STATE OF NEW YORK

2452--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. FAHY, LUPARDO, REYES, J. RIVERA, COOK, D. ROSENTHAL, TAYLOR, STIRPE, WOERNER, CRUZ, PICHARDO, DAVILA, WALLACE, SANTABARBARA, HEVESI, GUNTHER, ROZIC, SAYEGH, DeSTEFANO, MANKTELOW, ASHBY, FORREST, McDONALD, HUNTER, GALEF, CONRAD, McMAHON, GONZALEZ-ROJAS, RICHARDSON, BARRETT, SILLITTI, GRIFFIN, ZINERMAN, RODRIGUEZ, CLARK, BUTTENSCHON -- read once and referred to the Committee on Economic Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the alcoholic beverage control law, in relation to issuance of licenses to motion picture theatres to sell wine and beer; and providing for the repeal of certain provisions upon the expiration thereof

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

Section 1. Section 81-a of the alcoholic beverage control law is amended by adding a new subdivision 5 to read as follows:

5. a. Notwithstanding anything to the contrary, a special license under this section may be granted to a motion picture theatre giving due regard to the convenience of the public and the strict avoidance of sales prohibited by this chapter.

b. A special license under this section may be granted to a motion picture theatre. For the purposes of this subdivision, "motion picture theatre" shall mean a building or facility which is regularly used and kept open primarily for the exhibition of motion pictures for at least five out of seven days a week, or on a regular seasonal basis of no less than six contiguous weeks, to the general public; (i) where all auditorium seating is permanently affixed to the floor; (ii) where at least sixty-five percent of the motion picture theatre's annual gross revenues is the combined result of admission revenue for the showing of motion pictures and the sale of food and non-alcoholic beverages; (iii) which regularly keeps available for sale to its customers for consumption on

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

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the premises food that is typically found in a motion picture theatre including, but not limited to, popcorn, candy and light snacks; and (iv) which is not located in a city with a population of one million or more.

§ 2. Section 106 of the alcoholic beverage control law is amended by adding a new subdivision 16 to read as follows:

16. A person holding a special license to sell wine at retail for consumption in a motion picture theatre pursuant to subdivision five of section eighty-one-a of this chapter shall:

(a) for every purchase of an alcoholic beverage, require the purchaser to provide written evidence of age as set forth in paragraph (b) of subdivision two of section sixty-five-b of this chapter;

(b) allow the purchase of no more than two alcoholic beverages per ticket;

(c) not commence the sale of alcoholic beverages until: (i) one hour prior to the start of the first motion picture, but no earlier than four prime meridian; or (ii) at the time at which the sale or service of alcoholic beverages for consumption on the premises in the county in which the premises is located may commence; whichever is later;

(d) cease all sales of alcoholic beverages: (i) after the conclusion of the final motion picture; or (ii) at the time at which the sale or service of alcoholic beverages for consumption on the premises in the county in which the premises is located must cease, whichever is earlier;

(e) prepare and submit as part of a complete application to the authority an alcoholic beverage control plan to ensure public safety and to prevent those under the age of twenty-one from acquiring alcoholic beverages while in a motion picture theatre. Such plan may consider: the times of showings, the setting of the theatre, usual clientele, and any other factors the authority shall consider necessary. Such plan shall be based on guidance and templates prepared by the authority; and

(f) permit consumption of alcoholic beverages only in screening rooms that are limited to patrons aged seventeen or older unless accompanied by a parent or adult guardian.

§ 3. Subdivision 1 of section 110 of the alcoholic beverage control law is amended by adding a new paragraph (j) to read as follows:

(j) In the case of a motion picture theatre applying for a special license under subdivision five of section eighty-one-a of this chapter, any municipality required to be notified under section one hundred ten-b of this article shall provide written notice that such municipality has no objection to such application being deemed complete.

§ 4. Subdivision 6 of section 110 of the alcoholic beverage control law, as amended by chapter 188 of the laws of 2013, is amended to read as follows:

6. The authority may in its discretion waive the submission of any category of information described in this section for any category of license or permit, provided that it shall not be permitted to waive the requirement for submission of any such category of information solely for an individual applicant or applicants and provided further that no waiver of paragraph (f) or paragraph (j) of subdivision one of this section shall be made.

§ 5. Severability clause. If any provision of this act or application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the act, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 6. This act shall take effect immediately provided, however, that the provisions of section one of this act shall expire 5 years after such date when upon such date the provisions of such section shall be deemed repealed. Notwithstanding such repeal, any license issued pursuant to the provisions of section one of this act prior to the date of repeal of such section shall remain in effect and may be renewed subject to the terms of such license.