

STATE OF NEW YORK: LIQUOR AUTHORITY

Definition of “similar contrivance” as applied
to automated vending machines serving
alcoholic beverages

DECLARATORY
RULING
2013-01358

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 with respect to the applicability of the Alcoholic Beverage Control Law (“ABCL”), or the Rules of the Authority pertaining to any person, property or state of facts. A request for a declaratory ruling was submitted by Donald Bernstein, Esq. of Victor & Bernstein, P.C. The request asks the Authority if the definition of “similar contrivance” under ABCL §100(4) includes automated vending machines serving liquor and mixed drinks in the manner described by Mr. Bernstein.

Applicable Law

ABCL §100(4) allows for alcoholic beverages to be sold and to be consumed on the premises at a bar, counter, or similar contrivance.

SLA Rule 92.1 permits the installation of automated and electronic liquor dispensing system at on-premises establishments and further states the structural requirements with which the dispensing system must comply. Those requirements pertinent to the ruling requested are the following:

- (b) Such equipment must avoid an in-series hook-up which would permit the contents of liquor or wine bottles to flow from bottle to bottle before reaching the dispensing spigot or nozzle.

(c) Such equipment must not dispense from or utilize containers other than the original liquor or wine containers containing quantities not to exceed one-half gallon each of liquor or 15 gallons each of wine, as received from the manufacturer or wholesaler.

(d) Such equipment shall not permit intermixing of different kinds of products or brands within the dispensing system.

(g) No liquor or wine shall be sold, served or dispensed from such system equipment unless the brand name of the manufacturer's product corresponding to the container from which the liquor or wine is drawn is affixed or printed on a card, sign, plate, button or key of the dispensing spigot or nozzle.

In addition, the Authority requires that the utilization of such systems include operational safeguards to ensure that sales to minors or intoxicated patrons do not occur.

Statement of Facts

The following is a summary of the pertinent facts, which are more fully set forth in Mr. Bernstein's letter:

- The original labeled bottles of alcoholic beverages are fitted inside the vending machine.
- The bottles are then connected by tubes to the dispensing mechanism.
- Each separate bottle is dispensed independent of any other so there is no contamination and no mixture of alcoholic beverages until it is dispensed into the glass or flask.
- The machine will be located in a permanent location, and will be locked and can only be opened by staff for cleaning, maintenance, and replacement of inventory, etc.

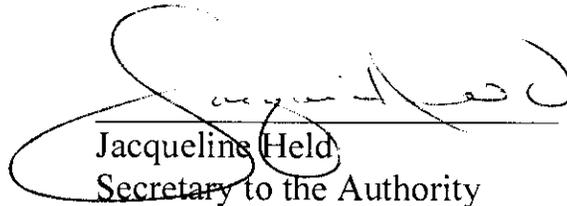
- Only patrons 21 years-old or older may purchase tokens, which they will insert into the automated machine prior to selecting the alcoholic beverage of their choice.
- Cashiers selling tokens will require legally sufficient identification, and the automated machines will be monitored by employees to ensure that no underage patrons use tokens or receive drinks, and that no other violations of law occur.
- During busy, late night hours the licensee will have New York State licensed security guards at the establishment's doors checking identification.

Request to be considered

May the automated vending machine described herein be considered a "similar contrivance," pursuant to ABCL §100(4), from which alcoholic beverages may be sold within licensed premises in the manner described by Mr. Bernstein?

Determination by the Authority

ABCL §100(4) allows for alcoholic beverages to be sold and consumed on the premises at a bar, counter, or similar contrivance. Automated and electronic liquor and wine dispensing systems must comply with the structural requirements of SLA Rule 92.1. The automated vending machine detailed in Mr. Bernstein's letter complies with SLA Rule 92.1. In addition, the method of operation proposed with respect to such systems must provide adequate safeguards to avoid the delivery of alcoholic beverages to underage or intoxicated patrons. The method of operation proposed in the instant application does provide such safeguards. Therefore, it is the determination of the Members of the Authority at a Full Board Meeting on May 22, 2013, that the proposed automated machine satisfies the definition of "similar contrivance" under Alcoholic Beverage Control Law §100(4) and may be utilized by a licensee in the manner described herein.


Jacqueline Held
Secretary to the Authority