

STATE OF NEW YORK  
LIQUOR AUTHORITY

To: All suppliers<sup>1</sup> and distributors<sup>2</sup> of liquor and wine

Subject: Containers and packaging

Section 101-b of the Alcoholic Beverage Control Law provides that there may be only one price listed for an item in the price schedule filed with the Liquor Authority, unless permission is first obtained from the Authority for good cause shown when not inconsistent with the purposes of the statute. It has come to the Authority's attention that under current marketing practices, suppliers seek to create "ornamental," "enhanced," or "special" containers to address consumers' desire for special gift products. In addition, suppliers and distributors have requested direction with respect to how they may package containers of liquor and wine for delivery to retailers. The Authority has, from time to time, issued bulletins addressing the conditions under which such products may be distributed. In light of the passage of time since the issuance of those directives, and after recent discussions with industry members, the Authority has determined that it is appropriate to revisit the guidance set forth in those directives and states the following:

Prior Bulletins

Bulletin No. 343 (issued on August 11, 1961), Bulletin No. 440 (issued on February 3, 1969), Bulletin 440-a (issued on July 16, 1971) and Bulletin 440-b (issued on August 11, 1971) are hereby rescinded.

Containers of liquor or wine

1. The term "container" as used herein is intended to mean the bottle or other vessel containing the liquor or wine as well as any container into which the individual bottle or vessel is placed. No such container shall be permitted which has any secondary value or after-use, except of an ornamental or decorative nature.
2. The terms "ornamental," "enhanced," or "special" containers, as used herein, are intended to mean: containers of crockery, ceramic material, crystal, tin or other metal, plastic or wood; and decanters of any type. The Authority retains the sole discretion to determine which containers are properly considered "standard" versus "ornamental," "enhanced," or "special."

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<sup>1</sup> For purposes of this advisory, "supplier" means entities licensed in this state to manufacture alcoholic beverages, as well as: other domestic and foreign manufacturers of alcoholic beverages, importers, and other entities that sell alcoholic beverages, directly or indirectly, to licensed wholesalers for distribution in this state.

<sup>2</sup> For purposes of this advisory, "distributor" means a licensed wholesaler.

3. Brand owners or brand agents may offer items in the “standard” container and/or "ornamental," "enhanced," or "special" containers.
4. The "ornamental," "enhanced," or "special" containers may be sold at the same price, or a higher price than the “standard” container. Items in "ornamental," "enhanced," or "special" containers sold at a higher price must be price scheduled separately from items in "standard" containers.
5. The brand owner or brand agent must file separate brand label registration applications for each "ornamental," "enhanced," or "special" container. Requests for such approval (including photographs of the containers together with a statement of cost) should be submitted to the Authority’s Brand Label Registration Unit. The Members of the Authority hereby delegate to the Brand Label Registration Unit the power to act on such requests. No approval of the brand label is needed for "ornamental," "enhanced," or "special" containers of wine for which a TTB COLA has been issued.
6. Where any "ornamental," "enhanced," or "special" types of containers are distributed as limited availability items, the brand owner or brand agent must develop a method of allocation that is nondiscriminatory in nature and same must be submitted via electronic mail prior to commencing sales in this state at: [limited.availability@sla.ny.gov](mailto:limited.availability@sla.ny.gov). Where any "standard" container is distributed as a limited availability item, any and all "ornamental," "enhanced," or "special" containers bearing the same brand or trade name must also be sold as limited availability items and all corresponding allocations must be properly filed via electronic mail prior to commencing sales in this state.
7. Brand owners or brand agents wishing to sell items featuring the same brand or trade name at a different price for a reason other than an “ornamental,” “enhanced,” or “special” container (such as a different label, for example) must obtain prior permission from the Authority to do so. All such requests should be addressed to the Wholesale Bureau in writing or via electronic mail at: [wholesale@sla.ny.gov](mailto:wholesale@sla.ny.gov). In all such instances the Authority retains the sole discretion to determine which items featuring the same brand or trade name may properly be sold at a different price.

#### Packaging of liquor or wine

1. Suppliers and distributors may pack their containers of alcoholic beverages in cardboard, paper or wooden boxes.
2. Baskets, boxes or other packages having a value to the retailer or consumer distinct from their value as packages for alcoholic beverages may not be used to pack containers of alcoholic beverages and may not be furnished, given or sold to retailers by suppliers and distributors.
3. Nothing hereinabove set forth shall be construed as excluding the use of paper, canvas, cloth, straw, simulated leather and plastics as wrapping material for packaging, provided that such

wrapping material has no secondary value or use aside from its use as a wrapping for alcoholic beverages.

4. Cardboard or paper boxes for use in packing containers of alcoholic beverages may be furnished, given or sold to retailers by suppliers and distributors apart from the cases in which containers of alcoholic beverages were originally packed in a quantity not to exceed an amount required for the number of containers of such brands that the retailer has in inventory.

All suppliers and distributors are hereby cautioned that any violation of the directives contained in the above Advisory may subject them to disciplinary action by the Authority pursuant to ABCL §119 and/or an action for injunctive relief pursuant to ABCL §123.