



STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

[www.abc.state.ny.us](http://www.abc.state.ny.us)

STATE LIQUOR AUTHORITY      84 Holland Avenue      317 Lenox Avenue      125 Main Street  
Albany, New York 12208      New York, New York 10027      Buffalo, New York 14203

**Dear Governor Pataki and Members of the Legislature:**

On behalf of Commissioners Lawrence J. Gedda, Joseph C. Zarriello and myself we appreciate this opportunity to present the 2003/2004 Annual Report of the Division of Alcoholic Beverage Control. We hope you find this document to be informative in nature and comprehensive in scope.

This Annual Report clearly portrays the State Liquor Authority as an Agency dynamically involved in the resurging private sector economic development. Information, licensing activities and support services are readily available to the full spectrum of the state's entrepreneurial interests, ranging from our valuable manufacturers and producers, to a strong web of wholesalers and distributors, and culminating in our vital retail trades.

Also of importance are the State Liquor Authority's aggressive efforts to assure the regulated community's compliance with key provisions of the Alcoholic Beverage Control Law, including those prohibiting sales to minors and intoxicated persons, and those pertaining to responsible premises operation in our State's neighborhoods. The Enforcement staff work closely with local police, County Sheriff's Departments, and State Police jurisdictions to insure public order and protection.

As you review this account of the Division of Alcoholic Beverage Control's accomplishments, please share the excitement and energy as we pursue our Agency mission. As always, we welcome your comments and suggestions.

Sincerely,

Edward F. Kelly  
Chairman

**NEW YORK  
STATE LIQUOR AUTHORITY**

**ANNUAL REPORT  
2003/2004**

**STATE OF NEW YORK  
GEORGE E. PATAKI, GOVERNOR**



**DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

**STATE LIQUOR AUTHORITY**

**EDWARD F. KELLY, CHAIRMAN**

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# **MISSION STATEMENT**

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.

# **EDWARD F. KELLY**

## **CHAIRMAN**

Governor George E. Pataki appointed Edward F. Kelly Commissioner of the State Liquor Authority on June 23, 1995. On March 2, 1998 the Governor designated Mr. Kelly as acting Chairman, and in May of 1999 appointed him as full Chairman, a leadership responsibility he continues to execute. A native of Long Island, Chairman Kelly has been a resident of Dutchess County for the past 47 years. He was educated at Valley Stream Central High School, The University of Tennessee, Hofstra College, Adelphi College and Dutchess Community College.

Prior to his appointment as Commissioner, Mr. Kelly was employed by the IBM Corporation for 30 years. He was also self-employed with experience in marketing, domestic and foreign retail and wholesale sales. Additionally, Mr. Kelly served the Town of Pawling as Chairman of the Zoning Board of Appeals from 1970-1981 and Councilman from 1981-1995.

During 2000, the membership of the National Conference of State Liquor Administrators elected Chairman Kelly as Vice President, Northern Region. Mr. Kelly was further honored by his subsequent appointment to their Regulatory and Rules Committee. The Chairman has also received the "Outstanding Leadership Award" from the United Restaurant Liquor Dealers of Manhattan, Inc.

Chairman Kelly has been active in civic and charitable endeavors including the Dutchess County Harlem Valley Partnership; Holmes Whaley Lake Civic Association; Town of Pawling Fire Department & Rescue Squad; Board of Directors for IBM Corporation Country Club; Board of Directors and Chairman of the Dutchess County United Way; Scout Master of Boys Scouts of America; Coach for High School Varsity Sports, and Principal and Teacher of Religious Instructions/Sunday School.

Mr. Kelly has been married to the former Nancy L. Wolfkiel of Knoxville, Tennessee for 51 years. The Kelly's are the parents of five sons and proud grandparents of 11 grandchildren.

## **LAWRENCE J. GEDDA**

Mr. Gedda was first confirmed as Commissioner of the State Liquor Authority in June 1992. He was reappointed by Governor Pataki in June 1995 and May 1999.

Commissioner Gedda joined the Authority in 1963 as a member of the staff. He served in numerous capacities including Chief Executive Officer, Deputy Commissioner of Enforcement and Director of the Wholesale Bureau. Commissioner Gedda was educated at Penn State University, Hofstra and Columbia Universities.

Commissioner Gedda was a member of the United States Army Counter Intelligence Corp. (CIC) and served as a special agent in Berlin, Germany during the Korean War. His civic and professional associations include the Rotary and Elks Clubs, the Society of Professional Investigators and the Association of Former Intelligence Officers.

Mr. Gedda and Marilyn, his wife of 43 years, have two children and three grandchildren.

## **JOSEPH C. ZARRIELLO**

Commissioner Zarriello was appointed to the State Liquor Authority by Governor Pataki and confirmed by the State Senate in April 1999. Prior to his appointment as Commissioner, Mr. Zarriello served as Special Assistant to the Chairman of the Authority.

Mr. Zarriello has a long history in the alcoholic beverage industry, having formerly owned two successful restaurants in the Town of Colonie, Albany County, for many years. He is past President of both the Albany County Restaurant Association and the Fuller Road Fire Department as well as past Vice President of the New York Restaurant Association.

Commissioner Zarriello previously held two elected offices, Albany County Legislator and Councilman in the Town of Colonie. He has also been active in emergency medical services, the STOP DWI Program and traffic safety programs.

Mr. "Chuck" Zarriello and Karen, his wife of 43 years, have two children and six grandchildren.

# LICENSING

The Authority's major responsibility is to issue liquor licenses to eligible individuals, corporations, partnerships and other legal entities. This process is conducted by the SLA's Licensing offices located in New York City, Albany and Buffalo with one satellite office in Syracuse.

## LICENSING PROGRAM

Each Licensing Bureau statewide receives, examines and investigates license and permit applications within its Zone to ensure they meet the eligibility requirements of the State Liquor Authority as provided for in the ABC Law and Rules.

## LICENSE AND PERMIT TYPES

The ABC Law defines various licenses and permits within the general categories of a manufacturer, distributor, wholesaler and retailer. Wholesalers include those licensees manufacturing, storing and distributing alcoholic beverages for sale to licensed retailers. Retailers are those licensees who can purchase, stock and sell alcoholic beverages directly to consumers for consumption on or off-premises. The length of the license period varies depending on the class or type of license issued. The fee structure for each license and permit is established by the ABC Law.

## BRAND LABEL REGISTRATION

Before any liquor or malt beverage can be sold in New York, it must be brand label registered with the Authority. The brand owner/manufacturer, if not licensed in New York, designates a licensed New York wholesaler as its exclusive agent for the registration of its brand.

With the implementation of the Agency's new computer system, all functions relating to brand label registration are performed in the Licensing Bureau beginning with the initial receipt of the application, through the review process itself, and ultimately to the issuance of the permit. All renewals of currently registered brand labels are also processed by this Bureau.

## LICENSING PRODUCTIVITY

The Agency regulates nearly 70,000 licenses and permits statewide each year. The Licensing Bureau issued 5,388 new licenses and renewed 23,877 existing licenses. Each zone processes new applications for the counties within its jurisdiction. Applications are investigated to determine eligibility for a license in three general areas – the principals, the premises and the source of finances. The Renewal Unit is centralized in the Albany office and coordinates renewals for the entire state.

## LICENSING REVENUES

The Agency collected over \$55.3 million in licensing revenue. It is one of the largest generators of revenue to the State Treasury. The revenue is deposited to the State's General Fund.

# ENFORCEMENT

The Authority's Enforcement Bureau has the responsibility to investigate complaints alleging violations of the Alcoholic Beverage Control Law (ABC) and the Rules of the Authority. The complaints are received from various sources such as governmental agencies, police departments, the public, neighborhood groups and others.

The Bureau closed 4,225 cases completing 2,844 investigations with 1,134 being referred to Counsel's Office for administrative charges.

Maintaining a close working relationship with state and local police agencies is a high priority for the Bureau. 205 joint actions were conducted with various police departments. In New York City, 680 licensed premises were jointly inspected with the New York Police Department and other city agencies during MARCH (Multiple Agency Response to Community Hotspots) operations.

The Bureau conducted 55 training seminars for police departments throughout the State in its ongoing program to update and inform the departments on ABC Law and procedures. In addition, 22 classes for licensees were held, along with 7 classes for universities and communities. Bureau representatives also attended 17 neighborhood meetings statewide helping to address their concerns and problems.

Membership and interaction in governmental, law enforcement and community groups, such as the New York State Police Selective Enforcement Unit, the Capitol District Police Information Network, the Committee on University and Community Relations, Canadian American Law Enforcement Organization, Campaign Safer and Sober, the Governor's Traffic Safety Committee, the New York State Police Information Network and others, further allows the Bureau to more efficiently fulfill its responsibilities.

A grant from the Governor's Traffic Safety Committee to combat Sales to Intoxicated Persons was received and this multi year program enacted.

With cooperation from the Division of Criminal Justice Services, this program identifies licensed premises that are listed as the last drinking location by those arrested for DWI violations. Premises that are listed multiple times are then visited by investigators, advised of the potential problem and given suggestions on how to serve alcohol responsibly. Subsequently, covert visits are conducted to verify compliance with the law.

In 2003, 92 premises that met the criteria were visited in selected counties throughout the state resulting in 24 premises being referred to Counsel's Office for a variety of violations, 7 of which were for sales to an intoxicated person.

This year also began the implementation of a computer based Compliance Tracking System. This system will allow for faster more accurate issuance and accounting of Enforcement investigations and other activities.

# OFFICE OF COUNSEL

The Office of Counsel is the bureau of the State Liquor Authority responsible for providing legal advice and legal service to the Chairman, Commissioners and staff of the Authority.

## COUNSEL'S OFFICE:

1. administratively prosecutes all licensees who have been accused of violating the Alcoholic Beverage Control Law and the Rules of the State Liquor Authority. This function occupies the bulk of personnel hours expended by the Bureau;
2. handles cases in litigation in all courts, state and federal, whenever a licensee or other person seeks to challenge the Authority's determination in a disciplinary matter, a licensing matter or some other determination. In addition, Counsel's Office keeps the Members of the Authority apprised on the outcome of all cases and provides legal advice on whether to appeal adverse decisions;
3. advises the Chairman, Commissioners and staff as to applicable law and how it should be interpreted and applied;
4. responds to requests for interpretation of the law from other agencies, licensees and the public;
5. develops rules, regulations and other policy directives in cooperation with other Agency staff and the Members of the Authority;
6. prepares proposed legislation for submission to the Governor's Office and the Legislature and comments on related legislation submitted by other agencies and Members of the Legislature. In consultation with the Chairman and Commissioners, the Authority's legal advisors assist the Governor's Counsel's Office in its review of proposed and pending legislation.

Counsel's Office currently has a compliment of twenty-eight (28) employees comprised of thirteen (13) attorneys and fifteen (15) support staff members.

This year, 4196 matters were referred to the Office of Counsel to commence disciplinary proceedings against licensees. The office disposed of 3903 of those matters, which included pending cases carried over from previous calendar years.

This year, 120 litigation matters in which the Authority was a party were commenced.

Highlights of Counsel's Office include the following:

1. prepared and submitted a legislative program to the Governor's Counsel's Office for review and possible introduction during the current legislative session;
2. continued review of regulations relating to the alcoholic beverage industry;
3. continued to work closely with the Information/Technology and Compliance staff, to refine and adapt the computer compliance processing and tracking system designed to simplify and speed up the process of investigating, charging, adjudicating and disposing of disciplinary proceedings commenced against licensees;
4. continued to consider and address industry-wide concerns to ease some of the burdensome regulations on licensees;
5. the Office of Counsel assumed a more significant role in the processing of the Full Board calendar and processing Full Board determinations.

# HEARING BUREAU

## OVERVIEW OF FUNCTIONS OF HEARING BUREAU

The Hearing Bureau of the State Liquor Authority currently comprises four Administrative Law Judges (ALJs) and one secretary. One of the Administrative Law Judges also currently serves as Secretary of the Authority.

The Hearing Bureau is located in New York City where most of the cases are calendared.

Licenses charged with violations, such as sales of alcoholic beverages to underage purchasers, have the right to a fair and impartial hearing. The Hearing Bureau conducts all such disciplinary proceedings, which are prosecuted by the Authority's Office of Counsel. Hearings are formal, "of record" adjudicatory proceedings of the Authority. They are governed by the State Administrative Procedure Act (SAPA) and by Executive Order 131, which require that they be conducted in a manner that is impartial, efficient, timely, expert and fair. The role of the ALJs is to conduct the hearings in accordance with those requirements.

Upon completion of hearings, ALJs sort out the facts and render written determinations. They include reasoned findings of fact, an opinion, including a review of the applicable law and a conclusion as to whether charges have been sustained. Determinations must be based upon the record of hearing. The record of hearing including a transcript (or an audio recording) of testimony taken at the hearing, also constitutes the basis upon which all succeeding reviews, including review by the Members of the Authority, and an appeal, the Appellate Division of the Supreme Court. The record of hearing is central to all subsequent actions taken in any given prosecution.

In addition the Hearing Bureau conducts hearings on license applications when such hearings are mandated by statute. Primarily, the Hearing Bureau conducts two types of licensing hearings:

- a. hearings on applications for licenses when the application has been disapproved by the Authority's License Bureau and the applicant wishes to appeal that decision; and
- b. "500 Foot Rule Hearings", i.e. hearings mandated to be held when the Authority is presented with an application for an "on-premises" liquor license in a municipality of twenty thousand (20,000) or more people and there are already three or more "on-premises" liquor licensees within 500 feet of the applied for premises.

## SUMMARY OF ACCOMPLISHMENTS

Four ALJs in the Authority's New York City office handle all "downstate" and "upstate" calendars.

The Hearing Bureau heard to completion 470 disciplinary hearings, 1 statutory hearing and 339 "500 Foot Rule" hearings.

## **SECRETARY TO THE AUTHORITY**

The Secretary's Office oversees the preparation of the agenda for the "Full Board" meetings of the Members of the Authority. The Office receives matters from the License Bureau; Counsel's Office, and Hearing Bureau as well as miscellaneous matters presented by other bureau/offices of the Authority. The office presented 3822 matters to the "Full Board". Those matters consisted of 2877 disciplinary matters referred from the Office of Counsel, 625 disciplinary matters referred from the Hearing Bureau, 236 matters referred from the License Bureau and 84 miscellaneous matters.

The Office scheduled 27 regular meetings, all of which were held in the Authority's Zone I office in New York City.

After the Meetings, the Office implements the Members determinations and imposes a penalty, where appropriate. The Office revoked 136 licenses, cancelled 336 licenses, suspended 111 licenses, summarily suspended 2 licenses, imposed 24 month proscriptions on the re-licensing of 61 premises, claimed surety bonds posted by licensees in the amount of \$391,100 and imposed \$6,172,300 in civil penalties.

# **PUBLIC AFFAIRS**

The Public Affairs Office has responsibility for public information, legislative, local government and community relations, Freedom of Information Law requests, and media inquiries.

## **LEGISLATIVE AND COMMUNITY RELATIONS**

The Public Affairs Office handled requests for information from Members of the Legislature and their staffs, state agencies, local government officials, law enforcement agencies, New York City community boards, concerned citizens, attorneys and others regarding the Alcoholic Beverage Control Law, licensed establishments, applications for licenses and disciplinary actions.

Requests for information generally concern the status of license applications and pending disciplinary matters, the process of applying for licenses, complaint procedures, adverse history of particular establishments and general information about the provisions of the Alcoholic Beverage Control Law.

The office responds to many media calls from New York State outlets and others throughout the United States on various aspects of the Authority's activities. The Public Affairs Office also notifies Community Boards and others when matters in which they have an interest are scheduled for meetings of the Full Board and makes referrals to the Enforcement Bureau and Counsel's office based on letters and calls of complaint.

## **FREEDOM OF INFORMATION LAW OFFICER**

Each year, the Public Affairs Office receives thousands of written and oral communications from interested parties requesting access to Agency records as provided for in the State's Freedom of Information Law (FOIL).

The office also sells lists which provide information on licensed establishments in hard copy format or diskette. This is a revenue-producing activity for the Agency, generating upwards of \$20,000 annually.

# ALCOHOL TRAINING AWARENESS PROGRAM

In an effort to lower the incidence of underage drinking, Governor Pataki and the State Legislature created a program of voluntary instruction for licensed alcoholic beverage retailers and their employees. The principal goals of the Alcohol Training Awareness Program developed by the Authority are:

- The education of licensees and their employees with regard to their legal responsibilities when selling or delivering alcoholic beverages.
- The transmittal of information and practical skills which will enable licensees and their employees to better fulfill their legal responsibilities. The Authority has required that schools have at each session an adequate number of retro-viewers (a specialized light for the examination of a driver's license) and identification guides which depict the features of legal driver's licenses and the manner in which attempts to alter them may be detected.
- Impressing upon licensees and their employees the potential consequences of improper sale or delivery.

The incentive for a licensee and their employees to take the course is the section of law which provides for the possibility of a limited affirmative defense in the event of an illegal alcohol sale to a minor made by a person who has completed the program.

In 2001, the enactment of Chapter 549 amended the minimum curriculum standards. The new chapter now directs the Authority to set minimum standards for two different types of Alcohol Training Awareness Program (ATAP): an ATAP for off-premises licensees and their employees, and an ATAP for on-premises licensees and their employees.

The Authority has issued Certificates of Approval to three training programs, which are regularly providing instruction to retail alcoholic beverage licensees and their employees. 235 classes were conducted, with 2,422 employees completing the Alcohol Awareness Training Program.

# INTERNAL AUDIT

The Internal Audit Unit is responsible for the Agency's Internal Audit functions including training, evaluation and testing of internal controls. This unit reviews internal procedures and implements changes to safeguard agency assets.

Internal Audit works with Secretary's Office, Counsel's Office and the Finance Office in tracking bond claims and civil penalties, from their imposition to their collection. Internal Audit collected and recorded over \$5.8 million in penalties.

The Internal Audit is responsible for:

- Ensuring bonds are reinstated.
- Maintaining a collection tracking system for those checks that are returned by the bank. (Collected over \$562,000 owed from returned checks.)
- Works with the Office of the State Comptroller to resolve discrepancies in bank statements.
- Works with the Finance Office to respond to outside audits.
- Maintains the Agency's vehicle management system.

Fifty-two licensees were referred to Counsel's Office for the failure to restore bonds, which could result in possible disciplinary charges. The unit has collected and recorded over \$2.2 million in 2<sup>nd</sup> installment payments for On-Premises Retail Liquor Licenses.

# **INFORMATION TECHNOLOGY**

## **ACCOMPLISHMENTS**

Information Technology (IT) has played a major role in assisting the Agency in fulfilling its mission. The successful implementation of the Agency's new Compliance tracking system fully integrated with the Agency's existing Licensing and document imaging applications has benefited every Bureau in the Agency by providing easy and quick access to licensing and compliance information and documents.

In support of the mission critical systems and in conjunction with the Agency's move to the new Harlem Center Office Building, IT installed new desktop PC's to all Agency staff replacing outdated and inadequate equipment that had previously limited our staff's ability to provide quality services to our customers. In addition to the PC's running state of the art operating systems and applications, IT has upgraded all the Agency's communications circuits and equipment statewide.

The Agency Web Site continues to provide productive services to our customers. Utilizing our online interface, our customers have 24 hour access to information, applications, and bulletins as well as an avenue to conduct online transactions by filing and making payments for renewal, license and permit applications. The Web Site has processed over 2,300 online transactions collecting over \$2,750,000 in revenue.

## **FUTURE PROJECTS**

In 2004 and 2005, IT will focus on upgrading infrastructure with a project to implement new hardware and software for the Agency's mission critical application and web servers as well as dedicating resources toward the prevention of cyber attacks and the security of the Agency's information assets.