

NEW YORK STATE LIQUOR AUTHORITY  
FULL BOARD AGENDA  
MEETING OF JULY 31, 2013  
REFERRED FROM: COUNSEL'S OFFICE

2013-02038E

REASON FOR REFERRAL  
REQUEST FOR DIRECTION

PACKAGE STORES AND ON-LINE  
COUPON OFFERINGS

(DECLARATORY RULING)

The Members of the Authority at their regular meeting held at the Zone I New York City Office on JULY 31, 2013 determined:

## EATON & VAN WINKLE LLP

**Robert N. Swetnick**  
Partner

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July 9, 2013

Chairman Dennis Rosen and  
Commissioner Jeanique Greene  
New York State Liquor Authority  
317 Lenox Avenue  
New York, New York 10027

Dear Chairman Rosen and Commissioner Greene:

This letter is to request a declaratory ruling pursuant to Section 98.1 of the Rules of the New York State Liquor Authority. We seek this ruling on behalf of several retail liquor stores licensed by the Authority.

In October 2011 the Authority issued Declaratory Ruling 20-11-03011 regarding the ability of a "third party provider" to offer a coupon which could be sold on a website and redeemed for the purchase of food and alcoholic beverages at an on-premises establishment. Retail liquor stores are interested in pursuing a similar arrangement for the sale of liquor and/or wine in limited quantities at a discounted price to persons who purchase a coupon through a third party provider.

The use of such coupons will draw customers to the retailers' website and anticipated that customers will purchase not only the item offered at a discount with the coupon, but other items as well. If New York retailers are not able to engage in this practice, there is grave concern that potential customers will use coupons to make purchases for the discounted and other items at the websites of out of state stores, such as those in New Jersey which can fulfill the order by shipping into New York. In order to remain competitive, New York retailers require the ability to also participate in such programs.

Although the coupon will be sold by the third party provider, it will have to be redeemed at the Licensee – either at its store or on its website. Thus, the purchase of the merchandise will be from the retailer, not the third party provider. In addition, the retailer will be the sole party having any custody or control of the merchandise and the merchandise will be shipped by the licensed retailer from its licensed premises.

The third party provider would retain a percentage of the cost of the coupon and the retailer/licensee would retain the balance of the cost of the coupon, plus all costs for shipping and handling of the merchandise.

There are a myriad of ways in which the program could be established. Rather than proposing a specific program and repeatedly returning to the Commission for further declaratory rulings relating to modifications to that program, we have, after consulting with Counsel for the Authority, elected to seek a ruling which would permit retailers and third party providers to better define the parameters of any such program. In this regard, please advise us whether the Authority would permit the sale of coupons, to be sold by a third party provider, and to be redeemed at a licensed retailer, if:

- (1) (a) The third party provider is entitled to retain 35% or less of the cost to the consumer of the coupon, or (b) the third party provider is entitled to retain 45% or less of the cost to the consumer of the coupon, or (c) the third party provider is entitled to retain 50% (current industry standard) or less of the cost to the consumer of the coupon, or (d) the third party provider is entitled to retain a specified dollar amount from each coupon sold
- (2) (a) The coupon can be used for the purchase of liquor/spirits and wine, or (b) the coupon can only be used for the purchase of wine.
- (3) (a) The coupon can be redeemed only at the retailer's website, or (b) the coupon can be redeemed both at the retailer's website and its store.
- (4) (a) The coupon is offered for sale on the third party provider's website for a period of 90 days or less, or (b) the coupon is offered for sale on the third party provider's website for a period of 60 days or less.
- (5) (a) The coupon expires three months or less after sale, or (b) the coupon expires six months or less after sale.
- (6) The coupon could be redeemed at more than one retail store.
- (7) The coupon may be redeemed for only the purchase of a specific product.
- (8) The coupon may be redeemed for a dollar discount off numerous products.
- (9) (a) The retailer offers an unlimited number of coupons for sale through the third party provider each year, or (b) the retailer offers three or less coupons for sale through the third party provider each year, or (c) the retailer offers six or less coupons for sale through the third party provider each year, or (d) the retailer offers twelve or less coupons for sale through the third party provider each year.
- (10) (a) The discount off the retailer's posted retail price is 30% or less, or (b) the discount off the retailer's posted retail price is 50% or less, or (c) the discount off the retailer's posted retail price is 70% or less.
- (11) (a) The sale price of the product, after discount, is equal or greater than the retailer's cost, or (b) the sale price of the product, after discount, is equal or less than the retailer's cost.
- (12) (a) The coupon can be redeemed for internet sales for shipment of merchandise within New York State, or (b) the coupon can be redeemed for internet sales for shipment of merchandise to states to which the licensee is legally permitted to ship.

**EATON & VAN WINKLE LLP**

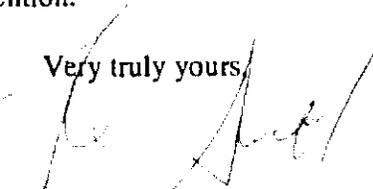
July 9, 2013

Page 3

While I appreciate that the format of this request for Declaratory Ruling is unusual, in order to develop a program for the sale of coupons which would hopefully be acceptable to the Authority, it is necessary to have guidance from the Authority as to the parameters in which a program could be established.

Thank you for your consideration and attention.

Very truly yours,



Robert N. Swetnick

RNS:sb

NEW YORK STATE LIQUOR AUTHORITY  
FULL BOARD AGENDA  
MEETING OF JULY 31, 2013  
REFERRED FROM: COUNSEL'S OFFICE

2013-02038F

REASON FOR REFERRAL  
REQUEST FOR DIRECTION

"TIED-HOUSE" LAWS AND  
SPONSORSHIP RIGHTS

(DECLARATORY RULING)

The Members of the Authority at their regular meeting held at the Zone I New York City Office on JULY 31, 2013 determined:



HELBRAUN & LEVEY LLP  
ATTORNEYS AT LAW

**TO:** Chairman Dennis Rosen, Commissioner Jeanique Greene, Counsel Jaci Flug

**FROM:** Joseph R. Levey, Esq.

**RE:** Request for Declaratory Ruling

**DATE:** July 10, 2013

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### Preliminary Statement

Pursuant to Section 98.1 of the Rules of the State Liquor Authority, (9 NYCRR subtitle B), this firm, on behalf of our client, 61 Gans Restaurant LLC, respectfully requests that the Authority issue a declaratory ruling on the Application of the Alcoholic Beverage Control Law ("ABCL") and the Rules of the Authority as it relates to the following issue: *Whether, under the facts presented, the sale of sponsorship rights with respect to the licensed premises would be allowable and therefore not in violation of the "tied-house" laws [Sections 101(1)(a) and 106(13)] nor the "gifts and services" law [Section 101(1)(c)].*

### Applicable Law/Rules

ABCL 101(1)(a) prohibits a licensed manufacturer or wholesaler from having any interest, direct or indirect, in any premises where alcoholic beverages are sold at retail.

ABCL 106(13) prohibits a licensed on-premises retailer from having any interest, direct or indirect, in a business that manufactures or wholesales alcoholic beverages.

ABCL 101(1)(c) prohibits a licensed manufacturer or wholesaler from making any gift or rendering any service to a licensed retailer if, in the judgment of the Authority, the gift or service may tend to influence the retailer to purchase the manufacturer's or wholesaler's products.

Section 86.1 of the Rules of the Authority prohibits licensed retailers from accepting such gifts or services.



HELBRAUN & LEVEY LLP  
ATTORNEYS AT LAW

### **Prior Rulings by the Authority**

*Full Board Agenda Item 2012-00957D(March 27, 2012)* - Annexed hereto as Exhibit 1

- re: Barclay Center/Brooklyn Nets/Brooklyn Events Center

*Full Board Agenda Item 2011-01646C(May 25, 2011)* - Annexed hereto as Exhibit 2

- re: Bethel Woods Center for the Arts/Museum/Anheuser-Busch

*Full Board Agenda Item 2009-00615(June 11, 2009)* - Annexed hereto as Exhibit 3

- re: New York Yankees/Legends Hospitality/Yankee Global Sponsorship

### **Statement of Facts**

61 Gans Restaurant LLC (serial # 1268022) is an On-Premise retail licensee, having place of business within the Meatpacking District area of New York City (the "Licensee"). The current operation consists of multi-level licensed premises with a restaurant component, a bar component and a private party/event space component.

Licensee is looking to explore additional potential sources of revenue. The concept of garnering corporate sponsorships for either the whole premises or separate parts of their premises is one that they feel can be quite lucrative. And given the location and nature of this business, it is certain companies will be interested in taking these sponsorships.

Licensee is not in the sponsorship or marketing business, however, and is not interested in altering their fundamental, core business. They would be interested in selling these "sponsorship rights" to their premises, to a third party, who could market them to corporate sponsors. In order to make this opportunity optimally attractive to a potential, unaffiliated third party, they would need to confidently represent that varied business types could be eligible to be named sponsors - specifically alcoholic beverage wholesalers and manufacturers. Although Licensee anticipates that a third party could secure corporate sponsors in many different and diverse industries, the synergies with alcoholic beverage wholesalers and manufacturers are obvious.

Licensee is aware of the "tied-house" and "gifts and services" laws and their respective prohibitions. We have put together a comprehensive plan, in an effort to further explore this possibility, but would first look to consult the Authority, to ensure that we are moving forward in a legal and acceptable manner.



HELBRAUN & LEVEY LLP  
ATTORNEYS AT LAW

### **Proposed Plan**

Licensee would sell the "Sponsorship rights" to its premises to an unaffiliated, unlicensed third party for a set period of time (e.g., 24 months, 36 months)

Licensee would collect a one-time, flat fee from the third party at the outset of this agreement for the "Sponsorship rights" to the premises. This fee would not be contingent upon future sponsorship monies, or any other future factor.

Licensee agrees [as part of the agreement with the third party] to relinquish all elements of control over sponsorships, including which corporate sponsors are chosen by the third party (with the exception of minor restrictive covenants within the original agreement - e.g., nothing objectively offensive to the public, illegal, etc.)

With the exception of the initial fee paid from the third party to Licensee, no monies, services or any other element of value shall pass through from either the third party or any future sponsor, to Licensee. And the corollary to this, of course, is that Licensee retains no control over the third party with respect to the selection of the corporate sponsors and/or the corporate sponsors themselves (other than the minor restrictive covenants as mentioned above).

To establish who the third party will be, Licensee will circulate a term sheet (draft annexed hereto as exhibit 4) to those who have expressed interest, and begin negotiations in an effort to determine the best fit.

The third party shall then be free to negotiate with corporate sponsors of solely their choosing and shall negotiate their own terms and contracts with said sponsors.

### **Request to be Considered**

In 2009, the Authority was presented with the new Yankee Stadium declaratory ruling request. Based upon the facts presented, the Authority determined that the potential licensee could assign/transfer the naming and sponsorship rights for the food and beverage components of the new Yankee Stadium to a separate, unaffiliated, unlicensed third party. And this third party could then legally enter into agreements with manufacturers and wholesalers for various advertising and naming rights.

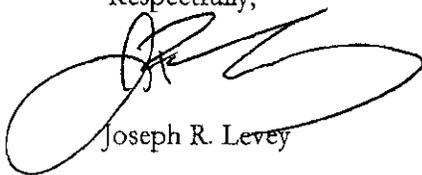
The Authority has since relied upon this ruling in at least two subsequent cases, with similar basic structuring - assigning sponsorship rights to unaffiliated, non-licensed third parties for the purpose of allowing corporate sponsorships that may include wholesalers and manufacturers of alcoholic beverages.



HELBRAUN & LEVEY LLP  
ATTORNEYS AT LAW

We propose that the instant set of facts is fundamentally similar to the three cases cited herein and annexed hereto. We look to the Authority to confirm that we may rely on these prior determinations for allowing sponsorships of a similar nature at the subject premises, and that this format, as previously approved by the Authority, can be applied to our specific scenario.

Respectfully,



Joseph R. Levey

NEW YORK STATE LIQUOR AUTHORITY  
FULL BOARD AGENDA  
MEETING OF JULY 31, 2013  
REFERRED FROM: COUNSEL'S OFFICE

2013-02038G

REASON FOR REFERRAL  
REQUEST FOR DIRECTION

"TIED-HOUSE" LAWS ON  
NAMING AGREEMENT

(DECLARATORY RULING)

The Members of the Authority at their regular meeting held at the Zone I New York City Office on JULY 31, 2013 determined:

VICTOR & BERNSTEIN, P.C.  
ATTORNEYS AT LAW

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TEL 212/486-6000  
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SAUL L. VICTOR  
DONALD M. BERNSTEIN

MARTHA M. REDO  
ALEXANDER B. VICTOR

July 16, 2013

*VIA EMAIL  
AND REGULAR MAIL*

Jacqueline Flug, Esq.  
Counsel  
New York State Liquor Authority  
317 Lenox Avenue  
New York, New York 10027

*Re: The New York Palace Hotel and  
Northwood Hotel Management LLC  
455 Madison Avenue  
New York, New York 10022  
Serial #1255355*

Dear Ms. Flug:

We are attorneys for the referenced companies, which are the retail licensees of the Palace Hotel at 455 Madison Avenue. This letter is submitted pursuant to Section 98.1 of the Rules of the New York State Liquor Authority requesting a declaratory ruling on the facts as submitted.

The Palace Hotel offers among its amenities rooms and suites for hire by guests. As a marketing tool, the hotel is interested in naming certain individual suites at the hotel which may make the suites more attractive. The names would be consistent with the operation of a first class hotel in midtown Manhattan, and may include trademarks owned by liquor manufacturers or wholesalers. As an example, a suite name could include the registered trademark of a New York State licensed wholesaler.

In order to avoid a violation of the Alcoholic Beverage Control tied house or "gift or services" provisions of the ABC Law (Sections 101(1)(a), 106(13) or 101(1)(b)), the hotel would enter into an agreement assigning the naming rights to suites in the hotel to a third party. That third party would not share any common ownership, direct or indirect, with the hotel or with either of the two co-licensees. That third party would have the right to enter into agreement with

Jacqueline Flug, Esq.  
New York State Liquor Authority  
July 16, 2013  
Page 2

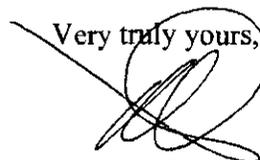
VICTOR & BERNSTEIN, P.C.  
ATTORNEYS AT LAW

others, including licensed manufacturers or wholesalers, to use their trademarks or registered names on suites in the hotel. No proceeds, if any, received by that third party from liquor wholesalers or manufacturers for the naming rights would be paid to or shared with the retail licensees. The third party would have discretion regarding who to contract with and what names would be used, provided, and subject to the strict requirement that any names be consistent with the operation and reputation of a first class luxury midtown Manhattan hotel such as the Palace and could not in any way diminish or devalue its reputation.

This proposal is consistent with the Alcoholic Beverage Control Law and is reflected in a series of declaratory rulings issued by the Authority, starting with Declaratory Ruling 2009-00615, in situations involving the sale of naming or sponsorship rights. In that particular matter two entities were applying jointly for an on-premises liquor license at the newly constructed Yankee Stadium. The licensees entered into an agreement with a third party, which gave that third party the ability to sell sponsorship rights for certain venues and areas inside the stadium to be licensed. That is, the third party was able to sell the naming rights and other signage rights to other companies, which it was anticipated would include suppliers of alcoholic beverages. Neither co-licensee in that case had any ownership interest in the third party. Any proceeds received by that third party from liquor suppliers for the naming rights would not go to either of the co-licensees. Under the facts as presented there, the Authority declared that given the contractual separation between the retailer and the supplier, the proposed agreements did not violate either the tied house or gifts or services provisions of the Alcoholic Beverage Control Law. See also, Declaratory Rulings 2012-00957D relating to Brooklyn Events Center LLC, and 2011-01646C relating to the Bethel Woods Center for the Arts.

We believe that the scenario as presented here is consistent with those declaratory rulings and removes any potential tied house or "gift or services" issues, and we request a declaratory ruling to that effect.

Very truly yours,

A handwritten signature in black ink, appearing to be "Donald M. Bernstein", written over a circular scribble.

Donald M. Bernstein

DMB:to

NEW YORK STATE LIQUOR AUTHORITY  
FULL BOARD AGENDA  
MEETING OF JULY 31, 2013  
REFERRED FROM: SECRETARY'S OFFICE

2013-02038H

REASON FOR REFERRAL  
REQUEST FOR DIRECTION

LIMITED AVAILABILITY AND CLOSEOUT SALES

(ADVISORY: FINAL DRAFT)

The Members of the Authority at their regular meeting held at the Zone I New York City Office on JULY 31, 2013 determined:

## STATE OF NEW YORK

### LIQUOR AUTHORITY

To: All manufacturers, importers, wholesalers, retailers and agency staff

Subject: Proper marketing and sales of "limited availability" items and "closeout sales" of wine and/or distilled spirits

The purpose of this Advisory is to provide guidance to manufacturers, importers and wholesalers with respect to their ability under the Alcoholic Beverage Control Law ("ABCL") to properly price post and solicit sales for "limited availability" items and "closeout sales" of wine or distilled spirits. This advisory assumes compliance with Advisories #2012-5 and #2013-1.

For purposes of this advisory "limited availability" items are those items bearing the same brand or trade name, or combo packs pursuant to Advisory #2013-1, for which the manufacturer, importer or wholesaler has reason to believe market demand exceeds or will soon exceed available inventory. Such reasonable belief may be based upon the knowledge that the manufacturer, importer or wholesaler: (1) does not have sufficient inventory to meet demand; or (2) cannot purchase sufficient inventory to satisfy demand; or (3) does not intend to sell or purchase further inventory for a period of at least one year; or (4) has a seasonal item which is limited or for which the season is over; or (5) has an item that has been discontinued by the supplier; or (6) has price posted a subsequent vintage<sup>1</sup>; or (7) has terminated their business relationship.

For purposes of this advisory "closeout sales" occur when it is the intent of the manufacturer, importer or wholesaler to sell its entire remaining inventory, and there is a reduction in the posted price of at least 10% from the previous month. "Closeout sales" are one acceptable method of allocation for sales of "limited availability" items as further set forth below. "Closeout sales" are a special category of limited availability items created because the manufacturer, importer or wholesaler does not intend to sell additional inventory once the current inventory runs out. Except for seasonal items, no item should be subject to a "closeout sale" unless it has been offered for sale in New York for a period of at least six months.

Manufacturers, importers and wholesalers are required to notify the Authority in advance of all "limited availability" price postings. Beginning with the October, 2013 retail wine and retail liquor price postings, manufacturers, importers and wholesalers will be required to specify a method of allocation with all "limited availability" postings. Said notification with a method of

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<sup>1</sup> The price filing of a later vintage does not, in and of itself, convert any prior vintage to a limited availability item.

allocation specification shall be posted together with the monthly price filing in a manner prescribed by the Authority, which will enable the wholesaler to select "limited availability" and a method of allocation.

In the event that an item is not filed as a limited availability item, and a subsequent unexpected event (e.g., the item receives a high score from a trade or consumer publication or a celebrity endorsement) occurs during the month which creates a demand for the item which is greater than the existing inventory of the item, for the remainder of the month and upon notice to the Authority via the limited availability email inbox (limited.availability@sla.ny.gov), a wholesaler may limit the amount which any customer may purchase to one purchase at the smallest quantity discount filed for the month in question. In the following month such an item must be filed as a limited availability item. For all allocation changes made after the initial filing and prior to the first day of the month for which the price posting is effective, the limited availability email inbox (previously utilized for all "limited availability" postings) will remain available and will now be utilized solely for allocation changes made during that period.<sup>2</sup> The below form for email submission of such mid-month "limited availability" price postings is required unless permission is obtained from the Authority to use an alternate form. With respect to such allocation changes, except as may be authorized in section 101-b of the ABCL, there shall be no price changes without permission from the Authority for good cause shown until the next month's price posting has been filed and is in effect. NOTE: (1) Once the month for which the prices are posted has begun, the method of allocation may not be changed without permission from the Authority; (2) any changes to the price posting must be properly price posted the following month; and (3) "closeout sales" may not be implemented via mid-month allocation changes and must be properly price posted.<sup>3</sup>

Manufacturers, importers and wholesalers are reminded that quantity discounts are not permitted for "limited availability" price postings. Manufacturers, importers and wholesalers are reminded that value added packs that are limited in nature must be price posted as "limited availability" items. All combination packages which are not intended to be delivered to the consumer intact are considered to be "limited availability" items with the exception of distributor assembled ("DA") items pursuant to paragraph 16 of Advisory #2013-1. Please refer to Advisory #2013-1 with regard to when a value added pack is to be considered a limited availability item.

The Authority recognizes that good cause has been shown to allocate "limited availability" items differently between on and off premises licensees, and a manufacturer, importer, or wholesaler may consider the nature of, and the consumer market for, a limited item when choosing a method of allocation. If a different method of allocation is used for a given

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<sup>2</sup> Once a "limited availability" allocation is filed there may no longer be sales at the smallest quantity discount level. Additionally, quantity discounts may not be utilized with any "limited availability" allocation.

<sup>3</sup> All such changes to the "limited availability" postings will be published via the authority's website (www.sla.ny.gov.)

channel (i.e., on-premises or off-premises), licensees within the same channel must have an equal opportunity to obtain the "limited availability" item.

#### PROPER TYPES OF "LIMITED AVAILABILITY" ALLOCATIONS:

The list below sets forth methods of allocation deemed permissible by the Members of the Authority. A different method of allocation may be used for each channel. Other methods of allocation than those set forth herein may be utilized. However, if the manufacturer, importer or wholesaler utilizes another method of allocation and does not obtain prior written approval from the Authority, it does so at its own risk.

- 1) Past sales history (within preceding 12 months) with 10% holdback allowance (i.e., set aside and held in inventory) for prospective new business as long as such past sales were not themselves discriminatory;
- 2) Lists of retailers published by respected third party sources such as: a listing as best wine list in Wine Spectator Magazine; a listing in Zagats as best restaurants; a listing in Michelin Guide or the like;
- 3) Unsold accounts (retailers that have not purchased the item within the past year);
- 4) First come first served with a maximum per account;
- 5) Advance interest, provided all accounts are given reasonable notice and the opportunity to express their interest but no pre-ordering is entered into;
- 6) "Closeout sales" – The following method should be used for items designated for "closeout sales."

- First month filing of maximum number of cases per retailer (not to exceed 10% of the available inventory) together with a notice that in the next month and thereafter the item will be marked "first come first served - no maximum."
- Second and subsequent months, first come first served - no limit, until inventory of the item is depleted to zero. Manufacturers, importers and wholesalers may begin accepting such orders at 9:00 AM on the first day of the month any such posting goes into effect. NOTE: If the price is reduced in the second or any subsequent month, the process must be repeated from the beginning (with a new first month maximum case allocation filing) until inventory of the item is depleted to zero.

Regardless of the method of allocation utilized, if a 70/30 split between channels is utilized, the manufacturer, importer or wholesaler will be deemed to be operating within a safe harbor as pertaining to allocations between channels for any given month. If the 70/30 split

allocation formula is deviated from, the burden will be on the manufacturer, importer or wholesaler to demonstrate that an approved method of allocation from the above list was utilized for any given month. Although price posting is done on a month by month basis, a manufacturer, importer, or wholesaler may create an allocation plan for a limited availability item that extends over a commercially reasonable period, not exceeding twelve months, provided there is no change in price during that period. If a price reduction is filed for any limited availability item that is so allocated, the 70/30 split between channels must occur at each price utilized during said commercially reasonable period. The manufacturer, importer or wholesaler is under an obligation to keep proper internal controls and records to justify the need to designate any item as limited availability as well as the method of allocation chosen.

Limited Availability Mid-Month Allocation Change Reporting Form

Wholesaler name (not d/b/a):

Wholesaler NYSLA license number:

Month and year for this report:

Name of person completing this report:

Contact person's name, phone number, email address:

Product and pricing information (as reported on the price posting noted above):

TTB/CoLA # or Brand Label Registration #:

Wholesaler Item #:

Regular / Combo / VAP (R, C, V):

Brand name and product description (including age if applicable):

Price per bottle and per case (BT \$, CS \$) (specify and list NYC if applicable) as reflected in the price posting:

Number of bottles per case:

Requested allocation changes details:

\*\*\*\*\*No quantity discounts allowed on Limited Availability items\*\*\*\*\*

Forward via electronic mail to: [limited.availability@sla.ny.gov](mailto:limited.availability@sla.ny.gov)

NEW YORK STATE LIQUOR AUTHORITY  
FULL BOARD AGENDA  
MEETING OF JULY 31, 2013  
REFERRED FROM: SECRETARY'S OFFICE

2013-020381

REASON FOR REFERRAL  
REQUEST FOR DIRECTION

TASTINGS AND SALES BY THE BOTTLE CONDUCTED BY  
MANUFACTURERS, IMPORTERS AND WHOLESALERS

(ADVISORY)

The Members of the Authority at their regular meeting held at the Zone I New York City Office on JULY 31, 2013 determined:

STATE OF NEW YORK  
LIQUOR AUTHORITY

TO: All manufacturers, importers, wholesalers, and agency staff

SUBJECT: Tastings and “sales by the bottle” conducted by manufacturers, importers and wholesalers

The purpose of this Advisory is to provide guidance to manufacturers, wholesalers and importers with respect to their ability under the Alcoholic Beverage Control Law (“ABCL”) to: conduct tastings (or supplying samples) of their products to consumers; and sell their product to consumers for off-premises consumption (hereinafter referred to as “sale by the bottle”). The specific statutes referenced in this advisory should be reviewed to ensure that all tastings are conducted in compliance with the ABCL.

In addition, this Advisory provides information regarding the Supplier/Wholesaler Marketing Permit, which was first explained in Advisory 2012-7. The Marketing Permit replaced the Tasting Permit, which was first explained in Advisory 2012-4. Advisory 2012-4 was replaced with Advisory 2012-7. This Advisory replaces Advisory 2012-7. In addition, this Advisory shall replace any prior written or verbal directives from the Authority regarding the issuance of permits to manufacturers, importers and wholesalers (whether or not they are licensed in this state) to allow such entities to conduct tastings or make sales by the bottle.

Except as provided for in this advisory, no manufacturer, importer or wholesaler of alcoholic beverages may conduct tastings or sell by the bottle in this state. In addition, except as set forth in this Advisory, no manufacturer, importer or wholesaler can charge a fee to a consumer to participate in a tasting.

For purposes of this advisory, the term:

“*Brewer*” means an entity, other than a farm brewer, licensed by the Authority under ABCL §51 to produce beer.

“*Farm brewer*” means an entity licensed by the Authority under ABCL §51-a to produce beer and cider.

“*Cider producer*” means an entity licensed by the Authority under ABCL §58 to produce cider and sell cider at wholesale.

“*Distiller*” means an entity, other than a farm distiller, licensed by the Authority under ABCL §61 to produce liquor.

“*Farm distiller*” means an entity licensed by the Authority under ABCL §61(2-c) to produce liquor.

*“Winery”* means an entity licensed by the Authority under ABCL §76 [winery] or §76-c [special winery] to produce wine.

*“Farm winery”* means an entity licensed by the Authority under ABCL §76-a [farm winery or micro-winery] or §76-d [special farm winery] to produce wine and cider.

*“Manufacturer”* means an entity licensed by the Authority as a brewer, farm brewer, cider producer, distiller, farm distiller, winery or farm winery.

*“Wholesaler”* means an entity that holds a license or permit issued by the Authority to sell alcoholic beverages at wholesale under one of the following sections of the ABCL: §53 [beer]; §58 [cider]; §58-a [cider]; §62 [liquor]; or §78 [wine]. A licensed wholesaler may also be an importer if it holds a basic federal permit to import alcoholic beverages.

*“Importer”* means an entity, having a basic permit as required by §1.20 of title 27 of the code of federal regulations to import alcoholic beverages. An importer may also be a “licensed wholesaler” if it holds a wholesale license issued by the Authority.

*“Out-of-state manufacturer”* means an entity that holds a valid license issued by another state to produce alcoholic beverages.

*“Out-of-state wholesaler”* means an entity that holds a valid license issued by another state to sell alcoholic beverages at wholesale. An out-of-state wholesaler may also be an importer if it holds a basic federal permit to import alcoholic beverages.

## Tastings

### By brewers:

- A brewer may conduct tastings at its licensed premises of beer it produces. No additional permit is needed. [ABCL §51(8)(d)].
- A brewer may obtain a temporary (3 day) or annual brewer tasting permit. Such permit allows the brewer to conduct tastings of the beer it produces at: (a) establishments licensed under ABCL §54 or §54-a to sell beer, or beer and wine products at retail for consumption off the premises, such as grocery store or drug store licenses; (b) county Fairs; and (c) establishments licensed under ABCL §53 to sell beer at wholesale that may also sell beer at retail for consumption off the premises, also known as “C” licensees. [ABCL §51(8)(a)].

- A brewer may obtain a permit to conduct tastings throughout the state of New York State labeled beer it produces. These permits are issued either on an annual basis or for a specific event. [ABCL §51(6-a)(e)].
- A brewer may conduct tastings of beer it produces using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By licensed farm brewers:**

- A farm brewer may conduct tastings at its licensed premises (or one of its branch offices) of New York State labeled beer and New York State labeled cider that it produces or that is produced by any other farm brewery. No additional permit is needed. [ABCL §51-a(2)(g)].
- A farm brewer may conduct tastings at its licensed premises (or one of its branch offices) of New York State labeled wine that is produced by a winery or farm winery. No additional permit is needed. [ABCL §51-a(2)(i)].
- A farm brewer may conduct tastings at its licensed premises (or one of its branch offices) of New York State labeled liquor that is produced by a distiller or farm distiller. No additional permit is needed. [ABCL §51-a(2)(j)].
- A farm brewer may obtain a temporary (3 day) or annual brewer tasting permit. Such permit allows the brewer to conduct tastings of the beer it produces at: (a) establishments licensed under ABCL §54 or §54-a to sell beer, or beer and wine products at retail for consumption off the premises, such as grocery store or drug store licenses; (b) County Fairs; and (c) establishments licensed under ABCL §53 to sell beer at wholesale that may also sell beer at retail for consumption off the premises, also known as "C" licensees. [ABCL §51(8)(a)].
- A farm brewer may obtain a permit to conduct tastings of beer it produces at locations throughout the state. Such permits are issued on an annual basis or for individual events. [ABCL §51-a(2)(e)].
- A farm brewer may conduct tastings of beer it produces using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By cider producers:**

- A cider producer may not conduct tastings at its licensed premises.
- A cider producer may conduct tastings of New York State labeled cider at licensed package stores without having to obtain a permit. [ABCL §58(2)(a)].

- A cider producer may conduct tastings of New York State labeled cider at licensed restaurants, hotels and catering establishments without having to obtain a permit. [ABCL §58(2)(b)].
- A cider producer that holds a “satellite store” license may also conduct tastings of New York State labeled cider at the satellite store. No additional license or permit for these tastings is needed. [ABCL §58(4)].
- A cider producer may obtain a permit to conduct tastings of New York State labeled cider at the State Fair county fairs and farmers markets. [ABCL §58(3)].
- A cider producer may conduct cider tastings using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By distillers:**

- A distiller may not conduct tastings at its licensed premises.
- A distiller may conduct tastings at establishments licensed in this state to sell liquor at retail for consumption off the premises (a “package store”). No additional license or permit for these tastings is needed. [ABCL §63-a].
- A distiller may also conduct tastings using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By farm distillers:**

- A farm distiller may conduct tastings at the licensed premises of liquor made primarily from New York State products that is produced by the farm distiller or by other licensed distillers and farm distillers. No additional license or permit for these tastings is needed. [ABCL §61(2-c)(c)].
- A farm distiller may conduct tastings at its licensed premises of New York State labeled wine that is produced by a winery or farm winery. No additional permit is needed. [ABCL §61(2-c)(a)(vii)].
- A farm distiller may conduct tastings at its licensed premises of New York State labeled beer that is produced by a brewer or farm brewer. No additional permit is needed. [ABCL §61(2-c)(v)].
- A farm distiller may conduct tastings at its licensed premises of New York State labeled cider that is produced by a brewer, farm brewer, winery or farm winery. No additional permit is needed. [ABCL §61(2-c)(vi)].
- A farm distiller may conduct tastings of liquor it produces at a licensed package store. No additional permit is needed. [ABCL §63-a].

- A farm distiller may conduct tastings of liquor it produces at the State Fair, county fairs and farmers markets. [ABCL §61(6)].
- A farm distiller may also conduct tastings of liquor it produces using a supplier/wholesaler marketing tasting permit. Information concerning such permits is provided later in this document.

**By wineries:**

- A winery may conduct tastings of the wine it produces at its own licensed premises (or its satellite stores) without a separate permit. [ABCL §80].
- A winery may conduct tastings of New York State labeled wine at licensed package and wine stores without having to obtain a permit. [ABCL §76(3)(a)].
- A winery may conduct tastings of New York State labeled wine at establishments with licenses to sell wine at retail for on-premises consumption without having to obtain a permit. [ABCL §76(3)(a-1)].
- A winery may obtain a “charitable event” permit to conduct tastings of New York State labeled wine at events sponsored by charitable organizations. [ABCL §76(3)(c)(ii)].
- A winery may obtain a permit to conduct tastings of New York State labeled wine at the State Fair, county fairs and farmers markets.
- A winery may also conduct wine tastings using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By farm wineries:**

- A farm winery can conduct tastings of the wine it produces at its own licensed premises (or its branch offices) without a separate permit. [ABCL §80].
- A farm winery may conduct tastings of New York State labeled wine at licensed package and wine stores without having to obtain a permit. [ABCL §76-a(3)(a)].
- A farm winery may conduct tastings of New York State labeled wine at establishments with licenses to sell wine at retail for on-premises consumption without having to obtain a permit. [ABCL §76-a(3)(b)].
- A farm winery may obtain a “charitable event” permit to conduct tastings of New York State labeled wine at events sponsored by charitable organizations. [ABCL §76-a(3)(d)(ii)].
- A winery may obtain a permit to conduct tastings of New York State labeled wine at the State Fair, county fairs and farmers markets.

- A farm winery may conduct tastings at its licensed premises (or its branch offices) of New York State labeled liquor that is produced by any distiller or farm distiller. No permit is needed to conduct this tasting. [ABCL §76-a(6)(f)].
- A farm winery may conduct tastings at its licensed premises (or its branch offices) of New York State labeled beer that is produced by a brewer or farm brewer. No additional permit is needed. [ABCL §76-a(6)(g)].
- A farm winery may conduct tastings at its licensed premises (or its branch offices) of New York State labeled cider that is produced by a brewer, farm brewer, winery or another farm winery. No additional permit is needed. [ABCL §76-a(6)(h)].
- A farm winery may also conduct tastings of New York State labeled wine and cider using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By beer wholesalers:**

- The ABCL does not contain any provision that allows a licensed beer wholesaler to conduct beer tastings either at its licensed premises or at any other location. However, a beer wholesaler may conduct beer tastings using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By cider wholesalers:**

- A cider wholesaler may not conduct tastings at its licensed premises.
- A cider wholesaler may conduct tastings of New York State labeled cider at licensed package stores without having to obtain a permit. [ABCL §58(2)(a)].
- A cider wholesaler may conduct tastings of New York State labeled cider at licensed restaurants, hotels and catering establishments without having to obtain a permit. [ABCL §58(2)(b)].
- A cider wholesaler that holds a “satellite store” license may also conduct tastings of New York State labeled cider at the satellite store. [ABCL §58(4)].
- A cider wholesaler may obtain a permit to conduct tastings of New York State labeled cider at the State Fair, county fairs and farmers markets. [ABCL §58(3)].
- A cider wholesaler may also conduct cider tastings using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By liquor and wine wholesalers:**

- The ABCL does not contain any provision that allows a liquor wholesaler to conduct liquor tastings at its licensed premises.
- A liquor or wine wholesaler may conduct tastings of the wine it sells at its own licensed premises without a separate permit [ABCL §80].
- A liquor wholesaler may conduct tastings of the liquor it sells at package stores. No permit is needed for the tasting at the package store. [ABCL §63-a]
- A liquor or wine wholesaler may also conduct liquor tastings using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By importers:**

- The ABCL does not contain any provision that allows a liquor or wine importer to conduct tastings. However, a liquor or wine importer may conduct tastings using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.
- A beer importer may obtain a temporary (3 day) or annual brewer tasting permit. Such permit allows the importer to conduct tastings of the beer it produces at: (a) establishments licensed under ABCL §54 or §54-a to sell beer, or beer and wine products at retail for consumption off the premises, such as grocery store or drug store licenses; (b) county fairs; and (c) establishments licensed under ABCL §53 to sell beer at wholesale that may also sell beer at retail for consumption off the premises, also known as "C" licensees. [ABCL §51(8)(a)].
- A beer importer may also conduct tastings of the beer it sells using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By out-of-state manufacturers:**

- The ABCL does not contain any provision that allows an out-of-state liquor or wine manufacturer to conduct tastings. However, an out-of-state liquor or wine manufacturer may conduct tastings using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.
- An out-of-state beer manufacturer may obtain a temporary (3 day) or annual brewer tasting permit. Such permit allows the out-of-state beer manufacturer to conduct tastings of the beer it produces at: (a) establishments licensed under ABCL §54 or §54-a to sell beer, or beer and wine products at retail for consumption off the premises, such as grocery store or drug store licenses; (b) county fairs; and (c) establishments licensed

under ABCL §53 to sell beer at wholesale that may also sell beer at retail for consumption off the premises, also known as “C” licensees. [ABCL §51(8)(a)].

- An out-of-state beer manufacturer may also conduct tastings of the beer it sells using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By out-of-state wholesalers:**

- The ABCL does not contain any provision that allows an out-of-state wholesaler to conduct tastings.

**Bottle Sales**

**By brewers:**

- A brewer may apply for a license to sell beer by the bottle at its licensed premises. [ABCL §52].
- A brewer whose annual production is less than 60,000 barrels may apply for a permit to sell beer by the bottle at the State Fair, county fairs and farmers markets. [ABCL §51(5)].
- A brewer may sell beer it produces by the bottle using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By farm brewers:**

- A farm brewer may sell New York State labeled beer and New York State labeled cider by the bottle at its licensed premises (or its branch offices) that it produces or that is produced by any other farm brewery. No additional license or permit is needed. [ABCL §51-a(2)(e)].
- A farm brewer may sell New York State labeled beer and New York State labeled cider that it produces or that is produced by any other farm brewery by the bottle at the State Fair, county fairs and farmers markets. No additional license or permit is needed. [ABCL §51-a(2)(h)].
- A farm brewer may sell New York State labeled wine by the bottle at its licensed premises (or its branch offices) that is produced by a winery or farm winery. No additional license or permit is needed. [ABCL §51-a(2)(i)].
- A licensed farm brewer may sell New York State labeled liquor by the bottle at its licensed premises (or its branch offices) that is produced by a distiller or farm distiller. No additional license or permit is needed. [ABCL §51-a(2)(j)].

- A farm brewer may obtain a permit to sell New York State labeled beer and New York State labeled cider by the bottle that it produced while conducting a tasting being held pursuant to a permit issued under ABCL §51-a(3)(a). [ABCL §51-a(4)].
- A farm brewer may sell beer by the bottle that it produces using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By cider producers:**

- A cider producer may obtain a permit to sell New York State labeled cider by the bottle during tastings at licensed restaurants, hotels and catering establishments. [ABCL §58(2)(b)].
- A cider producer may not sell by the bottle from its licensed premises. A cider wholesaler that holds a “satellite store” license may sell New York State labeled cider by the bottle at the satellite store. [ABCL §58(4)]
- A cider producer with a permit to conduct tastings at the State Fair, county fairs and farmers markets may sell New York State labeled cider by the bottle at the tasting. [ABCL §58(3)]

**By distillers:**

- The ABCL does not contain any provision that allows a distiller to sell alcoholic beverages by the bottle. However, an importer may sell by the bottle using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By farm distillers:**

- A farm distiller may sell at its licensed premises liquor made primarily from New York State products by the bottle that is produced by the farm distiller. [ABCL §61(2-c)(a)(iii)].
- A farm distiller may sell at its licensed premises New York State labeled wine by the bottle that is produced by a winery or farm winery. [ABCL §61(2-c)(a)(vii)].
- A farm distiller may sell New York State labeled beer by the bottle at its licensed premises that is produced by a brewer or farm brewer. [ABCL §61(2-c)(v)].
- A farm distiller may sell New York State labeled cider by the bottle at its licensed premises that is produced by a brewer, farm brewer, winery or farm winery. [ABCL §61(2-c)(vi)].

- A farm distiller may obtain a permit to sell liquor made primarily from New York State by the bottle products at the State Fair, county fairs and farmers markets. [ABCL §61(2-c)(b)(iv)].
- A farm distiller may sell liquor made primarily from New York State by the bottle products using a supplier/wholesaler marketing tasting permit. Information concerning such permits is provided later in this document.

**By wineries:**

- A winery may obtain a license to sell wine by the bottle at its licensed premises. [ABCL §76(10)].
- A winery that holds a “satellite store” license may sell New York State labeled wine by the bottle at the satellite store. [ABCL §76(5)].
- A winery with a “charitable event” tasting permit may sell New York State labeled wine at such tastings. [ABCL §76(3)(c)(ii)].
- A winery may obtain a permit to sell New York State labeled wine at the State Fair, county fairs and farmers markets. [ABCL §76(7)].
- A winery conducting tastings of New York State labeled wine at establishments with licenses to sell wine at retail for on-premises consumption may obtain a permit to sell such wine by the bottle during the tasting. [ABCL §76(3)(a-1)].
- A winery may sell wine it produces by the bottle using a supplier/wholesaler marketing tasting permit. Information concerning such permits is provided later in this document.

**By farm wineries:**

- A farm winery may sell New York State labeled wine and cider by the bottle at its licensed premises (or its branch offices). [ABCL §76-a(2)(e)].
- A farm winery with a “charitable event” tasting permit may sell New York State labeled wine at such tastings. [ABCL §76-a(3)(d)(ii)].
- A farm winery may obtain a permit to sell New York State labeled wine at the State Fair, county fairs and farmers markets.
- A farm winery conducting tastings of New York State labeled wine at establishments with licenses to sell wine at retail for on-premises consumption may obtain a permit to sell such wine by the bottle during the tasting. [ABCL §76-a(3)(b)].
- A farm winery may sell New York State labeled beer by the bottle at its licensed premises that is produced by a brewer or farm brewer. [ABCL §76-a(6)(g)].

- A farm winery may sell New York State labeled cider by the bottle at its licensed premises (or its branch offices) that is produced by a brewer, farm brewer, winery or farm winery. [ABCL §76-a(6)(h)].
- A farm winery may sell New York State labeled liquor by the bottle at its licensed premises (or one its branch offices) that is produced by a distiller or farm distiller. No additional license or permit is needed. [ABCL §76-a(6)(b)].
- A farm winery may sell wine it produces by the bottle using a supplier/wholesaler marketing tasting permit. Information concerning such permits is provided later in this document.

**By beer wholesalers:**

- Beer wholesale licenses that have been in existence (either by renewal or transfer) since June 30, 1960 (also known as “C” licensees) may sell by the bottle at the licensed premises. No other beer wholesalers may sell by the bottle.

**By cider wholesalers:**

- A cider wholesaler may obtain a permit to sell New York State labeled cider by the bottle during tastings at licensed restaurants, hotels and catering establishments. [ABCL §58(2)(b)].
- A cider wholesaler may not sell by the bottle from its licensed premises. A cider wholesaler that holds a “satellite store” license may sell New York State labeled cider by the bottle at the satellite store. [ABCL §58(4)]
- A cider wholesaler with a permit to conduct tastings at the State Fair, county fairs and farmers markets may sell New York State labeled cider by the bottle at the tasting. [ABCL §58(3)]

**By liquor and wine wholesalers:**

- The ABCL does not contain any provision that allows a liquor or wine wholesaler to sell alcoholic beverages by the bottle at its licensed premises or at any other location.

**By importers:**

- The ABCL does not contain any provision that allows an importer to sell alcoholic beverages by the bottle. However, an importer may sell by the bottle using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By out-of-state manufacturers:**

- The ABCL does not contain any provision that allows an out-of-state manufacturer to sell alcoholic beverages by the bottle. However, an importer may sell by the bottle using a supplier/wholesaler marketing permit. Information concerning such permits is provided later in this document.

**By out-of-state wholesalers:**

- The ABCL does not contain any provision that allows an out-of-state wholesaler to sell alcoholic beverages by the bottle.

**Brand label registration and price posting**

- Except for tastings conducted pursuant to a supplier/wholesaler marketing permit, alcoholic beverages used at a tasting must be brand label approved in accordance with ABCL §107-a.
- Except for tastings conducted pursuant to a supplier/wholesaler marketing permit, liquor and wine offered at a tasting, must be price posted as required by ABCL §101-b.
- Any alcoholic beverage sold by the bottle by a manufacturer, importer or wholesaler must be brand label approved in accordance with ABCL §107-a.
- Any liquor or wine sold by the bottle by a manufacturer, importer or wholesaler must be price posted as required by ABCL §101-b.

**Removal of product**

- Except for authorized tastings conducted at the licensed premises of the manufacturer or wholesaler, a manufacturer, importer or wholesaler shall remove all remaining product at the conclusion of the event.
- Except with respect to beer tastings as provided for in ABCL §51(8)(f), the manufacturer, importer or wholesaler shall provide all alcoholic beverages used for the samples. In the case of a manufacturer or importer, the alcoholic beverages may come from the inventory of a licensed wholesaler.

**Supplier/wholesaler marketing permit**

- In addition to the those situations described above where a manufacturer, out-of-state manufacturer, wholesaler or importer can, by statute, conduct tastings, the Authority, pursuant to the provisions of ABCL §80(2), §99-b (1)(k) & §99-d, will issue to

manufacturers and importers, as well as wholesalers licensed in this state, permits to hold events to market their products.

- These permits will allow such entities to conduct tastings and provide samples of their products to consumers and, in the case of a manufacturer, out-of-state manufacturer or importer, accept orders from licensed retailers on behalf of a wholesaler licensed in this state who is authorized to sell such product at wholesale.
- These permits will also allow a manufacturer or out-of-state manufacturer to sell their products by the bottle to consumers during tastings conducted pursuant to the permit.
- These permits shall be subject to the following conditions:
  1. Such events may take place at:
    - a. In the case of a licensed wholesaler, at its licensed premises.
    - b. An establishment licensed under the ABCL to sell at retail the alcoholic beverage that will be tasted.
    - c. The State Fair, recognized county fairs and farmers markets operated on a not-for-profit basis.
    - d. Outdoor or indoor gatherings, functions, occasions or events sponsored by a bona fide charitable organization. For purposes of this advisory, a bona fide charitable organization shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firefighters, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in General Municipal Law §186(5).
    - e. Other indoor or outdoor events specifically approved by the Authority. In deciding whether to approve the use of a permit for a particular event, the Authority shall consider the nature and location of the event, and the plan of supervision submitted by the applicant to insure compliance with the ABCL.
  2. Notwithstanding the above provisions, a beer wholesaler may only conduct tastings at its own licensed premises.

3. Applications may be filed for an annual permit or for an individual function.
4. The fee for an annual permit shall be \$125 plus a \$20 filing fee. An annual permit shall be issued for a three year period, for a total cost of \$395. The fee for an individual function shall be \$20 plus a \$5 filing fee.
5. An application for an individual function shall be filed at least 15 days before the event.
6. An entity applying for a permit for an individual event must identify the location of the event in the application.
7. The holder of an annual permit shall advise the Authority in writing of the date and place of any event being held at a location described in (1)(e) above at least 15 days before the event. The Authority retains the power to disapprove the use of the permit at a particular function for good cause. The location for the event shall be deemed approved within 7 days unless the Authority notifies the permit holder of its objection.
8. The site of the tasting shall be subject to inspection during the tasting by the Authority.
9. No fee shall be charged by the supplier or wholesaler to a consumer attending or participating in such event.
10. Each sample shall be limited:
  - a. in the case of beer, wine products and cider, to 3 ounces or less;
  - b. in the case of wine, to 2 ounces;
  - c. in the case of liquor, to one-quarter ounce.
11. No tasting or sale by the bottle shall be held during the hours prohibited by the provisions of ABCL §106(5). Provided, however, that tastings and bottle sales of beer, cider and wine conducted pursuant to this permit may commence at 10 a.m. on Sundays at the locations specified in (1)(c), (1)(d) and (1)(e) above.
12. The permit holder shall comply with all federal and state tax requirements.

13. The permit holder shall provide all alcoholic beverages used for the samples or sales by the bottle. In the case of a supplier, the alcoholic beverages may come from the inventory of a wholesaler at the supplier's expense. The permit holder shall remove all remaining product at the conclusion of the event.
14. Liquor and wine used for tastings do not have to be price posted items. Liquor and wine used for sales by the bottle must be price posted.
15. All alcoholic beverages used at such events shall be in the original containers and must comply with any one of the following:
  - a. the ABCL and the Authority's regulations pertaining to brand label registration; or
  - b. have received a Certificate of Label Approval (COLA) from the Tax and Trade Bureau (TTB); or
  - c. have an exemption from COLA registration issued by TTB.
16. The permit or a duplicate copy thereof shall be displayed at the location where the event shall be held.
17. The permit holder shall keep and maintain adequate books and records, including a log of all events conducted pursuant to the permit, and make such books and records available for inspection by the Authority.
18. The event shall be conducted by the permit holder or an authorized agent of the permit holder. Provided, however, that with respect to beer tastings, a beer wholesaler shall not serve as the authorized agent for another permit holder, nor shall a licensed beer wholesaler be involved in any manner with a beer tasting conducted by another permit holder. Any liability stemming from a right of action resulting from an event conducted under the permit, and in accordance with the provisions of General Obligations Law §11-100 and §11-101, shall accrue to the permit holder.

### **Organizations sponsoring tasting events**

- An organization that does not hold a license to traffic in alcoholic beverages may sponsor an event at which manufacturers, importers and/or wholesalers are conducting tastings.

- However, if that organization charges a fee to those attending the event, the organization must obtain a “special events” permit from the Authority. Charging a fee to persons to sample alcoholic beverages is considered a “sale” and requires the appropriate license or permit.

### **Reporting requirements**

- Except with respect to the use of a supplier/wholesaler marketing permit at certain locations (see above), there is no need to advise the Authority, or obtain the Authority’s approval, of the location for any tasting referenced in this Advisory.

**DRAFT**