

# 2008 ANNUAL REPORT

NEW YORK STATE ASSEMBLY

COMMITTEE ON  
ECONOMIC DEVELOPMENT, JOB CREATION,  
COMMERCE AND INDUSTRY



Sheldon Silver, Speaker

Robin Schimminger, Chair

December 15, 2008

Honorable Sheldon Silver  
Speaker of the New York State Assembly  
Legislative Office Building  
Room 932  
Albany, NY 12248

Dear Mr. Speaker:

I am pleased to submit the 2008 Annual Report of the Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry.

During the 2008 Legislative Session, the Committee considered many important bills affecting State and local economic development, the alcoholic beverage industry, and general business practices. Of particular significance was the Committee's work to enhance industry sectors that show high potential for economic growth, job creation, and community development. In light of recent economic trends, the importance of sustainability and green technology is ever increasing. It is the Committee's ongoing commitment to the residents of New York to ensure employment opportunities and healthy working conditions, especially in this economically troubled time. The Committee continues to support efforts to enhance the skills of New Yorkers with workforce training initiatives and educational opportunities to prepare workers for the future of New York's economy in technology and research based industries.

The Committee has also addressed issues that relate to the alcoholic beverage industry. The Committee has taken tremendous strides to help both manufacturing and agriculture in New York State through expanding the breadth and scope of the wine industry. The activities of the Committee have helped the growth of small business such as off- and on-premise licensees, and has been active in streamlining the application process for licensees while ensuring the safety and preservation of the communities they serve.

On behalf of the members of the Committee, I want to thank you for your encouragement and support of our efforts to foster economic growth and improve New York State's business climate. With your continued leadership, we look forward to a fruitful session in the year to come.

Sincerely,

A handwritten signature in black ink, appearing to read "Robin Schimminger". The signature is stylized with a long horizontal stroke at the end.

Robin Schimminger, Chair  
Committee on Economic Development,  
Job Creation, Commerce and Industry

2008 ANNUAL REPORT  
OF THE  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON ECONOMIC DEVELOPMENT, JOB CREATION,  
COMMERCE AND INDUSTRY

Robin Schimminger, Chairman

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Joseph D. Morelle  
RoAnn M. Destito  
Darryl C. Towns  
Felix Ortiz  
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Kevin Cahill  
William Magnarelli  
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Lekeya Martin, Legislative Analyst  
Quinn Hubbell, Committee Assistant  
Teri Kleinmann, Associate Counsel  
Kenneth Berlinski, Chief of Staff  
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Judith Giuliano, Committee Clerk

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## **I. INTRODUCTION: COMMITTEE JURISDICTION**

The Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry is responsible for reviewing legislation that affects the economic health and commercial viability of the State. Included within its purview is the controlled sale of alcoholic beverages and the licensing, registration and regulation of a broad spectrum of industries. The committee is also responsible for the Empire Zone Program and its administration.

Many State agencies, local economic development organizations and other groups and associations work with the Committee on these important issues. The State agencies include the Department of Economic Development (DED), the Urban Development Corporation (UDC), The Job Development Authority (JDA), the New York State Foundation for Science, Technology and Innovation (d.b.a. NYSTAR), the Department of State (DOS), the Division of Criminal Justice Services (DCJS), the State Liquor Authority (SLA), the Governor's Office of Regulatory Reform (GORR), the Department of Labor (DOL), and the Department of Law. At the local level, the Committee works with a number of organizations, including not-for-profit local development corporations (LDCs), economic development agencies, various not-for-profit foundations, universities, chambers of commerce, and small business development centers.

## II. FY 2008-2009 BUDGET OUTCOME

The Assembly fought for key initiatives to boost New York's economy and create jobs and opportunities for businesses and entrepreneurs. The following are budget highlights that impact business in New York State.

### PROGRAMMATIC ISSUES

#### **Urban Development Corporation/Empire State Development Corporation**

The Urban Development Corporation (UDC) is currently doing business as the Empire State Development Corporation (ESDC). The mission of the UDC/ESDC is to promote economic development and real estate development by providing financial assistance to local government, businesses and not-for-profit corporations engaged in economic development activities. In addition, the UDC/ESDC is engaged in housing portfolio maintenance and provides State facility financing for the construction and modernization of State correctional facilities, as well as other special projects. The following are highlights relating to economic development programs that are funded through UDC/ESDC:

- Jobs Now (**\$32.1 million**) program provides funding for large-scale projects that create new jobs;
- Economic Development Fund (**\$20 million**) provides funds for projects that create or retain jobs;
- Minority and Women-Owned Business Development and Lending Programs (**\$3.5 million**) provide for available capital for local funds targeted to small "micro loans" for start-up of minority and women-owned businesses and provide funding intended for program activities in economically distressed and highly distressed areas.

## **New York State Foundation for Science, Technology & Innovation (NYSTAR)**

The Foundation, doing business as NYSTAR, is responsible for directing the State's university-based high-technology economic development programs. In addition, the Office develops comprehensive plans to attract and retain high technology businesses with the potential for significant job creation in New York State. The high-technology program within NYSTAR received funding totaling **\$33.2 million**, which included the following:

- Centers for Advanced Technology (CATs), which collaborate with New York companies on the development of new technologies and products, creating new businesses and high quality jobs throughout the State, were fully funded at **\$15 million** for the existing 15 CATs that are located throughout the State.
- Technology Development Organizations (TDOs), which provide technical assistance to high-tech companies seeking to remain competitive, were funded at a total of **\$1.5 million**.
- Industrial Technology Extension Services (ITES), whose ITES field agents located throughout the State provide technical and managerial assistance to small and mid-sized New York manufacturers seeking to improve their competitiveness, received **\$1 million**.

### **III. IMPROVING NEW YORK'S ECONOMY AND CREATING JOBS**

The Committee believes that the State has an important, though limited, role in facilitating the State's economic growth. It further believes that the forces of the marketplace do and should determine the direction of our economy and that our efforts should consist primarily of supporting our still-viable industries while providing both encouragement and assistance to new and emerging technologies. The Committee also believes that, given the limits of State financial support, economic development efforts should be directed toward assisting responsible companies that create or add jobs and contribute to the economic stability and revitalization of the communities in which they are situated. Companies that seek and receive State financial assistance should, at a minimum, be willing to make a commitment to create, add or retain jobs, provide its workers with a safe work environment, and become or remain a positive influence within their respective communities. Where appropriate, the State should seek to maximize limited resources by providing assistance to entire industries through industrial clusters or trade associations. Additionally, the Committee recognizes that it is at the local and regional levels that the most informed decisions regarding economic development are made and, accordingly, that the State's economic development programs should be regionalized to best capitalize on this expertise and empower communities to act in their own best interests. Such a regionalization would streamline the administration of programs and foster State and local partnerships.

While the Committee supports the need for flexibility in attracting new businesses to the State, it remains concerned about the lack of local and regional involvement in the process and the plight of those New York residents with the least access to conventional funding sources: women, minorities, entrepreneurs and small business owners. Accordingly, the Committee continues to lead the fight to restore funding for programs such as the Urban and Community Development Program, the Minority and Women-Owned Business and Lending Program, and the Entrepreneurial Assistance Program, as well as others that are targeted at local communities and their economic priorities.

The Committee also focused on initiatives that would promote strategic intra-industry partnerships, rural revitalization, infrastructure enhancement and technology transfer. Perhaps most importantly, the Committee contributed to the development of the 2008-2009 State Budget that will provide great assistance to New York's strategic industries, small businesses and emerging technologies while ensuring that working families share in the State's economic growth.

#### **Creating the Business Outreach Center Network Assistance Program**

A. 235 (Morelle)

Referred to Ways and Means

This legislation establishes the Business Outreach Center (BOC) Network Assistance Program under the Department of Economic Development. The program includes funding within available appropriations, in response to community need for the program centers and activities. This legislation seeks to ensure the stability and growth of small businesses across the State.



### **Business Employment Incentive Program**

A. 2725 (Morelle)

Referred to Ways and Means

This legislation creates the Business Employment Incentive Program within the Department of Economic Development to provide grants to businesses that will create at least 75 jobs, or 25 jobs in a target area, excluding point-of-final-sale retail facilities. These employment incentive grants will be between 10% and 80% of the estimated tax withholdings of the business and will be made with an agreement on the number of new employees to be hired in the base years and the terms of the grant and will terminate in the second year if there is a failure to comply. This legislation is meant to foster job creation and economic growth.

### **Intellectual Property Asset Management Advisory Council**

A. 3017 (Morelle)

Referred to Ways and Means

This legislation creates the Intellectual Property Asset Management Advisory Council consisting of eleven members to meet regularly and make recommendations to the legislature and the governor regarding specific aspects of the state's utilization of its intellectual property. The State has continually funded and provided aid for research of new technologies in many different fields of study. This council will examine the possibilities for capitalization on this research and translation into development and production.

### **Strategic Training Alliance Program**

A.3119 (Schimminger)

Passed Assembly

This legislation creates the strategic training alliance program within the Department of Economic Development to deliver skills training services through strategic alliances. Allocations of funds for skills training are to be made to assist small businesses (at least 50%) and economically disadvantaged and dislocated workers (at least 25%). Plans for skills training are to consider job growth sectors and areas in which matching funds can be made.

### **Metro Medical Matrix Program and Bioscience Facilities Development Program**

A.4579-A (Espaillat)

Referred to Ways and Means

This legislation creates the metro medical matrix program to promote bioscience research and development through the Bioscience Facilities Development Program which authorizes a grant to a not-for-profit corporation to establish a revolving loan fund to provide loans for bioscience facilities to assist individual commercial bioscience companies to remain in New York State. Eligible borrowers include early and middle stage bioscience companies in such areas as biotechnology, biomedicine, nanomedicine, specialty pharmaceuticals, and medical devices, with fewer than two hundred employees and which have received funding from an institutional venture capital firm in the twenty-four months prior to making an application for a

loan under this paragraph. These funds are restricted to the construction of laboratory and related space.

### **Bioscience Facilities Development Program**

A.4580-A (Espaillat)

Passed Assembly

This legislation creates the biosciences development program consisting of a revolving loan fund run by a local economic development corporation to provide loans to bioscience facilities to assist individual commercial bioscience companies to remain in New York State. Eligible borrowers would include early and middle stage bioscience companies in such areas as biotechnology, biomedicine, nanomedicine, specialty pharmaceuticals, and medical devices, with fewer than two hundred employees and which have received funding from an institutional venture capital firm in the twenty-four months prior to making an application for a loan under this paragraph.

### **A Study for the Growth of Retail in Buffalo**

A.6611-A (Peoples)

Passed Assembly

This legislation would direct the Urban Development Corporation to conduct a study on the prospects for retail development in the city of Buffalo and to report to the legislature on current conditions and projected trends in retail and recommend initiatives, programs, and policies for the growth of retail business in Buffalo on or before January 1<sup>st</sup>, 2010.

### **Geographic Information System to Aid Municipalities**

A. 7282 (Hoyt)

Referred to Ways and Means

This legislation requires the Office for Technology to develop a geographic information system and mapping methodology to make available information that will aid municipalities in calculating future development potential. Technology through geographic information systems, digital orthophotos and other software tools exist to allow local officials and the public to visualize how their community has changed over time and how it is likely to continue to change in the future. Computer models can assist in developing policies for growth creating more intelligently and efficiently planned communities.

### **Academic Research Information Act**

A. 9672 (Schimminger)

Referred to Ways and Means

This legislation creates the Academic Research Information Access (ARIA) Program consisting of an internet database of research and information primarily in the fields of science, technology, and medical research to be accessed by participating higher education institutions. This program draws participation from the New York State Higher Education Initiative (NYSHEI) and

researchers, entrepreneurs and other innovators existing in business incubators aligned with NYSHEI members and associate institutions, recipients of grants from the New York State Foundation for Science, Technology and Innovation (NYSTAR) and Empire State Development Corporation (ESDC), and small businesses currently situated in approved Empire Zones. This legislation focuses on broadening the availability of research and information crucial to fostering higher education and economic growth.

### **Bioscience Curriculum Development and Workforce Training**

A.10255 (Magnarelli)

Passed Assembly

One key theme in roundtable discussions hosted by the Task Force on University-Industry Cooperation and the Commission on Science and Technology was a call for initiatives that benefit the biosciences industry, which continues to be an important potential growth sector for New York State's economy. This legislation would direct part of the economic development fund to be used for Biosciences curriculum development and workforce training, as well as facility improvement in accordance with federal regulations.

### **Biosciences Commercialization Fund**

A. 10256 (Magnarelli)

Referred to Ways and Means

This legislation establishes the biosciences commercialization assistance fund within the Foundation for Science, Technology and Innovation to make grants to research entities to develop commercially promising research discoveries beyond the conceptual stage, start-up companies formed to commercialize intellectual property, and small businesses for cooperative applied research and development with research institutions to translate promising discoveries into commercially viable products. The fund also provides matching grants and/or loans to small businesses for commercial development of their innovations, including workforce training. The commercialization of technologies developed within New York State creates both jobs and revenue for the state while providing economic growth for individual communities.

### **Authorizing research institutions to participate in the research development program.**

A.10944 (Destito)

Chapter 342

This legislation includes research institutions among the recipients eligible to participate in the New York State Foundation for Science, Technology and Innovation's research development program. This program has been very successful in obtaining and maintaining some of the country's leading research institutions by bringing distinguished faculty and scientists to university based programs. This legislation expands the eligible recipients of these grants to include research based institutions.

### **Expanding the Linked Deposit Program**

A.10976-A (Magee)

Passed Assembly

This legislation expands the Linked Deposit Program which has helped businesses expand and improve in New York State. Currently, the aggregate amount a business can borrow is a total of one million dollars per project. This legislation doubles that aggregate amount allowing businesses to take on larger projects and expansions.

### **Small Business Technology Seed Investment Program**

A. 11115-A (DelMonte)

Passed Assembly

This legislation creates the small business technology seed investment program to provide investment in start-up ventures that are the base for entrepreneurship in New York State. This stage of development for technology research is crucial, yet overlooked by many investors due to the high risk involved. Capitalizing on these seed-stage investments will help grow the economy in New York by creating both jobs and revenue.

## **IV. REFORMING THE ALCOHOLIC BEVERAGE INDUSTRY**

The Committee believes that its primary responsibility in the area of Alcoholic Beverage Control Law (ABCL) is to ensure the safe and lawful distribution of alcoholic beverages in the State. To this end, the Committee focused on two interrelated quality of life issues: maintaining adequate control over problem establishments, and ensuring community participation in the licensing of all retail establishments. In addition, the Committee sought to alleviate burdensome restrictions on the growing wine and liquor boutique industries.

The Committee will continue its review of the Alcoholic Beverage Control Law to ensure ease of application and coherence. Since many of the alcoholic beverage control laws have remained unaltered since the end of Prohibition, the State has a keen interest in continuing the identification of statutes in conflict with the modern alcoholic beverage industry standards. In addition, the Committee will continue to develop legislation to assist communities with making the best decision for their neighborhoods based on adequate information and notice.

### **Standardized Forms for Community Board Notification**

A. 113A (Pheffer)

Chapter 101

This legislation streamlines the application process for new or renewed liquor licenses by standardizing the form of notification for local municipalities and community board review. This legislation requires the development of a standard form to include the full name of the establishment; the full name of the owner and/or applicant; the address of the establishment, including the floor location or room number, if applicable; the name, address and telephone number of the attorney of the applicant; a line indicating whether it is a new establishment or a transfer; if the establishment is a transfer, the name of the old establishment and such establishment's previous license number; if the establishment is a licensed facility, the license number of such establishment; and the type of license.

### **Extending the Timeframe for Notification of Community Board**

A. 115 (Pheffer)

Referred to Rules

This legislation extends the notification period of community board to 60 days in advance of application for a liquor license. Meetings of most local community boards are scheduled monthly, or for some even less frequently. The time they require to fully examine and consider community impact of liquor licenses is usually more than the current 30 day period. This legislation aims to aid these leaders in their important role in ensuring the safety and health of their communities.

### **Alcohol Awareness Programs**

A. 459 (Weisenberg)

Referred to Ways and Means

This legislation requires that a portion of the fine imposed on minors for the illegal purchase of alcohol be used toward supporting an alcohol awareness program. Underage alcohol abuse is an ongoing issue in New York State. This legislation seeks to use funding gathered through fines imposed for incidents involving these issues to aid in the fight against it.

### **Prohibiting Alcohol Billboards Within 1000 Feet of Schools**

A. 1048 (Wright)

Referred to Codes

This legislation prohibits the posting of a billboard advertising alcohol within 1000 ft. of a school or playground. As proven by the Joe Camel ads for cigarettes, advertisement not meant to affect children often does. In the hopes of protecting children while on public property from inadvertently being exposed to controlled substance propaganda, this legislation prohibits large billboard advertisement from being displayed too close to these public spaces.

### **Posting Notification of Application for a Liquor License**

A. 1870 (Lentol)

Reported

This legislation requires that any applicant for a liquor license post a brightly colored notice of their application in a conspicuous location. This ensures that community members are aware of applications made to the State Liquor Authority and are given enough time to react accordingly.

### **Requiring the Posting of Certain Information**

A. 4584 (Glick)

Reported

This legislation requires that within ten days of filing a new application, or an application for a renewal, for a license to sell liquor, an applicant post in a conspicuous location a notice printed in highlighted pink including the application date, type of license and contact information for the State Liquor Authority. This legislation also requires that within ten days of the applicant's receipt of a written notice that a hearing is scheduled, a notice of the hearing is posted at the entrance to the establishment applying for the license, including a statement of the intended use and capacity of the establishment.

### **Community Board Liaison for New York City**

A. 4991 (Espaillat)

Reported

This legislation requires the State Liquor Authority to appoint a community board liaison for each community in New York City to provide input before the issuance, renewal or altering of a license.

Without the input of a community board, the State Liquor Authority is unable to make an informed decision for the issuance of a liquor license within that community. A dedicated liaison will ensure the ongoing and permanent communication between the Authority and the community.

### **Increasing Penalties for Selling Alcohol to Minors**

A. 5330 (Latimer)

Referred to Codes

This legislation increases penalties on retail licensees for the repeated sale of alcohol to minors. The abuse of alcohol is a serious issue among many young New Yorkers, and licensees who seek to capitalize on these illegal activities must be seriously reprimanded. The Committee seeks to ensure the safety of the alcoholic beverage industry and, in doing so, ensure its economic viability.

### **Requiring Security Cameras to be Placed at Entrances and Exits of Cabarets**

A. 6373-A (Ortiz)

Referred to Codes

This legislation requires licensees holding a cabaret liquor license to install security cameras at all entrances and exits. The inspiration for this requirement is the murder of Imette St. Guillen – a graduate student who was killed after leaving a bar in Manhattan in 2006. There is reason to believe that the murderer was one of the bouncers at the bar where St. Guillen was last seen. Had there been security cameras recording the actions of the bouncer and St. Guillen as they left the bar, this crime would not go unsolved, and may not have occurred in the first place.

### **Requiring Licensees Who Serve Liquor by the Bottle to Supervise Consumers**

A. 9279 (Schimminger)

Referred to Codes

This legislation requires more regulation of on-premises alcohol for retail establishments by requiring that when they serve liquor, they are then responsible for the supervision of their customers, including restricting areas of bottle service to solely those individuals over the age of 21. Service of bottle liquor presents higher potential for underage drinking and service to intoxicated persons since bottles are presented to groups at tables rather than individual patrons. This legislation provides for more preventative action in these cases.

### **Ensuring that Liquor Licenses are Bona Fide**

A.9478-B (Cahill)

Chapter 181

This legislation arose from a situation involving a licensed brewer operating in the Town of Ulster. This brewer uncovered a deed restriction that prohibits the manufacturing of alcohol on location. This restriction jeopardizes the legitimacy of the brewer's liquor license. This legislation makes allowance for this brewer, and sets a standard for clarification of liquor licensing in accordance with the practices of the State Liquor Authority in the future.

### **Custom Crush Wine Production**

A. 9665 (Magee)

Passed Assembly

This legislation authorizes licensed wineries to allow their customers to participate in custom crush wine production. Due to a growing interest in participation in the wine making process by many wine enthusiasts, a new facet of the alcoholic beverage industry has grown into a lucrative industry.

### **Bringing Wine to the New York State Fair**

A.9862 (Magee)

Chapter 183

This legislation allows licensed wineries or farm wineries that hold a concessionaire's license to sell wine by the glass for consumption on the premises at the New York State Fair. The New York State fair not only offers entertainment for its guests, but also enhances interests in New York State agriculture and industry.

### **Re-examining the Alcoholic Beverage Control Law**

A.9906 (Schimminger)

Chapter 73

This legislation extends the due date for the Law Revision Commission report of the examination until June 1, 2009. This extension was in response to a request made by the Law Revision Commission.

### **Expanding Offerings at the New York State Wine and Culinary Center**

A.9947 (Magee)

Chapter 247

This legislation allows for the sale, tasting, and provision of beer and distilled spirits at the New York State Wine and Culinary Center. In order to further capitalize on the success of the Center New York State beer and distilled spirits will be added among the alcoholic offerings at this tourist destination.

### **Expanding the Offerings Included in a Wine License**

A.10116 (Cahill)

Passed Assembly

This legislation permits the sale of low and medium alcoholic content beverages by wine licensees. Certain alcoholic products containing no more than 24 percent alcohol have been highly successful on the alcoholic beverage market, and expanding to allow for these offerings by a wine licensee creates more potential for economic growth.



### **Clarifying Existing Law**

A.10161 (Magee)

Chapter 613

This legislation clarifies that wineries may apply for multiple licenses for tastings at charitable events or functions, and allows up to 5 tastings per license. These events provide an opportunity for brand exposure and economic growth, and serve as an important outlet for New York State products to reach consumers.

### **Technical Corrections of the Definition of a Class D Farm Distillery License**

A.10416 (Magee)

Chapter 454

This legislation makes technical corrections to the definition of a Class D farm distillery license, which was signed into law in 2007. These corrections include ensuring that small distilleries can sell bulk liquor that they manufacture to wineries and farm wineries to be used in the production of sherries and ports; clarifying that more than one distillery class can be located on the same premises and that a facility that has both a winery and a distillery can serve tastings of both wine and spirits in the same tasting room; and ensuring that small distilleries are allowed to offer a limited number of products from other small distilleries.

### **Creating a Credit System Among Wholesalers and Retailers of Alcoholic Beverages**

A.10657 (Schimminger)

Chapter 588

This legislation allows a wholesaler of alcoholic beverages to issue an account credit to a retail licensee whereby if the retailer is in jeopardy of being placed in default and the credit is more than the amount of the default after first being applied to all debts owed, the retailer shall not be in default; and provide that licensed retailers are allowed access to their credit status.

### **Extending the Mandatory Registration of Kegs**

A.10855-A (Schimminger)

Chapter 632

This legislation extends for one more year the mandatory registration of kegs. It also reduces the mandatory deposit from \$75 to \$50. Since 2003, Alcoholic Beverage Control Law has required that all kegs sold at retail for off-premises consumption have a registration tag attached that includes certain information about the purchaser. This information includes the purchaser's name, address, and license number; the amount of the container and registration deposits; the date and time of the purchase; and the keg identification number.

## **Eliminating Inconsistent Standards as Applied to Employees with Criminal Records**

A.10860 (Aubry)

Referred to Rules

Human Rights Law (Executive Law 296) currently prohibits unfair discrimination against individuals with criminal records, and Correction Law (Article 23-A) requires employers to make an individualized determination regarding a person's employability and criminal record. This legislation eliminates the prohibition on employers at licensed on-premise establishments from hiring applicants with felony convictions. This bill removes an impediment facing individuals who have completed their sentences from finding gainful employment.

## **Permissible Activities Between Retail Associations and Manufacturers**

A. 11003-A (Schimminger)

Chapter 40

This legislation allows for certain activities of retail associations in which manufacturers and wholesalers may participate or support provided that, in the judgment of the State Liquor Authority, there is no undue pressure or influence to purchase certain products. Trade associations have grown as an important new venue in the retail market; by including certain practices among those permissible for liquor licensees, the Alcoholic Beverage Law is kept current, and confusion is avoided.

## **Consistent Standards for Liquor Establishments**

A.1160 (Schimminger)

Referred to codes

The State Liquor Authority must provide notice to municipalities or community boards when determining if a liquor license should be issued for a new establishment when the establishment is located within 500 feet of a similarly licensed establishment. This bill assists the State Liquor Authority with consistent standards and procedures governing the issuance of the licenses.

## **Expanding the Definitions of "Wine"**

A. 11161 (Schimminger)

Chapter 548

This legislation clarifies the definition of "wine" and explicitly includes products made with fruit and plants other than grapes provided that they are identified in labeling. The wine industry has proven to have the potential for economic growth due to its recent resurgence in popularity and creativity and production and marketing. This legislation allows New York to better capitalize on this industry.

### **Evaluating Public Interest When Granting Liquor Licenses**

A. 11162 (Schimminger)

Passed Assembly

This legislation requires the SLA include public interest among the factors evaluated when granting an on-premises liquor license. Public interest includes considerations for noise violations, criminal history, vehicular traffic, and other alcohol licenses in proximity to the site of the new licensee. This legislation seeks to ensure the safety and maintain the standard of living of the citizens of New York.

### **Conditions for Revocation of Liquor Licenses**

A.11163 (Schimminger)

Referred to Codes

The legislation assists the State Liquor Authority by providing guidelines when determining a pattern of noise and disturbance as applied to the revocation of licenses for liquor establishments. The guidelines will assist the State Liquor Authority with issuing fair and impartial revocations of licenses.

### **Authorizing the Delivery of Alcohol to a Higher Education Class**

A. 11438 Rules (Alessi)

Chapter 237

This legislation authorizes the issuance of a permit by the SLA to institutions of higher education to have alcohol delivered for a class. Many culinary arts classes include education about alcohol and its culinary uses. These classes often require hands-on education, which is now legal to provide in a classroom setting.

## **V. PROTECTING CONSUMERS WHILE ASSISTING BUSINESSES**

The Committee will continue to regulate businesses where such regulation will enhance the public good and increase efficiencies of the market. In evaluating legislative proposals, the Committee seeks to balance the legitimate concerns of the business community with those of consumers and the general public. Thus, the committee's policy is to advance legislation that responds positively to an identified need within a particular industry without imposing undue burdens on businesses or jeopardizing consumer confidence or public safety.

### **Regulating Promotion of Products through Giveaways**

A. 2298 (Schimminger)

Referred to Ways and Means

This legislation repeals §369-e of the General Business Law which requires all retailers seeking to promote their products through games and prizes to file with the Secretary of State when the value of the prizes is greater than \$5,000. This statute was initially created to protect consumers from previously occurring unscrupulous business activities of retailers and individuals. This legislation removes a complicated filing requirement.

### **Exemption for duplicate fingerprinting of security guards**

A.3423 (Lentol)

Passed Assembly

This legislation makes an exemption that security guards fingerprinted for work in a school district do not need to be fingerprinted pursuant to the security guard act. According to Education Law security guards must be fingerprinted and submit to criminal background checks. This legislation excuses these security guards from being redundantly fingerprinted and submitted to criminal background checks according to the General Business Law.

### **Penalties for Fraudulent Sale of Articles Sold for Patriotic Purposes**

A. 4451 (Ortiz)

Referred to Codes

This legislation increases the penalty for the fraudulent sale of poppies, forget-me-nots, daisies, flags and other articles sold for patriotic purposes to a \$500 fine or imprisonment for no more than six months for a first offense. Throughout New York State, veterans' organizations for many years have raised funds through the sale of poppies, forget-me-nots, and other patriotic items. Anyone who fraudulently sells these items would be acting in a truly disrespectful manner to America's veterans. By increasing the penalties for those who would act in this manner, we can show our strong disapproval as well as demonstrate our state's commitment to veterans.

### **Prohibiting the Sale of Certain Rated Video Games to Minors**

A. 4949 (Greene)

Referred to Codes

This legislation prohibits the sale or rental of any video games that have a rating that contains racist stereotypes, derogatory language and/or actions toward a specific group or groups of persons to any person under the age of 18. In the case of a sale or rental of such a video game, a valid form of identification must be presented by any customer who appears to be under the age of 30. Video games are a popular form of entertainment among children and teenagers. This form of media often contains inappropriate language and information that is considered derogatory. This legislation seeks to protect children and teenagers from being exposed to this content without the knowledge or consent of an adult.

### **Prohibiting Itinerant Vendors from Selling Certain Goods**

A. 6462-A (Schimminger)

Referred to Codes

This legislation establishes that no itinerant vendor, except for a manufacturer, an authorized manufacturer's representative, or an authorized distributor, shall offer for sale baby food, non-prescription drugs, cosmetics, or batteries. Originally the itinerant vendor statute, adopted in 1995, focused on preventing the sale of items that were perishable, high-theft items, including baby food and over the counter drugs at flea markets. This legislation helps to clarify the definitions of baby food and non-prescription drugs, and also includes other items that may be compromised when not stored properly, such as make-up, and other high-theft items.

### **Restricting the Resale Value for Postage Stamps**

A. 6565 (Towns)

Referred to Codes

This legislation restricts the resale value for postage stamps to the price set by the United States Post Office. Often times mercantile establishments charge extra for postage stamps due to captive audience and convenience. This restriction makes allowances for stamp-oriented hobbies as it does not apply to stamp collecting and trading. Any mercantile establishment that fails to comply with these restrictions will be charged a civil penalty of \$150.

### **Landscape Irrigation Contractor Certification Act**

A. 6662-A (Sweeney)

Referred to Rules

This legislation requires irrigation contractors to be certified through the passage of an examination. Renewal of certification requires continuing education. This legislation aims at protecting consumers by assuring that their irrigation system has been installed by a properly trained professional. Furthermore, evidence from other states indicates that a properly installed irrigation system uses less water due to its higher efficiency, which aids in conservation.

## **Prohibits the Sale of Fraudulently Labeled Electrical Cords**

A.10777A (Jaffee)

Referred to Codes

Consumers are subject to many dangers that may develop from the use of faulty electrical cords. This legislation ensures that merchants are aware of dangers associated with fraudulently labeled electrical cords through education and training. The bill also provides fines for merchants found selling incorrectly marked electrical cords.

## **VI. REDUCING THE COST OF MOTOR FUEL**

In July of 2008 the national average of the cost of one gallon of gasoline topped out at \$4.10. High gasoline prices affect both individual consumers and businesses – both large and small. In a re-examination of motor fuel industry practices, larger problematic themes emerge, such as distribution and pricing. The Committee sought ways to influence these practices on behalf of the economic welfare of New Yorkers by standardizing policies. Acknowledging the great importance of motor fuel to the economic stability of New York, the Committee passed legislation aimed at assuring attainability of this resource for all consumers, and responsible business practices by retailers and wholesalers.

### **Permitting the Sale of Unbranded Motor Fuel**

A.9073-B (Morelle)

Chapter 578

This legislation makes null and void any provision of a franchise agreement with an oil refiner that restricts or discourages, either directly or indirectly, a motor fuel dealer from purchasing unbranded motor fuel. The price of gas, like other retail products, often relates to brand recognition. This legislation seeks to make available unbranded motor fuel, creating a less expensive alternative.

### **Prohibition of Zone Pricing**

A.9163-A (Bradley)

Chapter 579

This legislation prohibits the practice of zone pricing of gasoline and provides that in the case of a violation of this section, the Attorney General may make application in the name of the people of this state to a court or justice having jurisdiction by a special proceeding to issue an injunction and impose a civil penalty of up to \$10,000. Zone pricing is a practice used by petroleum companies by which the company determines local pricing of motor fuel based on local demographics. This price difference set by wholesalers is ultimately passed on to the consumer, creating unfair market conditions. This legislation seeks to regulate this practice and create equality in the marketplace.

### **Motor Fuel Marketing Practices Act**

A.10483-A (Young)

Passed Assembly

This legislation creates the Motor Fuel Marketing Practices Act, making it unlawful to raise the price of any grade or quality of motor fuel more than once in 24 hours. It also provides that any violation of this act will result in a civil fine not to exceed \$500 and that an isolated, inadvertent incident shall not be a violation. As the price of motor fuel rises, incidents have been reported of retailers raising prices many times in one day – making the same gallon of gas purchased at 9:00 a.m. more expensive at noon and again more expensive during the evening commute. This legislation seeks price continuity throughout the day, allowing for consumers to purchase gas products at their convenience.

## **VII. 2008 PUBLIC HEARINGS**

On February 27, 2008 in conjunction with the Assembly Standing Committee on Cities and the Assembly Standing Committee on Local Governments, the Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry held a joint public hearing on Municipal Participation in the Restore New York's Communities Initiative (Restore NY) Program.

Established in the 2006-2007 New York State Budget, Restore NY was established to provide eligible municipalities with financial assistance to encourage revitalization of economic sectors and enhance communities. A total of \$300 million was dedicated to this program with \$50 million appropriated for State Fiscal Year (SFY) 2006-2007, \$100 million appropriated for SFY 2007-2008 and \$150 million appropriated for SFY 2008-2009. The program goals of Restore NY are to improve housing stock, encourage commercial investment and revitalize urban centers. Eligible municipalities have submitted proposals for funding for the demolition, deconstruction, rehabilitation or reconstruction of vacant or obsolete buildings. This hearing focused on examining the processes by which municipalities select projects to be included in their applications for funding from Restore NY, and their impact.



## VIII. OUTLOOK FOR 2009

The economic crisis of 2008 has led to shrinking incomes and higher gasoline and food prices. It has been especially acute in New York State where the financial sector, responsible for roughly 20% of all State revenue, has been significantly impacted, leading to a diminished Wall Street and decreased tax revenues.

During the 2009 Legislative Session, the Committee on Economic Development, Job Creation, Commerce and Industry will address the financial crisis by continuing its efforts to create and retain jobs, with a focus on small business development. The Committee will continue to work toward improving economic growth through specially tailored programs for specific areas of industry, including: manufacturing, biotechnology and green technology. In addition, the Committee will continue to target regional endeavors in order to maximize the effectiveness of local and regional strategic economic plans.

In addition, the Committee will focus on its review of the Alcoholic Beverage Control Law to ensure ease of application and coherence. As many of the Alcoholic Beverage Control laws remain unaltered since the end of Prohibition, the State has a special interest in continuing the identification of statutes in conflict with modern alcoholic beverage industry standards and practices. Also, the Committee will examine the New York State Law Revision Commission's recommendations in its Final Report on the Alcoholic Beverage Control Laws and implement supporting legislation if necessary.

Finally, the Committee will evaluate proposals for the infrastructure necessary to further economic growth, including: workforce training, research and development, and facility expansion. The Committee will also continue to monitor the Empire Zone Program and ensure accountability and effectiveness of the program.

**Appendix A**

**2008 SUMMARY OF ACTION ON ALL BILLS REFERRED TO THE COMMITTEE ON  
ECONOMIC DEVELOPMENT, JOB CREATION, COMMERCE, AND INDUSTRY**

<b>Final Disposition of Bills</b>	<b>Assembly</b>	<b>Senate</b>	<b>Total</b>
Bills Reported With or Without Amendment	10	0	10
To Floor; Not Returning to Committee	0	0	0
To Floor; Recommitted and Died	18	0	18
To Ways and Means	25	0	25
To Codes	10	0	10
To Rules	0	0	0
To Judiciary	0	0	0
<b>Total</b>	<b>63</b>	<b>0</b>	<b>63</b>

**Bills Having Committee Reference Changed**

To Tourism Committee	1	0	1
<b>Total</b>	<b>1</b>	<b>0</b>	<b>1</b>

**Senate Bills Substituted or Recalled**

Substituted		7	7
Recalled		0	0
<b>Total</b>		<b>7</b>	<b>7</b>

Bills Defeated in Committee	1	0	1
Bills Never Reported, Held in Committee	43		43
Bills Never Reported, Died in Committee	152	21	173
Bills Having Enacting Clauses Stricken	3	0	3
Motions Discharge Lost	0	0	0

<b>Total Bills in Committee</b>	<b>263</b>	<b>28</b>	<b>291</b>
<b>Total Number of Committee Meetings Held</b>	<b>12</b>		

## APPENDIX B

### COMMITTEE ON ECONOMIC DEVELOPMENT, JOB CREATION, COMMERCE, AND INDUSTRY

#### 2008 CHAPTERS

Assembly Bill #	Senate Bill #	Chapter	Description
A.113A Pheffer	S.5224 Padavan	Chapter 101	Requires the SLA to provide standardized forms for community board notification.
A.9073-B Morelle	S.6151-B Winner	Chapter 578	voids any provision of a franchise prohibiting a dealer from purchasing or selling unbranded motor fuel.
A.9163-A Bradley	S.175-B Alesi	Chapter 579	Prohibits the practice of zone pricing for motor fuel.
A.9478-B Cahill	S.6547 Saland	Chapter 181	Provides exemption for certain parcels of land from certain restrictions.
A.9862 Magee	S.6915 DeFrancisco	Chapter 183	Allows licensed wineries to sell wine for consumption on the premises at the New York State Fair.
A.9906 Schimminger	S.6883 Alesi	Chapter 73	Extends the date for the Law Revision Commission report on the ABC law until June 1, 2009.
A.9947 Magee	S.7190 Volker	Chapter 247	Allows the sale, tasting, and provision of beer and distilled spirits at the New York State Wine and Culinary Center.
A.10161 Magee	S.6955 Larkin	Chapter 613	Allows wineries to apply for multiple licenses allowing 5 tastings per license.
A.10416 Magee	S.7245 Larkin	Chapter 454	Makes technical corrections to the definition of a Class D farm distillery license.
A.10657 Schimminger	S.7636 Alesi	Chapter 588	Amends the definition of notification date pertaining to wholesalers of liquor.
A.10855-A Schimminger	S.8165-A Winner	Chapter 632	Extends the mandatory registration of kegs, and reduces the deposit.
A.10944 Destito	S.7910 Little	Chapter 342	Authorizes research institutions to participate in the research development program.
A.11003-A Schimminger	S.6262-B Winner	Chapter 440	Clarifies permissible activities between manufacturers, wholesalers, and retail associates.

A.11161 Schimminger	S.7407 Winner	Chapter 548	Expands the definition of “wine” to include products made with fruit and plants.
A.11438 Rules (Alessi)	S.5635-A Lavalle	Chapter 237	Authorizes the issuance of permits by the SLA to institutions of higher education to have alcohol delivered for a class.

**APPENDIX C**

**COMMITTEE ON ECONOMIC DEVELOPMENT, JOB CREATION,  
COMMERCE, AND INDUSTRY**

**2008 VETOES**

<b>Assembly Bill #</b>	<b>Senate Bill #</b>	<b>Description</b>	<b>Veto</b>
A.8506-A Weprin	S.4487-B Padavan	Veto Memo 40	Requires licensed appearance enhancement professionals to routinely complete a specialized study in hygiene.
A.9055-B Destito	S.6101-B Griffo	Veto Memo 92	Permits brewers to terminate an agreement with a beer wholesaler under certain conditions.
A.10594-A Bing	S.8154-A Serrano	Veto Memo 53	Establishes an economic grant program for the Second Avenue Subway construction project area.
A.11364-B Millman	S.8362-B Connor	Veto Memo 172	Clarifies that the measurement by the SLA of the 200 foot rule shall be made from property line to property line.