

INTRODUCTION

THE STATE LIQUOR AUTHORITY

In 1934, after the prohibition against the sale and distribution of alcoholic beverages was repealed by the 21st Amendment to the United States Constitution in 1933, the New York State Legislature enacted the Alcoholic Beverage Control (ABC) Law which created the State Liquor Authority and the Division of Alcoholic Beverage Control. The Authority is comprised of three Members appointed by the Governor with the advice and consent of the State Senate.

The restrictions, regulations and provisions contained in the ABC Law as enacted in 1934 were designed to protect the health, safety and welfare of the people of New York State and to promote temperance and respect for the law. Those considerations continue to play an important role in the Authority's decisions today.

The Authority's major responsibilities are to issue liquor licenses to eligible individuals, corporations, partnerships and other legal entities and to administratively enforce the provisions of the ABC Law. The Authority can commence disciplinary proceedings against licensees for violations of the ABC Law and make determinations regarding penalties which range from license suspension, cancellation, revocation and/or a civil fine. A further explanation of penalties can be found in this booklet under the section entitled "Penalties and Disciplinary Proceedings."

The purpose of the booklet is to acquaint retail licensees with information on **what you need to know to sell alcoholic beverages in New York State**. It is not intended to be all inclusive, but rather will offer a snapshot of important information. For additional information or any questions you may have, please write or call one of the Zone offices listed on the back page of this booklet. The Public Affairs office can also provide assistance.

NEW YORK STATE AND YOU

The State Liquor Authority is fostering a business-friendly attitude toward those in the alcoholic beverage industry. New York State recognizes the contributions made to the State's economy through the production and sale of alcoholic beverages.

As the holder of a retail license to traffic in alcoholic beverages, you will have opportunities to interact with New York State, particularly with the State Liquor Authority. Every effort will be made to ensure that your contact with the SLA is efficient and courteous.

There are more than 60,000 active alcoholic beverage licenses and permits in the State, with the vast majority held by **law-abiding, hard working people**. Our intent in this pamphlet is to help you achieve success with your business operations through compliance with the ABC Law.

Holding a license is a privilege, one that carries with it an enormous responsibility. It is important that you protect your license which is valid only for you (or your corporation or partnership) and only for the address which is listed on the certificate. According to provisions of the ABC Law, you cannot allow another person to sell alcoholic beverages using your license, nor can you move the license to another location without the prior approval of the SLA.

If your license is lost or stolen, a police report should be filed immediately. A copy of this report along with a money order for \$5.00 must be sent to the SLA in order to obtain a duplicate original.

IMPORTANT INFORMATION FOR ALL LICENSEES

- You as the licensee are responsible for the activities of employees and patrons in all parts of the licensed premises, even if you are not always physically present, to ensure that the business is operating in accordance with the ABC Law. **It is important to strike a balance between the quality of life in the neighborhood and the successful operation of your business.**
- Appropriate books and records detailing purchases with invoices and the amount of each sale must be maintained at the premises and made available for inspection by SLA investigators.
- Your license certificate must be displayed so that it is in a conspicuous place inside the premises near the point of sale. Copies of the certificate for posting purposes are not acceptable.
- You must have a valid bond in effect at all times.
- Purchases of alcoholic beverages must be made from duly licensed manufacturers and wholesalers. Purchases from retail stores or from any other retail licensee for resale are not permitted.
- Gambling of any type, either professional or social, is not permitted on any licensed premises. Exceptions are the sale of lottery tickets when licensed by the Division of the Lottery and bingo or games of chance when authorized by the State Racing and Wagering Board.
- Refilling or tampering with the contents of any container containing alcoholic beverages is not permitted.
- An alcoholic beverage must be dispensed from the container in which it was received from the wholesaler.
- If you wish to make any changes in the structure of your corporation, or if you wish to change the individuals on the license, you must file the appropriate application and obtain approval from the Authority before making these changes.
- Any plans to make major physical changes or to substantially alter the licensed premises in any way may require permission from the Authority prior to construction. You are advised to contact your local Zone office to determine if permission is required.
- Please display the warning signs, provided by the Authority when your license was issued, in a conspicuous location in your establishment, as close as possible to the point of sale.

MOST COMMON VIOLATIONS OF THE ABC LAW

The following list, while not all inclusive, will help to familiarize you with the most common violations of the ABC Law:

- 1. Sale to Minor (under 21 years old) - Section 65.1. (It is important to note that the Members of the Authority have directed that any sale to a person under 16 can result in revocation of the license, even for a first offense.)**
- 2. Sale to Intoxicated Person - Section 65.2.**
- 3. Prohibited Hours of Sale - Sections 105.(a), 105.14 and 106.5.**
- 4. Prohibited Hours of Consumption – Section 106.5.**
- 5. Employment of a Minor - Section 100.2(a).**
- 6. Disorderly Premises (includes Gambling at on premises establishments, Lewd and Indecent conduct, Assaults, Narcotics at on premises establishments, Prostitution) - Section 106.6.**
- 7. Gambling at establishments.**
- 8. Narcotics at establishments.**

**PROTECT YOURSELF AGAINST DISORDERLY
PREMISES. PLEASE FEEL FREE TO CALL YOUR
LOCAL POLICE AGENCY FOR ASSISTANCE AT
YOUR ESTABLISHMENT WHENEVER PROBLEMS
OCCUR.**

EMPLOYMENT OF MINORS IN LICENSED ESTABLISHMENTS

ON PREMISES

- Bartenders, waitresses, waiters, hostesses and/or any persons who handle and receive payment for alcoholic beverages must be at least 18 years old.
- Bus persons and dishwashers who handle containers which have held alcoholic beverages must be at least 16 years old and must be directly supervised by someone at least 21 years old.

OFF PREMISES

- Clerks and cashiers who handle and receive payment for alcoholic beverages in grocery stores and convenience stores must be at least 16 years old and must be supervised by someone at least 18 years old.
- Clerks and cashiers in liquor and/or wine stores or drug stores must be at least 18 years old.

MINORS IN LICENSED ESTABLISHMENTS

According to Section 260.21 of the Penal Law, persons under the age of 16 must be accompanied by a parent or guardian to enter an on premises establishment.

SPECIAL PERMITS

Under certain circumstances, a licensee may apply for a permit which extends the hours of sale or which allows alcoholic beverages to be sold in certain locations. Such permits would apply to special events, catered affairs and charity functions. Contact your nearest SLA office for more information and appropriate applications.

KNOW THE TERMS OF YOUR LICENSE

OFF PREMISES (L, A/DS, AX/DX LICENSES)

Licenses for the off premises consumption of alcoholic beverages as described below:

L = Liquor store license which permits sale of liquor and wine for off premises consumption.

A/DS = Grocery store/drug store license which permits sale of beer for off premises consumption.

AX/DX = Grocery store/drug store license which permits sale of beer and wine coolers for off premises consumption.

- Alcoholic beverages are sold “to go.” They cannot be consumed in your establishment.
- Open containers of any alcoholic beverages are not permitted in your store.
- You must purchase strictly from a licensed wholesale dealer.
- You cannot buy from or sell alcoholic beverages to another retailer.
- Beer cannot be sold in a liquor store.
- Liquor and wine cannot be sold in grocery stores.
- Sales can only be made to consumers for their consumption, not for resale.
- Sales cannot be made “on house credit.” However, credit cards may be used.

- Grocery stores and drug stores cannot sell beer on Sundays from 3 a.m. to noon. Other hours of sale are determined by the closing hours in the county where your establishment is located. Be sure you know the proper hours.
- Liquor stores licensed pursuant to ABCL Section 63 and wine stores licensed pursuant to Section 79 for off-premises consumption are converted to 7 day licenses and may remain open to the consumer all seven days of the week. The hours of operation permitted on Sunday are from noon to 9 P.M. Other hours of sale are determined by the closing hours in the county where your establishment is located. Be sure you know the proper hours.

ON PREMISES (OP, RW, EB, HL, CL)

Licenses for the on premises consumption of alcoholic beverages as described below:

OP = Full liquor license which permits on premises consumption of all types of alcoholic beverages. Also permits sale of beer for off premises consumption.

HL = Hotel license which permits on premises consumption of all types of alcoholic beverages.

CL = Club license which permits on premises consumption of all types of alcoholic beverages to members of club and their guests.

RW = Restaurant Wine license that permits the on premises consumption of wine and beer.

EB = Eating Place Beer license that permits the on premises consumption of beer.

- Alcoholic beverages must be consumed on the premises. However, beer may be sold “to go.”
- Hours of sale are determined by the closing hours in the county where your establishment is located. Be sure you know the proper hours.
- Credit cards may be used for sales.
- Patrons may consume drinks purchased before closing hours up until one-half hour after the legal closing hours.

DISCIPLINARY PROCEEDINGS AND PENALTIES

A disciplinary proceeding is an administrative action the SLA takes against licensees who violate the ABC Law or Rules of the State Liquor Authority. The first step in this action is a Notice of Pleading which is sent to the licensee outlining the charges brought by the Authority. The Notice of Pleading contains the date of the offense, the section of ABC Law violated and the maximum penalty for the offense. The Notice of Pleading also provides a pleading date by which the licensee must enter a plea to the charge, either in person or in writing. The licensee can plead:

- **no contest**, which is a plea that provides the licensee an opportunity to make a statement as to any mitigating circumstances;

- **conditional no contest**, which is a plea that allows the licensee to make an offer not to exceed a certain penalty to settle the charge; or
- **not guilty**, which, under due process, entitles the licensee to a civil hearing before an Administrative Law Judge, where testimony is taken from both parties.

Most violations of the ABC Law are crimes for which the police may make an arrest. While the Authority has no criminal jurisdiction, it can commence a disciplinary civil proceeding against the licensee for the same charge which involved the arrest. This is an administrative action, not double jeopardy, should the licensee be charged and convicted of a crime.

Violations of the ABC Law and the Rules of the Authority can result in the imposition of penalties against licensees. These penalties range from:

- **SUSPENSION**
- **CANCELLATION**
- **REVOCAION**
- **CIVIL FINE**
- **BOND CLAIM**
- **A TWO YEAR PROSCRIPTION ON RELICENSING THE PREMISES**

WHAT THE PENALTIES MEAN

SUSPENSION - The right to buy or sell alcoholic beverages is taken away for a specified number of days.

CANCELLATION - The license is taken away, but there are no time restrictions on reapplying for another license.

REVOCAION - The license to sell alcoholic beverages is taken away and the revoked licensee or any person who has an interest in a revoked license cannot hold a license or have an interest in any premises where alcoholic beverages are sold for two years. The SLA may also deny a new license at that same location for two years.

CIVIL FINE - A monetary penalty of up to \$10,000 per violation may be imposed.

BOND CLAIM - A claim for payment is made against the bond filed with the license application.

When the facts constituting a violation do not warrant one of the previously mentioned penalties, the SLA can issue a letter warning the licensee against the recurrence of the questionable activity. These include:

- an **adjudicated letter of warning** directed by the Members of the Authority which notes that the licensee has committed a violation but only a warning is warranted by the circumstances.
- a **letter of advice**, which is sent when the Authority is notified of an arrest or other violation under circumstances which do not warrant institution of disciplinary proceedings. In such instance, the Authority's Enforcement Bureau cautions the licensee to guard against a recurrence of the incident.

GOOD RECORD - A good record consists of a continuous licensing period of 60 months with no adjudicated violations. An adjudicated letter of warning affects a good record, but a letter of advice does not. The Members of

the Authority consider a licensee's record in determining penalties. A good record may result in a lesser fine or penalty.

Please be aware that all penalties are at the discretion of the Members of the State Liquor Authority.

WHAT CAN YOU DO TO PROTECT AGAINST SELLING TO MINORS OR INTOXICATED PERSONS?

Listed on the following pages are suggestions on steps you can take to prevent sales to minors and sales to intoxicated persons:

- **ASK FOR PROOF** - It is a crime to give or sell alcoholic beverages to anyone under the age of 21. You should instruct your employees to **check for proof of age before selling any alcoholic beverages**. In surveys, many underage purchasers say they are **NEVER** asked for proof.
- **ACCEPTABLE DOCUMENTS FOR IDENTIFICATION**
 - Valid New York State driver's license or a valid driver's license from any other state or Canada.
 - Valid identification issued by the New York Department of Motor Vehicles (Non-Driver ID card).
 - Valid United States military identification.
 - Valid passport or visa from the United States government or any other country.

<p>COLLEGE ID OR SHERIFF'S ID CARDS ARE <i>NOT</i> ACCEPTABLE PROOF OF AGE</p>

ASK FOR A VALID ID EVERY TIME!

- CHECK FOR TAMPERED OR FAKE DOCUMENTS
- CHECK THE BIRTH DATE ON THE ID
- CHECK THE PHOTO TO SEE IF THE CUSTOMER HAS THE SAME EYE COLOR, HAIR COLOR, WEIGHT AND HEIGHT AS THE PERSON IN THE PHOTO
- CHECK THE LAMINATION FOR UNCLEAR EDGES
- CHECK FOR ANY BUMPS ON THE ID
- CHECK FOR ERASED INK OR MARKS AROUND THE DATE OF BIRTH
- IF THE LICENSE WAS ISSUED BY NEW YORK STATE, CHECK FOR THE CONTINUOUS STATE SEAL

- ASK FOR A SECOND ID IF YOU'RE NOT SURE

IF THERE IS ANY DOUBT,
REFUSE TO MAKE THE SALE

- BEWARE OF THIRD PARTY SALES

If you observe minors congregating outside your establishment approaching adults or handing money to adults, ask the customer if he or she is buying the items for someone else. If you believe alcoholic beverages are being purchased for a minor, **refuse the sale**.

DO NOT MAKE A SALE TO AN
INTOXICATED INDIVIDUAL

- RECOGNIZE THE SIGNS OF INTOXICATION

Look for:

- bloodshot eyes
- slurred speech
- mood swings
- the smell of alcohol
- loud, abusive, profane language
- staggering or falling

HELP FOR YOUR EMPLOYEES

- Post a "Date Born After" sign in close proximity to all cash registers.
- Have a written policy on what you expect from employees when making alcoholic beverage sales.
- Post the policy for all employees to see.
- Establish an ongoing training and education program for all employees.
- Encourage responsible drinking when advertising your establishment.
- Do not use advertising and/or promotions which are designed as inducements for teenagers to drink.
- Support your employees when they refuse to make a sale.
- Be sure your employees understand the provisions of the Dram Shop Act (General Obligations Law, Section 11-101) which holds bartenders and/or clerks responsible for third person injury or death caused by a visibly intoxicated person served by the bartender or clerk.

- Be sure your bartenders, wait staff and clerks understand that they can be arrested for selling alcoholic beverages to minors and/or intoxicated persons.

HOW CAN THE SLA HELP?

It is our goal to provide efficient, effective, friendly service to our customers. If you have any questions or would like to talk with a member of the SLA's staff, CALL US - WE'RE HERE TO HELP.

Zone I - New York City	Phone (212) 961-8385 Fax Executive Office (212) 961-8382 Fax Licensing (212) 961-8299
Zone II – Albany	Phone (518) 474-3114 Fax Executive Office (518) 402-4015 Fax Licensing (518) 473-2286
Syracuse District Office	Phone (315) 428-4198 Fax (315) 428-4201
Zone III – Buffalo	Phone (716) 847-3035 Fax (716) 847-3075