From:	alanmain@sugarlaw.com
To:	"financechair@nysenate.gov"; "wamchair@nyassembly.gov"
Bcc:	"SOHRAB SAADAT LADJEVARDI"
Subject:	Statement for the Record: Joint Legislative Budget Hearing on Local Government Officials/General Government - State Liquor Authority Parts N and Q
Date:	Wednesday, February 11, 2026 4:23:00 PM
Attachments:	COALITION NEWSLETTER-number 2 - First Amendment.pdf COALITION NEWSLETTER Issue 1 Opening a Jazz Club.pdf ProposedBillsForStudy.pdf 2026-02-11_Sugarman-Statement.pdf

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Dear Chairwoman Krueger, Chairman Pretlow, and Members of the Committees:

Attached please find my formal written statement for the record for the Joint Legislative Public Hearing on the 2026-2027 Executive Budget (Local Government Officials/General Government) held today, February 11, 2026.

In addition to the reforms proposed in my statement regarding Bills 1-6, I am writing to formally oppose Part N and Part Q of the Executive Budget proposal.

Part N retains the provisions excluding live music and patron dancing from temporary permits, in contravention of the stated purposes of the Governor.

Part Q is harmful and completely redundant, as it does not add any meaningful provisions that are not already firmly established in current law and SLA practice, except for providing relief for continuing to serve food at later hours in order to have dancing and music.
I respectfully request that this statement be included in the official record of today's proceedings.

As per the committee's instructions, I am submitting this before the 5:00 PM deadline.
Respectfully submitted,

Alan D. Sugarman sugarman@sugarlaw.com
Coalition of Musicians and Dancers to Eliminate
Regulations Against Music and Dancing
917-208-1516

Attachments:
Newsletter re Opening a Jazz Club and Temporary Permits
Newsletter re First Amendment Protection for Live Music
Proposed bills for reform

TESTIMONY OF ALAN D. SUGARMAN

On behalf of the Coalition of Musicians and Dancers

Joint Legislative Public Hearing: 2026-2027 Executive Budget (Local/General Government)

February 11, 2026

Good morning, Chairwoman Krueger, Chairman Pretlow, and distinguished members of the Senate Finance and Assembly Ways and Means Committees.

My name is Alan D. Sugarman, representing the Coalition of Musicians and Dancers to Eliminate Regulations Against Music and Dancing. I am here to **express sharp opposition to Parts N and Q** of the proposed bill.

I do not question the motives of the Governor, but believe that further study is needed to as to really solve problems, and not create more problem.

Opposition to Part N Bill Text Part N – Extend Authorization for Temporary Retail Permits

The Memorandum in Support for Part N is fundamentally misleading. While the Governor's State of the State message promised to "eliminate outdated restrictions on dancing" (referenced in Part Q), Part N quietly does the opposite. It ensures that the status quo of Section 97-a(3) of the Alcoholic Beverage Control Law remains in force for the 2026-27 fiscal year. This technical "administrative renewal" effectively extends the prohibition of Live Music and Patron Dancing for another year, directly contradicting the administration's public reform agenda.

A Barrier to Business: In New York City

Especially in 500-foot locations—the temporary-permit regime functions as a business-stopping barrier for venues whose core purpose is live music and social dancing, including jazz clubs. Moreover, it sanctions using Live Music and Social Dancing as a separate category to deny permits that would otherwise be granted.

Not In Public Interest

Section 97-a(3) works against the public interest when cultural venues like jazz clubs seek to open but cannot obtain a temporary permit, meaning the venue sits empty and cannot offer live music. This is discussed in the attached Newsletter of a real-world case study.

Constitutional Violation

The explicit and implicit prohibition of live music violates the First Amendment. As detailed in our second newsletter, the SLA routinely allows recorded music while prohibiting live music or just prohibiting live music—practices that directly contravenes established case law, including the Chiasson cases, Hund v. Cuomo, and Sportsmen's Tavern LLC v. NYSLA. These cases confirm that music is

protected expression and that banning advertised live performance is an unconstitutional content-based restriction.

Opposition to Part Q – Eliminate Outdated Restrictions on Dancing:

I further express adamant opposition to Part Q. While titled "Eliminate Outdated Restrictions on Dancing," this provision serves no practical purpose and will only complicate existing regulatory frameworks:

No Identification Of Outdated Restrictions

Today I had discussions the State Liquor Authority (SLA), except for one item, the authority was unable to define any "outdated restrictions" included in Part Q that are not already permitted under current law. The only issue this restrictions may affect is that current law seems to require establishment to continue to sell food in order to have dancing and music. If that is the only outdated restriction enable with Part Q, then it would be simple to remove that restriction, or modify it so that the venue may shut down is complete food service. in after-hours, and still have live music and dancing.

•*Redundancy*

It improperly assumes that current law does not already provide the relief it seeks to create. Where relief is already available, additional overlapping language will produce administrative confusion and unnecessary legal disputes.

•*Omission of Live Music in Governor's Statement*

Part Q follows the Governor's PR narrative by ignoring Live Music, which has a far more significant impact on the income of musicians and the cultural life of New York than dancing alone. Fortunately, the actual law does apply to to constitutionally protected music.

Inaccuracy of Memoranda and Statements in Support of Part Q

Finally, I must address the profound inaccuracies in the Governor's State of the State message, which claims dancing "is not always allowed in restaurants." This is a false statement. Under current law, dancing is not prohibited; it is only restricted by the SLA's unauthorized administrative hurdles. There are restaurants licensed by the SLA which have both live music and patron dancing, though not in over 9000 restaurants.

The Governor's proposal for a new "hybrid" license is a solution in search of a problem—one that ignores the reality that many restaurants simply want to offer live music or spontaneous dancing without being mislabeled as a "nightclub." This policy was clearly drafted by those who may not understand how SLA in reality operates and serves only to reinforce the SLA"s unconstitutional control

over New York's culture. The Governor's exaggerated statements are reminiscent of the public exaggerations which surrounded the repeal of the Cabaret Law and the NYC rezoning, neither of which meant much because of the regulation by the SLA.

The Gaslighting in Describing the Proposed Bill

The Governor's proposal and the SLA"s supporting narrative are built on a foundation of administrative misunderstandings.

The "By Default" Illusion

The message claims it will "allow dancing by default" in taverns and bars. This is already technically true, absent silent restrictions by SLA. The reality is that venues are blocked not by a lack of "default" permission, but by Community Board objections and forced signings of so-called stipulation agreements. This bill does nothing to curb those gatekeepers.

The 500-Foot Law Preservation:

The Governor's message confirms that "qualifying license types" will still require community disclosure and comment periods "consistent with statutory obligations" and the SLA"s 500-foot law hearings, with 897 hearing in 2025. This means the 200/500-foot laws—the most destructive barriers to jazz clubs and restaurants—are preserved. This is not reform; it is a renewal of the status quo.

The SLA"s Inability to Define the Law

In direct discussions I have had with the State Liquor Authority, their leadership was unable to define a single "outdated restriction" that is allegedly being eliminated by Part Q. It is a humiliation for a state agency to lobby for "reform" when they cannot even articulate the current regulations they claim to be changing. If the regulator is this unknowledgeable about its own rules, it has no business drafting new ones.

The Ultra Vires Stipulation Trap

The State of the State message claims that Community Boards "will be able to maintain their role making further stipulations." This statement is questionable and sanctions the continuation of practices today that create a situation where thousands of venues are unable to offer music and dancing. Under the New York City Charter, Community Boards possess only advisory powers. They have zero statutory authority to enter into contracts to to impose "stipulations" that function as binding law.

Validating Ultra Vires Acts of Community Boards.

By treating these advisory comments as mandatory conditions for a license, the SLA is validating this ultra vires behavior—with no authority under the ABC Law. There is no reference to "stipulations" in the ABC Law. For the Governor to suggest "maintaining" this role is to suggest the state should continue codifying lawless, extra-judicial practices that have no basis in the New York City Charter or State law.

The Nightclub Fallacy

This proposal was clearly drafted by someone who views New York's culture through a narrow, uninformed lens. A restaurant that moves a few tables to allow patrons to dance to a live jazz trio is not a "nightclub." By forcing businesses into this false binary, the State is attempting to regulate spontaneous human expression as if it were a public nuisance rather than a protected constitutional right.

A Proactive Path Forward: Six Proposed Bills

To address these systemic failures, I am submitting for your consideration a package of six legislative bills (attached to this testimony). These bills provide the clear, non-redundant reforms New York actually needs to protect its cultural and hospitality sectors.

Action Required

We urge this Committee to strike or amend Part N to remove the terms "patron dancing" and "live music" and to reject the redundant language of Part Q.

We ask that you instead review our proposed legislative package to provide real relief for New York's musicians, dancers, and small businesses.

LIST OF PROPOSED BILLS

Bill 1: Methods of Operation May Not Prohibit Music and Dancing

Bill 2: Live Music And Patron Dancing Presumed To Be In The Public Interest

Bill 3: No Implicit Restrictions Against Live Music Or Patron Dancing Act

Bill 4: The Temporary Permit Expansion Act

Bill 5: The Independent And Exclusive Power Of The State Liquor Authority To Determine Methods Of Operation

•Bill 6: End The 500 Foot Law Act

Sincerely,

Alan D. Sugarman

ATTACHMENTS

- Newsletter 1
- Newsletter 2
- Proposed Legislative Package

BILL NO. 1: Methods of Operation May Not Prohibit Music and Dancing

STATE OF NEW YORK

IN ASSEMBLY — SENATE

AN ACT to amend the alcoholic beverage control law, in relation to the method of operation disclosure requirements for retail licensees.

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

Section 1. Section 106 of the alcoholic beverage control law is amended by adding a new subdivision 18 to read as follows:

18. Method of operation; music and dancing. Pursuant to section one hundred ten of this chapter, the authority shall not require an applicant to disclose, nor shall it condition the issuance or renewal of any license upon, the presence or absence of live music or patron dancing, provided such activities are permitted by local zoning and do not violate local noise ordinances.

Section 2. Effective Date. This act shall take effect on the ninetieth day after it shall have become a law.

EXPLANATORY NOTE

(Required by Assembly Rule III, Sec 1(f))

This bill adds a new subdivision 18 to section 106 of the alcoholic beverage control law to prohibit the State Liquor Authority from requiring applicants to disclose or conditioning licenses on the presence of live music or patron dancing, provided these activities comply with local zoning and noise laws.

MEMORANDUM IN SUPPORT OF LEGISLATION

PURPOSE:

To prevent the State Liquor Authority (SLA) from using the "Method of Operation" disclosure as a pretext for regulating cultural and expressive activities like live music and social dancing when such activities are already lawful under local zoning.

JUSTIFICATION:

For decades, the SLA has used its administrative "Method of Operation" form to treat live music and dancing as "conditional" privileges. This has allowed the agency to impose restrictions on artistic expression—such as prohibiting specific instruments or genres—even when a venue is fully compliant with local noise and zoning laws.

This bill codifies a "cleanse" of the method of operation process. It clarifies that if an activity is permitted by a municipality (such as New York City's 2024 "City of Yes" zoning reform), the SLA cannot use the licensing process to override that local determination. This ensures that social dancing and music, as fundamental forms of human expression, are no longer subject to shadow regulation by a state liquor board.

FISCAL IMPLICATIONS:

None.

BILL NO. 2: LIVE MUSIC AND PATRON DANCING PRESUMED TO BE IN THE PUBLIC INTEREST

STATE OF NEW YORK

IN ASSEMBLY — SENATE

AN ACT to amend the alcoholic beverage control law, in relation to establishing a presumptive public benefit for live music and patron dancing in licensing determinations.

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

Section 1. The alcoholic beverage control law is amended by adding a new section 64-g to read as follows:

§ 64-g. Presumptive public benefit; live music and patron dancing. 1. In any hearing or determination conducted by the authority pursuant to sections sixty-four, sixty-four-a, sixty-four-c, or sixty-four-d of this chapter to determine whether the granting of a license is in the public interest, the presence of live music and patron dancing at the premises shall be deemed a presumptive public benefit.

2. The burden of proof shall rest upon any party opposing the issuance of a license or the inclusion of these activities in a method of operation to demonstrate, by clear and convincing evidence, that such activities will result in a specific and substantial negative impact on the health, safety, or welfare of the community that cannot be mitigated by existing local noise and safety regulations.

Section 2. This act shall take effect on the ninetieth day after it shall have become a law.

EXPLANATORY NOTE

(Required by Assembly Rule III, Sec 1(f))

This bill adds a new section 64-g to the alcoholic beverage control law to establish that live music and patron dancing are presumptive "public benefits" in licensing determinations. It shifts the burden of proof to opponents of these activities to demonstrate substantial negative impacts by a clear and convincing evidentiary standard.

MEMORANDUM IN SUPPORT OF LEGISLATION

PURPOSE:

To codify the cultural and social value of live music and patron dancing by establishing

a legal presumption that these activities serve the public interest and shifting the evidentiary burden to those who oppose them.

JUSTIFICATION:

For decades, the "public interest" standard in the alcoholic beverage control law has been utilized to treat live music and social dancing as inherent liabilities or nuisances. This has forced applicants to "prove" the value of basic cultural expression. This bill reverses that dynamic, establishing that these activities are a **presumptive public benefit**.

This shift aligns state law with the 2017 repeal of the NYC Cabaret Law and the 2024 "City of Yes" reforms, which recognized social dancing and music as fundamental forms of human expression. By placing the **burden of proof** on opponents, the law ensures that artistic and social activities cannot be suppressed based on vague or generalized concerns. Opponents must instead meet a high "clear and convincing" evidentiary standard to show that local noise and safety codes are insufficient to protect the community.

This ensures that the State Liquor Authority serves its entire constituency—including musicians, dancers, and cultural enthusiasts—rather than acting solely as a gatekeeper against expressive activity.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect on the ninetieth day after it shall have become a law.

BILL NO. 3: NO IMPLICIT RESTRICTIONS AGAINST LIVE MUSIC OR PATRON DANCING ACT

STATE OF NEW YORK

IN ASSEMBLY — SENATE

AN ACT to amend the alcoholic beverage control law, in relation to prohibiting the enforcement of implicit or explicit license restrictions on live music and patron dancing.

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

Section 1. Section 106 of the alcoholic beverage control law is amended by adding a new subdivision 19 to read as follows:

19. (a) No license issued by the authority shall be subject to any implicit or explicit restriction, condition, or stipulation prohibiting or limiting the use of live music or patron dancing at the licensed premises, provided such activities are permitted by local zoning and are conducted in compliance with local noise ordinances.

(b) Any such restriction, condition, or stipulation contained within a method of operation or license issued by the authority prior to or after the effective date of this subdivision is hereby declared null, void, and unenforceable. The authority shall not initiate or maintain any disciplinary proceeding, nor shall it impose any fine, suspension, or revocation, based upon the violation of any such restriction or condition.

Section 2. This act shall take effect immediately.

EXPLANATORY NOTE

(Required by Assembly Rule III, Sec 1(f))

This bill adds a new subdivision 19 to section 106 of the alcoholic beverage control law. It nullifies all existing and future implicit or explicit license restrictions on live music and patron dancing, provided those activities comply with local law. It further prohibits the State Liquor Authority from enforcing such restrictions through disciplinary actions.

MEMORANDUM IN SUPPORT OF LEGISLATION

PURPOSE:

To ensure that lawful cultural activities—specifically live music and social dancing—are not suppressed by legacy restrictions in liquor licenses or "implicit" prohibitions within an establishment's filed method of operation.

JUSTIFICATION:

For decades, the State Liquor Authority (SLA) has used the licensing process to impose "zoning by stipulation," often forcing small business owners to agree to "no music" or

"no dancing" clauses to secure a license. These restrictions frequently persist even after local municipalities, such as New York City through its 2017 Cabaret Law repeal and 2024 "City of Yes" reforms, have legalized these activities.

This bill clarifies that **social dancing and music are fundamental forms of expression**. It provides an immediate "cleanse" of the regulatory system by declaring all such restrictive stipulations null and void. By prohibiting the SLA from enforcing these legacy restrictions, the bill ensures that a venue's cultural programming is governed by local democratic standards and noise codes, rather than antiquated administrative checkboxes. Existing disciplinary powers under **ABC Law § 118** remain available to address any venue that is truly disruptive, ensuring that public order is maintained without the need for pre-emptive suppression of the arts.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect immediately.

BILL NO. 4: THE TEMPORARY PERMIT EXPANSION ACT

STATE OF NEW YORK

IN ASSEMBLY — SENATE

AN ACT to amend the alcoholic beverage control law, in relation to temporary retail permits and the removal of restrictions on musical and dancing activities.

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

Section 1. Subdivision 3 of section 97-a of the alcoholic beverage control law, as added by chapter 56 of the laws of 2022, is amended to read as follows:

3. ...Provided however, any premises granted a temporary retail permit pursuant to this subdivision in a city with a population of one million or more people shall only be allowed to operate on the premises under the following conditions: the closing time any day of the week shall be no later than midnight; provided however that the closing time of any outdoor space shall be no later than ten o'clock post-meridian Sunday through Thursday and eleven o'clock post-meridian Friday and Saturday; ~~no outdoor music; indoors shall have recorded background music only, with no live music, DJ's, karaoke, or similar forms of music; and no dancing. The authority shall automatically lift such restrictions if the authority issues a retail license for the premises, and replace such restrictions with other restrictions, if any, imposed by the authority in accordance with the public interest standard.~~ *Notwithstanding any provision of law to the contrary, the Authority shall not deny an application for a temporary retail permit, nor impose any restrictive conditions upon such permit, based upon the applicant's intention to provide live music or patron dancing. A temporary permit issued under this chapter shall authorize the same activities regarding music and dancing as are permitted by local zoning and occupancy laws for the premises, regardless of any prior "Method of Operation" or "representations" made by a previous licensee at the same location.* Further provided however, a temporary retail permit may not be issued pursuant to this subdivision...

Section 2. This act shall take effect immediately.

EXPLANATORY NOTE

(Required by Assembly Rule III, Sec 1(f))

This bill amends subdivision 3 of section 97-a of the alcoholic beverage control law to remove mandatory prohibitions on music and dancing for temporary retail permits in New York City. While maintaining existing statutory closing hours, it ensures that a new permit holder’s right to host music and dancing is governed by local zoning and

occupancy laws, and prohibits the State Liquor Authority from imposing restrictive conditions based on the history of prior licensees at the same location.

MEMORANDUM IN SUPPORT OF LEGISLATION

PURPOSE:

To eliminate the mandatory "no music" and "no dancing" restrictions for temporary retail permits in New York City, allowing new businesses to align their operations with local zoning immediately upon receipt of a permit.

JUSTIFICATION:

Part N of Chapter 56 of the Laws of 2022 mandated that all temporary retail permits in New York City operate with a total ban on live music, DJs, and patron dancing. This has resulted in a "cultural blackout" for new venues, forcing them to remain silent for the 10 to 12 months it takes for a permanent license to be processed.

This bill corrects this administrative burden by ensuring that if an activity is legal under local zoning, it is permitted under a temporary permit. Furthermore, it decouples new business owners from the "Method of Operation" or representations made by previous, unrelated licensees at the same location. This allows for a clean transition and immediate economic and cultural activity without the pre-emptive suppression of music and dancing.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect immediately.

BILL 5 AN ACT to amend the alcoholic beverage control law, in relation to the independent and exclusive power of the state liquor authority to determine methods of operation

SPONSOR'S MEMORANDUM

TITLE OF BILL:

AN ACT to amend the alcoholic beverage control law, in relation to the independent and exclusive power of the state liquor authority to determine methods of operation.

PURPOSE:

To affirm the State Liquor Authority's exclusive jurisdiction over licensed operations and to prevent the enforcement of extra-legal, coercive "stipulations" drafted by advisory community boards that bypass state law and local zoning.

SUMMARY OF PROVISIONS:

- **Section 1:** Establishes the short title.
- **Section 2:** Amends ABC Law § 64(6-a) to define "method of operation" and prohibit the SLA from incorporating community board stipulations into licenses, notwithstanding the binding nature of application information under § 110.
- **Section 3:** Renders null and void any license conditions based on community board stipulations that prohibit music or dancing where otherwise permitted by law.
- **Section 4:** Provides for an immediate effective date.

JUSTIFICATION:

Community boards provide valuable input to the Authority as to local conditions unique to an applicant or site. Their advisory role is essential in ensuring the Authority is aware of the specific needs and character of a neighborhood. However, under the New York City Charter, these boards are strictly advisory.

A practice has emerged where boards pressure license applicants into signing "stipulations" under duress, often threatening a negative recommendation unless the applicant surrenders legal rights. These are illusory agreements; boards lack the legal standing to enforce them in court, yet they ask the Authority to "bootstrap" these private contracts into state-enforced license conditions by treating them as binding application information. This bill restores the proper balance: it encourages boards to provide signed or unsigned advisory recommendations based on their local expertise, while ensuring the Authority—not an advisory board—remains the sole

arbiter of operations. Furthermore, this prevents local boards from using stipulations to ignore or override City Council rezoning legislation intended to foster economic and cultural growth.

LEGISLATIVE TEXT

AN ACT to amend the alcoholic beverage control law, in relation to the independent and exclusive power of the state liquor authority to determine methods of operation.

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

Section 1. Short title. This act shall be known and may be cited as the "State Liquor Authority independent power to determine Methods of Operation act."

§ 2. Subdivision six-a of section sixty-four of the alcoholic beverage control law is amended by adding two new paragraphs (f) and (g) to read as follows:

(f) Notwithstanding section one hundred ten of this chapter, including subdivision five of such section, the authority shall have the exclusive power to determine the methods of operation of a license. For the purposes of this section, "method of operation" shall include, but not be limited to, the hours of operation, the use of security personnel, and the types of music or entertainment provided. No agreement, stipulation, or memorandum of understanding entered into or made between an applicant and a community board or municipality shall be binding upon the licensee, nor shall the authority incorporate by reference any such agreement, stipulation, or representation into the terms or conditions of any license or the method of operation of a licensed premises. Such agreements or stipulations shall not be deemed "information furnished in an application" or a "supplemental statement" for the purposes of section one hundred ten. The authority shall not consider any recommendation from a community board or municipality that is conditioned upon the applicant's execution of an agreement or stipulation with such board or municipality, as the powers of a community board are strictly advisory.

(g) Any condition heretofore or hereafter imposed by the authority that relies upon a community board stipulation prohibiting live music or patron dancing shall be deemed null and void as an ultra vires exercise of local authority by the community board where such music or dancing is otherwise permitted by local zoning and building cod**es.**

§ 3. This act shall take effect immediately.

Next

BILL NO. 6: END THE 500 FOOT LAW ACT

STATE OF NEW YORK

IN ASSEMBLY — SENATE

AN ACT to amend the alcoholic beverage control law, in relation to the repeal of the "five-hundred-foot rule" and "two-hundred-foot rule" and the associated hearing requirements.

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

Section 1. Repeals. The following provisions of the alcoholic beverage control law are hereby **REPEALED**:

- Paragraphs (a), (b), (e), and (f) of subdivision seven of section sixty-four.
- Subdivision seven of section sixty-four-a.
- Subdivision five of section sixty-four-b.
- Subdivision eleven of section sixty-four-c.
- Subdivision eight of section sixty-four-d.
- Subdivision three of section one hundred five.

Section 2. Effective Date. This act shall take effect on the ninetieth day after it shall have become a law.

EXPLANATORY NOTE

(Required by Assembly Rule III, Sec 1(f))

This bill proposes to repeal various subdivisions of sections 64, 64-a, 64-b, 64-c, 64-d, and 105 of the alcoholic beverage control law. These provisions, collectively known as the **"200-foot rule"** and the **"500-foot rule,"** currently prohibit the issuance of certain retail liquor licenses based on proximity to schools, places of worship, or a high density of existing licensed establishments. The bill also repeals the mandatory hearing requirements and "public interest" findings associated with these proximity restrictions.

MEMORANDUM IN SUPPORT OF LEGISLATION

PURPOSE:

To eliminate antiquated state-level proximity restrictions and mandatory administrative hearings for retail liquor licenses to align state law with modern municipal reforms and reduce unnecessary administrative burdens on the State Liquor Authority (SLA).

JUSTIFICATION:

The "500-foot law" (Padavan Law, 1993) was enacted during a period of social repression in New York City. This state-level restriction is now in direct conflict with a decade of significant municipal reform, including the 2017 repeal of the NYC Cabaret Law and the 2024 "City of Yes" initiative. These local reforms recognized **social dancing and music as fundamental forms of human expression**, yet the 500-foot rule remains as a fossilized barrier that effectively neutralizes them.

Furthermore, the repeal of this rule does not leave communities unprotected. The SLA already possesses expansive disciplinary powers under **ABC Law § 118** to fine, suspend, or revoke the license of any establishment that operates a disruptive venue. These existing enforcement tools, combined with New York City's robust Noise Code and local nuisance laws, provide ample protection without the need for the current, burdensome "pre-approval" hearing process.

Administratively, the current process is a significant drain on State resources. In 2025, the SLA conducted nearly 900 mandatory 500-foot hearings, creating a 10 to 12-month delay for permanent licenses. This bill redirects those judicial resources toward actual public safety and enforcement while finally aligning State law with the cultural and economic reality of New York City.

FISCAL IMPLICATIONS:

Significant cost savings to the State through the elimination of approximately 900 non-discretionary hearings annually.

EFFECTIVE DATE:

This act shall take effect on the ninetieth day after it shall have become a law.

DRAFT COALITION NEWSLETTER

Volume 1 Issue 1 January 30, 2026

NY SLA's Gotchas

Case Study: Trying to Start a Jazz Club in New York City

Coalition of Musicians and Dancers to Eliminate
Regulations Against Music and Dancing
http://dance-music-regulation.com

Temporary permits not available with Live Music and Patron Dancing in Method of Operation

How does one start a new jazz club in New York City when a 2022 state law provides that temporary retail permits may not allow live music or patron dancing? We were not aware of this restriction until the SLA recently highlighted these provisions in a new advisory. See ABC Law § 97-a (3).

Friday and Saturday; **no outdoor music; indoors shall have recorded background music only, with no live music, DJ's, karaoke, or similar forms of music; and no dancing....**

In other words, this enshrined law will force the jazz club to try to compete as a restaurant only during the temporary permit period, while waiting to go through the licensing procedures of the SLA, even though the community board has no objection to live music. This it the SLA at work.

The proposal discussed below by this jazz club is a useful case study of issues relating to the over-regulation of dancing and live music by the SLA.

This § 97-a (3) restriction is not included in the primary portions of the ABC Law—including §§ 64 and 64-a—that are generally devoted to liquor-licenses Instead, the restriction is buried in § 97. I recall a meeting last fall with several liquor-license attorneys: when I asked whether the ABC Law or SLA

regulations mentioned live music or patron dancing, the answer was "no." http://dance-music-regulation.com/document/500-foot-law-statutory-provisions/

In January 2026, the Governor submitted a bill to extend the effective period for another year. Part N. http://dance-music-regulation.com/document/governor-2026-proposals-to-amend-abc-law. § 97-a (3) unfortunately identifies live music and patron dancing as factors appropriate to be included in methods of operation.

Eight Hundred and Ninety Seven 500- Foot hearings in 2025.

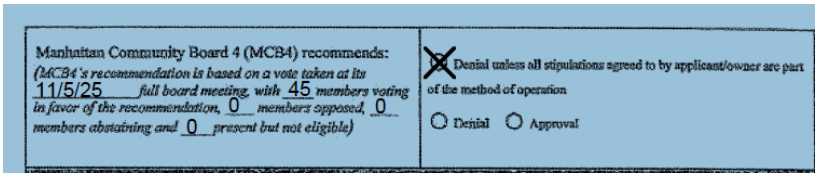
As a result, anyone starting a jazz club from scratch within a 500-foot zone is going to need to wait until the application moves through other cumbersome license-approval procedures. In a 500-foot zone, one typically must go through the often 500-foot pseudo-hearing—even where there is no opposition. In 2025, the SLA held 897 of these pseudo-proceedings, imposing more costs and delay on owners.

The SLA considers method of operation requirement to apply to private events.

Currently, an owner is seeking to establish a jazz club at a midtown site where the previous operator ran a club with live music and patron dancing. The owner completed the local community board's form and stated that its method of operation would include live music, but not patron dancing—effectively locking in that representation even if it later the club wanted to offer dancing for special events or private parties. The SLA regulates clubs and catering halls on the issues of live music and patron dancing in methods of operation.

Interestingly, the community board—though not seemingly opposed to live music (and likely not opposed to patron dancing, which was not raised)—refused to recommend the license unless the owner would sign a stipulation with the community board, illustrating how boards exercise their control over applicants. http://dance-music-regulation.com/wp-content/uploads/Com.munity-Board-4-Stipulation-W-46-2025.pdf

Community Board refuses to approve unless owner signs stipulation.

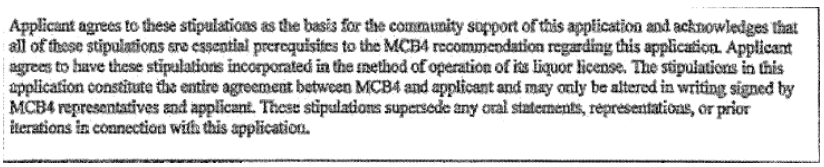


Manhattan Community Board 4 (MCB4) recommends:
(MCB4's recommendation is based on a vote taken at its 11/5/25 *full board meeting, with* 45 *members voting in favor of the recommendation,* 0 *members opposed,* 0 *members abstaining and* 0 *present but not eligible)*

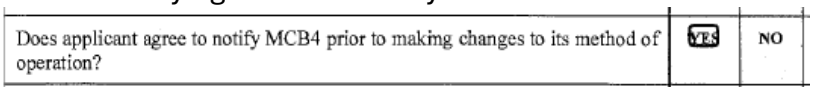
☒ Denial unless all stipulations agreed to by applicant/owner are part of the method of operation

○ Denial ○ Approval

The applicant here did sign the stipulation:



Applicant agrees to these stipulations as the basis for the community support of this application and acknowledges that all of those stipulations are essential prerequisites to the MCB4 recommendation regarding this application. Applicant agrees to have these stipulations incorporated in the method of operation of its liquor license. The stipulations in this application constitute the entire agreement between MCB4 and applicant and may only be altered in writing signed by MCB4 representatives and applicant. These stipulations supersede any oral statements, representations, or prior iterations in connection with this application.

	The City Charter provides that a community board only has advisory powers. Nothing authorizes a board to enter into agreements, and of course the agreements are inoperative since a community board has no power to sue.
Stipulation restricted owner's ability to change method of operation if notice not required by SLA.	Of note as well is that the proposed stipulation required that the owner not seek to change its method of operation without notifying the community board.
	
	Does applicant agree to notify MCB4 prior to making changes to its method of operation? YES NO
Community boards are merely advisory and have no power to enter into contract.	Community boards are supposed to be merely advisory. They have no independent legal status in this process and cannot themselves maintain lawsuits. f the SLA determines that no substantial evidence supports demands to not include patron dancing or live music, the community board has no standing to sue the SLA. But in practice, the SLA _ especially in 500-foot cases _ often treats community board opinions as determinative, turning the entire process on its head.
Case law holding that restrictions on live music violate the First Amendment	One final note: the temporary-permit restrictions as to live music and arguably as to patron dancing, as implemented, are on their face violative of the First Amendment as interpreted in New York cases such as *Chiasson I* and *Chiasson II* and *Sportsmen's Tavern v. New York State Liquor Authority*, and in two federal cases, *Hund v. Cuomo* and *Muchmore v. City of New York*.

Alan D. Sugarman

Citations:

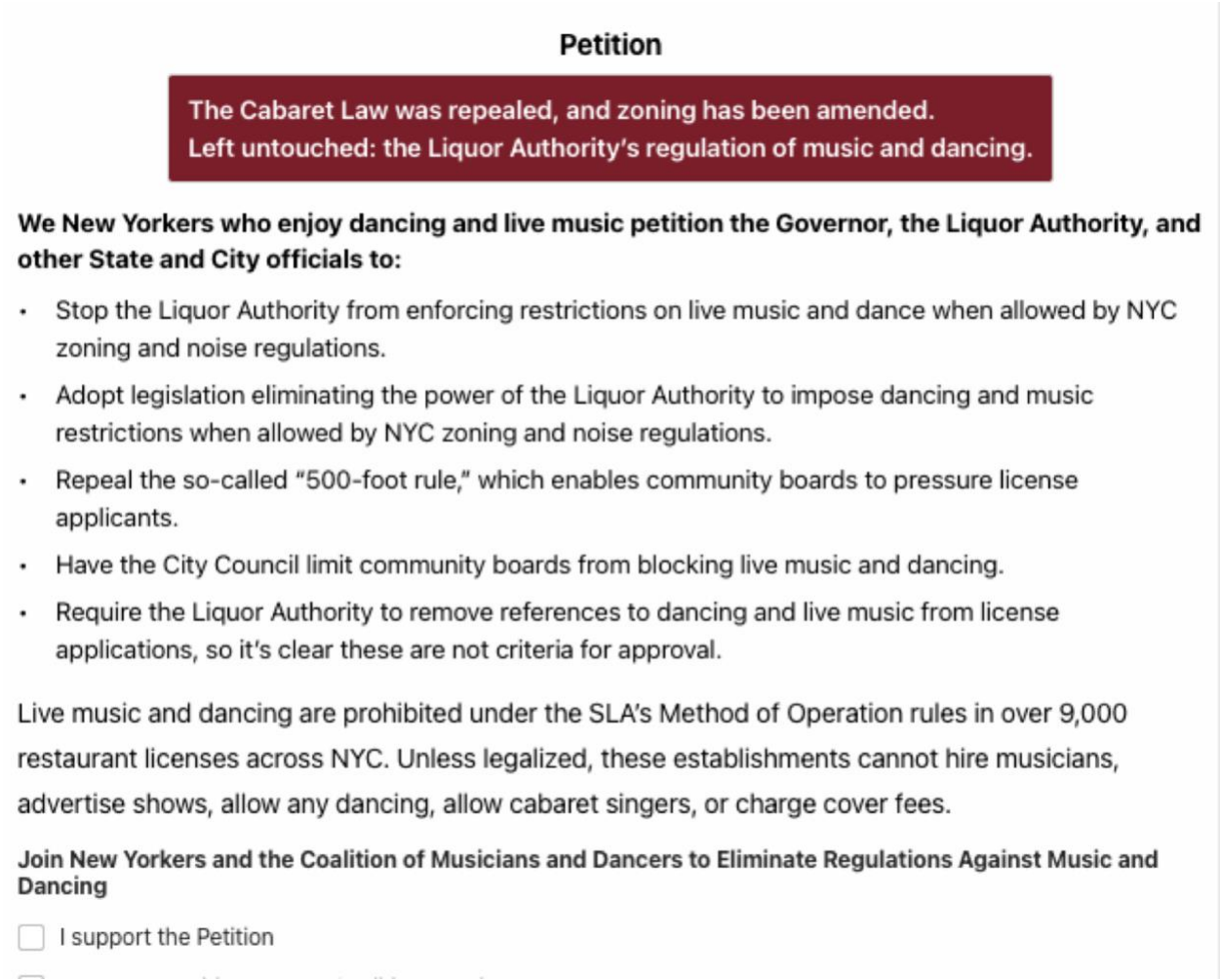
Hund v. Cuomo, 501 F. Supp. 3d 185 (W.D.N.Y. 2020), remanded sub nom. Hund v. Bradley, No. 20-3908-cv, (2d Cir. Apr. 26, 2021). http://dance-music-regulation.com/document/hund-v-cuomo-sla-usdc-2021

Sportsmen's Tavern LLC v. New York State Liquor Authority, Index No. 809297/2020 (Sup. Ct., Erie County, Sept. 30, 2020), appeal dismissed as moot and judgment vacated, Matter of Sportsmen's Tavern LLC v. New York State Liquor Authority, 195 A.D.3d 1557, 1559 (App. Div. 4th Dept. 2021) (mootness; vacatur).See http://dance-music-regulation.com/document/sportsmens-tavern-v-new-york-state-liquor-authority/

Chiasson v. New York City Department of Consumer Affairs, 132 Misc. 2d 640 (N.Y. Sup. Ct. 1986). http://dance-music-regulation.com/document/chiasson-i-1986

Chiasson v. NYC Dept. of Consumer Affairs, 138 Misc. 2d 394, 524 N.Y.S.2d 649 (Sup. Ct. N.Y. Co. 1988). http://dance-music-regulation.com/document/chiasson-ii

Muchmore's Cafe, LLC v. City of New York, No. 14-CV-5668 (RRM) (RER) (E.D.N.Y. July 19, 2018). (acknowledging First Amendment protection for live music).



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☐ I support the Petition

http://dance-music-regulation.com/petition-2/

http://dance-music-regulation.com/petition/ With Fact Sheet

COALITION NEWSLETTER

Volume 1 Issue 2 February 8, 2026 v1

Recent New York and Federal Cases Reject SLA "Incidental Music" Policies and Uphold First Amendment Rights as to Musical Expression

Coalition of Musicians and Dancers to Eliminate
Regulations Against Music and Dancing
http://dance-music-regulation.com

Two 2020 court decisions from State and Federal courts strike down SLA Policies

During the COVID-19 pandemic, the New York State Liquor Authority (SLA) implemented "Guidance" (not a formal regulation) that among other things prohibited licensed establishments from hosting advertised or ticketed live music. The SLA claimed live music was only permitted if it was "incidental" to the dining experience.

Two pivotal cases—one in the United States District Court and one in the Erie County Supreme Court—struck down these policies as unconstitutional violations of the First Amendment protections afforded to live music.

A musician Hund claimed that the SLA policy infringed his right to pursue his profession of performing live music.

Hund v. Cuomo, 501 F. Supp. 3d 185 (W.D.N.Y. 2020). United States District Court

In this case, a musician and a venue challenged the "incidental music" rule, which banned other than incidental music and advertised performances and ticket sales. The lead plaintiff, Gareth Hund, was a musician. He alleged that the SLA's "incidental music" rule violated his First Amendment rights and interfered with his liberty interest in pursuing his chosen profession—performing live music. The other plaintiffs in the case were the venue and its owner (Theodore's Red Hots).

The court found that the SLA's policy was an impermissible restriction on protected expression.

Live music if a form of protected speech under the First Amendment.

First Amendment Holding: The court ruled that live music is a form of protected speech. It held that the SLA's ban on advertising and ticketing failed intermediate scrutiny because it was not narrowly tailored. The court noted that the SLA allowed other events, like "trivia nights," which created the same alleged health risks, making the distinction against live music arbitrary and content based.

Hund court: 'significantly restrict[s] a substantial quantity of speech

The Court stated "Even assuming that the incidental-music rule... mitigated those risks, it does so at the expense of burdening Hund's First Amendment rights... the ban 'significantly restrict[s] a substantial quantity of speech that does not create the same evils' Bradley seeks to prevent... Hund states a First Amendment claim—specifically, for an impermissible time, place, or manner restriction".

SLA evades appeal affirmance by withdrawing the "rule".

The "Mootness" Maneuver: On appeal to the Second Circuit, the SLA represented that the Guidance had been amended to permit bars and restaurants to host live, indoor, ticketed performances, effectively removing the "incidental" music restrictions. By doing so, they avoided a formal affirmance of the lower court's ruling, but the retreat was a transparent admission that the policy could not survive judicial review.

Sportsman challenges the SLA position that live music must be incidental.

Sportsmen's Tavern LLC v. New York State Liquor Authority, Index No. 809297/2020 (Sup. Ct., Erie County)

This case challenged the same "incidental" music Covid policy in state court by a different venue. The court took an even firmer stance on the SLA's overreach and the standing of businesses to protect musical expression.

Court holds that the "incidental music" policy was likely unconstitutional.

First Amendment Holding

The court granted a preliminary injunction against the SLA, finding that the "incidental music" policy was likely unconstitutional. Crucially, the court recognized the restaurant's standing to assert the First Amendment rights of the musicians and the public.

The court recognized the restaurant's standing to challenge the SLA's "incidental music" policy by asserting the constitutional rights of third parties. Specifically, the court allowed the venue to protect:

- The musicians' First Amendment rights to perform and express themselves.
- The public's First Amendment rights to hear and receive that musical expression.

Allows venue to assert rights of musicians.

This is a significant legal point because it confirms that a licensed establishment has a "liberty interest" and standing to sue when state policies unconstitutionally restrict the core expressive activities of those they host.

Sportsman courts states: The First Amendment protects live music... the SLA's policy regarding 'incidental music' is unconstitutional.

The Court explicitly addressed the constitutional protection of the performance itself: "The First Amendment protects live music... the SLA's policy regarding 'incidental music' is an unconstitutional content-based restriction on speech that does not survive even a less-stringent 'intermediate scrutiny' analysis".

SLA rescinds policy to evade appellate court affirmance.

Outcome: Similar to *Hund*, when this case reached the Appellate Division, the SLA argued the matter was moot because they had rescinded the policy. While the judgment was vacated on technical mootness grounds, the initial "slap down" by the trial court remains a powerful testament to the illegality of the SLA's actions.

Hund and Sportsman follow earlier court determination in New York.

Adoption of Historical Precedent

These cases represent a modern application of long-standing New York and Federal jurisprudence. By striking down the SLA's arbitrary distinctions, these courts adopted the constitutional positions established in *Chiasson* and *Muchmore's Cafe,* affirming that live music is a core protected activity that the State cannot regulate out of existence through administrative whim.

Chiasson cases from 1986 and 1988 in New York remain good law.

The Historical Foundation: The Chiasson Rulings and the Fallacy of "Incidental" Restrictions

The constitutional defects identified in the COVID-era SLA policies are rooted in a legal battle begun decades earlier in New York City. The rulings in *Hund* and *Sportsmen's Tavern* effectively adopt the logic found in the landmark *Chiasson* cases, which first dismantled the arbitrary distinctions used to regulate live performance under the guise of "incidental music".

The Arbitrary Nature of the Restrictions

In Chiasson I, the court directly addressed the city's attempt to define what constituted "incidental" music

In Chiasson v. New York City Department of Consumer Affairs (Chiasson I), the court directly addressed the city's attempt to define what constituted "incidental" music. At the time, the law permitted music in unlicensed venues only if it involved no more than three musicians and excluded specific instruments like drums or wind instruments. The city argued these restrictions were necessary for noise control and to distinguish a "restaurant" from a "cabaret".

" The City's contention that the 'no-amplification' rule is necessary to control noise is equally unpersuasive"

The court rejected these distinctions as irrational. On the specific issue of electronic amplification—a primary tool the city sought to ban to keep music "incidental"—the court noted:

> "The City's contention that the 'no-amplification' rule is necessary to control noise is equally unpersuasive. In this day and age, much music is amplified. The City has failed to demonstrate any rational basis for distinguishing between amplified and non-amplified music in its effort to control noise levels. Indeed, the City has its own noise control code, which is the proper vehicle for regulating noise, regardless of its source or the type of instrument producing it".

City tried to avoid Chiasson by adopting zoning restriction which in 2024 were removed.

Incidentally, it is generally understood that the New York City zoning restrictions removed in 2024 were adopted in 1990 in reaction to the *Chiasson* cases, brought by the NYC Musicians Union. It is also believed by some that the draconian 500-foot law was similarly influenced by the *Chiasson* cases.

"The government could not justify burdening the First Amendment rights of musicians"

Lack of Narrow Tailoring

The Chiasson court found that the government could not justify burdening the First Amendment rights of musicians and audiences through arbitrary "incidental" definitions. The court held that if the government's interest was noise or overcrowding, it must use direct regulations—such as the Noise Control Code or Fire Department occupancy limits—rather than unconstitutional restrictions on the number of performers or the technology of their expression.

The SLA was attempting to use administrative "policies" to suppress protected expression

Direct Lineage to Earlier Music Regulation

This jurisprudence informs the recent "slap down" of the SLA. Just as the court *in Chiasson I* found no rational basis to distinguish between unamplified and amplified music, the courts in Hund and Sportsmen's Tavern found no rational basis to distinguish between "incidental" music and advertised or ticketed music. In all these instances, the courts recognized that the government was attempting to use administrative "policies" to suppress protected expression that happened to occur within a licensed venue.

The SLA may not claim that only incidental music is permissible as an excuse to restrict Live Music.

By adopting the *Chiasson* position, these modern cases affirm that the First Amendment protects the performance itself, and the state cannot circumvent that protection by labeling the music "incidental" to food service or by excluding it from "Temporary Permit" eligibility.

SLA Practice of Regulation Is Unconstitutional	*The SLA's Pattern of Unconstitutional Regulation Policy* Policy makers must be aware that the State Liquor Authority has a history of implementing "guidance" and "policies" that bypass formal rulemaking and violate fundamental First Amendment rights. In both *Hund v. Cuomo* and *Sportsmen's Tavern*, courts recognized that live music is not merely "incidental" to a business—it is protected speech. The earlier *Chiasson* cases specifically rejected the current position of the SLA that music may only be incidental to dining or drinking.
SLA strategy is to avoid proper regulations, issue vague policies, litigate and retreat on paper only.	The SLA's strategy of "litigate and retreat"—defending unconstitutional policies until an appellate loss is imminent, then removing the "Guidance" entirely to avoid a binding precedent—demonstrates a lack of respect for constitutional limits. Legislators should view current and future SLA restrictions on music and dancing, including the Temporary Permit law which unconstitutionally excludes Live Music, through the lens of these judicial rebukes. The courts have already spoken: the SLA cannot use administrative "policy" to silence live music.
SLA - Forty Years of Defying Chiasson Cases	For over forty years, the SLA has been arrogantly defying the holdings of the Chiasson cases and continues to ignore these recent cases. For example, many many thousands of SLA licenses as a matter of routine allow recorded music but disallow live unamplified music. The legislature must act to explicitly change the behavior of the SLA.

Alan D. Sugarman sugarman@sugarlaw.com
Coalition of Musicians and Dancers to Eliminate Regulations Against Music and Dancing

Full Citations

1. Hund v. Cuomo, 501 F. Supp. 3d 185 (W.D.N.Y. 2020), remanded sub nom. Hund v. Bradley, No. 20-3908-cv, (2d Cir. Apr. 26, 2021).

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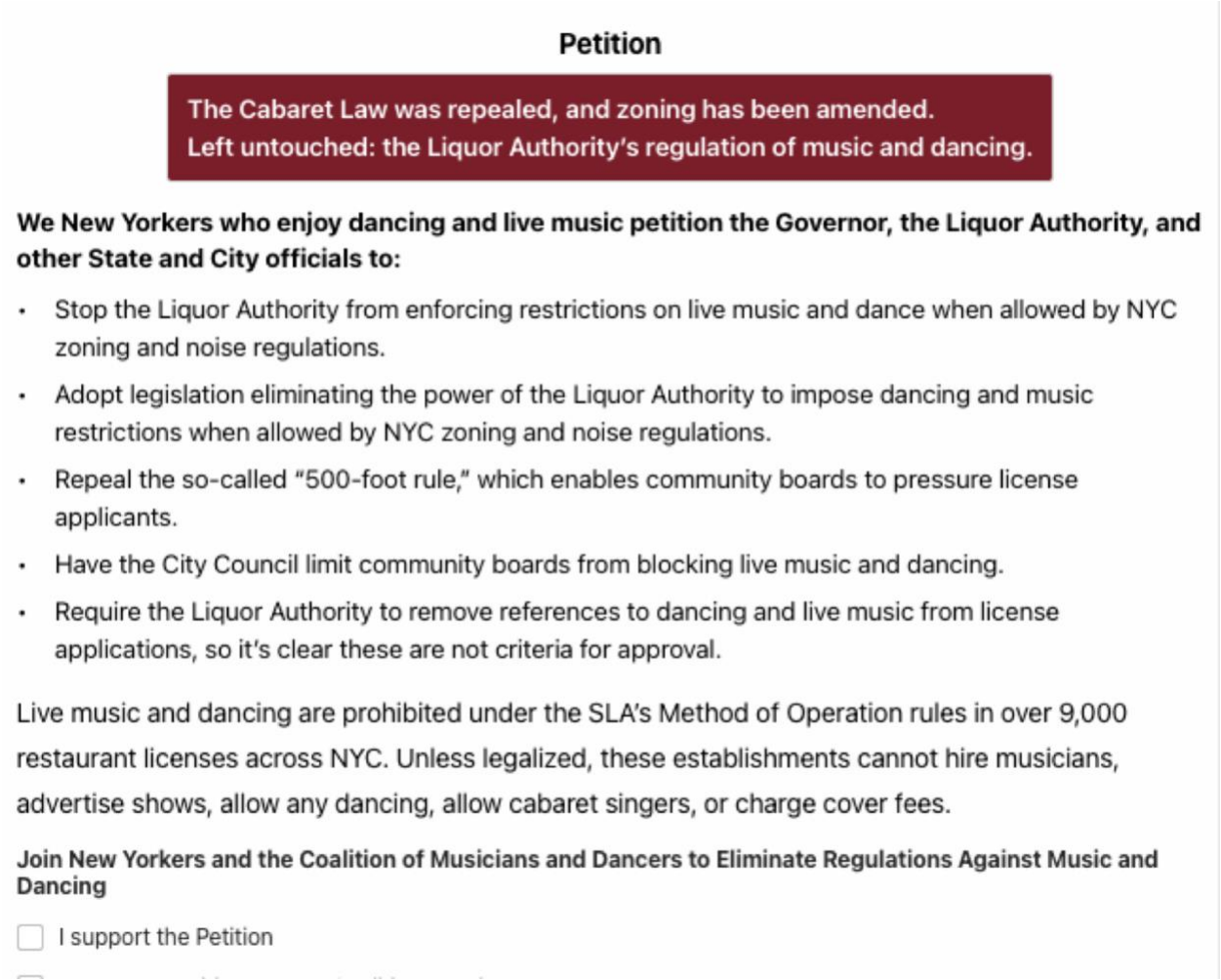

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