STATE OF NEW YORK
LIQUOR AUTHORITY

TO: All manufacturers, importers and wholesalers

SUBJECT: Supplier/Wholesaler Marketing Permit

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For purposes of this advisory, the term “supplier” means:

- a brewery or micro-brewery licensed by the Authority under ABCL §51;
- a farm brewery by licensed by the Authority under ABCL §51-a;
- a cider producer licensed by the Authority under ABCL §58;
- a farm cidery licensed by the Authority under ABCL §58-c;
- a distillery licensed by the Authority under ABCL §61(1);
- a micro-distillery licensed by the Authority under ABCL §61(1-a);
- a rectifier licensed by the Authority under ABCL §61(2);
- a micro-rectifier licensed by the Authority under ABCL §61(2-b);
- a fruit brandy producer licensed by the Authority under ABCL §61(2-a);
- a farm distiller licensed by the Authority under ABCL §61(2-c);
- a winery licensed by the Authority under ABCL §76;
- a special winery licensed by the Authority under ABCL §76-c;
- a farm winery or micro-winery licensed by the Authority under ABCL §76-a;
- a special farm winery licensed by the Authority under ABCL §76-d;
- an entity that holds a valid license issued by another state to produce alcoholic beverages;
- a foreign manufacturer producing alcoholic beverages in accordance with the laws of its country, provided however: that such entity meets the citizenship requirements to obtain a license or permit under the ABCL; and such entity designates a wholesaler to accept any communication (including notices of pleadings) from the Authority;
- an entity having a basic permit as required by §1.20 of title 27 of the code of federal regulations to import alcoholic beverages;
- a beer wholesaler licensed by the Authority under ABCL §53 that is the brand owner of the beer for which the marketing permit is used; or
- an organization or association of alcoholic beverage manufacturers incorporated within this state.

For purposes of this advisory, the term “wholesaler” means:

- a beer wholesaler licensed by the Authority under ABCL §53;
- a cider wholesaler licensed by the Authority under ABCL §58 or §58-a;
- a wine wholesaler licensed by the Authority under ABCL §78; or
- a liquor wholesaler licensed by the Authority under ABCL §62.

As an alternative to the various permits and statutory privileges available to licensed manufacturers and wholesalers, and exercising its discretion to issue miscellaneous permits under Section 99-b(1)(k) of the Alcoholic Beverage Control Law ('ABCL"), the Authority shall continue to issue Marketing Permits for use at certain events and locations to: suppliers for tastings and sales by the bottle (sales for off-premises consumption); and wholesalers for tastings. Please note that this Advisory replaces Advisory #2015-7, which is hereby rescinded by the Members of the Authority.

1. A Marketing Permit shall allow:

   a) a supplier or wholesaler to conduct tastings and provide samples of the permit holders' products to consumers;

   b) a supplier, other than a manufacturers' organization or association, to accept orders from licensed retailers on behalf of a wholesaler licensed in this state who is authorized to sell such product at wholesale; and

   c) a supplier, other than a foreign manufacturer or a manufacturers' organization or association, to sell their products by the bottle to consumers during tastings conducted pursuant to the permit.

2. A Marketing Permit may be used at the following events/locations:

   a) in the case of a licensed wholesaler, at its licensed premises, provided however that a beer wholesaler may only use the permit 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;[1] and

   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. The Authority must be notified at least 15 days before the event. Notice must be sent via email to Wholesale.Bureau@sla.ny.gov. The Authority retains the power to disapprove the use of the permit at a particular

[1] For purposes of this advisory, the terms "charitable organization," not-for-profit organization" and "non-profit organization" shall have the same meaning- any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firefighters, provided that donations to such organization are deductible for Federal income tax purposes.

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.

3. Applications may be filed for a three year permit or for an individual function permit.

    a) The fee for a three year permit shall be $375 plus a $20 filing fee.

    b) The fee for an individual function shall be $20 plus a $5 filing fee.

4. An application for an individual function shall be filed at least 15 days before the event. An entity applying for a permit for an individual event must identify the location of the event in the application.

5. A Marketing Permit shall be subject to the following conditions:

    a) the site of the tasting shall be subject to inspection during the tasting by the Authority;

    b) no fee shall be charged by the supplier or wholesaler to a consumer attending or participating in such event;

    c) each sample shall be limited: (i) in the case of beer, wine products and cider, to 3 ounces or less; (ii) in the case of wine, to 2 ounces; (iii) in the case of liquor, to one-quarter ounce of the alcoholic beverage;

    d) 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 (2)(c), (2)(d) and (2)(e) above;

    e) the permit holder shall comply with all federal and state tax requirements;

    f) the permit holder shall provide all alcoholic beverages used for the samples or sales by the bottle, provided however that:

        (i) In the case of a supplier, the alcoholic beverages may come from the inventory of a wholesaler at the supplier's expense;

        (ii) In the case of a manufacturers' organization or association, the alcoholic beverages must be donated by a supplier or distributor;

        (iii) In the case of a brewer, the alcoholic beverages used for tastings at a licensed retail premises may be purchased from such retailer.

    g) the permit holder shall remove all remaining product at the conclusion of the event;

    h) liquor and wine used for tastings do not have to be price posted items;

    i) liquor and wine used for sales by the bottle must be price posted;

j) all alcoholic beverages used at such events shall be in the original containers and must comply with any one of the following: (i) the ABCL and the Authority's regulations pertaining to brand label registration; (ii) have received a Certificate of Label Approval (COLA) from the Tax and Trade Bureau (TTB); or (iii) have an exemption from COLA registration issued by TTB;

k) the permit or a duplicate copy thereof shall be displayed at the location where the event shall be held;

l) 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; and

m) 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.

6. An organization that does not hold a license to traffic in alcoholic beverages may sponsor an event at which a supplier or wholesaler is using its marketing permit to conducting tastings or sell by the bottle. However, if that organization charges a fee to those attending the event, the organization must obtain a "special events" permit (for wine, beer or cider) or retain a retail licensee with a caterer's permit (for liquor). Charging a fee to persons to sample alcoholic beverages is considered a "sale" and requires the appropriate license or permit.