STATE OF NEW YORK

4639

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

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

AN ACT to prohibit the issuance of violations or fines for failure to properly supervise certain premises during the COVID-19 state disaster emergency

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

Section 1. No violation or fine shall be issued by the state liquor authority, or its designee, to a licensee for failure to properly supervise their premises as a result of a violation of an executive order issued during the duration of the state disaster emergency declared pursuant to Executive Order No. 202 of 2020, as amended, and as further extended by any subsequent or future executive order, unless such violation is committed intentionally or recklessly pursuant to a prior written lawful order or direction to cease and desist such activities.

For purposes of this act, it shall be a presumption that the first violation of failure to supervise their premises shall not be determined to be an intentional or reckless disregard for the executive order unless such violation is established by clear and convincing evidence to rebut such presumption.

Any other fine issued by the state liquor authority to a licensee for a violation of an executive order issued during the duration of the state disaster emergency declared pursuant to Executive Order No. 202 of 2020, as amended, and as further extended by any subsequent or future executive order, shall be suspended if after six months such licensee does not have a subsequent violation of the alcoholic beverage control law or an executive order issued during the duration of the state disaster emergency declared pursuant to Executive Order No. 202 of 2020, as amended, and as further extended by any subsequent or future executive order, and is in compliance with the rules set forth in the license's application requirements.

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

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Any violation of an executive order issued during the duration of the state disaster emergency declared pursuant to Executive Order No. 202 of 2020, as amended, and as further extended by any subsequent or future executive order, sustained against a licensee by the state liquor authority shall not be considered adverse history in any future proceeding.

For the purposes of this section, the term "licensee" shall mean a person or entity who holds a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 7, 2020.