

# STATE OF NEW YORK

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8427

2023-2024 Regular Sessions

## IN ASSEMBLY

December 29, 2023

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Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Economic Development

AN ACT to amend the alcoholic beverage control law, in relation to expanding the availability of temporary retail permits by eliminating the two year restriction on temporary retail permits for applications subject to the 500 foot law

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

1 Section 1. Subdivision 3 of section 97-a of the alcoholic beverage  
2 control law, as amended by chapter 106 of the laws of 2022, is amended  
3 to read as follows:

4 3. A temporary retail permit under paragraph (b) of subdivision one of  
5 this section may not be issued for any premises that is subject to the  
6 provisions of section sixty-three or seventy-nine of this chapter; a  
7 temporary retail permit under paragraph (b) of subdivision one of this  
8 section shall not be issued for a premises subject to the provisions of  
9 paragraph (b) of subdivision seven of section sixty-four, subparagraph  
10 (ii) of paragraph (a) of subdivision seven of section sixty-four-a,  
11 subparagraph (ii) of paragraph (a) of subdivision eleven of section  
12 sixty-four-c, or paragraph (b) of subdivision eight of section sixty-  
13 four-d, unless and until a recommendation that there be a finding of  
14 public interest has been made by an administrative law judge pursuant to  
15 paragraph (f) of subdivision seven of section sixty-four, paragraph (d)  
16 of subdivision seven of section sixty-four-a, paragraph (c) of subdivi-  
17 sion five of section sixty-four-b, paragraph (c) of subdivision eleven  
18 of section sixty-four-c, or paragraph (e) of subdivision eight of  
19 section sixty-four-d of this chapter. Provided however, any premises  
20 granted a temporary retail permit pursuant to this subdivision in a city  
21 with a population of one million or more people shall only be allowed to  
22 operate on the premises under the following conditions: [~~an active~~  
23 ~~retail license shall have existed at the location within the past two~~

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

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~~years, and such license shall not have been canceled, suspended, or  
revoked by the authority within the past two years,~~ the closing time  
any day of the week shall be no later than midnight; provided however  
that the closing time of any outdoor space shall be no later than ten  
o'clock post-meridian Sunday through Thursday and eleven o'clock post-  
meridian Friday and Saturday; no outdoor music; indoors shall have  
recorded background music only, with no live music, DJ's, karaoke, or  
similar forms of music; and no dancing. The authority shall automat-  
ically lift such restrictions if the authority issues a retail license  
for the premises, and replace such restrictions with other restrictions,  
if any, imposed by the authority in accordance with the public interest  
standard. Further provided however, a temporary retail permit may not  
be issued pursuant to this subdivision in a city with a population of  
one million or more people if a retail license at the location was  
canceled, suspended or revoked by the authority within the past five  
years. The foregoing restriction on the issuance of a temporary retail  
permit pursuant to this subdivision in a city with a population of one  
million or more people if a retail license at the location was canceled,  
suspended or revoked by the authority within the past five years shall  
not apply to any location at which an active retail license shall have  
existed subsequent to a prior retail license being canceled, suspended  
or revoked by the authority within the past five years, so long as such  
subsequent retail license was not canceled, suspended or revoked in the  
past five years.

§ 2. This act shall take effect immediately.