

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

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

5 § 64-f. License to sell liquor at retail for consumption on premises  
6 in a cigar lounge. 1. A cigar lounge means a business which meets the  
7 requirements of a cigar lounge as defined in section three of this chap-  
8 ter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 § 202-n. Cigar lounge employees; tobacco smoke exposure notification.  
39 A cigar lounge, as defined in section three of the alcoholic beverage  
40 control law, shall provide written notice to all employees and appli-  
41 cants for employment that working in a cigar lounge may cause serious  
42 negative health effects, including an increased risk of cancer and heart  
43 disease and that no level of exposure to environmental tobacco smoke is  
44 safe.

45 § 5. This act shall take effect immediately.