

STATE OF NEW YORK

3117

2021-2022 Regular Sessions

IN SENATE

January 27, 2021

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the alcoholic beverage control law, in relation to making the provisions governing the various on-premises liquor licenses consistent with respect to public interest factors that may be considered by the state liquor authority when evaluating the merits of a license application

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

1 Section 1. Subdivision 6-a of section 64 of the alcoholic beverage
2 control law, as added by chapter 670 of the laws of 1993, is amended to
3 read as follows:

4 6-a. The authority may consider [~~any--or~~] all of the following in
5 determining whether public convenience and advantage and the public
6 interest will be promoted by the granting of licenses and permits for
7 the sale of alcoholic beverages at a particular unlicensed location:

8 (a) [~~The~~] the number, classes and character of licenses in proximity
9 to the location and in the particular municipality or subdivision there-
10 of[~~-~~];

11 (b) [~~Evidence~~] evidence that all necessary licenses and permits have
12 been obtained from the state and all other governing bodies[~~-~~];

13 (c) [~~Effect~~] effect of the grant of the license on vehicular traffic
14 and parking in proximity to the location[~~-~~];

15 (d) [~~The~~] the existing noise level at the location and any increase in
16 noise level that would be generated by the proposed premises[~~-~~];

17 (e) [~~The~~] the history of liquor violations and reported criminal
18 activity at the proposed premises[~~-~~];

19 (f) history of building and fire violations at any businesses owned
20 and/or operated by the applicant;

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

LBD01946-01-1

1 (g) history of formal communication from the municipality or community
2 board made pursuant to this chapter for businesses owned and/or operated
3 by the applicant; and

4 (h) [Any] any other factors specified by law or regulation that are
5 relevant to determine the public convenience and advantage [and public
6 interest of the community] and necessary to find that the granting of
7 such license shall be in the public interest.

8 § 2. Section 64-a of the alcoholic beverage control law is amended by
9 adding a new subdivision 6-a to read as follows:

10 6-a. The authority may consider all of the following in determining
11 whether public convenience and advantage and the public interest will be
12 promoted by the granting of licenses and permits for the sale of alco-
13 holic beverages at a particular unlicensed location:

14 (a) the number, classes and character of licenses in proximity to the
15 location and in the particular municipality or subdivision thereof;

16 (b) evidence that applicants have secured all necessary licenses and
17 permits from the state and all other governing bodies;

18 (c) the effect that the granting of the license will have on vehicular
19 traffic and parking in the proximity of the location;

20 (d) the existing noise level at the location and any increase in noise
21 level that would be generated by the proposed premises;

22 (e) the history of liquor violations and reported criminal activity at
23 the proposed premises;

24 (f) history of building and fire violations at any businesses owned
25 and/or operated by the applicant;

26 (g) history of formal communication from the municipality or community
27 board made pursuant to this chapter for businesses owned and/or operated
28 by the applicant; and

29 (h) any other factors specified by law or regulation that are relevant
30 to determine the public convenience or advantage and necessary to find
31 that the granting of such license shall be in the public interest.

32 § 3. Section 64-b of the alcoholic beverage control law is amended by
33 adding a new subdivision 4-a to read as follows:

34 4-a. The authority may consider all of the following in determining
35 whether public convenience and advantage and the public interest will be
36 promoted by the granting of licenses and permits for the sale of alco-
37 holic beverages at a particular unlicensed location:

38 (a) the number, classes and character of licenses in proximity to the
39 location and in the particular municipality or subdivision thereof;

40 (b) evidence that applicants have secured all necessary licenses and
41 permits from the state and all other governing bodies;

42 (c) the effect that the granting of the license will have on vehicular
43 traffic and parking in the proximity of the location;

44 (d) the existing noise level at the location and any increase in noise
45 level that would be generated by the proposed premises;

46 (e) the history of liquor violations and reported criminal activity at
47 the proposed premises;

48 (f) history of building and fire violations at any businesses owned
49 and/or operated by the applicant;

50 (g) history of formal communication from the municipality or community
51 board made pursuant to this chapter for businesses owned and/or operated
52 by the applicant; and

53 (h) any other factors specified by law or regulation that are relevant
54 to determine the public convenience or advantage and necessary to find
55 that the granting of such license shall be in the public interest.

§ 4. Section 64-c of the alcoholic beverage control law is amended by adding a new subdivision 10-a to read as follows:

10-a. The authority may consider all of the following in determining whether public convenience and advantage and the public interest will be promoted by the granting of licenses and permits for the sale of alcoholic beverages at a particular unlicensed location:

(a) the number, classes and character of licenses in proximity to the location and in the particular municipality or subdivision thereof;

(b) evidence that applicants have secured all necessary licenses and permits from the state and all other governing bodies;

(c) the effect that the granting of the license will have on vehicular traffic and parking in the proximity of the location;

(d) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises;

(e) the history of liquor violations and reported criminal activity at the proposed premises;

(f) history of building and fire violations at any businesses owned and/or operated by the applicant;

(g) history of formal communication from the municipality or community board made pursuant to this chapter for businesses owned and/or operated by the applicant; and

(h) any other factors specified by law or regulation that are relevant to determine the public convenience or advantage and necessary to find that the granting of such license shall be in the public interest.

§ 5. Paragraph (f) of subdivision 7 of section 64 of the alcoholic beverage control law, as amended by chapter 185 of the laws of 2012, is amended to read as follows:

(f) Notwithstanding the provisions of paragraph (b) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four-a, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, and due consideration of formal communication from the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or

1 buildings wherein three or more premises are licensed and operating
2 pursuant to this section and sections sixty-four-a, sixty-four-b,
3 sixty-four-c, and/or sixty-four-d of this article.

4 § 6. Paragraph (d) of subdivision 7 of section 64-a of the alcoholic
5 beverage control law, as amended by chapter 185 of the laws of 2012, is
6 amended to read as follows:

7 (d) Notwithstanding the provisions of subparagraph (ii) of paragraph
8 (a) of this subdivision, the authority may issue a license pursuant to
9 this section for a premises which shall be within five hundred feet of
10 three or more existing premises licensed and operating pursuant to this
11 section and sections sixty-four, sixty-four-b, sixty-four-c, and/or
12 sixty-four-d of this article if, after consultation with the munici-
13 pality or community board, and due consideration of formal communication
14 from the municipality or community board, it determines that granting
15 such license would be in the public interest. Before it may issue any
16 such license, the authority shall conduct a hearing, upon notice to the
17 applicant and the municipality or community board, and shall state and
18 file in its office its reasons therefor. Notice to the municipality or
19 community board shall mean written notice mailed by the authority to
20 such municipality or community board at least fifteen days in advance of
21 any hearing scheduled pursuant to this paragraph. Upon the request of
22 the authority, any municipality or community board may waive the fifteen
23 day notice requirement. The hearing may be rescheduled, adjourned or
24 continued, and the authority shall give notice to the applicant and the
25 municipality or community board of any such rescheduled, adjourned or
26 continued hearing. Before the authority issues any said license, the
27 authority or one or more of the commissioners thereof may, in addition
28 to the hearing required by this paragraph, also conduct a public meeting
29 regarding said license, upon notice to the applicant and the munici-
30 pality or community board. The public meeting may be rescheduled,
31 adjourned or continued, and the authority shall give notice to the
32 applicant and the municipality or community board of any such resched-
33 uled, adjourned or continued public meeting. No premises having been
34 granted a license pursuant to this section shall be denied a renewal of
35 such license upon the grounds that such premises are within five hundred
36 feet of a building or buildings wherein three or more premises are
37 licensed and operating pursuant to this section and sections sixty-four,
38 sixty-four-b, sixty-four-c, and/or sixty-four-d of this article.

39 § 7. Paragraph (c) of subdivision 5 of section 64-b of the alcoholic
40 beverage control law, as amended by chapter 185 of the laws of 2012, is
41 amended to read as follows:

42 (c) Notwithstanding the provisions of subparagraph (ii) of paragraph
43 (a) of this subdivision, the authority may issue a license pursuant to
44 this section for a premises which shall be within five hundred feet of
45 three or more existing premises licensed and operating pursuant to this
46 section and sections sixty-four, sixty-four-a, sixty-four-c, and/or
47 sixty-four-d of this article if, after consultation with the munici-
48 pality or community board, and due consideration of formal communication
49 from the municipality or community board, it determines that granting
50 such license would be in the public interest. Before it may issue any
51 such license, the authority shall conduct a hearing, upon notice to the
52 applicant and the municipality or community board, and shall state and
53 file in its office its reasons therefor. The hearing may be rescheduled,
54 adjourned or continued, and the authority shall give notice to the
55 applicant and the municipality or community board of any such resched-
56 uled, adjourned or continued hearing. Before the authority issues any

1 said license, the authority or one or more of the commissioners thereof
2 may, in addition to the hearing required by this paragraph, also conduct
3 a public meeting regarding said license, upon notice to the applicant
4 and the municipality or community board. The public meeting may be
5 rescheduled, adjourned or continued, and the authority shall give notice
6 to the applicant and the municipality or community board of any such
7 rescheduled, adjourned or continued public meeting. Notice to the munici-
8 pality or community board shall mean written notice mailed by the
9 authority to such municipality or community board at least fifteen days
10 in advance of any hearing scheduled pursuant to this paragraph. Upon the
11 request of the authority, any municipality or community board may waive
12 the fifteen day notice requirement. No premises having been granted a
13 license pursuant to this section shall be denied a renewal of such
14 license upon the grounds that such premises are within five hundred feet
15 of a building or buildings wherein three or more premises are licensed
16 and operating pursuant to this section and sections sixty-four, sixty-
17 four-a, sixty-four-c, and/or sixty-four-d of this article.

18 § 8. Paragraph (c) of subdivision 11 of section 64-c of the alcoholic
19 beverage control law, as amended by chapter 185 of the laws of 2012, is
20 amended to read as follows:

21 (c) Notwithstanding the provisions of subparagraph (ii) of paragraph
22 (a) of this subdivision, the authority may issue a license pursuant to
23 this section for a premises which shall be within five hundred feet of
24 three or more existing premises licensed and operating pursuant to this
25 section and sections sixty-four, sixty-four-a, sixty-four-b and/or
26 sixty-four-d of this article if, after consultation with the munici-
27 pality or community board, and due consideration of formal communication
28 from the municipality or community board, it determines that granting
29 such license would be in the public interest. Before it may issue any
30 such license, the authority shall conduct a hearing, upon notice to the
31 applicant and the municipality or community board, and shall state and
32 file in its office its reasons therefor. The hearing may be rescheduled,
33 adjourned or continued, and the authority shall give notice to the
34 applicant and the municipality or community board of any such resched-
35 uled, adjourned or continued hearing. Before the authority issues any
36 said license, the authority or one or more of the commissioners thereof
37 may, in addition to the hearing required by this paragraph, also conduct
38 a public meeting regarding said license, upon notice to the applicant
39 and the municipality or community board. The public meeting may be
40 rescheduled, adjourned or continued, and the authority shall give notice
41 to the applicant and the municipality or community board of any such
42 rescheduled, adjourned or continued public meeting. Notice to the munici-
43 pality or community board shall mean written notice mailed by the
44 authority to such municipality or community board at least fifteen days
45 in advance of any hearing scheduled pursuant to this paragraph. Upon the
46 request of the authority, any municipality or community board may waive
47 the fifteen day notice requirement. No premises having been granted a
48 license pursuant to this section shall be denied a renewal of such
49 license upon the grounds that such premises are within five hundred feet
50 of a building or buildings wherein three or more premises are operating
51 and licensed pursuant to this section or sections sixty-four, sixty-
52 four-a, sixty-four-b and/or sixty-four-d of this article.

53 § 9. This act shall take effect immediately.