



# NEW YORK STATE LIQUOR AUTHORITY

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

## A Message from The Chairman

As Governor Lehman noted back in 1933, the State Liquor Authority is tasked with a “gigantic undertaking.” This is as true today as it was then. The SLA’s 146 dedicated employees regulate over 70,000 licenses and permits statewide. Last year alone, the SLA issued over 6,000 new licenses, nearly 25,000 permits, and processed more than 3,400 licensing changes. This is a tremendous responsibility that we take very seriously.

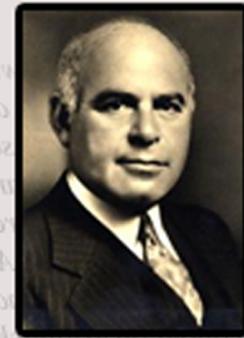
Still, even as our agency processes hundreds of licenses every week, we often hear from applicants inquiring as to why it takes so long to receive an approval. The SLA understands the frustration of business owners waiting for this important decision, and this is why we have made acting on pending applications in a timely fashion a priority for our agency. To this end, we have implemented a new policy designed to get through the backlog of applications and speed up our processing time. However, for this policy to be fully effective, we need the help of license applicants.

As Deputy Commissioner of Licensing Kerri O’Brien writes in these pages, the SLA can only act on applications that are complete.

Currently, approximately 90% of the applications received by the SLA are missing information mandated by the ABC Law. Moreover, after receiving a “deficiency letter” from an SLA licensing examiner listing the portions of the application that are deficient, 80% of applications come back still missing vital information. It is incumbent upon the applicant, even if the applicant is paying an attorney or a representative, to ensure that the application is complete. Our examiners are here to help and answer questions, but we can not have our staff continually working on incomplete applications while completed ones are waiting to be acted upon. Business owners

who have taken the time and attention to fully complete their applications deserve a timely decision.

This new licensing policy will help ensure that all completed license applications receive a prompt review and determination. We look forward to applicants cooperation in this important undertaking. As always, we at the State Liquor Authority welcome your comments and suggestions.



## Looking Forward

By Honorable Herbert H. Lehman  
Governor of the State of New York

The New York State Alcoholic Beverage Control Board, having completed its task of setting up machinery for the licensing of 3.2 beer and wine, is now faced with a yet more serious responsibility of setting up rules and regulations for the control of hard liquor.

Liquor is assured by the later part of this year and in anticipation of this Legislature has given the Board power to set up rules and regulations for the “interim period” between the time when the repeal of the 18th Amendment is effected and the first day of April 1934.

It is my earnest hope and confident expectation that the Board will adequately meet the situation in regard to the control of hard liquors. It will be necessary to avoid the evils of the pre-Prohibition days, while, at the same time, making it possible for the citizens of the State to secure beverages as they desire.

I know that members of the board are approaching this gigantic undertaking with the intention of making New York State Liquor regulations a model for the entire United States and a victory for real temperance.

Above: Reprinted from the Alcoholic Beverage Control News, September 1933



Daniel B. Boyle

# Guest Column

## Agency Cooperation

by James Tuffey

Having agencies that work together on a consistent basis and that are committed to improving the quality of life for any community is fundamental to achieving success in that arena. Unfortunately, as a result of 9/11, we all learned the importance of governmental agencies working together-- using all of their resources-- to improve the quality of life for our citizens.



*James Tuffey  
Albany Police Chief*

The relationship the Albany Police Department has developed and maintained with the New York State Liquor Authority is a prime example of two agencies working in concert to offer the most efficient and effective services to the citizens of Albany.

Ensuring that any establishment that sells alcohol adheres strictly to the law provides any neighborhood that has a convenient store, bar or restaurant with the reassurance that our agencies do not take lightly the atmosphere in which they live. We all have seen a situation where a business that sells alcohol contributes to the decline of a neighborhood when it engages in illegal activity such as selling alcohol to underage patrons, overcrowding bars, and creating a disruptive atmosphere for the law abiding citizens who live in those areas.

This type of activity creates as many problems in many instances as does crime on the streets. Underage drinking can have tragic effects, as we have seen too many of our children killed on our streets as a result of excessive drinking and driving. Too many lives are affected when something as tragic as this occurs. Fights inside and outside of bars involving patrons who have consumed too much alcohol engage valuable public safety resources and become a disruptive force for neighbors that live nearby. Unnecessary noise and refuse that is thrown to the streets are far too often an occurrence in many areas that have bars.

All of these have a negative impact on the quality of life for our citizens. They have every right to believe that there are certain standards that everyone should live by and that our businesses need to adhere to as well. Just as it is with crime, property values can depreciate and residents can be forced to move from their homes when an environment like this exists.

To successfully combat these types of problems, it is much more effective to have agencies such as ours and the New York State Liquor Authority working together to educate and enforce, if necessary, laws pertaining to businesses that sell alcohol. As much as they all, in some way, provide a service to our citizens and in many instances provide entertainment, they must realize that they have a responsibility to provide this in a manner, which embraces accountability.

Having the resources and personnel of our police department and the New York State Liquor Authority working collectively and collaboratively to address all of these issues, not only provides an effective campaign in combating these problems, but also, provides the public with confidence that we will conduct our investigations with the best interest of the public in mind.

I remain committed to working with the Authority so that we may supplement the progress we have made in the last few years. Because of this cultivated relationship, we have been able to provide the citizens of Albany with a much better community in which to reside.

*James Tuffey is the Chief of Police for the City of Albany*

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# Licensing Information

## Minimum Standards for New License Applications

by Kerri O'Brien

In a continuing effort to act as expeditiously as possible on license applications, the State Liquor Authority announced in April 2008 a new policy on the minimum standards all new applications must meet at intake. The new standards were adopted with the understanding that waiting for a decision on a license application is a burden for business owners. The new licensing procedures will help ensure that applicants who have completed their application receive a prompt review and determination from the SLA.

Under the new procedures, if the application fails to meet the minimum criteria it will be rejected at intake. When a new license application meets the minimum criteria, a thorough review will be performed. Should the review lead to additional questions or necessitate the submission of additional documentation, the licensing examiner will send a letter listing all deficiencies to the applicant and their attorney or representative. The response from the applicant must be postmarked no later than 10 business days from the date of the deficiency letter. If all of the information requested is not received within this time frame, the application will be disapproved for failure to comply.

By having SLA examiners work on reviewing only those applications that have met the minimum criteria, the agency will be able to act on completed license applications in a timely fashion. "Too often, our examiners are spending valuable time reviewing applications that are incomplete and consequently not approvable. At the same time, applicants that have taken the time and attention to fully complete their applications must wait while our examiners review applications that are ultimately deficient," said State Liquor Authority Chairman Daniel B. Boyle in making the announcement of the new procedures.

New applications submitted must have the following information to receive a review:

- License fees
- Application with all questions answered
- Penal Bond
- Fingerprint cards and fees for all parties of interest
- Personal Questionnaires for all parties of interest
- Notification to Local Government or Community Board
- Financial documentation
- Diagrams
- Photographs
- Menu

Additionally, if applicable:

- Temporary Retail Permit application and fee
- Contract of Sale
- Lease
- Liquidator's Permit application and fee
- Inventory of stock to be transferred
- Basic Federal Permit (TTB)



*Full Board reviews licensing matters*

*Kerri O'Brien is the Deputy Commissioner of Licensing*

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# The Truth Behind the “Transfer Application”

by Kerri O’Brien

Over the years, the staff of the Licensing Bureau has referred to applications using certain terminology that may mean one thing to those of us who work at the SLA and something entirely different to the outside world. One of the terms which create more than its fair share of confusion is the phrase “transfer application.”

One would assume that a “transfer application” allows for a licensee to transfer their license to someone else. In actuality, there is no such thing as a “transfer application.” A licensee can sell their business to another party, but the license certificate and the privileges that come with the license are not a part of that sale.

The Licensing Bureau staff uses the terms “transfer” and “new” applications only to differentiate between an application for an establishment that is currently licensed and selling their business (transfer) and an establishment that is not currently licensed (new).

An applicant who is purchasing the existing business of a current licensee may file an application for a Temporary Retail Permit. This would allow the applicant to begin operating the business while their application for a permanent license is being reviewed. In order to qualify for this permit, the establishment must have been open and operating at least 30 days prior to the filing of the application and the following documentation must be submitted:

- Temporary Retail Permit Application
- Retail License Application (completely filled out)
- Community Board/Municipality Notification
- Application for Liquidator’s Permit and a list of the inventory to be transferred, if applicable
- Contract of Sale between the licensee and the applicant
- All appropriate fees
- Penal Bond
- Fingerprint Cards of all interested parties
- Photographs
- Menu (if filing for an on-premises license)
- Proof of Financing
- Diagrams of the premises

The permit is granted at the discretion of the State Liquor Authority for a period of ninety days, and may be renewed. This permit may be summarily suspended or cancelled at any time, if the State Liquor Authority determines that good cause exists for such suspension or cancellation.

The issuance of this temporary permit is not a guarantee of approval of the application for transfer of the existing license to the applicant. The application for the permanent license will be reviewed and a determination made based on the merits of the entire application.

Two of the most talked about issues when discussing a “transfer application” are the 500 foot rule and 200 foot rule. The statute mandates that unless the establishment has been continuously licensed since November 1, 1993, a 500 foot hearing must be held. An on-premises liquor license cannot be issued if the establishment is within 200 feet of a school, church or place of worship unless the location has been continually licensed since December 5, 1933 or if the establishment existed prior to the school or place of worship.



The “new” license application requirements include all of the documents listed above with the exception of the submission of the Temporary Retail Permit application, Liquidator’s Permit application and Contract of Sale. The 500 foot rule and the 200 foot rule both apply.

Kerri O’Brien  
Deputy Commissioner of Licensing

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# New On-Premises License Certificates

by William Crowley

Director of Communications

In a continuing effort to provide more information to local governments, local law enforcement and the public, the State Liquor Authority will begin issuing multi-colored license certificates indicating the type of establishment licensed.

In September 2006 the State Liquor Authority formed a Task Force to review the Agency's licensing application process and to recommend viable changes and improvements. Members of the Task Force included legislative officials, law enforcement personnel, community board members, industry representatives and State Liquor Authority staff. The Task Force made recommendations for a new application for on-premises retail licenses as well as providing more relevant information on the actual license certificates that are displayed at licensed businesses.



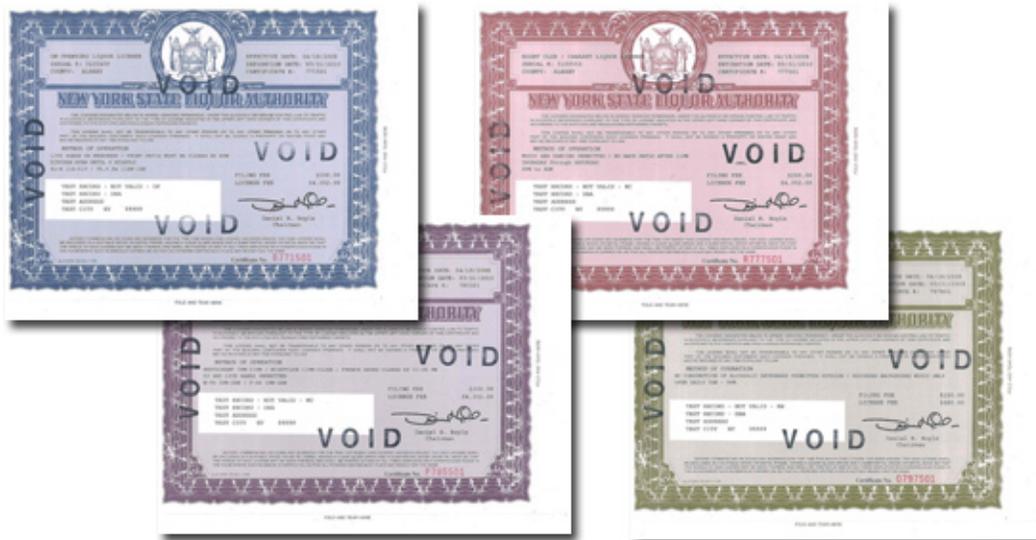
2006 Task Force Meeting

This new application allows the Authority to obtain detailed information on the type of establishment being applied for together with a thorough description of the method of operation proposed. Information provided on the license certificate has been expanded to include the type of establishment licensed; whether it is a restaurant, night club, tavern, or mixed use establishment. Also included are more details of the approved method of operation, such as; days and hours of operation, whether or not music or dancing is permitted, if the premises includes an outside area such as a deck or patio, and any other relevant information.

The license certificates are color coded depending on the type of establishment: Mixed Use (Purple), Nightclub/Cabaret (Red), Restaurant Wine (Olive), Other (Blue). The green certificate will still be used for all off-premises licenses and all on-premises beer and/or wine licenses except for the Restaurant Wine license.

The SLA believes that distinguishing the different types of licenses and providing as much information as possible on the certificates will allow law enforcement and the community to easily identify the method of operation allowed at a licensed establishment.

The SLA has already begun utilizing the new retail on-premises application and issuing the new color coded certificates for new licensees. In the future, renewal licensees will also be issued the new license certificates. We are confident that this new practice will help streamline the licensing process and provide more information to our partners in law enforcement, local governments, and to the public.



# Beer, Liquor & Wine Tastings

by Thomas Donohue  
Counsel to the Authority

The Authority receives many inquiries from licensees, event organizers, as well as the general public regarding the circumstances under which a beer, liquor, or wine tasting can be conducted. The laws governing tastings can seem very confusing, even for those of us who deal with them on a daily basis. The purpose of this article is to provide some clarification of those laws.

Before we can discuss the “rules of the road” for tastings, there needs to be an understanding of what a “tasting” is. Unfortunately, there is no definition in the Alcoholic Beverage Control (“ABC”) Law of a “tasting.” In my opinion, however, a “tasting” can generally be considered to be a situation where a licensee gives away relatively small samples of alcoholic beverages so that customers can get a sense of whether they wish to purchase the product.

As you will read in this article, there are, for some kinds of tastings, laws in effect that define not only the size of a sample, but how many samples can be given to a customer. You will notice that I used the phrase “gives away” in the last paragraph. The ABC Law allows wineries and farm wineries, in certain situations, to charge for samples. Except for those situations, a licensee cannot charge for a tasting.



## Beer Tastings

The ABC Law was recently amended to allow for beer tastings at establishments that have an off-premises beer license (such as grocery and drug stores) and at certain types of annual fairs (most county fairs fall into this category). The tastings can only be conducted by a brewer licensed in New York, or by out-of-state brewers and importers. The statute allows for three ounce samples and no more than two samples per customer. A permit must be obtained to conduct these tastings. NY licensed brewers can also conduct beer tastings at their own breweries without a permit, but the same restrictions apply to the size and number of the samples that can be given out.

## Liquor Tastings

Distillers and liquor wholesalers licensed in New York can conduct liquor tastings at licensed retail liquor stores (also known as package stores). The distiller or wholesaler conducts the tasting using product that it brings to the package store. The law restricts the size of the sample to a quarter of an ounce and customers cannot be given more than three samples in a 24 hour period. The only other liquor tasting allowed under the ABC Law is by a farm distillery at the licensed distillery. The same restrictions apply as to the size and number of samples that can be given out. No permit is required for either of these two kinds of liquor tastings.

## Wine Tastings

The “rules of the road” regarding wine tastings are probably the most difficult to explain and understand because there are more variables. The simplest way to discuss these rules is to look at each class of license and what that class of license can do.

### Retail licensees

Licensees who can sell wine at retail can conduct wine tastings in their own establishments. There is no statutory restriction regarding the size of the sample or the number of samples that can be given to a customer. However, licensees will be subject to disciplinary action for serving minors and customers who are visibly intoxicated. There can be no charge for the samples. No permit is needed for these events.



## **Wholesalers**

A permit can be obtained by a liquor or wine wholesaler to conduct wine tastings throughout the state. These permits can be issued for a specific event or on an annual basis. A wholesaler with an annual permit is required to notify the Authority of each event 15 days in advance. If the wholesaler is conducting the tasting at a retail licensee's establishment, the wholesaler must supply the wine and cannot leave any wine with the retailer when the event concludes. The wholesaler cannot charge customers for the samples.

A wholesaler can also conduct tastings at their own facility. There is no permit required for these tastings. The ABC Law does not specify the size or number of the samples. There can be no charge to the customer for the tasting.

## **Wineries & Farm Wineries**

Wine manufacturers can conduct wine tastings of their own products at their licensed wineries or farm wineries. The ABC Law does not state the size or number of samples, but allows the manufacturer to charge for the tasting. As explained below, there are also specific situations where the wine manufacturer can conduct a wine tasting away from the winery or farm winery. Please note, however, that only New York state labelled wine can be sampled at any of these "off-site" tastings.

A winery or farm winery can conduct a tasting at a retail liquor store. The law is specific to liquor stores only, it does not include retail wine stores. However, wine manufacturers can have a tasting at their own retail "satellite store". The wine manufacturer can charge a fee. There are no restrictions in the law regarding the size or number of samples.

Wine manufacturers can also conduct tastings at restaurants, hotels, and catering establishments that have full (liquor, wine & beer) liquor licenses. The statute does not include bars, nightclubs, or on-premises establishments that only have wine and beer licenses. The winery or farm winery can charge twenty-five cents per sample.

Wineries and farm wineries can also obtain a permit to conduct tastings at outdoor or indoor gatherings, functions, occasions, or events sponsored by a bona fide charitable organization. The ABC Law allows a wine manufacturer to participate in no more than five of these events per year and a fee can be charged to customers.

## **Temporary Beer & Wine Permits**

For certain events, such as those conducted by charitable organizations, the Authority can issue a "temporary beer & wine permit" that allows for the sale and consumption of beer and New York state labeled wine. Under specific conditions, such a permit can be issued to a licensee or non-licensee to have a beer or wine tasting. Those conditions will include the extent to which wineries, farm wineries, wine wholesalers, or package/wine stores can participate in the event.

## **Conclusion**

If you have questions about whether you, as a licensee or non-licensee, can conduct a beer, liquor or wine tasting, please contact the Office of Counsel by telephone at 518-474-6750 or via email at: [albanycounsel@abc.state.ny.us](mailto:albanycounsel@abc.state.ny.us).



# SLA Hosts Free Training Seminar

On Tuesday, April 15, 2008 the New York State Liquor Authority (SLA), the Albany County District Attorney's Office and the Empire State Restaurant & Tavern Association (ESRTA) hosted a free training seminar entitled "The ABC's of the Alcoholic Beverage Control Law." The program was developed by the ESRTA with the assistance of the SLA and is designed to provide owners of licensed premises with the information and tools they need to comply with the law.

The event, held at the University of Albany, was attended by more than 125 restaurant and bar owners in Albany County. Scott Wexler, Executive Director of ESRTA, presented the training. The three hour session covered every aspect of running a responsible establishment; from issues like changing and displaying a license, to maintaining books and records, to price postings and wholesale matters, to preventing underage drinking and sales to intoxicated patrons.

Licensees interested in taking the training can contact ESRTA by calling (518) 436-8121 for additional information. ESRTA conducts regular "classroom" sessions or licensees may take the course online.



*Clockwise from top left: Albany District Attorney David Soares addresses licensees; Executive Director of ESRTA Scott Wexler conducts training; licensees gain valuable knowledge from the seminar*

## New Community Board

### Contact

by Kimberly Morella

SLA Chairman Boyle recently designated Peter Person the new point of contact for all Community Board matters with the New York State Liquor Authority.



*Peter Person*

Mr. Person was hired in October 2007 as Assistant Director of Enforcement for the SLA in a statewide capacity. Mr. Person is also the Director of Operations for the New York City, Zone 1 Office.

Mr. Person brings a wealth of experience to the SLA. From 1981 through 2006, he held a number of positions with the New York State Police including Trooper, Investigator in the Bureau of Criminal Investigation (BCI), Lieutenant BCI, and Captain BCI. Mr. Person attained the rank of Major and serving as the Troop Commander for Troop B, which covers the five northern most counties of the state. In this capacity he was responsible for the daily operation and administration of over 400 members of the Troop.

He is a graduate of the FBI National Academy and prior to joining the New York State Police served with the Suffolk County Police Department in the 3<sup>rd</sup> Precinct and also served with the Southampton Village Police Department.

“Pete’s extensive experience in law enforcement and in dealing with community concerns make him a perfect candidate for this important role,” said Chairman Boyle

Mr. Person can be reached via email at [PPerson@abc.state.ny.us](mailto:PPerson@abc.state.ny.us), by fax at (212) 961-8382 or by telephone at (212) 961-8383.



*Kimberly Morella*  
*Deputy Director of Communications*

## Public Information

by Michael R. Smith

Are you about to apply for a NYS Liquor License and have questions about the process? Are you considering purchasing an existing business and need to check if the location can be licensed?

Would you like to know who the owner of an existing or prior business is and if there have been any official actions taken against a bar, restaurant or grocery store? Or are you just looking for basic background on a particular license?

The State Liquor Authority’s Public Information Office recognizes that individuals unsure of these and various other questions want answers in a timely fashion. While our agency offers a number of ways to answer your questions and clarify any confusion that may exist, the easiest and fastest way to get most of your questions answered is to give us a call at (518) 486-4767. Most requests can be handled without delay, and you can find what you’re looking for without necessarily filing a FOIL request.

Our comprehensive database, accessible to the public on our website, has advanced options to locate and gather useful information about an establishment for research and demographic purposes. Available in an Excel or text based format; the database information allows the user to customize a search by date, license category, and license status searchable by County, City and Zip Code.

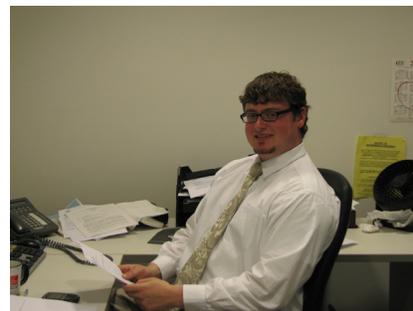
Of course, you can always make a formal FOIL request. To do so for businesses located in Bronx, Kings, Nassau, Queens, Richmond, Suffolk, and Westchester counties please send your request to:

Kimberly Morella  
NYSLA  
317 Lenox Avenue  
New York, New York 10027  
Electronic FOIL request(s) to [PublicAffairs@abc.state.ny.us](mailto:PublicAffairs@abc.state.ny.us)

All other counties requests, as well as general FOIL inquiries regarding SLA policy and other matters should be sent to:

Michael R. Smith  
NYSLA  
80 S. Swan Street Suite 900  
Albany New York 12210  
Electronic FOIL request(s) to [FOIL@abc.state.ny.us](mailto:FOIL@abc.state.ny.us)

The Public Information Office is here to help answer your questions and provide you with the information you need to make informed business decisions or for your general edification. I am eager to provide you with the information you need and I look forward to hearing from you.



*Michael R. Smith*  
*Public Information Officer*

# Disciplinary Penalties

The following businesses received penalties from the Full Board of the State Liquor Authority. They were selected randomly from the Full Board calendars from January 2008 to April 2008. The penalties are reported to raise the awareness by informing licensees on the potential penalties for violations of the New York State Alcoholic Beverage Control Law. Our goal is to help deter future violations by alerting licensees to potential penalties they may face.

Type of License	Violation	Penalty	City
Bar	Sale to Minor(s)	License Suspension 15 Days Civil Penalty \$8,500	Bronx
Bar	Availing, Sale to Minor(s), Disorderly Premises, Failure to Supervise	Cancellation \$15,000 Civil Penalty	New York
Bar	Failure to Notify of Arrest, Refusal to appear and/or testify	Cancellation \$15,000 Civil Penalty	New York
Convient Store	Sale to Minor	Civil Penalty \$6,500	Massena
Bar	Disorderly Premises Assault/Altercation* prior adverse history	Civil Penalty \$2,000	Utica
Club	Sale to Non-Member, Gambling, Failure to Compy w/ Local Regulations	Revocation \$1,000 Bond Claim	Oswego
Bar	Sale to Minor(s), Sale to Minor under 18 years old	License Suspension 10 Days Civil Penalty \$2,500	Hudson Falls
Bar	Sale to Minor under 18 years old *prior adverse history	Civil Penalty \$5,000	Rochester
Bar	Unlimited Drinks	License Suspension 15 Days Civil Penalty \$10,000	Rochester
Bar	Extensiosn of Premises, Unlicensed Security Guards, Failure to Supervise, Employment of Felon, Disorderly Premises	Revocation \$1,000 Bond Claim Plus 2 year Proscription	Albany
Restaurant	Sale to Minor	Civil Penalty \$2,000	Ticonderoga
Bar	Disorderly Premises Assault/Altercation, Unlicensed Security Guards	License Suspension 20 Days, Civil Penalty \$1,000	Perry
Convient Store	Availing, Sale to Minor(s), Disorderly Premises, Failure to Supervise	Cancellation Civil Penalty \$1,000	Ronkonkoma

## **The Mission of the New York State Liquor Authority**

Chapter 478 of the Laws of 1934, known as the Alcoholic Beverage Control Law, created the State Liquor Authority and the Division of Alcoholic Beverage Control. The Legislature enacted this measure “for the protection, health, welfare and safety of the people of the State.”

The SLA has two main functions: issuing licenses and ensuring compliance with the Alcoholic Beverage Control Law. The Authority’s Licensing Bureaus are responsible for the timely processing of permits and licenses required by the ABC Law. The Compliance Unit is responsible for the protection of the public by working with local law enforcement agencies to uphold the law and bring administrative action against licensees who violate the law.

The Authority seeks to:

Respect applicants and licensees;

Work cooperatively with community groups and local leaders to ensure public participation in the licensing and enforcement process;

Increase productivity by utilizing available resources, education and training to successfully deliver a quality service to our customers;

Ensure that those who do not respect the privileges of holding a license are fairly and firmly disciplined;

and

To create a unified, comprehensive approach to all Agency functions to achieve maximum effectiveness and efficiency.



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**Daniel B. Boyle, Chairman**  
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