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:

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

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

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

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

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

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