

Alcoholic Beverage Control

§ 64-d. License to sell liquor on premises commonly known as a cabaret. 1. Any person may make an application to the state liquor authority to operate a cabaret.

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

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

5. Such cabaret license shall in form and in substance be a license to the person specifically licensed to operate a cabaret and sell liquor at retail to be consumed on the premises specifically licensed. 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.

6. A license under this section shall be required of any licensee upon whose premises musical entertainment, singing, dancing or other forms of entertainment is permitted; provided, however, that this section shall only apply to licensees whose premises have a capacity for the assemblage of six hundred or more persons. Nothing contained in this subdivision shall be construed as requiring a license under this section by an establishment licensed under section sixty-four or paragraph (b) of subdivision six of section sixty-four-a of this article.

7. The authority shall consider all of the following in determining whether public convenience and advantage and the public interest will be promoted by the granting of a license pursuant to this section:

(a) the number, classes and character of licenses in proximity to the location and in the particular municipality or subdivision thereof;

(b) evidence that applicants have secured all necessary licenses and permits from the state and all other governing bodies;

(c) the effect that the granting of the license will have on vehicular traffic and parking in the proximity of the location;

(d) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises;

(e) the history of liquor violations and reported criminal activity at the proposed premises; and

(f) any other factors specified by law or regulation that are relevant to determine the public convenience or advantage and necessary to find that the granting of such license shall be in the public interest.

8. No cabaret license shall be granted for any premises which shall be:

(a) 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

(b) in a city, town or village having a population of twenty thousand or more within five hundred feet of an existing premises licensed and

operating pursuant to the provisions of this section, or within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article.

(c) the measurements in paragraphs (a) and (b) 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-a, sixty-four-b, and/or sixty-four-c 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 an existing premises licensed and operating pursuant to the provisions of this section or 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-a, sixty-four-b, and/or sixty-four-c 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.

(d) 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-a, sixty-four-b, and/or sixty-four-c 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-a, sixty-four-b, and/or sixty-four-c 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-a, sixty-four-b, and/or sixty-four-c 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".

(e) notwithstanding the provisions of paragraph (b) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before

the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or

community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article.

(f) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building.

9. On or within ninety days of the effective date of this section, any person who holds a license under section sixty-four of this article to sell beer, wine and liquor at retail for consumption on the premises and who operates pursuant to the provisions of subdivision six of this section shall file an application with the liquor authority to convert such license into a license under this section. Such an application shall be granted by the authority except for good cause shown. The granting of such an application shall constitute conversion of said license into a cabaret license subject to the provisions of this chapter applicable to cabaret licenses issued under this section; provided, however, that no licensee applying for such conversion shall be denied

on the grounds that such application fails to meet the requirements of subdivision eight of this section.

10. All other provisions of this chapter relative to licenses to sell liquor at retail for consumption on the premises shall apply as far as applicable.

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§ 110. Information to be requested in applications for licenses or permits. 1. The following shall be the information required on an application for a license or permit:

(a) A statement of identity as follows:

(i) If the applicant is an individual, his name, date and place of birth, citizenship, permanent home address, telephone number and social security number, as well as any other names by which he has conducted a business at any time.

(ii) If the applicant is a corporation, the corporate name of the applicant, its place of incorporation, its main business address (and if such main business address is not within the state, the address of its main place of business within the state), other names by which it has been known or has conducted business at any time, its telephone number, its federal employer identification number, and the names, ages, citizenship, and permanent home addresses of its directors, officers and its shareholders (except that if there be more than ten shareholders then those shareholders holding ten percent or more of any class of its shares).

(iii) If the applicant is a partnership, its name, its main business address (and if such main business address is not within the state, the address of its main place of business within the state), other names by which it has been known or has conducted business at any time, its telephone number, its federal employer identification number, and the names, ages, citizenship, and permanent home addresses of each of its partners.

(b) A statement identifying the street and number of the premises to be licensed, if the premises have a street and number, and otherwise such description as will reasonably indicate the locality thereof; photographs, drawings or other items related to the appearance of the interior or exterior of such premises, and a floor plan of the interior, shall be required. The applicant shall also state the nature of his interest in the premises; and the name of any other person interested as a partner, joint venturer, investor or lender with the applicant either in the premises or in the business to be licensed.

(c) A description of any other alcohol beverage license or permit under this chapter or any other alcoholic beverage control law which, within the past ten years, the applicant (including any officers, directors, shareholders or partners listed in the statement of identity under paragraph (a) of this subdivision or the spouse of any such person) or the applicant's spouse held or applied for.

(d) A statement that such applicant or the applicant's spouse has not been convicted of a crime addressed by the provisions of section one hundred twenty-six of this article which would forbid the applicant (including any officers, directors, shareholders or partners listed in the statement of identity under paragraph (a) of this subdivision or the spouse of such person) or the applicant's spouse to traffic in alcoholic

beverages, a statement whether or not the applicant (including any officers, directors, shareholders or partners listed in the statement of identity under paragraph (a) of this subdivision or the spouse of any such person) or the applicant's spouse is an official described in section one hundred twenty-eight of this article, and a description of any crime that the applicant (including any officers, directors, shareholders or partners listed under paragraph (a) of this subdivision or the spouse of any such person) or the applicant's spouse has been convicted of and whether such person has received a pardon, certificate of good conduct or certificate of relief from disabilities; provided, however, that no person shall be denied any license solely on the

grounds that such person is the spouse of a person otherwise disqualified from holding a license under this chapter.

(e) A statement that the location and layout of the premises to be licensed does not violate any requirement of this chapter relating to location and layout of licensed premises, with a copy of the certificate of occupancy for the premises.

(f) A statement indicating the type of establishment to be operated at the premises. Such statement shall indicate the occurrence of topless entertainment and/or exotic dancing whether topless or otherwise, including, but not limited to, pole dancing and lap dancing, at the establishment.

(g) A statement that the applicant has control of the premises to be licensed by ownership of a fee interest or via a leasehold, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, with a term at least as long as the license for which the application is being made, or by a binding contract to acquire the same and a statement of identity under paragraph (a) of this subdivision for the lessor of any leasehold, manager of any management agreement, or other agreement giving the applicant control over the food and beverage at the premises, with a copy of the lease, contract, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, or deed evidencing fee ownership of the premises.

(h) A financial statement adequate to show all persons who, directly or indirectly have an economic interest in the establishment or acquisition of the business for which the license or permit application is being made, to identify the sources of funds to be applied in such establishment or acquisition, and to describe the terms and conditions governing such establishment with copies of such financial documents as the authority may reasonably require.

(i) The fingerprints of the applicants. Fingerprints submitted by the applicants shall be transmitted to the division of criminal justice services and may be submitted to the federal bureau of investigation for state and national criminal history record checks.

2. All license or permit applications shall be signed by the applicant (if an individual), by an officer (if a corporation), or by all partners (if a partnership). Each person signing such application shall verify it or affirm it as true under the penalties of perjury.

3. All license or permit applications shall be accompanied by a check, draft or other forms of payment as the authority may require or authorize in the amount required by this chapter for such license or permit.

4. If there be any change, after the filing of the application or the granting of a license, in any of the facts required to be set forth in such application, a supplemental statement giving notice of such change, cost and source of money involved in the change, duly verified, shall be filed with the authority within ten days after such change. Failure to do so shall, if willful and deliberate, be cause for revocation of the license.

5. In giving any notice, or taking any action in reference to a licensee of a licensed premises, the authority may rely upon the information furnished in such application and in any supplemental

statement connected therewith, and such information may be presumed to be correct, and shall be binding upon a licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perjury, any proceeding to revoke, cancel or suspend any

license, and in the authority's determination to approve or deny the license.

6. The authority may in its discretion waive the submission of any category of information described in this section for any category of license or permit, provided that it shall not be permitted to waive the requirement for submission of any such category of information solely for an individual applicant or applicants and provided further that no waiver of paragraph (f) of subdivision one of this section shall be made.

7. The authority may, by rule, adopt additional categories of information which may be reasonably necessary to carry out the provisions of this section.