STATE OF NEW YORK

2961--A

2023-2024 Regular Sessions

IN ASSEMBLY

February 1, 2023

Introduced by M. of A. WOERNER, BUTTENSCHON, TAPIA, DICKENS, SAYEGH, SMULLEN, McDONOUGH, BRABENEC, STECK, SILLITTI, RAMOS, MCGOWAN, FLOOD, BENDETT, McDONALD -- read once and referred to the Committee on Economic Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the alcoholic beverage control law, in relation to establishing a license to sell liquor at retail for consumption on premises in a cigar lounge; and to amend the labor law, in relation to requiring cigar lounges to provide written notification warning employees of the dangers of exposure to tobacco smoke

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

Section 1. Section 3 of the alcoholic beverage control law is amended by adding a new subdivision 7-e to read as follows:

7-e. "Cigar lounge" means any bona fide retail store that: (a) caters to patrons who purchase and smoke cigars; (b) generates sixty percent or more of its quarterly adjusted gross revenue from the sale of cigar-related products, which is limited to cigars, humidors, cigar cutters, cigar cases, lighters and ashtrays. Revenue from state lottery, mail order, and internet sales, as well as revenue generated from other tobacco sales in store, including cigarettes and loose tobacco sales, shall not be used to determine whether an establishment satisfies the definition of a cigar lounge; (c) has a humidor on the premises; (d) is open to the public on a regular basis; (e) has capacity for a minimum of fifteen patrons; (f) does not allow any person under the age of twenty-one on the premises unless accompanied by a parent, legal guardian, or adult spouse; (g) does not allow service of food and the smoking of cigarettes, e-cigarettes, hookah or shisha; and (h) holds a current New York retail dealer certificate of registration for cigarettes and tobacco products. A cigar lounge shall be a permanent structure where stock

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

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is displayed and offered for sale and that has facilities to properly secure any stock of alcoholic beverages.

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

§ 64-f. License to sell liquor at retail for consumption on premises in a cigar lounge. 1. A cigar lounge means a business which meets the requirements of a cigar lounge as defined in section three of this chapter.

2. Any person currently licensed in New York with a retail dealer certificate of registration for cigarettes and tobacco products may make an application to the authority for a license to sell liquor at retail to be consumed on the premises where sold and such license shall be issued to all applicants except for good cause shown.

3. Such application shall be in such form and shall contain such information as shall be required by the rules of the liquor authority and shall be accompanied by a check or draft in the amount required by this article for such license.

4. Such license shall, in form and in substance, be a license to the person specifically licensed to sell liquor at retail to be consumed upon the premises. Such license shall also be deemed to include a license to sell wine and beer at retail to be consumed under the same terms and conditions without the payment of any additional fee.

5. Food cannot be prepared or served by a licensee.

6. Such license shall require that a cigar lounge stock liquor, wine, beer, cider, and wine products produced in New York state as at least five percent of its liquor, beer and wine selections.

7. All applicants for employment at a cigar lounge shall be presented with a written notice that states that working in a cigar lounge has serious and permanent negative health effects, including, but not limited to, an increased risk of cancer and heart disease, and that no level of exposure to second-hand smoke is safe.

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

9.(a) No cigar lounge license shall be granted for any premises which shall be:

(i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship; or

(ii) in a city, town or village having a population of twenty thousand or more within five hundred feet of three or more existing premises licensed and operating pursuant to provisions of this section and sections sixty-four, sixty-four-b, sixty-four-c, sixty-four-d, and/or sixty-four-e of this article.

(b) The measurements in subparagraphs (i) and (ii) of paragraph (a) of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, sixty-four-d and/or sixty-four-e of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship; and except that no license shall be denied to any premises, which is

within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship.

(c) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or of premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, sixty-four-d, and/or sixty-four-e of this article or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

§ 3. Section 66 of the alcoholic beverage control law is amended by adding a new subdivision 11 to read as follows:

11. The annual fee for a license to sell liquor at retail for consumption on premises in a cigar lounge shall be one thousand seven hundred ninety-two dollars per year.

§ 4. The labor law is amended by adding a new section 202-n to read as follows:

§ 202-n. Cigar lounge employees; tobacco smoke exposure notification. A cigar lounge, as defined in section three of the alcoholic beverage control law, shall provide written notice to all employees and applicants for employment that working in a cigar lounge may cause serious negative health effects, including an increased risk of cancer and heart disease and that no level of exposure to environmental tobacco smoke is safe.

§ 5. This act shall take effect immediately.