

# STATE OF NEW YORK

10176

## IN ASSEMBLY

May 5, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Thiele) --  
read once and referred to the Committee on Economic Development

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 Assem-  
bly, do enact as follows:

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

4 7-a. (a) "Catering establishment" means and includes any premises  
5 owned or operated by any person, firm, association, partnership or  
6 corporation who or which regularly and in a bona fide manner furnishes  
7 for hire therein one or more ballrooms, reception rooms, dining rooms,  
8 banquet halls, dancing halls or similar places of assemblage for a  
9 particular function, occasion or event and/or who or which furnishes  
10 provisions and service for consumption or use at such function, occasion  
11 or event. Such premises must have suitable and adequate facilities and  
12 accommodations to provide food and service for not less than fifty  
13 persons at any one function, occasion or event and shall in no event be  
14 deemed to include any taxi dance hall or any other premises at which  
15 public dances are regularly scheduled to be held daily, weekly or month-  
16 ly and to which the general public is invited.

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

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

27 § 64-e. License to sell liquor at retail as an off-premises catering  
28 establishment. 1. Any person may make an application to the authority

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

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1 for a license to sell liquor at a site remote from the licensed premises  
2 of an off-premises catering establishment as defined pursuant to para-  
3 graph (b) of subdivision seven-a of section three of this chapter, and  
4 such licenses shall be issued to all applicants except for good cause  
5 shown.

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

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

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

20 § 3. Subdivision 4 of section 66 of the alcoholic beverage control  
21 law, as amended by section 3 of part Z of chapter 85 of the laws of  
22 2002, is amended to read as follows:

23 4. The annual fee for a license, under section sixty-four or sixty-  
24 four-a of this article, to sell liquor at retail to be consumed on the  
25 premises where sold shall be twenty-one hundred seventy-six dollars in  
26 the counties of New York, Kings, Bronx and Queens; fifteen hundred thir-  
27 ty-six dollars in the county of Richmond and in cities having a popu-  
28 lation of more than one hundred thousand and less than one million;  
29 twelve hundred sixteen dollars in cities having a population of more  
30 than fifty thousand and less than one hundred thousand; and the sum of  
31 eight hundred ninety-six dollars elsewhere; except that the license fees  
32 for catering establishments and off-premises catering establishments  
33 shall be two-thirds the license fee specified herein and for clubs,  
34 except luncheon clubs and golf clubs, shall be seven hundred fifty  
35 dollars in counties of New York, Kings, Bronx and Queens; five hundred  
36 dollars in the county of Richmond and in cities having a population of  
37 more than one hundred thousand and less than one million; three hundred  
38 fifty dollars in cities having a population of more than fifty thousand  
39 and less than one hundred thousand; and the sum of two hundred fifty  
40 dollars elsewhere. The annual fees for luncheon clubs shall be three  
41 hundred seventy-five dollars, and for golf clubs in the counties of New  
42 York, Kings, Bronx, Queens, Nassau, Richmond and Westchester, two  
43 hundred fifty dollars, and elsewhere one hundred eighty-seven dollars  
44 and fifty cents. Notwithstanding any other provision of law to the  
45 contrary, there shall be no annual fee for a license, under section  
46 sixty-four, to sell liquor at retail to be consumed on the premises  
47 where the applicant is an organization organized under section two  
48 hundred sixty of the military law and incorporated pursuant to the not-  
49 for-profit corporation law. Provided, however, that where any premises  
50 for which a license is issued pursuant to section sixty-four or sixty-  
51 four-a of this article remain open only within the period commencing  
52 April first and ending October thirty-first of any one year, or only  
53 within the period commencing October first and ending the following  
54 April thirtieth, the liquor authority may, in its discretion, grant a  
55 summer or winter license effective only for such appropriate period of  
56 time, for which a license fee shall be paid to be pro-rated for the

1 period for which such license is effective, at the rate provided for in  
2 the city, town or village in which such premises are located, except  
3 that no such license fee shall be less than one-half of the regular  
4 annual license fee; provided further that where the premises to be  
5 licensed are a race track or a golf course or are licensed pursuant to  
6 section sixty-four or sixty-four-a of this ~~chapter~~ article, the period  
7 of such summer license may commence March first and end November thirti-  
8 eth.

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

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

18 § 67. License fees, duration of licenses; fee for part of year.  
19 Effective April first, nineteen hundred eighty-three, licenses issued  
20 pursuant to sections sixty-one, sixty-two, sixty-three, sixty-four,  
21 sixty-four-a ~~and~~, sixty-four-b and sixty-four-e of this article shall  
22 be effective for three years at three times that annual fee, except  
23 that, in implementing the purposes of this section, the liquor authority  
24 shall schedule the commencement dates, duration and expiration dates  
25 thereof to provide for an equal cycle of license renewals issued under  
26 each such section through the course of the fiscal year. Effective  
27 December first, nineteen hundred ninety-eight, licenses issued pursuant  
28 to sections sixty-four, sixty-four-a and sixty-four-b of this article  
29 shall be effective for two years at two times that annual fee, except  
30 that, in implementing the purposes of this section, the liquor authority  
31 shall schedule the commencement dates, duration and expiration dates  
32 thereof to provide for an equal cycle of license renewals issued under  
33 each such section through the course of the fiscal year. Notwithstanding  
34 the foregoing, commencing on December first, nineteen hundred ninety-  
35 eight and concluding on July thirty-first, two thousand two, a licensee  
36 issued a license pursuant to section sixty-four, sixty-four-a or sixty-  
37 four-b of this article may elect to remit the fee for such license in  
38 equal annual installments. Such installments shall be due on dates  
39 established by the liquor authority and the failure of a licensee to  
40 have remitted such annual installments after a due date shall be a  
41 violation of this chapter. For licenses issued for less than the three-  
42 year licensing period, the license fee shall be levied on a pro-rated  
43 basis. The entire license fee shall be due and payable at the time of  
44 application. The liquor authority may make such rules as shall be appro-  
45 priate to carry out the purpose of this section.

46 § 5. Subdivisions 1 and 5 of section 98 of the alcoholic beverage  
47 control law, subdivision 1 as amended by section 21 of part Z of chapter  
48 85 of the laws of 2002, and subdivision 5 as added by chapter 309 of the  
49 laws of 2007, are amended to read as follows:

50 1. The liquor authority is hereby authorized to issue to ~~[caterers and~~  
51 ~~other persons]~~ a retail licensee for on-premises consumption or a  
52 licensed off-premises caterer furnishing provisions and service for use  
53 at a particular function, occasion or event in a hotel, restaurant,  
54 club, ballroom or other premises a temporary indoor permit effective for  
55 a period not to exceed twenty-four consecutive hours, which shall  
56 authorize the service of alcoholic beverages at such function, occasion

1 or event within the hours, fixed by or pursuant to subdivision five of  
2 section one hundred six of this chapter, during which alcoholic beverag-  
3 es may lawfully be sold or served upon premises licensed to sell alco-  
4 holic beverages at retail for on-premises consumption in the community  
5 in which is located the premises in which such function, occasion or  
6 event is held. The fee therefor shall be thirty-eight dollars. Such a  
7 permit and the exercise of the privilege granted thereby may be  
8 subjected to such rules by the liquor authority as it deems necessary  
9 and such rules as are in conformity with the provisions of subdivision  
10 two of this section. Such a permit may also be issued for functions,  
11 occasions or events at premises for which a summer license has been  
12 previously issued pursuant to this chapter.

13 5. Notwithstanding any other provision of this chapter or any rule of  
14 the liquor authority, the liquor authority is hereby authorized to  
15 issue, to caterers and other persons furnishing provisions and services  
16 for use at a particular function or occasion or event to be held at a  
17 winery or farm winery, a temporary indoor and/or outdoor permit effec-  
18 tive for a period not to exceed twenty-four consecutive hours, which  
19 shall authorize the service of alcoholic beverages at such function,  
20 occasion or event within the hours as fixed by or pursuant to subdivi-  
21 sion five of section one hundred six of this chapter, during which alco-  
22 holic beverages may lawfully be sold or served upon premises licensed to  
23 sell alcoholic beverages at retail for on-premises consumption in the  
24 community in which is located the premises in which such function, occa-  
25 sion or event is held. The issuance of a caterer's permit under this  
26 section shall in no way prohibit or suspend the lawful operation of the  
27 winery or farm winery licensed under this chapter. For purposes of this  
28 subdivision, both the permittee and the winery or farm winery licensee  
29 shall be responsible for any violations of this chapter or the rules of  
30 the authority occurring while the permit is in effect. Liability under  
31 the provisions of sections 11-100 and 11-101 of the general obligations  
32 law shall accrue to both the permittee and the winery or farm winery  
33 licensee. The fee for the permit shall be thirty-eight dollars,  
34 provided, however, that no fee shall be charged to a licensed off-prem-  
35 ises caterer. Such a permit and the exercise of the privilege granted  
36 thereby may be subjected to such rules by the liquor authority as it  
37 deems necessary.

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

41 (a) Within ten days after filing a new application or an application  
42 for renewal to sell liquor under section sixty-four, sixty-four-a,  
43 sixty-four-b, sixty-four-c ~~[or]~~ , sixty-four-d or sixty-four-e of this  
44 chapter, a notice thereof shall be posted by the applicant in a conspic-  
45 uous place at the entrance to the establishment or proposed establish-  
46 ment where it can be easily read by passers-by. Said notice shall be in  
47 a form prescribed by the authority, provided however that said notice  
48 shall be either printed or highlighted in a pink ink of a neon, luminous  
49 or fluorescent variety. The notice shall specify the application date,  
50 the type of license, any identifying number assigned by the authority,  
51 if available at the time of posting such notice, and how to contact the  
52 state liquor authority to give a response to the application. The appli-  
53 cant shall make reasonable efforts to insure such notice shall remain  
54 posted throughout the pendency of such application. Additionally, within  
55 ten days of the applicant's receipt of a written request from the  
56 authority, the applicant shall re-post such notice. The authority may

1 adopt such rules as it may deem necessary to carry out the purpose of  
2 this paragraph.

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

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

22 § 8. This act shall take effect immediately.