STATE OF NEW YORK

3116

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. FAHY, WOERNER, LUPARDO -- read once and referred to the Committee on Economic Development

AN ACT in relation to permitting licensees under the alcoholic beverage control law to sell and deliver alcoholic beverages for off-premises consumption; and providing for the repeal of such provisions upon the expiration thereof

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

Section 1. a. Notwithstanding any other provision of law to the contrary, any on-premises licensee and any manufacturing licensee with on-premises retail privileges that is licensed pursuant to the alcoholic beverage control law may sell for off-premises consumption any alcoholic beverages that it is licensed to sell for on-premises consumption.

b. Alcoholic beverages sold for off-premises consumption pursuant to this section:

(i) may be sold in any closed or any sealed container of any size, provided that the sale of each container shall be accompanied by the purchase of food, and provided further that sales of such alcoholic beverages shall comply with any applicable municipal ordinances relating to open containers;

(ii) may be sold for takeout from the licensed premises, or may be delivered to the residence of a customer over the age of twenty-one, provided that deliveries shall be made in a vehicle permitted by the liquor authority or in a vehicle owned and operated or hired and operated by the licensee or its employee, and provided further that a copy of the permit or license must be present in such vehicle while making deliveries; and

(iii) may only be sold for off-premises consumption during the on-premises hours of operation of the county in which the premises is located or, if different, the hours of operation set forth in the licensee's method of operation with the liquor authority.

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

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c. The provisions of this section shall not be construed to modify or limit any off-premises privileges afforded by a licensee's current license.

d. The liquor authority shall conduct regular outreach to municipalities and community boards to solicit comment regarding the implementation of this act and the effects of this act on local communities. Not later than six months after the effective date of this act, the liquor authority shall report to the governor and the legislature on the implementation of this act, including a summary of comments the authority has received from municipalities and community boards.

e. Not sooner than four months and not later than two months before this act shall expire and be deemed repealed, the liquor authority shall conduct at least three public hearings to solicit public comment on the implementation of this act and the effects of this act on local communities, one of which shall take place in the City of New York, one of which shall take place in Western New York, and one of which shall take place in the Capital Region.

f. Notwithstanding any inconsistent provision of law to the contrary, the liquor authority may on its own initiative or on complaint of any person institute proceedings to suspend or revoke a licensee's ability to sell alcoholic beverages for off-premises consumption pursuant to this act after a hearing at which the licensee shall be given an opportunity to be heard. Such proceedings and such hearing shall be held in such manner and upon such notice as may be prescribed by the rules of the liquor authority, provided that:

(i) the liquor authority shall give written notice to the licensee and the municipality or community board at least fifteen days in advance of such hearing; and

(ii) a municipality or community board may express an opinion for or against allowing such licensee to continue to sell alcoholic beverages for off-premises consumption pursuant to this act. Any such opinion shall be deemed part of the record upon which the liquor authority makes its determination pursuant to this subdivision.

g. The liquor authority may promulgate rules and regulations to implement the provisions of this act.

§ 2. This act shall take effect immediately, and shall expire and be deemed repealed two years after the expiration of the state disaster emergency, as such term is defined in section 20 of the executive law, declared pursuant to executive order 202 of 2020, as amended.