

Series 1991
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STATE OF NEW YORK
LIQUOR AUTHORITY

TO: ALL PACKAGE STORE LICENSEES

SUBJECT: INTEREST OF LANDLORDS IN PACKAGE STORES
(Revises Bulletin 409 dated November 23, 1965)

Subd. 16 of Section 105 of the Alcoholic Beverage Control Law provides that no package store licensee shall be interested, directly or indirectly, in any other premises where liquor or wine is sold at retail for off-premises consumption by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means.

In addition, Section 63.5 of the Alcoholic Beverage Control Law provides that no more than one package store license shall be granted to any person and Section 105.17 thereof further spells out the concept of disassociation of such stores by prohibiting a package store licensee from making a loan to any person engaged in the sale of liquor and/or wines at retail for off-premises consumption. Again, Section 111 of said Law contains the restriction that a license issued to any person shall be available only to the person specified therein.

Moreover, it has been the experience of the Authority that persons not eligible to receive package store licenses are landlords of package stores under percentage lease arrangements; and, further, that the landlord and/or lessor of a package store premises leased on a percentage lease basis may have a substantial financial interest in the package store premises by virtue of such lease such as would, in the judgment of the Authority, constitute an interest therein.

Section 160 of the ABC Law provides that the Alcoholic Beverage Control Law shall be so construed as to assure that the policy of the State and the intent and purpose thereof will be carried out. Accordingly, to further safeguard against prohibited interests and to carry out the intent and purpose of the Alcoholic Beverage Control Law the Authority may disapprove any application for a package store license wherein the lease provides that the landlord or lessor would receive any percentage of the receipts or profits of the business, unless such landlord or lessor is party to the application for such license and is thus subject to the pertinent provisions of the Alcoholic Beverage Control Law.

Persons hereafter applying for package store licenses or removals of package store licenses will be required to bring a copy of this statement to the attention of the landlord or lessor of the proposed premises, to make inquiry of such person as to any interest held in a package license or premises and to submit a certification of such inquiry to the Authority as part of the application for a license or removal.

STATE LIQUOR AUTHORITY