



Legislation Text

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Res. No. 1545

Resolution calling upon the New York State Liquor Authority to temporarily allow a business to seat patrons in front of an adjacent business, so long as the adjacent business has given permission.

By Council Members Holden and Powers

Whereas, The COVID-19 pandemic has caused death and disruption across the world; and

Whereas, In New York City, the responses to the health crisis have been particularly grueling for the City's restaurant and bar industry; and

Whereas, The changing shut-down orders, issued by the Governor and Mayor, have plagued the industry, whose owners and operators are simply doing their best to survive these trying times; and

Whereas, Some businesses have not been able to make it through the pandemic; and

Whereas, At least 1,000 New York City restaurants have permanently closed since the start of the pandemic; and

Whereas, Those that are still open continue to struggle; and

Whereas, According to the Hospitality Alliance, 30 percent of the City's restaurants and bars were unable to pay any rent in October, and likely owe back rent for previous months; and

Whereas, At the State level, around two-thirds of the State's establishments will close by the end of the year if they do not receive some further financial aid from the government, according to a survey conducted in September by the New York State Restaurant Association; and

Whereas, Restaurants and bars have invested significant money, racking up debt and loans, trying to adapt to the changing polices over outdoor dining and alcohol sales; and

Whereas, For example, when outdoor dining was first permitted in the summer, restaurants spent money and time building outdoor seating that met the City's guidance, only to have the City change the requirements, forcing businesses to spend more time and money updating the new structures; and

Whereas, As the cooler weather moved in, the industry begged for guidance on outdoor heating rules, so that customers dining outside could be kept warm; and

Whereas, The Administration did finally provide new rules, in mid-October, by which time there was a shortage of outdoor heaters available on the market; and

Whereas, Against these challenges, restaurants and bars have had to adapt to changing capacity rules for indoor dining; curfews and early closing times; and specific rules if the business happens to fall into one of the COVID-19 cluster hot-spots; and

Whereas, Somehow, some restaurants and bars have managed to make it through, but there are still more opportunities for government to assist with this recovery; and

Whereas, For example, in the summer, the City established a program, called 'Open Streets', which closed various roads to traffic to allow pedestrian and business use of the space; and

Whereas, This was extended to allow restaurants to also use the roadway for outdoor dining; and

Whereas, Similarly, when outdoor dining resumed, Governor Cuomo, using his emergency executive powers, suspended the State's liquor licensing laws to allow licensed venues to sell alcohol for take-out and delivery during the COVID-19 crisis; and

Whereas, Given that around 30 percent of a restaurant's revenue typically comes from alcohol sales, and for bars, this percent is obviously much higher, this action by the Governor was vital; and

Whereas, Under these new rules, licensed establishments are also able to sell alcohol in their outdoor spaces; and

Whereas, While the outdoor dining changes have been readily received, not all establishments have

access to outdoor space that meets the siting requirements; and

Whereas, Given that indoor dining has again been banned, finding access to adequate outdoor space is urgent for some establishments; and

Whereas, Therefore, the State Liquor Authority (SLA), should be working with such businesses to find creative solutions; and

Whereas, One suggestion is to allow licensed premises to utilize the outdoor space of an adjacent business, if that business provides permission; and

Whereas, At the present moment, the SLA guidance states that “a licensee may, for the duration that this Guidance remains in effect, use any contiguous outdoor, open-air part of its existing premises for which it has control by deed, lease, management agreement, or other agreement of control (e.g., a municipal sidewalk cafe permit)”; and

Whereas, This guidance does not extend to serving alcohol in the unused outdoor spaces of adjacent businesses and, as such, these spaces are left unused; and

Whereas, With empty storefronts haunting the City even before COVID-19 hit, allowing restaurants and bars to use these spaces seems like a commonsense plan; and

Whereas, In addition to giving a lifeline to a struggling restaurant or bar, this would revitalize unused space and contribute to the vibrancy of the community; and

Whereas, There is no doubting the positive impact this kind of outdoor commerce brings to a neighborhood; and

Whereas, In fact, the outdoor dining program, as it currently stands, has been so successful that it will now become a permanent feature in New York City; and

Whereas, To ensure that the City’s restaurants and bars make it through the COVID-19 pandemic, and the associated economic devastation it has caused, policy makers need to continue to seek out creative

solutions; now, therefore, be it

Resolved, That the New York State Liquor Authority temporarily allow a business to seat patrons in front of an adjacent business, so long as the adjacent business has given permission.

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