

STATE OF NEW YORK
LIQUOR AUTHORITY

To: All persons licensed to manufacture or sell New York state labeled wine

Subject: Roadside Farm Market license

Chapter 355 of the Laws of 2013 amended the Alcoholic Beverage Control Law (“ABCL”) to create the “Roadside Farm Market” license. This new license became available on March 26, 2014. Since the law was signed by Governor Cuomo, the Authority has received inquiries regarding the new license, particularly with respect to who is eligible for the license and the relationship between this license, farmers markets and farm wineries. This Advisory is intended to provide guidance to the industry with respect to the new license.

What is a Roadside Farm Market?

A Roadside Farm Market is a retailer who is authorized to sell New York state labeled wines.¹ It consists of a building or structure, located on a farm, where New York agricultural products are sold by the farmer to the general public.²

Is there a difference between a Roadside Farm Market and a Farmers Market?

Yes. As discussed above, a Roadside Farm Market is defined in the ABCL and is eligible for this new license. A “farmers market” is defined³ and regulated by the New York State Department of Agriculture and Markets. The ABCL gives certain manufacturers and wholesalers privileges to conduct tastings and sell their alcoholic beverage products “by the bottle” at farmers markets. Those privileges cannot be used at a Roadside Farm Market.

¹ ABCL §3(27-a)

² ABCL §76-f(2)

³ Agriculture & Markets Law §260(1)

What alcoholic beverages can be sold at a Roadside Farm Market?

A Roadside Farm Market can sell New York state labeled wine for off-premises consumption (“by the bottle”). The wine must be manufactured by a farm winery or special winery that is located within twenty miles of the Roadside Farm Market.⁴

How many different farm wineries or special wineries can the licensee do business with?

There is no limit to the number of farm wineries or special wineries that the Roadside Farm Market can purchase from. However, the farm winery or special winery must be located within twenty miles of the Roadside Farm Market and only wine from two manufacturers can be offered for sale at any given time.⁵

Can tastings be conducted at a Roadside Farm Market?

No tastings can be conducted at a Roadside Farm Market.⁶ This includes tastings done by the licensee or a manufacturer or wholesaler with a permit to conduct tastings.

Can a Farm Winery own or operate a Roadside Farm Market?

No. The new law expressly refers to the Roadside Farm Market license as a retail license. Except when specifically permitted by law, a farm winery (or any other manufacturer) is prohibited from holding a retail license.⁷ The new law does not create an exception for Roadside Farm Markets.

Can the Roadside Farm Market licensee purchase wine directly from the farm winery or special winery?

Yes. The new law contains provisions allowing for the sale of wine from the farm winery⁸ or special winery⁹ directly to the Roadside Farm Market licensee. As a

⁴ ABCL §76-f(3)

⁵ ABCL §76-f(3)

⁶ ABCL §76-f(4)

⁷ ABCL §101(1)(a)

⁸ ABCL §76-a(10)

retailer, the Roadside Farm Market licensee can also purchase wine from a licensed wholesaler, provided that the wine is manufactured by a farm winery or special winery located within twenty miles of the Roadside Farm Market.

Can other licenses be issued for a Roadside Farm Market?

No. The Authority does not issue multiple retail licenses for the same location.

What are the hours of sale at a Roadside Farm Market?

The hours of sale are the same as those of a package or wine store.¹⁰ The statewide hours of sale are Mondays through Saturday 8:00 a.m. until midnight and Sundays from noon until 9:00 p.m.¹¹ However, most counties have adopted more restrictive hours. A roadside farm market must comply with the hours of sale that apply in its county. A list of each county's hours of sale is available on the Authority's website. No sales are permitted on Christmas.

How much wine can be stored at a Roadside Farm Market?

Up to twenty cases of wine can be stored at a Roadside Farm Market.¹² The wine must be kept in a safe and secure location when the market is closed for business. The wine must also be kept segregated from the other products sold at the Roadside Farm Market.

⁹ ABCL §76-c(3)

¹⁰ ABCL §76-f(4)

¹¹ ABCL §105(14)

¹² ABCL §76-f(3)