STATE OF NEW YORK

6256

2021-2022 Regular Sessions

IN SENATE

April 19, 2021

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the alcoholic beverage control law, in relation to temporary permits; to amend chapter 396 of the laws of 2010, relating to liquidator's permits and temporary retail permits, in relation to the effectiveness thereof; and to repeal certain provisions of such law relating thereto

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

Section 1. Section 76-b of the alcoholic beverage control law is REPEALED.

§ 2. Subdivision 1-b of section 83 of the alcoholic beverage control law is REPEALED.

§ 3. Paragraph (b) of subdivision 1 of section 97-a of the alcoholic beverage control law, as added by chapter 396 of the laws of 2010, is amended to read as follows:

(b) to the applicant for a new retail license [~~where the prospective licensed premises is located in a municipality with a population of less than one million~~] during the period that the application is pending.

§ 4. Paragraphs (b) and (c) of subdivision 5 of section 97-a of the alcoholic beverage control law, as added by chapter 396 of the laws of 2010, are amended and a new paragraph (d) is added to read as follows:

(b) in the case of all other retail applications, to purchase and sell such alcoholic beverages as would be permitted to be purchased and sold under the privileges of the license applied for; [~~and~~]

(c) to sell such alcoholic beverages to consumers only and not for resale[~~.~~]**; and**

(d) in the case of a permit granted under paragraph (b) of subdivision one of this section where the prospective licensed premises are located in a municipality with a population of more than one million, to operate

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

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the premises only under the following conditions: the premises shall close no later than twelve o'clock antemeridian each day, shall have recorded background music only, with no live music, DJ's, karaoke, or similar forms of music, and shall have no dancing.

§ 5. The alcoholic beverage control law is amended by adding a new section 97-c to read as follows:

§ 97-c. Temporary manufacturing permit. 1. Any person may apply to the liquor authority for a temporary permit to operate any alcoholic beverage manufacturing facility as may be licensed under this chapter. Such application shall be in writing and verified and shall contain information as the liquor authority shall require. Such application shall be accompanied by a check or draft in the amount of one hundred twenty-five dollars for such permit.

2. Upon application, the liquor authority may issue such temporary permit when:

(a) the applicant has a manufacturing license application at the same premises pending before the liquor authority, together with all required filing and license fees; and

(b) the applicant has obtained and provided evidence of all permits, licenses and other documents necessary for the operation of such a business; and

(c) any current license in effect at the premises has been surrendered or placed in safekeeping, or has been deemed abandoned by the authority.

3. The liquor authority in granting such permit shall ensure that:

(a) issuance of the permit will not inordinately hinder the operation or effective administration of this chapter; and

(b) the applicant would in all likelihood be able to ultimately obtain the manufacturing license being applied for; and

(c) the applicant has substantially complied with the requirements necessary to obtain such license.

4. The application for a permit shall be approved or denied by the liquor authority within forty-five days after the receipt of such application.

5. A temporary permit shall authorize the permittee to operate a manufacturing facility for the manufacture and sale of alcoholic beverages according to the laws applicable to the type of manufacturing license being applied for.

6. Such temporary permit shall remain in effect for six months or until the manufacturing license being applied for is approved and the license granted, whichever is shorter. Such permit may be extended at the discretion of the liquor authority for additional three-month periods of time upon payment of an additional fee of fifty dollars for each such extension.

7. Notwithstanding any provision of law to the contrary, a temporary permit may be summarily cancelled or suspended at any time if the liquor authority determines that good cause for cancellation or suspension exists. The liquor authority shall promptly notify the permittee in writing of such cancellation or suspension and shall set forth the reasons for such action.

8. The liquor authority in reviewing such application shall review the entire record and grant the temporary permit unless good cause is otherwise shown. A decision on an application shall be based on substantial evidence in the record and supported by a preponderance of the evidence in favor of the applicant.

§ 6. Section 5 of chapter 396 of the laws of 2010, amending the alcoholic beverage control law, relating to liquidator's permits and tempo-

rary retail permits, as amended by section 1 of item AAA of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 5. This act shall take effect on the sixtieth day after it shall have become a law[~~, provided that paragraph (b) of subdivision 1 of section 97-a of the alcoholic beverage control law as added by section two of this act shall expire and be deemed repealed October 12, 2021~~].

§ 7. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that upon effect, any valid permit issued under section 76-b of the alcoholic beverage control law shall remain in effect according to the terms of section 76-b of the alcoholic beverage control law as if such section had not been repealed, and provided further, any application duly submitted prior to the effective date of this act and not yet acted upon shall be processed as if such section had not been repealed, and if such application is approved, any permit issued shall remain in effect according to the terms of section 76-b of the alcoholic beverage control law as if such section had not been repealed.