# STATE OF NEW YORK

5409

2021-2022 Regular Sessions

# IN ASSEMBLY

February 16, 2021

Introduced by M. of A. GANDOLFO, BYRNE, DeSTEFANO, J. A. GIGLIO, JENSEN, SMITH, TANNOUSIS, LAWLER, BRABENEC, BROWN, DURSO, REILLY, RA, MANKTELOW, MIKULIN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to the suspension of laws during a declared state of emergency; and permitting restaurants to remain open until midnight

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

Section 1. Subdivision 4 of section 29-a of the executive law, as amended by chapter 23 of the laws of 2020, is amended to read as follows:

4. The legislature may terminate by concurrent resolution **or by other legislative action any** executive [~~orders~~] **order, or may modify or amend by concurrent resolution or by other legislative action any specific provision or directive contained within any executive order** issued under this section at any time.

§ 2. Subdivision 4 of section 29-a of the executive law, as added by chapter 640 of the laws of 1978, is amended to read as follows:

4. The legislature may terminate by concurrent resolution **or by other legislative action any** executive [~~orders~~] **order, or may modify or amend by concurrent resolution or by other legislative action any specific provision or directive contained within any executive order** issued under this section at any time.

§ 3. Notwithstanding any provision or directive contained in executive order number 202 of 2020 or any further amendments, modifications or extensions pursuant to section 28 of the executive law, any restaurant shall be permitted to remain open for in-person dining until 12:00 AM, upon which time such restaurant shall cease in-person dining, and shall reopen no earlier than 5:00 AM; provided that such restaurant and the person or entity operating it are otherwise in compliance with all other

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

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applicable state or local laws, rules and regulations pertaining to its operation and any provisions of such executive order 202 not related to hours permitted for in-person dining.

§ 4. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

§ 5. This act shall take effect immediately, provided that the amendments to subdivision 4 of section 29-a of the executive law made by section one of this act shall be subject to the expiration and reversion of such section pursuant to chapter 23 of the laws of 2020, as amended, when upon such date the provisions of section two of this act shall take effect.