility**.

(b) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, **of a treatment facility for individuals with mental illness or chemical dependence operated pursuant to the mental hygiene law** or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, **to patients and visitors of the treatment facility** and to patrons or guests of the premises proposed to be licensed, except that where a school or house of worship **or treatment facility** is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

§ 7. This act shall take effect on the ninetieth day after it shall have become a law.