

# STATE OF NEW YORK

7757

2021-2022 Regular Sessions

## IN ASSEMBLY

May 21, 2021

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

AN ACT to amend the alcoholic beverage control law, in relation to temporary manufacturing permits; and to repeal certain provisions of such law relating thereto

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

- 1 Section 1. Section 76-b of the alcoholic beverage control law is  
2 REPEALED.
- 3 § 2. Subdivision 1-b of section 83 of the alcoholic beverage control  
4 law is REPEALED.
- 5 § 3. The alcoholic beverage control law is amended by adding a new  
6 section 97-c to read as follows:
- 7 § 97-c. Temporary manufacturing permit. 1. Any person may apply to the  
8 liquor authority for a temporary permit to operate any alcoholic beverage  
9 manufacturing facility as may be licensed under this chapter. Such  
10 application shall be in writing and verified and shall contain information  
11 as the liquor authority shall require. Such application shall be  
12 accompanied by a check or draft in the amount of one hundred twenty-five  
13 dollars for such permit.
- 14 2. Upon application, the liquor authority may issue such temporary  
15 permit when:
- 16 (a) the applicant has a manufacturing license application at the same  
17 premises pending before the liquor authority, together with all required  
18 filing and license fees; and
- 19 (b) the applicant has obtained and provided evidence of all permits,  
20 licenses and other documents necessary for the operation of such a business;  
21 and
- 22 (c) any current license in effect at the premises has been surrendered  
23 or placed in safekeeping, or has been deemed abandoned by the authority.
- 24 3. The liquor authority in granting such permit shall ensure that:

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

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1 (a) issuance of the permit will not inordinately hinder the operation  
2 or effective administration of this chapter; and

3 (b) the applicant would in all likelihood be able to ultimately obtain  
4 the manufacturing license being applied for; and

5 (c) the applicant has substantially complied with the requirements  
6 necessary to obtain such license.

7 4. The application for a permit shall be approved or denied by the  
8 liquor authority within forty-five days after the receipt of such appli-  
9 cation.

10 5. A temporary permit shall authorize the permittee to operate a manu-  
11 facturing facility for the manufacture and sale of alcoholic beverages  
12 according to the laws applicable to the type of manufacturing license  
13 being applied for.

14 6. Such temporary permit shall remain in effect for six months or  
15 until the manufacturing license being applied for is approved and the  
16 license granted, whichever is shorter. Such permit may be extended at  
17 the discretion of the liquor authority for additional three-month peri-  
18 ods of time upon payment of an additional fee of fifty dollars for each  
19 such extension.

20 7. Notwithstanding any provision of law to the contrary, a temporary  
21 permit may be summarily cancelled or suspended at any time if the liquor  
22 authority determines that good cause for cancellation or suspension  
23 exists. The liquor authority shall promptly notify the permittee in  
24 writing of such cancellation or suspension and shall set forth the  
25 reasons for such action.

26 8. The liquor authority in reviewing such application shall review the  
27 entire record and grant the temporary permit unless good cause is other-  
28 wise shown. A decision on an application shall be based on substantial  
29 evidence in the record and supported by a preponderance of the evidence  
30 in favor of the applicant.

31 § 4. This act shall take effect on the ninetieth day after it shall  
32 have become a law; provided, however, that upon effect, any valid permit  
33 issued under section 76-b of the alcoholic beverage control law shall  
34 remain in effect according to the terms of section 76-b of the alcoholic  
35 beverage control law as if such section had not been repealed, and  
36 provided further, any application duly submitted prior to the effective  
37 date of this act and not yet acted upon shall be processed as if such  
38 section had not been repealed, and if such application is approved, any  
39 permit issued shall remain in effect according to the terms of section  
40 76-b of the alcoholic beverage control law as if such section had not  
41 been repealed.