

# STATE OF NEW YORK

7389

2023-2024 Regular Sessions

## IN SENATE

May 22, 2023

Introduced by Sen. SCARCELLA-SPANTON -- 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 alcohol in certain motion picture theatres, and providing for the expiration and repeal of such provisions upon the expiration thereof

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

1 Section 1. Section 106 of the alcoholic beverage control law is  
2 amended by adding a new subdivision 16 to read as follows:

3 16. A person holding a retail on-premises license for a movie theatre,  
4 other than a license for a movie theatre that meets the definitions of  
5 restaurant and meals, and where all seating is at tables where meals are  
6 served, shall:

7 (a) for every purchase of an alcoholic beverage, require the purchaser  
8 to provide written evidence of age as set forth in paragraph (b) of  
9 subdivision two of section sixty-five-b of this chapter; and

10 (b) allow the purchase of only one alcoholic beverage per transaction;  
11 and

12 (c) not commence the sale of alcoholic beverages until one hour prior  
13 to the start of the first motion picture, and cease all sales of alco-  
14 holic beverages after the conclusion of the final motion picture.

15 § 2. Subdivision 6 of section 64-a of the alcoholic beverage control  
16 law, as amended by chapter 475 of the laws of 2011, is amended to read  
17 as follows:

18 6. No special on-premises license shall be granted except for premises  
19 in which the principal business shall be (a) the sale of food or beverages  
20 at retail for consumption on the premises or (b) the operation of a  
21 legitimate theatre, including a motion picture theatre that is a build-  
22 ing or facility which is regularly used and kept open primarily for the  
23 exhibition of motion pictures for at least five out of seven days a

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

LBD07692-01-3

1 week, or on a regular seasonal basis of no less than six contiguous  
2 weeks, to the general public where all auditorium seating is permanently  
3 affixed to the floor and at least sixty-five percent of the motion  
4 picture theatre's annual gross revenues is the combined result of admis-  
5 sion revenue for the showing of motion pictures and the sale of food and  
6 non-alcoholic beverages, or such other lawful adult entertainment or  
7 recreational facility as the liquor authority, giving due regard to the  
8 convenience of the public and the strict avoidance of sales prohibited  
9 by this chapter, shall by regulation classify for eligibility. [~~Nothing~~  
10 ~~contained in this subdivision shall be deemed to authorize the issuance~~  
11 ~~of a license to a motion picture theatre, except those meeting the defi-~~  
12 ~~inition of restaurant and meals, and where all seating is at tables where~~  
13 ~~meals are served.]~~

14 § 3. Subdivision 8 of section 64-a of the alcoholic beverage control  
15 law, as added by chapter 531 of the laws of 1964, is amended to read as  
16 follows:

17 8. Every special on-premises licensee shall regularly keep food avail-  
18 able for sale to its customers for consumption on the premises. The  
19 availability of sandwiches, soups or other foods, whether fresh, proc-  
20 essed, pre-cooked or frozen, shall be deemed compliance with this  
21 requirement. For motion picture theatres licensed under paragraph (b)  
22 of subdivision six of this section, food that is typically found in a  
23 motion picture theatre, including but not limited to: popcorn, candy,  
24 and light snacks, shall be deemed to be in compliance with this require-  
25 ment. The licensed premises shall comply at all times with all the regu-  
26 lations of the local department of health. Nothing contained in this  
27 subdivision, however, shall be construed to require that any food be  
28 sold or purchased with any liquor, nor shall any rule, regulation or  
29 standard be promulgated or enforced requiring that the sale of food be  
30 substantial or that the receipts of the business other than from the  
31 sale of liquor equal any set percentage of total receipts from sales  
32 made therein.

33 § 4. Subdivision 9 of section 64-a of the alcoholic beverage control  
34 law, as added by chapter 531 of the laws of 1964, is amended to read as  
35 follows:

36 9. In the case of a motion picture theatre applying for a license  
37 under this section, any municipality required to be notified under  
38 section one hundred ten-b of this chapter may express an opinion with  
39 respect to whether the application should be approved, and such opinion  
40 may be considered in determining whether good cause exists to deny any  
41 such application.

42 10. The liquor authority may make such rules as it deems necessary to  
43 carry out the provisions of this section.

44 § 5. This act shall take effect immediately and shall expire and be  
45 deemed repealed 3 years after such date.