

Memorandum

AN ACT to amend the alcoholic beverage control law, in relation to the local option questions that may be submitted to cities and towns and repealing certain provisions of such law relating thereto

Purpose:

This bill would clarify and streamline the local option provisions of the Alcoholic Beverage Control (ABC) Law.

Summary of provisions:

Section 1 of the bill amends ABC Law § 141 to provide for one list of plain-English local option questions that can be better understood on a ballot.

Sections 2 and 3 of the bill amend ABC Law § 142 to delete references to the former Group A and B local questions.

Section 4 repeals ABC Law § 146 to remove a contradiction in the statutes when a licensee is about to be put out of business by the results of a local option vote.

Section 5 amends ABC Law § 147 to remove references to the former groups of local option questions.

Existing law:

Current law provides for two lists of questions. The two lists were put in the ABC Law when beer-only sales, allowed in 1933, were expanded by the sale of liquor and wine following the repeal of Prohibition in 1934. The reason for the two lists has long since passed. A number of the questions are completely incomprehensible, making reference only to the sections of the ABC Law by section number.

Legislative History:

New bill.

Statement in support:

ABC Law § 141 authorizes certain municipalities, by petition, to place before the voters specified local option questions if they want to allow taverns, restaurants, year-round hotels, summer hotels, package liquor and/or wine stores, grocery stores, drug store, beer and wine product stores, and baseball park beer licenses to be issued. The

current options are too confusing for all parties involved in the process (local government, the public, licensees and the State Liquor Authority). This proposal will simplify the process and will provide clarity regarding the options available to localities.

The bill also corrects a contradiction in existing law. Currently, licensees who are put out of business by the results of a local option election have a right to operate until the last day of the license period. However, such licensees must also remove all alcoholic beverages from the licensed premises 10 days prior to the implementation date of the vote. Such a requirement effectively deprives a licensee of the last 10 days of the license period.

Budget implications:

None.

Effective Date:

This act shall take effect on the first day of the month that begins at least 90 days after the date on which it shall have become a law.

**DEPARTMENTAL BILL # 80**

**IN SENATE**

S. -----  
Senate  
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IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
-----

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

\*ALCOBELA\* \*State Liquor Authority  
9\*

(Relates to local option questions  
that may be submitted to cities and  
towns with respect to the sale of  
alcoholic beverages; repealer)

ABC. local option questions

**AN ACT**

to amend the alcoholic beverage  
control law, in relation to the  
local option questions that may be  
submitted to cities and towns and  
repealing certain provisions of such  
law relating thereto

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

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal

s20 Adams	s22 Golden	s39 Larkin	s11 Padavan	s14 Smith
s55 Alesi	s33 Gonzalez	s01 LaValle	s21 Parker	s58 Stachowski
s42 Bonacic	s47 Griffo	s40 Leibell	s30 Perkins	s16 Stavisky
s46 Breslin	s06 Hannon	s52 Libous	s61 Rath	s35 Stewart-
s43 Bruno	s36 Hassell-	s45 Little	s56 Robach	Cousins
s25 Connor	Thompson	s15 Maltese	s13 Sabini	s60 Thompson
s50 DeFrancisco	s10 Huntley	s05 Marcellino	s41 Saland	s03 Trunzo
s32 Diaz	s07 Johnson, C.	s62 Maziarz	s19 Sampson	s49 Valesky
s17 Dilan	s04 Johnson, O.	s18 Montgomery	s23 Savino	s59 Volker
s29 Duane	s34 Klein	s38 Morahan	s31 Schneiderman	s53 Winner
s44 Farley	s26 Krueger	s54 Nozzolio	s28 Serrano	s46 Wright
s02 Planagan	s27 Kruger	s12 Onorato	s51 Seward	s57 Young
s08 Fuschillo	s24 Lanza	s37 Oppenheimer	s09 Skelos	

**IN ASSEMBLY**

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a010 Conte	a098 Gunther	a030 Markey	a080 Rivera, N.
a001 Alessi	a032 Cook	a139 Hawley	a027 Mayersohn	a076 Rivera, P.
a021 Alfano	a107 Crouch	a148 Hayes	a112 McDonald	a056 Robinson
a084 Arroyo	a063 Cusick	a083 Heastie	a019 McDonough	a067 Rosenthal
a118 Aubertine	a045 Cymbrowitz	a028 Hevesi	a104 McEneny	a012 Saladino
a035 Aubry	a138 DelMonte	a048 Hikind	a017 McKeivitt	a113 Sayward
a136 Bacalles	a116 Destito	a018 Hooper	a102 Miller	a029 Scarborough
a099 Ball	a086 Diaz, L.	a144 Hoyt	a052 Millman	a140 Schimminger
a124 Barclay	a085 Diaz, R.	a060 Hyer-Spencer	a103 Molinaro	a145 Schroeder
a014 Barra	a081 Dinowitz	a062 Ignizio	a132 Morelle	a122 Scozzafava
a082 Benedetto	a114 Duprey	a042 Jacobs	a037 Nolan	a038 Seminerio
a079 Benjamin	a003 Eddington	a095 Jaffee	a128 Oaks	a064 Silver
a073 Bing	a004 Englebright	a057 Jeffries	a069 O'Donnell	a093 Spano
a055 Boyland	a130 Errigo	a131 John	a137 O'Mara	a121 Stirpe
a008 Boyle	a072 Espaillet	a074 Kavanagh	a051 Ortiz	a011 Sweeney
a089 Bradley	a071 Farrell	a100 Kirwan	a150 Parment	a110 Tedisco
a044 Brennan	a005 Fields	a129 Kolb	a088 Paulin	a002 Thiele
a092 Brodsky	a123 Finch	a135 Koon	a141 Peoples	a031 Titus
a046 Brook-Krasny	a007 Fitzpatrick	a034 Lafayette	a039 Pezalta	a105 Tonko
a147 Burling	a143 Gabryszak	a025 Lancman	a058 Perry	a054 Towns
a117 Butler	a090 Galef	a091 Latimer	a023 Pheffer	a115 Townsend
a101 Cahill	a133 Gantt	a013 Lavine	a068 Powell	a015 Walker
a096 Calhoun	a036 Gianaris	a050 Lentol	a087 Pretlow	a041 Weinstein
a043 Camara	a149 Giglio	a125 Lifton	a146 Quinn	a020 Weisenberg
a106 Canestrari	a066 Glick	a127 Lopez, P.	a097 Rabbitt	a024 Weprin
a026 Carrozza	a040 Gordon, D.	a053 Lopez, V.	a009 Raia	a070 Wright
a119 Christensen	a108 Gordon, T.	a126 Lupardo	a006 Ramos	a022 Young
a033 Clark	a075 Gottfried	a111 Magee	a134 Reilich	a094 Zebrowski
a142 Cole	a065 Grannis	a120 Magnarelli	a109 Reilly	a016
a047 Colton	a077 Greene	a059 Maisel	a078 Rivera, J.	a061

1) Single House Bill (introduced and printed separately in either or both  
houses). Uni-Bill (introduced simultaneously in both houses and printed as one  
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed  
copies of bill and 4 copies of memorandum in support (single house); or 4 signed  
copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Section 141 of the alcoholic beverage control law, subdivi-  
2 sion 1 as amended by chapter 531 of the laws of 1964, the opening para-  
3 graph of subdivision 1 as amended by chapter 151 of the laws of 1987,  
4 subdivision 3 as amended by chapter 466 of the laws of 1948 and subdivi-  
5 sion 5 as added by chapter 426 of the laws of 1939, is amended to read  
6 as follows:

7 § 141. Local option for towns. 1. Not less than sixty days nor more  
8 than seventy-five days before the general election in any town at which  
9 the submission of the questions hereinafter stated is authorized by this  
10 article, a petition signed by electors of the town to a number amounting  
11 to twenty-five per centum of the votes cast in the town for governor at  
12 the then last preceding gubernatorial election, acknowledged by the  
13 signers or authenticated by witnesses as provided in the election law in  
14 respect of a nominating petition, requesting the submission at such  
15 election to the electors of the town of one or more of the following  
16 questions [contained in either group A or group B], may be filed with  
17 the town clerk:

18 [GROUP A

19 Question 1. Selling alcoholic beverages to be consumed on the premises  
20 where sold. Shall any person be authorized to sell alcoholic beverages  
21 at retail to be consumed on premises licensed pursuant to the provisions  
22 of section sixty-four of this chapter?

23 Question 2. Selling alcoholic beverages to be consumed on the premises  
24 where sold. Shall any person be authorized to sell alcoholic beverages  
25 at retail to be consumed on premises licensed pursuant to the provisions  
26 of section sixty-four-a of this chapter?

27 Question 3. Selling alcoholic beverages not to be consumed on the  
28 premises where sold. Shall any person be authorized to sell alcoholic

1 beverages at retail not to be consumed on the premises where sold in  
2 (here insert the name of the town)?

3 Question 4. Selling alcoholic beverages by hotel keepers only. Shall  
4 any person be authorized to sell alcoholic beverages at retail to be  
5 consumed on the premises where sold but only in connection with the  
6 business of keeping a hotel (here insert the name of the town), if the  
7 majority of the votes cast on the first question submitted are in the  
8 negative?

9 Question 5. Selling alcoholic beverages by summer hotel keepers only.  
10 Shall any person be authorized to sell alcoholic beverages at retail to  
11 be consumed on the premises where sold but only in connection with the  
12 business of keeping a summer hotel within the period from May first to  
13 October thirty-first, in (here insert the name of the town), if the  
14 majority of the votes cast on the first question submitted are in the  
15 negative?

16 GROUP B

17 Question 1. Selling liquor or wine to be consumed on the premises  
18 where sold. Shall any person be authorized to sell liquor or wine at  
19 retail to be consumed on premises licensed pursuant to the provisions of  
20 section sixty-four of this chapter?

21 Question 2. Selling liquor or wine to be consumed on the premises  
22 where sold. Shall any person be authorized to sell liquor or wine at  
23 retail to be consumed on premises licensed pursuant to the provisions of  
24 section sixty-four-a of this chapter?

25 Question 3. Selling liquor or wine not to be consumed on the premises  
26 where sold. Shall any person be authorized to sell liquor or wine at  
27 retail not to be consumed on the premises where sold in (here insert the  
28 name of the town)?

1 Question 4. Selling liquor or wine by hotel keepers only. Shall any  
2 person be authorized to sell liquor or wine at retail to be consumed on  
3 the premises where sold but only in connection with the business of  
4 keeping a hotel in (here insert the name of the town), if the majority  
5 of the votes cast on the first question submitted are in the negative?

6 Question 5. Selling liquor or wine by summer hotel keepers only.  
7 Shall any person be authorized to sell liquor or wine at retail to be  
8 consumed on the premises where sold but only in connection with the  
9 business of keeping a summer hotel within the period from May first to  
10 October thirty-first, in (here insert the name of the town), if the  
11 majority of the votes cast on the first question submitted are in the  
12 negative?]

13 Question 1. Tavern alcoholic beverage license. Shall a person be  
14 allowed to obtain a license to operate a tavern with a limited-service  
15 menu (sandwiches, salads, soups, etc.) which permits the tavern operator  
16 to sell alcoholic beverages for a customer to drink while the customer  
17 is within the tavern. In addition, unopened containers of beer (such as  
18 six-packs and kegs) may be sold "to go" for the customer to open and  
19 drink at another location (such as, for example, at his home)?

20 Question 2. Restaurant alcoholic beverage license. Shall the operator  
21 of a full-service restaurant be allowed to obtain a license which  
22 permits the restaurant operator to sell alcoholic beverages for a  
23 customer to drink while the customer is within the restaurant. In addi-  
24 tion, unopened containers of beer (such as six-packs and kegs) may be  
25 sold "to go" for the customer to open and drink at another location  
26 (such as, for example, at his home)?

27 Question 3. Year-round hotel alcoholic beverage license. Shall the  
28 operator of a year-round hotel with a full-service restaurant be allowed

1 to obtain a license which permits the year-round hotel to sell alcoholic  
2 beverages for a customer to drink while the customer is within the  
3 hotel. In addition, unopened containers of beer (such as six-packs and  
4 kegs) may be sold "to go" for the customer to open and drink at another  
5 location (such as, for example, at his home)?

6 Question 4. Summer hotel alcoholic beverage license. Shall the opera-  
7 tor of a summer hotel with a full-service restaurant, open for business  
8 only within the period from May first to October thirty-first in each  
9 year, be allowed to obtain a license which permits the summer hotel to  
10 sell alcoholic beverages for a customer to drink while the customer is  
11 within the hotel. In addition, unopened containers of beer (such as  
12 six-packs and kegs) may be sold "to go" for the customer to open and  
13 drink at another location (such as, for example, at his home)?

14 Question 5. Retail package liquor or wine store license. Shall a  
15 person be allowed to obtain a license to operate a retail package  
16 liquor-and-wine or wine-without-liquor store, to sell "to go" unopened  
17 bottles of liquor or wine to a customer to be taken from the store for  
18 the customer to open and drink at another location (such as, for exam-  
19 ple, at his home)?

20 Question 6. Off-premises beer and wine cooler license. Shall the oper-  
21 ator of a grocery store, drugstore or supply ship operating in the  
22 harbors of Lake Erie be allowed to obtain a license which permits the  
23 operator to sell "to go" unopened containers of beer (such as six-packs  
24 and kegs) and wine coolers with not more than 6% alcohol to a customer  
25 to be taken from the store for the customer to open and drink at another  
26 location (such as, for example, at his home)?

27 Question 7. Baseball park, racetrack, athletic field or stadium  
28 license. Shall a person be allowed to obtain a license which permits the

1 sale of beer for a patron's consumption while the patron is within a  
2 baseball park, racetrack, or other athletic field or stadium where  
3 admission fees are charged?

4 2. Upon the due filing of such petition complying with the foregoing  
5 provisions, such questions shall be submitted in accordance therewith.

6 [If petitions praying for the submission of the questions contained in  
7 both group A and group B are filed, only the questions of the group  
8 mentioned in the petition first filed shall be submitted.]

9 3. The town clerk shall, within five days from the filing of such  
10 petition in his office, prepare and file in the office of the board of  
11 elections, as defined by the election law, of the county, a certified  
12 copy of such petition. Such questions may be submitted only at the time  
13 of a general election. At least ten days before such general election,  
14 the board of elections shall cause to be printed and posted in at least  
15 four public places in such town, a notice of the fact that all of the  
16 local option questions [provided for in group A or group B, as the case  
17 may be,] will be voted on at such general election; and the said notice  
18 shall also be published at least five days before the vote is to be  
19 taken once in a newspaper published in the county in which such town is  
20 situated, which shall be a newspaper published in the town, if there be  
21 one. Whenever such questions are to be submitted under the provisions of  
22 this article the board of elections shall cause the proper ballot labels  
23 to be printed and placed on all voting machines used in the town in  
24 which such questions are to be submitted, in the form prescribed by the  
25 election law in respect of other propositions or questions, upon the  
26 face of which shall be printed in full the said questions. Any elector  
27 qualified to vote for state officers shall be entitled to vote upon such  
28 local option questions. As soon as the election shall be held, a return

1 of the votes cast and counted shall be made as provided by law and the  
2 returns canvassed by the inspectors of election. If a majority of the  
3 votes cast shall be in the negative on all or any of the questions, no  
4 person shall, after such election, sell alcoholic beverages in such town  
5 contrary to such vote or to the provisions of this chapter; provided,  
6 however, that the result of such vote shall not shorten the term for  
7 which any license may have been lawfully issued under this chapter or  
8 affect the rights of the licensee thereunder; and no person shall after  
9 such vote apply for or receive a license to sell alcoholic beverages at  
10 retail in such town contrary to such vote, until, by referendum as here-  
11 inafter provided for, such sale shall again become lawful.

12 [4. If at such election the votes cast on question number one of  
13 either group be equal or a majority thereof be in the affirmative and a  
14 majority of the votes cast on question number two of either group be in  
15 the negative, alcoholic beverages or beer only, as the case may be, may  
16 nevertheless be sold in such town at retail not to be consumed on the  
17 premises by the holder of a license to sell such beverages in such town  
18 at retail to be consumed upon the premises.

19 5. Subject to the local option provisions of this section, a summer  
20 hotel open for business only within the period from May first to October  
21 thirty-first in each year, may be licensed in the manner provided in  
22 this chapter to sell one or more alcoholic beverages at retail to be  
23 consumed on the premises only.]

24 § 2. The opening paragraph of subdivision 1 of section 142 of the  
25 alcoholic beverage control law is amended to read as follows:

26 Not less than sixty days nor more than eighty days before the general  
27 election in the year nineteen hundred, thirty-five in any city, and  
28 before any subsequent general election in the city at which the

1 submission of the questions hereinafter stated is authorized by this  
2 article, a petition signed by electors of the city to a number amounting  
3 to twenty-five per centum of the votes cast in the city for governor at  
4 the then last preceding gubernatorial election, requesting the  
5 submission at such election to the electors of the city of the questions  
6 contained in [either group A or group B of] section one hundred forty-  
7 one, substituting however the word "city" for "town," may be filed with  
8 the city clerk or, in the city of New York, with the board of elections.  
9 [If petitions praying for the submission of the questions contained in  
10 both group A and group B are filed, only the questions of the group  
11 mentioned in the petition first filed shall be submitted.]

12 § 3. Subdivision 4 of section 142 of the alcoholic beverage control  
13 law is REPEALED.

14 § 4. Section 146 of the alcoholic beverage control law is REPEALED.

15 § 5. Subdivision 1 of section 147 of the alcoholic beverage control  
16 law is amended to read as follows:

17 1. In any town or city in which a vote shall be taken on any one  
18 [group of] or more of the local option questions provided for in this  
19 article, no further vote shall be submitted upon [the questions  
20 contained in such group before the third] any local option question that  
21 was presented to the voters before the second general election thereaft-  
22 er.

23 § 6. This act shall take effect on the first day of the month that  
24 begins at least 90 days after the date on which it shall have become a  
25 law.