

STATE OF NEW YORK: LIQUOR AUTHORITY

Fermentation Cellar Project

DECLARATORY
RULING
2014-03150A

Preliminary Statement

Section 98.1 of the Rules of the State Liquor Authority, (9 NYCRR subtitle B) provides that any person may request the Authority to issue a declaratory ruling on the application of the Alcoholic Beverage Control Law (ABCL), or the Rules of the Authority, on any person, property or state of facts.

Office of Counsel received a letter from Dan Suarez, owner of Suarez Family Brewery, requesting a declaratory ruling as to whether or not his operation is allowed under a brewer's license in New York State.

Statement of Facts

Mr. Suarez and his wife intend to rent a warehouse space where they would ferment beer under a brewer's license (a microbrewer's license) issued to Suarez Family Brewery. Mr. Suarez would create wort¹ at a nearby "host brewery" where he would pay a fee for the use of their space and equipment.

After the wort is produced, it would be pumped into stainless steel containers on a truck and transported to the Suarez Family Brewery's licensed facility. Once there, yeast would be added to the wort for fermentation, turning it into an alcoholic beverage – beer. The wort would be fermented, conditioned, blended, packaged and sold from the facility licensed to the Suarez Family Brewery. Mr. Suarez reports that there are no other brewers in New York State operating in this manner.

Applicable Law

ABCL §51 is a brewer's license, which permits licensees to brew beer for sale within the three-tier system.

ABCL §3.4 defines a Brewery as any place or premises where beer is manufactured for sale including granaries, mashrooms, cooling-rooms, vaults, yards and storerooms where any part of the process of manufacture of beer is carried on, or where any of the products of brewing or fermentation are stored or kept.

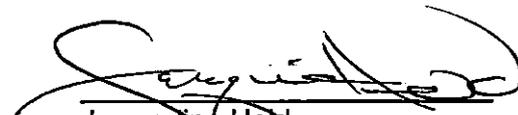
ABCL §3.5 defines a Brewer as "any person who owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent."

¹ Wort is a sugar product made from barley that does not contain alcohol.

Determination

ABCL §3.4 defines a brewery as a place where any part of the process of manufacturing beer is carried on, and the ABCL does not require that each portion of the process be conducted at the same location. Since wort does not contain alcohol, the production of wort itself need not take place at a licensed premises as intended by Mr. Suarez. Additionally, a non-permitted truck may be used to transport the wort between the two facilities.

Licensees are reminded that this ruling is limited to the facts set forth herein. This ruling should not be considered approval for any other proposal which deviates in any respect with the representations as set forth above. The forgoing Declaratory Ruling was approved by the Members of the Authority at Full Board meeting held on December 16, 2014.



Jacqueline Held
Secretary to the Authority