

(Series 2009)
Bulletin #308a
June 23, 2009

STATE OF NEW YORK
LIQUOR AUTHORITY

TO: HOLDERS OF RESTAURANT LIQUOR LICENSES IN BOWLING
ESTABLISHMENTS

SUBJECT: CONDITIONS OF OPERATION

On January 9, 1959, the Members of the Authority issued Bulletin 308 which is hereby rescinded in all parts.

Bulletin 308 placed conditions on the operation of bowling establishments that held restaurant liquor licenses, which was required at the time that the Bulletin was issued. Prior to 1964, Section 64 was the only section of the Alcoholic Beverage Control Law ("ABCL") that provided for a full liquor license. Section 64 allowed only establishments with working restaurants such as restaurants, hotels (with restaurants), and catering establishments to obtain such licenses. Thus, traditional bars were not permitted. However, in 1964 ABCL §64-a was enacted to create the "special on-premises" license. That license could be issued for any establishment: (a) where the principal business is the sale of food or beverages for consumption on the premises; (b) that operates as a legitimate theater; or (c) that has other lawful adult entertainment or recreational activity that the Authority deems eligible for such a license. By Section 48.1(c) the Authority has determined that a bowling establishment is eligible for a special on-premises license.

Prior to 1976, New York lacked a uniform process for agencies to issue rules and regulations. Until that time, the Authority issued its Rules of the Authority as well as Bulletins and Divisional Orders. However, in 1976 the State Administrative Procedure Act ("SAPA") was enacted and the "Rules of the Authority" were incorporated into the New York Code of Rules and Regulations ("NYCRR"). The Authority's regulations are found in Title 9, subtitle B of NYCRR.

As previously noted, in 1959 when Bulletin 308 was issued, there was neither a special on-premises license nor what we now know as the Authority's

regulations in NYCRR. The ABCL and the Rules of the Authority together with Bulletins and Divisional Orders governed the issuance of licenses. Rule 45 set forth limitations of on-premises licenses to insure that establishments met the criteria for one of the three types of establishment that were eligible for a license under Section 64. However, it appears that the Authority would issue waivers of the Rule 45 criteria if the business met certain conditions. Bulletin 308 sets for the conditions that bowling establishments must meet to qualify for an on-premises license under Section 64. Essentially, Bulletin 308 required the establishment have an actual restaurant in the building which was physically separated from the rest of the operation, specifically the area actually used for the bowling operations.

With the addition of Section 64-a in 1964, an establishment could obtain a full liquor license without being either a restaurant, hotel, or catering hall. The Authority appears to have recognized that with the institution of Section 64-a that Rule 45 was no longer needed. In 1964, Rule 45 was repealed. In fact, as noted above, the Authority specifically stated in Rule 54(1)(c) [which later became Section 48.1(c) of the regulations] that a bowling establishment was eligible for a special on-premises license. The only "special" requirement imposed for bowling establishments was set forth in Rule 54(4)(c) [which later became Section 48.8(c) of the regulations]. That rule, instead of mandating a completely separate restaurant as Bulletin 308 did, requires only that any stand up bar with table seating be enclosed with permanent walls at least eight feet in height.

Since Rule 45, which Bulletin 308 is based upon, has long since been repealed, there is no longer a need to make a bowling establishment qualify as a restaurant in order to obtain a full liquor license.