

STATE OF NEW YORK

9049

IN SENATE

May 5, 2022

Introduced by Sen. KAPLAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to licenses to sell liquor at off-premises catering establishments

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

1 Section 1. Subdivision 7-a of section 3 of the alcoholic beverage
2 control law, as added by chapter 682 of the laws of 1935, is amended to
3 read as follows:

4 7-a. (a) "Catering establishment" means and includes any premises
5 owned or operated by any person, firm, association, partnership or
6 corporation who or which regularly and in a bona fide manner furnishes
7 for hire therein one or more ballrooms, reception rooms, dining rooms,
8 banquet halls, dancing halls or similar places of assemblage for a
9 particular function, occasion or event and/or who or which furnishes
10 provisions and service for consumption or use at such function, occasion
11 or event. Such premises must have suitable and adequate facilities and
12 accommodations to provide food and service for not less than fifty
13 persons at any one function, occasion or event and shall in no event be
14 deemed to include any taxi dance hall or any other premises at which
15 public dances are regularly scheduled to be held daily, weekly or month-
16 ly and to which the general public is invited.

17 (b) "Off-premises catering establishment" means and includes any prem-
18 ises owned or operated by any person, firm, association, partnership or
19 corporation who or which regularly and in a bona fide manner furnishes
20 for hire at a site remote from the premises for a particular function,
21 occasion, or event provisions and service for consumption or use at such
22 function, occasion or event. Such premises must have suitable and
23 adequate facilities to provide food for not less than fifty persons.
24 On-premises consumption shall not be allowed at such premises.

25 § 2. The alcoholic beverage control law is amended by adding a new
26 section 64-e to read as follows:

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

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1 § 64-e. License to sell liquor at retail as an off-premises catering
2 establishment. 1. Any person may make an application to the authority
3 for a license to sell liquor at a site remote from the licensed premises
4 of an off-premises catering establishment as defined pursuant to para-
5 graph (b) of subdivision seven-a of section three of this chapter, and
6 such licenses shall be issued to all applicants except for good cause
7 shown.

8 2. Such application shall be in such form and shall contain such
9 information as shall be required by the rules of the authority and shall
10 be accompanied by a check or draft or other form of payment acceptable
11 to the authority in the amount required by this article for such
12 license.

13 3. Section fifty-four of this chapter shall control the procedure in
14 connection with such application, so far as applicable.

15 4. Such license shall in form and in substance be a license to the
16 person specifically licensed to sell liquors at retail, to be consumed
17 only at sites at which a permit has been applied for and granted as
18 provided for in section ninety-eight of this chapter. Such license shall
19 also be deemed to include a license to sell wine and beer at retail to
20 be consumed under the same terms and conditions, without the payment of
21 any additional fee.

22 § 3. Subdivision 4 of section 66 of the alcoholic beverage control
23 law, as amended by section 3 of part Z of chapter 85 of the laws of
24 2002, is amended to read as follows:

25 4. The annual fee for a license, under section sixty-four or sixty-
26 four-a of this article, to sell liquor at retail to be consumed on the
27 premises where sold shall be twenty-one hundred seventy-six dollars in
28 the counties of New York, Kings, Bronx and Queens; fifteen hundred thir-
29 ty-six dollars in the county of Richmond and in cities having a popu-
30 lation of more than one hundred thousand and less than one million;
31 twelve hundred sixteen dollars in cities having a population of more
32 than fifty thousand and less than one hundred thousand; and the sum of
33 eight hundred ninety-six dollars elsewhere; except that the license fees
34 for catering establishments and off-premises catering establishments
35 shall be two-thirds the license fee specified herein and for clubs,
36 except luncheon clubs and golf clubs, shall be seven hundred fifty
37 dollars in counties of New York, Kings, Bronx and Queens; five hundred
38 dollars in the county of Richmond and in cities having a population of
39 more than one hundred thousand and less than one million; three hundred
40 fifty dollars in cities having a population of more than fifty thousand
41 and less than one hundred thousand; and the sum of two hundred fifty
42 dollars elsewhere. The annual fees for luncheon clubs shall be three
43 hundred seventy-five dollars, and for golf clubs in the counties of New
44 York, Kings, Bronx, Queens, Nassau, Richmond and Westchester, two
45 hundred fifty dollars, and elsewhere one hundred eighty-seven dollars
46 and fifty cents. Notwithstanding any other provision of law to the
47 contrary, there shall be no annual fee for a license, under section
48 sixty-four, to sell liquor at retail to be consumed on the premises
49 where the applicant is an organization organized under section two
50 hundred sixty of the military law and incorporated pursuant to the not-
51 for-profit corporation law. Provided, however, that where any premises
52 for which a license is issued pursuant to section sixty-four or sixty-
53 four-a of this article remain open only within the period commencing
54 April first and ending October thirty-first of any one year, or only
55 within the period commencing October first and ending the following
56 April thirtieth, the liquor authority may, in its discretion, grant a

1 summer or winter license effective only for such appropriate period of
2 time, for which a license fee shall be paid to be pro-rated for the
3 period for which such license is effective, at the rate provided for in
4 the city, town or village in which such premises are located, except
5 that no such license fee shall be less than one-half of the regular
6 annual license fee; provided further that where the premises to be
7 licensed are a race track or a golf course or are licensed pursuant to
8 section sixty-four or sixty-four-a of this ~~chapter~~ article, the period
9 of such summer license may commence March first and end November thirti-
10 eth.

11 Where a hotel, restaurant, club, golf course or race track is open
12 prior to April first and/or subsequent to October thirty-first by reason
13 of the issuance of a caterer's permit or permits issued by the authori-
14 ty, such fact alone shall not affect the eligibility of the premises or
15 the person owning or operating such hotel, restaurant, club, golf course
16 or race track for a summer license.

17 § 4. Section 67 of the alcoholic beverage control law, as amended by
18 section 4 of part Z of chapter 85 of the laws of 2002, is amended to
19 read as follows:

20 § 67. License fees, duration of licenses; fee for part of year.
21 Effective April first, nineteen hundred eighty-three, licenses issued
22 pursuant to sections sixty-one, sixty-two, sixty-three, sixty-four,
23 sixty-four-a ~~and~~, sixty-four-b and sixty-four-e of this article shall
24 be effective for three years at three times that annual fee, except
25 that, in implementing the purposes of this section, the liquor authority
26 shall schedule the commencement dates, duration and expiration dates
27 thereof to provide for an equal cycle of license renewals issued under
28 each such section through the course of the fiscal year. Effective
29 December first, nineteen hundred ninety-eight, licenses issued pursuant
30 to sections sixty-four, sixty-four-a and sixty-four-b of this article
31 shall be effective for two years at two times that annual fee, except
32 that, in implementing the purposes of this section, the liquor authority
33 shall schedule the commencement dates, duration and expiration dates
34 thereof to provide for an equal cycle of license renewals issued under
35 each such section through the course of the fiscal year. Notwithstanding
36 the foregoing, commencing on December first, nineteen hundred ninety-
37 eight and concluding on July thirty-first, two thousand two, a licensee
38 issued a license pursuant to section sixty-four, sixty-four-a or sixty-
39 four-b of this article may elect to remit the fee for such license in
40 equal annual installments. Such installments shall be due on dates
41 established by the liquor authority and the failure of a licensee to
42 have remitted such annual installments after a due date shall be a
43 violation of this chapter. For licenses issued for less than the three-
44 year licensing period, the license fee shall be levied on a pro-rated
45 basis. The entire license fee shall be due and payable at the time of
46 application. The liquor authority may make such rules as shall be appro-
47 priate to carry out the purpose of this section.

48 § 5. Subdivisions 1 and 5 of section 98 of the alcoholic beverage
49 control law, subdivision 1 as amended by section 21 of part Z of chapter
50 85 of the laws of 2002, and subdivision 5 as added by chapter 309 of the
51 laws of 2007, are amended to read as follows:

52 1. The liquor authority is hereby authorized to issue to ~~[caterers and~~
53 ~~other persons]~~ a retail licensee for on-premises consumption or a
54 licensed off-premises caterer furnishing provisions and service for use
55 at a particular function, occasion or event in a hotel, restaurant,
56 club, ballroom or other premises a temporary indoor permit effective for

1 a period not to exceed twenty-four consecutive hours, which shall
2 authorize the service of alcoholic beverages at such function, occasion
3 or event within the hours, fixed by or pursuant to subdivision five of
4 section one hundred six of this chapter, during which alcoholic beverage
5 es may lawfully be sold or served upon premises licensed to sell alco-
6 holic beverages at retail for on-premises consumption in the community
7 in which is located the premises in which such function, occasion or
8 event is held. The fee therefor shall be thirty-eight dollars. Such a
9 permit and the exercise of the privilege granted thereby may be
10 subjected to such rules by the liquor authority as it deems necessary
11 and such rules as are in conformity with the provisions of subdivision
12 two of this section. Such a permit may also be issued for functions,
13 occasions or events at premises for which a summer license has been
14 previously issued pursuant to this chapter.

15 5. Notwithstanding any other provision of this chapter or any rule of
16 the liquor authority, the liquor authority is hereby authorized to
17 issue, to caterers and other persons furnishing provisions and services
18 for use at a particular function or occasion or event to be held at a
19 winery or farm winery, a temporary indoor and/or outdoor permit effec-
20 tive for a period not to exceed twenty-four consecutive hours, which
21 shall authorize the service of alcoholic beverages at such function,
22 occasion or event within the hours as fixed by or pursuant to subdivi-
23 sion five of section one hundred six of this chapter, during which alco-
24 holic beverages may lawfully be sold or served upon premises licensed to
25 sell alcoholic beverages at retail for on-premises consumption in the
26 community in which is located the premises in which such function, occa-
27 sion or event is held. The issuance of a caterer's permit under this
28 section shall in no way prohibit or suspend the lawful operation of the
29 winery or farm winery licensed under this chapter. For purposes of this
30 subdivision, both the permittee and the winery or farm winery licensee
31 shall be responsible for any violations of this chapter or the rules of
32 the authority occurring while the permit is in effect. Liability under
33 the provisions of sections 11-100 and 11-101 of the general obligations
34 law shall accrue to both the permittee and the winery or farm winery
35 licensee. The fee for the permit shall be thirty-eight dollars,
36 provided, however, that no fee shall be charged to a licensed off-prem-
37 ises caterer. Such a permit and the exercise of the privilege granted
38 thereby may be subjected to such rules by the liquor authority as it
39 deems necessary.

40 § 6. Paragraph (a) of subdivision 9 of section 100 of the alcoholic
41 beverage control law, as amended by chapter 39 of the laws of 2020, is
42 amended to read as follows:

43 (a) Within ten days after filing a new application or an application
44 for renewal to sell liquor under section sixty-four, sixty-four-a,
45 sixty-four-b, sixty-four-c ~~[or]~~ , sixty-four-d or sixty-four-e of this
46 chapter, a notice thereof shall be posted by the applicant in a conspic-
47 uous place at the entrance to the establishment or proposed establish-
48 ment where it can be easily read by passers-by. Said notice shall be in
49 a form prescribed by the authority, provided however that said notice
50 shall be either printed or highlighted in a pink ink of a neon, luminous
51 or fluorescent variety. The notice shall specify the application date,
52 the type of license, any identifying number assigned by the authority,
53 if available at the time of posting such notice, and how to contact the
54 state liquor authority to give a response to the application. The appli-
55 cant shall make reasonable efforts to insure such notice shall remain
56 posted throughout the pendency of such application. Additionally, within

1 ten days of the applicant's receipt of a written request from the
2 authority, the applicant shall re-post such notice. The authority may
3 adopt such rules as it may deem necessary to carry out the purpose of
4 this paragraph.

5 § 7. The opening paragraph of subdivision 2 of section 102 of the
6 alcoholic beverage control law, as separately amended by section 1 of
7 part 00 and section 3 of part LL of chapter 56 of the laws of 2010, is
8 amended to read as follows:

9 No person holding any license hereunder, other than a license to sell
10 an alcoholic beverage at retail for off-premises consumption or a
11 license or special license to sell an alcoholic beverage at retail for
12 consumption on the premises where such license authorizes the sale of
13 liquor, beer and/or wine on the premises of a catering establishment,
14 off-premises catering establishment, hotel, restaurant, club, or recre-
15 ational facility, shall knowingly employ in connection with his business
16 in any capacity whatsoever, any person, who has been convicted of a
17 felony, or any of the following offenses, who has not subsequent to such
18 conviction received an executive pardon therefor removing any civil
19 disabilities incurred thereby, a certificate of relief from disabilities
20 or a certificate of good conduct pursuant to article twenty-three of the
21 correction law, or other relief from disabilities provided by law, or
22 the written approval of the state liquor authority permitting such
23 employment, to wit:

24 § 8. This act shall take effect immediately.