

STATE OF NEW YORK

2452--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. FAHY, LUPARDO, REYES, J. RIVERA, COOK, D. ROSEN-
THAL, TAYLOR, STIRPE, WOERNER, CRUZ, PICHARDO, DAVILA, WALLACE, SANTA-
BARBARA, HEVESI, GUNTHER, ROZIC, SAYEGH, DeSTEFANO, MANKTELOW, ASHBY,
FORREST, McDONALD, HUNTER, GALEF, CONRAD, McMAHON, GONZALEZ-ROJAS,
RICHARDSON, BARRETT, SILLITTI, GRIFFIN, ZINERMAN, RODRIGUEZ, CLARK,
BUTTENSCHON -- read once and referred to the Committee on Economic
Development -- committee discharged, bill amended, ordered reprinted
as amended and recommitted to said committee

AN ACT to amend the alcoholic beverage control law, in relation to issu-
ance of licenses to motion picture theatres to sell wine and beer; and
providing for the repeal of certain provisions upon the expiration
thereof

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

1 Section 1. Section 81-a of the alcoholic beverage control law is
2 amended by adding a new subdivision 5 to read as follows:

3 5. a. Notwithstanding anything to the contrary, a special license
4 under this section may be granted to a motion picture theatre giving due
5 regard to the convenience of the public and the strict avoidance of
6 sales prohibited by this chapter.

7 b. A special license under this section may be granted to a motion
8 picture theatre. For the purposes of this subdivision, "motion picture
9 theatre" shall mean a building or facility which is regularly used and
10 kept open primarily for the exhibition of motion pictures for at least
11 five out of seven days a week, or on a regular seasonal basis of no less
12 than six contiguous weeks, to the general public; (i) where all audito-
13 rium seating is permanently affixed to the floor; (ii) where at least
14 sixty-five percent of the motion picture theatre's annual gross revenues
15 is the combined result of admission revenue for the showing of motion
16 pictures and the sale of food and non-alcoholic beverages; (iii) which
17 regularly keeps available for sale to its customers for consumption on

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

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1 the premises food that is typically found in a motion picture theatre
2 including, but not limited to, popcorn, candy and light snacks; and (iv)
3 which is not located in a city with a population of one million or more.

4 § 2. Section 106 of the alcoholic beverage control law is amended by
5 adding a new subdivision 16 to read as follows:

6 16. A person holding a special license to sell wine at retail for
7 consumption in a motion picture theatre pursuant to subdivision five of
8 section eighty-one-a of this chapter shall:

9 (a) for every purchase of an alcoholic beverage, require the purchaser
10 to provide written evidence of age as set forth in paragraph (b) of
11 subdivision two of section sixty-five-b of this chapter;

12 (b) allow the purchase of no more than two alcoholic beverages per
13 ticket;

14 (c) not commence the sale of alcoholic beverages until: (i) one hour
15 prior to the start of the first motion picture, but no earlier than four
16 prime meridian; or (ii) at the time at which the sale or service of
17 alcoholic beverages for consumption on the premises in the county in
18 which the premises is located may commence; whichever is later;

19 (d) cease all sales of alcoholic beverages: (i) after the conclusion
20 of the final motion picture; or (ii) at the time at which the sale or
21 service of alcoholic beverages for consumption on the premises in the
22 county in which the premises is located must cease, whichever is earli-
23 er;

24 (e) prepare and submit as part of a complete application to the
25 authority an alcoholic beverage control plan to ensure public safety and
26 to prevent those under the age of twenty-one from acquiring alcoholic
27 beverages while in a motion picture theatre. Such plan may consider: the
28 times of showings, the setting of the theatre, usual clientele, and any
29 other factors the authority shall consider necessary. Such plan shall be
30 based on guidance and templates prepared by the authority; and

31 (f) permit consumption of alcoholic beverages only in screening rooms
32 that are limited to patrons aged seventeen or older unless accompanied
33 by a parent or adult guardian.

34 § 3. Subdivision 1 of section 110 of the alcoholic beverage control
35 law is amended by adding a new paragraph (j) to read as follows:

36 (j) In the case of a motion picture theatre applying for a special
37 license under subdivision five of section eighty-one-a of this chapter,
38 any municipality required to be notified under section one hundred ten-b
39 of this article shall provide written notice that such municipality has
40 no objection to such application being deemed complete.

41 § 4. Subdivision 6 of section 110 of the alcoholic beverage control
42 law, as amended by chapter 188 of the laws of 2013, is amended to read
43 as follows:

44 6. The authority may in its discretion waive the submission of any
45 category of information described in this section for any category of
46 license or permit, provided that it shall not be permitted to waive the
47 requirement for submission of any such category of information solely
48 for an individual applicant or applicants and provided further that no
49 waiver of paragraph (f) or paragraph (j) of subdivision one of this
50 section shall be made.

51 § 5. Severability clause. If any provision of this act or application
52 thereof shall for any reason be adjudged by any court of competent
53 jurisdiction to be invalid, such judgment shall not affect, impair, or
54 invalidate the remainder of the act, but shall be confined in its opera-
55 tion to the provision thereof directly involved in the controversy in
56 which the judgment shall have been rendered.

1 § 6. This act shall take effect immediately provided, however, that
2 the provisions of section one of this act shall expire 5 years after
3 such date when upon such date the provisions of such section shall be
4 deemed repealed. Notwithstanding such repeal, any license issued pursu-
5 ant to the provisions of section one of this act prior to the date of
6 repeal of such section shall remain in effect and may be renewed subject
7 to the terms of such license.