STATE OF NEW YORK

8427--A

2023-2024 Regular Sessions

IN ASSEMBLY

December 29, 2023

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Economic Development -- recommitted to the Committee on Economic Development in accordance with Assembly Rule 3, sec. 2 -- 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 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:

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

3. A temporary retail permit under paragraph (b) of subdivision one of this section may not be issued for any premises that is subject to the provisions of section sixty-three or seventy-nine of this chapter; a temporary retail permit under paragraph (b) of subdivision one of this section shall not be issued for a premises subject to the provisions of paragraph (b) of subdivision seven of section sixty-four, subparagraph (ii) of paragraph (a) of subdivision seven of section sixty-four-a, subparagraph (ii) of paragraph (a) of subdivision eleven of section sixty-four-c, or paragraph (b) of subdivision eight of section sixty-four-d, unless and until a recommendation that there be a finding of public interest has been made by an administrative law judge pursuant to paragraph (f) of subdivision seven of section sixty-four, paragraph (d) of subdivision seven of section sixty-four-a, paragraph (c) of subdivision five of section sixty-four-b, paragraph (c) of subdivision eleven of section sixty-four-c, or paragraph (e) of subdivision eight of section sixty-four-d of this chapter. Provided however, any premises granted a temporary retail permit pursuant to this subdivision in a city

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

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with a population of one million or more people shall only be allowed to operate on the premises under the following conditions: [~~an active retail license shall have existed at the location within the past two 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 automatically 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 for two consecutive licensees at such location. 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 for two consecutive licensees at such location 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 for two consecutive licensees at such location, 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.