

# STATE OF NEW YORK

5979

2021-2022 Regular Sessions

## IN SENATE

March 24, 2021

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to providing for alternative penalties for a first time violation of certain provisions of the alcoholic beverage control law; and to repeal certain provisions of such law related thereto

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

1 Section 1. Subdivision 3 of section 130 of the alcoholic beverage  
2 control law, as amended by chapter 321 of the laws of 1977, is amended  
3 to read as follows:

4 3. (a) Any violation by any person of any provision of this chapter  
5 for which no punishment or penalty is otherwise provided shall be a  
6 misdemeanor, provided, however, that the provisions of this [~~subdivi-~~  
7 ~~sion~~] paragraph shall not apply to the prohibitions provided for in  
8 subdivision six-a of section one hundred six of this [~~chapter~~] article.

9 (b) In lieu of such misdemeanor penalty as provided for in paragraph  
10 (a) of this subdivision, for a first time violation of either this chap-  
11 ter, an authority rule, or regulation, any of which are related to  
12 administrative or paperwork violations submitted to or requested by the  
13 authority or to actions or omissions that are reasonably determined by  
14 the authority to be de minimus under the circumstances, the authority  
15 shall provide for a cure period or other opportunity for ameliorative  
16 action if the violation can be corrected, the successful completion of  
17 which will prevent the imposition of penalties on the party or parties  
18 subject to enforcement of such violation. Provided, however, that the  
19 provisions of this paragraph shall not apply to the prohibitions  
20 provided for in section sixty-five or subdivision six-a of section one  
21 hundred six of this chapter. Further, no waiver of penalties or cure  
22 period or other opportunity for ameliorative action may be given if the

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

LBD08665-01-1

1 authority determines that such violation may result in serious actual  
2 harm, or may present an endangerment to public safety, human health or  
3 the environment, is a violation of human or civil rights law, results in  
4 loss of employee wages or benefits, interferes with any remedy, review,  
5 or resolution related to harassment or discrimination claims, was or is  
6 a willful violation, involves tax fraud, violates requirements related  
7 to federal funding to the state, relates to state funding or procure-  
8 ment, is similar to prior violations, is a penal law violation, relates  
9 to a material or substantive portion of the licensee's business, or is  
10 in contravention of the public interest and/or policy reflected by the  
11 authority's mission. Upon such first violation, the authority shall (i)  
12 provide the licensee with a copy of the applicable rule or regulation  
13 guides pursuant to section one hundred two-a of the state administrative  
14 procedure act and any other helpful guidance or information detailing  
15 the authority's rules and regulations, to the extent such materials  
16 exist, or (ii) to the extent practicable, provide such licensee assist-  
17 ance with compliance with the authority's rules and regulations. The  
18 authority shall have the discretion to determine the appropriate period  
19 of time to allow such licensee to cure or take such other ameliorative  
20 action to address such violation, which shall be reasonable but shall  
21 not be less than fifteen business days and not more than twenty business  
22 days unless a longer period is allowed pursuant to law or regulation.

23 § 2. Subdivision 5 of section 130 of the alcoholic beverage control  
24 law is REPEALED.

25 § 3. This act shall take effect on the forty-fifth day after it shall  
26 have become a law.