

STATE OF NEW YORK
LIQUOR AUTHORITY

To: All suppliers¹ and distributors² of liquor and wine

Subject: Containers, packaging and personalization of bottles

Section 101-b of the Alcoholic Beverage Control Law provides that there may be only one price listed for an item in the price schedule filed with the Liquor Authority, unless permission is first obtained from the Authority for good cause shown when not inconsistent with the purposes of the statute. It has come to the Authority's attention that under current marketing practices, suppliers seek to create "ornamental," "enhanced," or "special" containers to address consumers' desire for special gift products. In addition, suppliers and distributors have requested direction with respect to: how they may package containers of liquor and wine for delivery to retailers; and whether they can supply bottles and containers personalized for consumers. The Authority has, from time to time, issued bulletins addressing the conditions under which such products may be distributed. In light of the passage of time since the issuance of those directives, and after recent discussions with industry members, the Authority has determined that it is appropriate to revisit the guidance set forth in those directives and states the following:

Prior Bulletins

Bulletin No. 343 (issued on August 11, 1961), Bulletin No. 440 (issued on February 3, 1969), Bulletin 440-a (issued on July 16, 1971), Bulletin 440-b (issued on August 11, 1971) and Advisory 2012-5 (issued on August 29, 2012) are hereby rescinded.

Containers of liquor or wine

1. The term "container" as used herein is intended to mean the bottle or other vessel containing the liquor or wine as well as any container into which the individual bottle or vessel is placed. No such container shall be permitted which has any secondary value or after-use, except of an ornamental or decorative nature.
2. The terms "ornamental," "enhanced," or "special" containers, as used herein, are intended to mean: containers of crockery, ceramic material, crystal, tin or other metal, plastic or wood; and decanters of any type. The Authority retains the sole discretion to determine which containers are properly considered "standard" versus "ornamental," "enhanced," or "special."

¹ For purposes of this advisory, "supplier" means entities licensed in this state to manufacture alcoholic beverages, as well as: other domestic and foreign manufacturers of alcoholic beverages, importers, and other entities that sell alcoholic beverages, directly or indirectly, to licensed wholesalers for distribution in this state.

² For purposes of this advisory, "distributor" means a licensed wholesaler.

3. Brand owners or brand agents may offer items in the “standard” container and/or "ornamental," "enhanced," or "special" containers.
4. The "ornamental," "enhanced," or "special" containers may be sold at the same price, or a higher price than the “standard” container.
5. Items in "ornamental," "enhanced," or "special" containers must be price scheduled separately from items in "standard" containers.
6. Where any "ornamental," "enhanced," or "special" types of containers are distributed as limited availability items, the brand owner or brand agent must comply with the provisions of Advisory 2014-4.
7. Where any "standard" container is distributed as a limited availability item, any and all "ornamental," "enhanced," or "special" containers bearing the same brand or trade name must also be sold as limited availability items.
8. Brand owners or brand agents wishing to sell items sharing the same brand label at different prices for a reason other than an “ornamental,” “enhanced,” or “special” container (such as a different label, for example) must obtain prior permission from the Authority to do so. All such requests should be addressed to the Wholesale Bureau in writing or via electronic mail at: wholesale@sla.ny.gov. In all such instances the Authority retains the sole discretion to determine which items sharing the same brand label may properly be sold at a different price.

Packaging of liquor or wine

1. Suppliers and distributors may pack their containers of alcoholic beverages in cardboard, paper or wooden boxes.
2. Baskets, boxes or other packages having a value to the retailer or consumer distinct from their value as packages for alcoholic beverages may not be used to pack containers of alcoholic beverages and may not be furnished, given or sold to retailers by suppliers and distributors.
3. Nothing hereinabove set forth shall be construed as excluding the use of paper, canvas, cloth, straw, simulated leather and plastics as wrapping material for packaging, provided that such wrapping material has no secondary value or use aside from its use as a wrapping for alcoholic beverages.
4. Cardboard or paper boxes for use in packing containers of alcoholic beverages may be furnished, given or sold to retailers by suppliers and distributors apart from the cases in which containers of alcoholic beverages were originally packed in a quantity not to exceed an amount required for the number of containers of such brands that the retailer has in inventory.

Personalization of bottles and other containers

1. The term “personalize” as used herein means engraving, stamping, writing or otherwise adding the name of one or more persons to a bottle or other container of an alcoholic beverage. Such personalization may also include language commemorating an event, special occasion, etc.
2. A supplier may personalize a bottle or another container of an alcoholic beverage for a retail consumer. Such service may be provided to the retailer by the supplier or by the supplier’s wholesaler, at the request of the supplier.
3. A supplier may charge the retailer for such services or provide same at no cost. In any event, the supplier must make such services available to any retailer upon the same terms.

All suppliers and distributors are hereby cautioned that any violation of the directives contained in the above Advisory may subject them to disciplinary action by the Authority pursuant to ABCL §119 and/or an action for injunctive relief pursuant to ABCL §123.