

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:

1 Section 1. Paragraphs (a), (c), (d) and (e) of subdivision 7 of
2 section 64 of the alcoholic beverage control law, as amended by chapter
3 463 of the laws of 2009, are amended to read as follows:

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

9 (c) the measurements in paragraphs (a) and (b) of this subdivision are
10 to be taken in straight lines from the center of the nearest entrance of
11 the premises sought to be licensed to the center of the nearest entrance
12 of such school, church, synagogue or other place of worship or such
13 treatment facility for individuals with mental illness or chemical
14 dependence operated pursuant to the mental hygiene law or to the center
15 of the nearest entrance of each such premises licensed and operating
16 pursuant to this section and sections sixty-four-a, sixty-four-b,
17 sixty-four-c, and/or sixty-four-d of this article; except, however, that
18 no renewal license shall be denied because of such restriction to any
19 premises so located which were maintained as a bona fide hotel, restau-
20 rant, catering establishment or club on or prior to December fifth,
21 nineteen hundred thirty-three; and, except that no license shall be
22 denied to any premises at which a license under this chapter has been in
23 existence continuously from a date prior to the date when a building on
24 the same street or avenue and within two hundred feet of said premises
25 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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1 place of worship or as a treatment facility; and except that no license
2 shall be denied to any premises, which is within five hundred feet of
3 three or more existing premises licensed and operating pursuant to this
4 section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or
5 sixty-four-d of this article, at which a license under this chapter has
6 been in existence continuously on or prior to November first, nineteen
7 hundred ninety-three; and except that this subdivision shall not be
8 deemed to restrict the issuance of a hotel liquor license to a building
9 used as a hotel and in which a restaurant liquor license currently
10 exists for premises which serve as a dining room for guests of the hotel
11 and a caterer's license to a person using the permanent catering facilities
12 of a church, synagogue or other place of worship pursuant to a
13 written agreement between such person and the authorities in charge of
14 such facilities. The liquor authority, in its discretion, may authorize
15 the removal of any such licensed premises to a different location on the
16 same street or avenue, within two hundred feet of said school, church,
17 synagogue or other place of worship or treatment facility, provided that
18 such new location is not within a closer distance to such school,
19 church, synagogue or other place of worship or such treatment facility.

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

43 (e) Notwithstanding the provisions of this chapter to the contrary,
44 the authority may issue a license to sell liquor at retail to be
45 consumed on premises to a club as such term is defined in subdivision
46 nine of section three of this chapter whether or not the building in
47 which the premises for which such license is to be issued is used exclusively
48 for club purposes and whether or not such premises is within two
49 hundred feet of a building used exclusively as a school, church, synagogue
50 or place of worship or as a treatment facility for individuals
51 with mental illness or chemical dependence operated pursuant to the
52 mental hygiene law if such club is affiliated or associated with such
53 school, church, synagogue or place of worship or such treatment facility
54 and the governing body of such school, church, synagogue or other place
55 of worship or treatment facility has filed written notice with the
56 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

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

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

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

13 (iii) the measurements in subparagraphs (i) and (ii) of this paragraph
14 are to be taken in straight lines from the center of the nearest
15 entrance of the premises sought to be licensed to the center of the
16 nearest entrance of such school, church, synagogue or other place of
17 worship or such treatment facility for individuals with mental illness
18 or chemical dependence operated pursuant to the mental hygiene law or to
19 the center of the nearest entrance of each such premises licensed and
20 operating pursuant to this section and sections sixty-four,
21 sixty-four-a, sixty-four-c, and/or sixty-four-d of this article; except
22 that no license shall be denied to any premises at which a license under
23 this chapter has been in existence continuously from a date prior to the
24 date when a building on the same street or avenue and within two hundred
25 feet of said premises has been occupied exclusively as a school, church,
26 synagogue or other place of worship or as a treatment facility; and
27 except that no license shall be denied to any premises, which is within
28 five hundred feet of three or more existing premises licensed and oper-
29 ating pursuant to this section and sections sixty-four, sixty-four-a,
30 sixty-four-c, and/or sixty-four-d of this article, at which a license
31 under this chapter has been in existence continuously on or prior to
32 November first, nineteen hundred ninety-three. The liquor authority, in
33 its discretion, may authorize the removal of any such licensed premises
34 to a different location on the same street or avenue, within two hundred
35 feet of said school, church, synagogue or other place of worship or said
36 treatment facility, provided that such new location is not within a
37 closer distance to such school, church, synagogue or other place of
38 worship or such treatment facility.

39 (b) Within the context of this subdivision, the word "entrance" shall
40 mean a door of a school, of a house of worship, of a treatment facility
41 for individuals with mental illness or chemical dependence operated
42 pursuant to the mental hygiene law or of premises licensed and operating
43 pursuant to this section and sections sixty-four, sixty-four-a, sixty-
44 four-c, and/or sixty-four-d of this article or of the premises sought to
45 be licensed, regularly used to give ingress to students of the school,
46 to the general public attending the place of worship, to patients and
47 visitors of a treatment facility and to patrons or guests of the prem-
48 ises licensed and operating pursuant to this section and sections
49 sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this
50 article or of the premises sought to be licensed, except that where a
51 school or house of worship or treatment facility or premises licensed
52 and operating pursuant to this section and sections sixty-four, sixty-
53 four-a, sixty-four-c, and/or sixty-four-d of this article or the prem-
54 ises sought to be licensed is set back from a public thoroughfare, the
55 walkway or stairs leading to any such door shall be deemed an entrance;
56 and the measurement shall be taken to the center of the walkway or

1 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
2 an emergency or fire exit, or for maintenance purposes, or which leads
3 directly to a part of a building not regularly used by the general
4 public or patrons, is not deemed an "entrance".

5 § 4. Subparagraphs (i) and (iii) of paragraph (a) and paragraph (b) of
6 subdivision 11 of section 64-c of the alcoholic beverage control law, as
7 amended by chapter 463 of the laws of 2009, are amended to read as
8 follows:
9

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

15 (iii) the measurements in subparagraphs (i) and (ii) of this paragraph
16 are to be taken in straight lines from the center of the nearest
17 entrance of the premises sought to be licensed to the center of the
18 nearest entrance of such school, church, synagogue or other place of
19 worship or such treatment facility for individuals with mental illness
20 or chemical dependence operated pursuant to the mental hygiene law or to
21 the center of the nearest entrance of each such premises licensed and
22 operating pursuant to this section and sections sixty-four,
23 sixty-four-a, sixty-four-b and/or sixty-four-d of this article; except
24 that no license shall be denied to any premises at which a license under
25 this chapter has been in existence continuously from a date prior to the
26 date when a building on the same street or avenue and within two hundred
27 feet of said premises has been occupied exclusively as a school, church,
28 synagogue or other place of worship or as a treatment facility and
29 except that no license shall be denied to any premises, which is within
30 five hundred feet of three or more existing premises licensed and oper-
31 ating pursuant to this section and sections sixty-four, sixty-four-a,
32 sixty-four-b and/or sixty-four-d of this article, at which a license
33 under this chapter has been in existence continuously on or prior to
34 November first, nineteen hundred ninety-three.

35 (b) Within the context of this subdivision, the word "entrance" shall
36 mean a door of a school, of a house of worship, of a treatment facility
37 for individuals with mental illness or chemical dependence operated
38 pursuant to the mental hygiene law or premises licensed and operating
39 pursuant to this section and sections sixty-four, sixty-four-a, sixty-
40 four-b and/or sixty-four-d of this article or of the premises sought to
41 be licensed, regularly used to give ingress to students of the school,
42 to the general public attending the place of worship, to patients or
43 visitors of the treatment facility and to patrons or guests of the prem-
44 ises licensed and operating pursuant to this section and sections
45 sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this arti-
46 cle or of the premises sought to be licensed, except that where a school
47 or house of worship or treatment facility or premises licensed and oper-
48 ating pursuant to this section and sections sixty-four, sixty-four-a,
49 sixty-four-b and/or sixty-four-d of this article is set back from a
50 public thoroughfare, the walkway or stairs leading to any such door
51 shall be deemed an entrance; and the measurement shall be taken to the
52 center of the walkway or stairs at the point where it meets the building
53 line or public thoroughfare. A door which has no exterior hardware, or
54 which is used solely as an emergency or fire exit, or for maintenance
55 purposes, or which leads directly to a part of a building not regularly
56 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-

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

5 § 6. Paragraphs (a) and (b) of subdivision 3 of section 105 of the
6 alcoholic beverage control law, as amended by chapter 406 of the laws of
7 2007, are amended to read as follows:

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

23 (b) Within the context of this subdivision, the word "entrance" shall
24 mean a door of a school, of a house of worship, of a treatment facility
25 for individuals with mental illness or chemical dependence operated
26 pursuant to the mental hygiene law or of the premises sought to be
27 licensed, regularly used to give ingress to students of the school, to
28 the general public attending the place of worship, to patients and visi-
29 tors of the treatment facility and to patrons or guests of the premises
30 proposed to be licensed, except that where a school or house of worship
31 or treatment facility is set back from a public thoroughfare, the walk-
32 way or stairs leading to any such door shall be deemed an entrance; and
33 the measurement shall be taken to the center of the walkway or stairs at
34 the point where it meets the building line or public thoroughfare. A
35 door which has no exterior hardware, or which is used solely as an emer-
36 gency or fire exit, or for maintenance purposes, or which leads directly
37 to a part of a building not regularly used by the general public or
38 patrons, is not deemed an "entrance".

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