

VETO MESSAGE - No. 172

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 8362-B, entitled:

"AN ACT to amend the alcoholic beverage control law, in relation to the measurement of distances between certain premises and schools, churches, synagogues and other places of worship"

NOT APPROVED

Alcoholic Beverage Control (ABC) Law Sections 64, 64-a, 64-b, 64-c and 64-d govern the issuance of on-premises liquor, wine and beer licenses for a number of different types of establishments. ABC Law Section 105 provides for the issuance of off-premises retail liquor and/or wine licenses. Each statute contains a provision that prohibits the issuance of such licenses to any establishment "on the same street and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship." This prohibition is commonly referred to as the "200 foot rule."

Also, these statutes provide that in municipalities having a population of 20,000 or more, no license shall be granted to an applicant within 500 feet of three or more existing licensed premises. This is known as the "500 foot rule."

Currently, the measurements are taken in a straight line from the center of the nearest entrance of the premises seeking to be licensed to the center of the nearest entrance of a nearby school, church, synagogue or other place of worship. According to the sponsors' memoranda, some applicants have gotten around this statutory requirement by moving an entrance so that it falls outside of the 200-foot measurement.

This bill would amend ABC Law Section 64 (restaurants), and by reference, Section 64-d (cabarets), so that the measurement for the 200 foot rule would be taken from the applicant's property line closest to the school, church, synagogue or other place of worship, to the property line of the school, church, synagogue or other place of worship that is closest to an already licensed premise's property line.

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The legislation neglected to account for the 500 foot rule included in

this statutory structure and is, therefore, fatally flawed. By eliminating the "or" in line 9 of page 1 of the bill, the bill makes the end measuring point for the 200 foot rule an already licensed premise's property line. The language after "or" under current law is intended to be applied only to the 500 foot rule.

Even if the standard was crafted correctly, as pointed out by the State Liquor Authority, the new standard does not apply across the board to all establishments. Taverns, brew pubs, nightclubs and package stores would continue to measure using the existing standard of entrance to entrance. This could lead to applicants for a restaurant or cabaret license modifying their applications to fit into the existing entrance to entrance requirements. This loophole must be closed and any new rules should apply to all establishments.

Due to the technical infirmities noted above and the unequal application of the law as proposed, I must disapprove of this well-intentioned but fatally flawed legislation.

The bill is disapproved.

(signed) DAVID A. PATERSON

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