

STATE OF NEW YORK: LIQUOR AUTHORITY

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Application automated drink dispensers  
for wine tastings at off-premises package  
store locations

DECLARATORY  
RULING  
2014-01166E

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**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, to any person, property or state of facts.

By letter dated April 9, 2014, a request was submitted by Gary Landsman, a non-attorney representative of an unlicensed company. Mr. Landsman intends to apply for an off-premises license. If the license is granted Mr. Landsman intends to install automated wine dispensers within the premises to be used for wine tastings. Mr. Landsman requests a declaratory ruling as to whether the installation and use of automated wine dispensers for wine tastings in an off-premises location violates the Alcoholic Beverage Control Law.

**Statement of Facts**

Mr. Landsman intends to obtain an off-premises license and install automated wine dispensing machines in the premises. The machines would have one button per wine and with the push of a button would dispense an ounce of the identified wine. The wine labels are clearly visible to customers and unaltered. The machine is built into a fixture and locked. The wine bottles are connected to the dispensing machine by tubes. The wine is dispensed straight from the bottle to the customer's glass.

All employees will be ATAP certified and check the identification of customers to ensure that all who use the machines are of legal age. Customers will use the machines themselves and may obtain up to six one ounce samples of wine per visit (or day). Customers are not required to make a purchase at the premises in order to use the machines.

### **Applicable Law**

ABCL §80 permits anyone licensed to sell wine for off-premises consumption to conduct wine tastings.

SLA Rule § 92.1 permits the installation of automated and electronic dispensing system at on-premises establishments and states the requirements with which the dispensing system must comply.

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

### **Question to be considered**

Does the use of an automated wine dispensing machine in an off-premises store constitute a wine tasting as contemplated under ABCL § 80?

### **Determination by the Board**

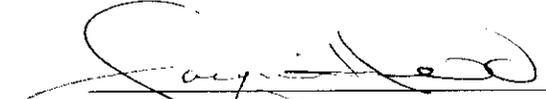
The Members of the Authority have issued two recent rulings concerning automated drink dispensers. *See Declaratory Rulings 2013-01358 and 2013-01899*. Both rulings pertained to the use of automated dispensing units in on-premises locations. In both instances, the Members found the automated dispensing units constituted a bar, counter or similar contrivance under ABCL § 100(4). However, the Members have never been asked to examine the use of an automated dispensing unit in an off-premises location.

Mr. Landsman proposal intends to use the automated dispenser in a different manner than those referenced above at on-premises locations. Mr. Landsman's proposal does not require customers to pay a fee for their wine sample or make any purchase from the premises. Mr. Landsman's proposal also limits the alcoholic beverage to be sampled to wine and further limits the number of wines available to be sampled to six. Mr. Landsman limits the size of the sample to one ounce which is smaller than the two ounce limit the Members have held appropriate for a wine tasting in Advisory 2013-6. Customers are limited to six samples per day; and, last, but not least, Mr. Landsman will ensure that all who receive samples of wine will be over twenty-one years of age.

The above proposal mimics a traditional wine tasting offered by a package store where the wine is poured by a person. Accordingly, the members find the proposal put forth by Mr. Landsman with the use of the automated dispensing units constitutes an appropriate wine tasting for a wine or package store and does not violate the ABCL.

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, from the representations set forth above.

The foregoing Declaratory Ruling was formally approved by the Members of the Authority at a Full Board meeting held on May 6, 2014.



Jacqueline Held  
Secretary to the Authority