

Testimony of
Chairman Daniel B. Boyle
New York State Liquor Authority

Before the
Hearing of the Senate
Committee on Investigations & Government Operations
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New York, New York

Good morning, ladies and gentlemen, Chairman Spano, and distinguished members of the Committee. My name is Daniel Boyle and I am the Chairman of the New York State Liquor Authority. I want to thank you for providing me the opportunity to testify today.

I was appointed by the Governor as Chairman of the State Liquor Authority in January and confirmed by the Senate on February 12, 2006. Prior to coming to the SLA, I spent some 31 years in law enforcement, serving in the Syracuse Police Department, Chief of Police for the East Syracuse Police Department, Commissioner of Public Safety for the City of Schenectady, and most recently as Chief of Police for the Town of Glenville.

As mentioned in your invitation to testify at today's hearing, there have been several, often tragic, incidents related to licensed establishments, as well as numerous media reports regarding problems associated with certain types of these establishments. Today, I would like to brief you on what the State Liquor Authority is doing in order to ensure that all licensed establishments are operating in accordance with the law. Whether it is nuisance bars that disrupt the quality of life or underage alcohol sales that can often have tragic consequences, I can assure you the SLA takes its enforcement responsibilities seriously and does not tolerate actions by licensees that endanger the public.

The SLA has two main functions: issuing licenses and ensuring compliance with the Alcoholic Beverage Control Law (ABC Law). The SLA is responsible for the timely processing of permits and licenses required by the ABC Law. It is also responsible for the protection of the public by enforcing the ABC Law and by working with local law enforcement agencies to uphold the law and bring administrative action against licensees who violate it. In carrying out these two functions, the SLA seeks to work cooperatively with community groups and local leaders to ensure public participation in the licensing and enforcement process, and to ensure that those who do not respect the privileges of holding a license are fairly and firmly disciplined.

Restaurant and bar owners who go through the licensing process and abide by the law are a beneficial part of their communities. However, the SLA will not allow irresponsible licensees to profit off the system while our communities pay the price. Licensees who do not play by the rules, those who use bait and switch tactics to get a license, bars that cater to minors or permit criminal activity, and bar owners who allow their establishments to become disorderly and disruptive to their communities will not be tolerated. I can assure you we are and will continue to put problem establishments out of business. These actions allow us to accomplish one of the SLA's core missions of protecting the health, welfare and safety of the people of the state.

Before I continue with my testimony, I would like to bring to your attention several new initiatives. I would like to advise you that as of yesterday, the Members of the State Liquor Authority have, pursuant to Section 17 of the Alcoholic Beverage Control Law, imposed a moratorium which is effective through December 31, 2006, on all liquor licenses subject to the 500 foot rule and issued pursuant to Section 64-a (6) (a) and 64-d of the ABC Law, in New York County. Effective immediately, in New York County, no new on-premise applications will be accepted for licenses issued under 64-a, which

includes bars and nightclubs, and 64-d, which are for cabarets. Those businesses, mainly restaurants, which apply for an on-premises license under Section 64 of the ABC law, will not be impacted by this moratorium and all the normal rules will apply when processing those applications. During this moratorium, I have designated Commissioner Noreen Healey to chair a new taskforce that will review those sections of the ABC Law which relate to on-premise licenses. This taskforce will be composed of legal experts, elected officials, community leaders, law enforcement, and representatives from the industry. This taskforce will analyze the SLA licensing policies and procedures and the on-premise license application in order to refine the process for applying for and obtaining an on-premise license and to distinguish between licenses issued for restaurants from those issued for bars, nightclubs and cabarets. The taskforce will make its recommendations by December 31, 2006.

In recent months, the SLA has conducted several successful joint operations with local law enforcement agencies across the state. Our work with local law enforcement can help prevent the sale of alcoholic beverages to minors and can ensure that licensees fully comply with the law. Today, I am pleased to announce that the SLA will be conducting a targeted sweep of bars and nightclubs in New York City. This sweep, called Operation "Last Call", will be conducted in the coming weeks. My message to bar and nightclub owners is simple: "comply with the law or it may well be your last call."

Finally, as was announced earlier this week, SLA staff have assisted the Empire State Restaurant and Tavern Association and their Executive Director, Scott Wexler, on the development of a new online training program for new licensees. This training focuses on the fact that possessing a license to sell alcoholic beverages is a privilege carrying with it obligations to the licensees' patrons and the community. This on line training program will make new licensees aware of their duties and responsibilities as a licensee. I commend the Association for its initiative. This training program, coupled with the SLA's educational outreach and training program, will ensure the licensed community we serve understand the responsibilities that come with the privilege of holding a liquor license. I believe that these initiatives will assist the SLA in it carrying out its mission and will promote public safety.

As you are aware, state law prohibits the sale of alcohol to anyone under twenty-one. The SLA does not tolerate the service of alcohol to minors. Recently, Governor Pataki signed legislation establishing the Advisory Council on Underage Alcohol Consumption to study, analyze and make recommendations to curb incidents of underage drinking. I am pleased to be a member of this council and I look forward to working with my fellow members in our efforts to minimize underage drinking.

Throughout my career, I have worked to foster cooperation between local groups, elected leaders and representatives from the community to help tackle tough public safety concerns and neighborhood issues. My philosophy has been to encourage active participation from the community and to build partnerships. As Chairman, I am leading the State Liquor Authority with the same philosophy.

One of the most important partnerships the SLA has is with local police departments. I believe it is essential to work side by side with local law enforcement. As a former police

officer with over 30 years on the job, I understand that working with local police is a vital component in enforcing the Alcoholic Beverage Control Law (ABC Law). The SLA relies on the many referrals originating from our local police departments and the vital assistance provided in investigations and prosecutions of violators throughout the state. The SLA can not successfully carryout its mission without this assistance. In light of this fact, I, as well as Investigators from our Enforcement Bureau, have been meeting with police commissioners and police chiefs from around the state. Recently, I had the pleasure of meeting with NYPD Commissioner Ray Kelly. During these meetings I have stressed the importance of working with local police departments in a joint effort to successfully regulate the liquor licensees within their jurisdictions. In addition, since January of this year, our enforcement staff has trained hundreds of police professionals in the ABC Law. I am convinced these joint efforts are helping provide the quality of life and level of safety our citizens demand and deserve. I have been very pleased with the response that I have received from the law enforcement community.

In April, the Governor directed me to establish a Rapid Enforcement Unit (REU) within the SLA to conduct priority investigations and institute prompt disciplinary action where there is evidence a licensed premises poses an imminent threat to public health, safety and welfare. Today I can report REU members are assigned from each region of the State. They include our most experienced investigators and prosecutors, led by our CEO. This new unit is on the front lines of enforcement working with local police to crack down on bar and nightclub owners who do not act responsibly. The REU immediately responds to allegations of criminal activity and serious violations of the law. Referrals to the REU are given top priority. Investigations begin within 10 days. If there is evidence of a violation, a pleading is sent to the licensee within 5 days. If the licensee contests the charges, the REU schedules an expedited hearing to resolve the matter. REU investigations are continually monitored by SLA management through a computerized case tracking system. Any violations that pose a serious threat to the public are sent immediately to the Members of the Authority for a potential summary suspension.

Recently, violations at a number of bars met this threshold, and the Members of the Authority acted to end these threats. Over the past several months, summary suspensions have been issued for bars in Buffalo, the Capital Region, Herkimer County Suffolk County and Queens County. The REU ensures the efforts of the SLA, local law enforcement, communities, municipalities and government agencies are fully integrated in our continuing effort to make our communities safer. The SLA, with the assistance of the REU, is helping to send a simple message; when licensees do not take the responsibility of having a license seriously, they will lose the privilege.

We have worked diligently to open up the lines of communication throughout the SLA, and have extended this open door policy to government officials, community organizations and to the public at large. SLA staff have attended outreach meetings throughout the state and have participated in several Community Board meetings in recent months. In addition, I have personally met with Manhattan Borough President Scott Stringer and will meet with all of the borough presidents in the near future. Members of my Executive Staff are seeking input from Community Board leaders on how we can continue to improve our agency's responsiveness. Going forward, my staff will continue to meet regularly with Community Board leaders. The SLA was created in

large part to protect the communities where licensed premises operate. These partnerships are extremely important in helping us achieve our mission of safer communities. This is of particular significance in implementing what is commonly known as the “500 foot rule.”

Under the ABC Law, the State Liquor Authority is required to notify Community Boards of all 500 foot hearings. The 500 foot rule prohibits the Authority from issuing a full (liquor, wine and beer) liquor license for on-premises establishments when there are already three or more establishments with full liquor licensees within 500 feet. The rule applies only in cities, town and villages with a population of at least 20,000. The law provides only two exceptions to the ban on issuing such licenses. Those establishments that were operating prior to the law that created the 500 foot rule were grandfathered and may be exempted from the rule. The Authority may also approve the application if, after consulting with the municipality or community board, it determines that granting the license would be in the public interest.

The leadership of the SLA strongly supports and values the participation of Community Boards in these hearings. As representatives of the community, we understand Community Boards have a unique perspective to share with the SLA. In order to encourage community involvement in this process, we now post on our web site notices of all 500 foot hearings. The notices include the address of the proposed premises, the name and address of the applicant’s attorney, along with the corresponding Community Board for which the proposed premise seeks to locate. We have received very positive feedback regarding this new web posting.

We strongly encourage any interested member of the community to attend the hearing and testify. We also encourage anyone who is not able to attend to provide the Authority with written testimony. Additionally, we ask for comments on testimony after it is given, and will accept comments for up to a week after the hearing date. We believe our efforts give members of the community time to both share their views and a chance to dispute any prior testimony.

The SLA places substantial weight on Community Board input and that of local law enforcement and members of the community during the decision making process. Since the start of this year, the Members of the Authority have acted on 14 applications after the conclusion of a 500 foot hearing in New York City. Of these 14, the Authority disapproved 7 and approved 7. Of the 7 approved, 1 received community board support, and 4 received community board support after the licensee agreed to stipulations which the Members of the Authority accepted as part of the license.

We have recently received a number of letters from Community Boards thanking us for recognizing their concerns and praising our responsiveness. In order to do our jobs better, the SLA needs to hear community comments and complaints, their insights and ideas, and the expertise they have in the communities in which they live. Our work with local communities and officials is not limited to the licensing process, but also to ensure that once obtained, the licensee respects the privilege and abides by the law.

In terms of staffing and resource levels at the SLA, as you are aware, in this year's Executive Budget, the Governor proposed measures to further enhance and strengthen the SLA. The Governor's budget called for an additional 28 new Beverage Control Investigators as well as higher fines for licensees that violate the ABC Law and for increasing the number of Administrative Law Judges to help expedite cases and resolve the current backlog. However, the final budget did not include those recommendations. Nevertheless, as Chairman I will devote the resources of the agency to getting the job done.

In closing, I want to reiterate that public health and safety are critical priorities of the SLA and we will work to ensure that the regulated community abides by the law to make certain these priorities are achieved. I would be remiss if I did not thank the hardworking staff of the SLA who everyday remain vigilant in achieving our goals. I would also like to thank state and local law enforcement officials, community groups and individuals. Thank you again for inviting me to testify today and I look forward to working with you on these and other issues of mutual importance.