STATE OF NEW YORK

9049

IN SENATE

May 5, 2022

Introduced by Sen. KAPLAN -- 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 licenses to sell liquor at off-premises catering establishments

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

Section 1. Subdivision 7-a of section 3 of the alcoholic beverage control law, as added by chapter 682 of the laws of 1935, is amended to read as follows:

7-a. **(a)** "Catering establishment" means and includes any premises owned or operated by any person, firm, association, partnership or corporation who or which regularly and in a bona fide manner furnishes for hire therein one or more ballrooms, reception rooms, dining rooms, banquet halls, dancing halls or similar places of assemblage for a particular function, occasion or event and/or who or which furnishes provisions and service for consumption or use at such function, occasion or event. Such premises must have suitable and adequate facilities and accommodations to provide food and service for not less than fifty persons at any one function, occasion or event and shall in no event be deemed to include any taxi dance hall or any other premises at which public dances are regularly scheduled to be held daily, weekly or monthly and to which the general public is invited.

(b) "Off-premises catering establishment" means and includes any premises owned or operated by any person, firm, association, partnership or corporation who or which regularly and in a bona fide manner furnishes for hire at a site remote from the premises for a particular function, occasion, or event provisions and service for consumption or use at such function, occasion or event. Such premises must have suitable and adequate facilities to provide food for not less than fifty persons. On-premises consumption shall not be allowed at such premises.

§ 2. The alcoholic beverage control law is amended by adding a new section 64-e to read as follows:

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

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§ 64-e. License to sell liquor at retail as an off-premises catering establishment. 1. Any person may make an application to the authority for a license to sell liquor at a site remote from the licensed premises of an off-premises catering establishment as defined pursuant to paragraph (b) of subdivision seven-a of section three of this chapter, and such licenses shall be issued to all applicants except for good cause shown.

2. Such application shall be in such form and shall contain such information as shall be required by the rules of the authority and shall be accompanied by a check or draft or other form of payment acceptable to the authority in the amount required by this article for such license.

3. Section fifty-four of this chapter shall control the procedure in connection with such application, so far as applicable.

4. Such license shall in form and in substance be a license to the person specifically licensed to sell liquors at retail, to be consumed only at sites at which a permit has been applied for and granted as provided for in section ninety-eight of this chapter. Such license shall also be deemed to include a license to sell wine and beer at retail to be consumed under the same terms and conditions, without the payment of any additional fee.

§ 3. Subdivision 4 of section 66 of the alcoholic beverage control law, as amended by section 3 of part Z of chapter 85 of the laws of 2002, is amended to read as follows:

4. The annual fee for a license, under section sixty-four or sixty-four-a of this article, to sell liquor at retail to be consumed on the premises where sold shall be twenty-one hundred seventy-six dollars in the counties of New York, Kings, Bronx and Queens; fifteen hundred thirty-six dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; twelve hundred sixteen dollars in cities having a population of more than fifty thousand and less than one hundred thousand; and the sum of eight hundred ninety-six dollars elsewhere; except that the license fees for catering establishments and off-premises catering establishments shall be two-thirds the license fee specified herein and for clubs, except luncheon clubs and golf clubs, shall be seven hundred fifty dollars in counties of New York, Kings, Bronx and Queens; five hundred dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; three hundred fifty dollars in cities having a population of more than fifty thousand and less than one hundred thousand; and the sum of two hundred fifty dollars elsewhere. The annual fees for luncheon clubs shall be three hundred seventy-five dollars, and for golf clubs in the counties of New York, Kings, Bronx, Queens, Nassau, Richmond and Westchester, two hundred fifty dollars, and elsewhere one hundred eighty-seven dollars and fifty cents. Notwithstanding any other provision of law to the contrary, there shall be no annual fee for a license, under section sixty-four, to sell liquor at retail to be consumed on the premises where the applicant is an organization organized under section two hundred sixty of the military law and incorporated pursuant to the not-for-profit corporation law. Provided, however, that where any premises for which a license is issued pursuant to section sixty-four or sixty-four-a of this article remain open only within the period commencing April first and ending October thirty-first of any one year, or only within the period commencing October first and ending the following April thirtieth, the liquor authority may, in its discretion, grant a

summer or winter license effective only for such appropriate period of time, for which a license fee shall be paid to be pro-rated for the period for which such license is effective, at the rate provided for in the city, town or village in which such premises are located, except that no such license fee shall be less than one-half of the regular annual license fee; provided further that where the premises to be licensed are a race track or a golf course or are licensed pursuant to section sixty-four or sixty-four-a of this [~~chapter~~] **article**, the period of such summer license may commence March first and end November thirtieth.

Where a hotel, restaurant, club, golf course or race track is open prior to April first and/or subsequent to October thirty-first by reason of the issuance of a caterer's permit or permits issued by the authority, such fact alone shall not affect the eligibility of the premises or the person owning or operating such hotel, restaurant, club, golf course or race track for a summer license.

§ 4. Section 67 of the alcoholic beverage control law, as amended by section 4 of part Z of chapter 85 of the laws of 2002, is amended to read as follows:

§ 67. License fees, duration of licenses; fee for part of year. Effective April first, nineteen hundred eighty-three, licenses issued pursuant to sections sixty-one, sixty-two, sixty-three, sixty-four, sixty-four-a [~~and~~]**,** sixty-four-b **and sixty-four-e** of this article shall be effective for three years at three times that annual fee, except that, in implementing the purposes of this section, the liquor authority shall schedule the commencement dates, duration and expiration dates thereof to provide for an equal cycle of license renewals issued under each such section through the course of the fiscal year. Effective December first, nineteen hundred ninety-eight, licenses issued pursuant to sections sixty-four, sixty-four-a and sixty-four-b of this article shall be effective for two years at two times that annual fee, except that, in implementing the purposes of this section, the liquor authority shall schedule the commencement dates, duration and expiration dates thereof to provide for an equal cycle of license renewals issued under each such section through the course of the fiscal year. Notwithstanding the foregoing, commencing on December first, nineteen hundred ninety-eight and concluding on July thirty-first, two thousand two, a licensee issued a license pursuant to section sixty-four, sixty-four-a or sixty-four-b of this article may elect to remit the fee for such license in equal annual installments. Such installments shall be due on dates established by the liquor authority and the failure of a licensee to have remitted such annual installments after a due date shall be a violation of this chapter. For licenses issued for less than the three-year licensing period, the license fee shall be levied on a pro-rated basis. The entire license fee shall be due and payable at the time of application. The liquor authority may make such rules as shall be appropriate to carry out the purpose of this section.

§ 5. Subdivisions 1 and 5 of section 98 of the alcoholic beverage control law, subdivision 1 as amended by section 21 of part Z of chapter 85 of the laws of 2002, and subdivision 5 as added by chapter 309 of the laws of 2007, are amended to read as follows:

1. The liquor authority is hereby authorized to issue to [~~caterers and other persons~~] **a retail licensee for on-premises consumption or a licensed off-premises caterer** furnishing provisions and service for use at a particular function, occasion or event in a hotel, restaurant, club, ballroom or other premises a temporary indoor permit effective for

a period not to exceed twenty-four consecutive hours, which shall authorize the service of alcoholic beverages at such function, occasion or event within the hours, fixed by or pursuant to subdivision five of section one hundred six of this chapter, during which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages at retail for on-premises consumption in the community in which is located the premises in which such function, occasion or event is held. The fee therefor shall be thirty-eight dollars. Such a permit and the exercise of the privilege granted thereby may be subjected to such rules by the liquor authority as it deems necessary and such rules as are in conformity with the provisions of subdivision two of this section. Such a permit may also be issued for functions, occasions or events at premises for which a summer license has been previously issued pursuant to this chapter.

5. Notwithstanding any other provision of this chapter or any rule of the liquor authority, the liquor authority is hereby authorized to issue, to caterers and other persons furnishing provisions and services for use at a particular function or occasion or event to be held at a winery or farm winery, a temporary indoor and/or outdoor permit effective for a period not to exceed twenty-four consecutive hours, which shall authorize the service of alcoholic beverages at such function, occasion or event within the hours as fixed by or pursuant to subdivision five of section one hundred six of this chapter, during which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages at retail for on-premises consumption in the community in which is located the premises in which such function, occasion or event is held. The issuance of a caterer's permit under this section shall in no way prohibit or suspend the lawful operation of the winery or farm winery licensed under this chapter. For purposes of this subdivision, both the permittee and the winery or farm winery licensee shall be responsible for any violations of this chapter or the rules of the authority occurring while the permit is in effect. Liability under the provisions of sections 11-100 and 11-101 of the general obligations law shall accrue to both the permittee and the winery or farm winery licensee. The fee for the permit shall be thirty-eight dollars**, provided, however, that no fee shall be charged to a licensed off-premises caterer**. Such a permit and the exercise of the privilege granted thereby may be subjected to such rules by the liquor authority as it deems necessary.

§ 6. Paragraph (a) of subdivision 9 of section 100 of the alcoholic beverage control law, as amended by chapter 39 of the laws of 2020, is amended to read as follows:

(a) Within ten days after filing a new application or an application for renewal to sell liquor under section sixty-four, sixty-four-a, sixty-four-b, sixty-four-c [~~or~~] **,** sixty-four-d **or sixty-four-e** of this chapter, a notice thereof shall be posted by the applicant in a conspicuous place at the entrance to the establishment or proposed establishment where it can be easily read by passers-by. Said notice shall be in a form prescribed by the authority, provided however that said notice shall be either printed or highlighted in a pink ink of a neon, luminous or fluorescent variety. The notice shall specify the application date, the type of license, any identifying number assigned by the authority, if available at the time of posting such notice, and how to contact the state liquor authority to give a response to the application. The applicant shall make reasonable efforts to insure such notice shall remain posted throughout the pendency of such application. Additionally, within

ten days of the applicant's receipt of a written request from the authority, the applicant shall re-post such notice. The authority may adopt such rules as it may deem necessary to carry out the purpose of this paragraph.

§ 7. The opening paragraph of subdivision 2 of section 102 of the alcoholic beverage control law, as separately amended by section 1 of part OO and section 3 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

No person holding any license hereunder, other than a license to sell an alcoholic beverage at retail for off-premises consumption or a license or special license to sell an alcoholic beverage at retail for consumption on the premises where such license authorizes the sale of liquor, beer and/or wine on the premises of a catering establishment, **off-premises catering establishment,** hotel, restaurant, club, or recreational facility, shall knowingly employ in connection with his business in any capacity whatsoever, any person, who has been convicted of a felony, or any of the following offenses, who has not subsequent to such conviction received an executive pardon therefor removing any civil disabilities incurred thereby, a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law, or other relief from disabilities provided by law, or the written approval of the state liquor authority permitting such employment, to wit:

§ 8. This act shall take effect immediately.