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If you are an off-premises licensee, you can deliver alcoholic beverages to your customers using either a delivery service that has a trucking permit issued by the SLA, or in one of your own vehicles. If you are using your own vehicle, it must be a vehicle owned or leased, and operated by the entity that is named on the license certificate. You cannot deliver alcoholic beverages using an employee's vehicle. Keep a copy of the license certificate in the vehicle while deliveries are being made.

## ■ WHAT ARE YOUR OBLIGATIONS AS A LICENSEE?

You as the licensee are responsible for the activities of employees and patrons in all parts of the licensed premises (even if you are not always physically present) to ensure that the business is operating in accordance with the ABCL. The following are common issues faced by retailers that could subject you to disciplinary action if you do not meet your responsibilities as a licensee.

### Beer Taps

If you have an on-premises license, you must have a sign/card/plate identifying the name of the brewer of the beer being dispensed from each tap. The sign/card/plate must be annexed or affixed to the tap. A symbol or logo commonly used or associated with the brewer is not sufficient.

### Books and Records

As a licensee, you are required to maintain adequate books and records of all the transactions involving your licensed business. This includes records recording your employees, whether full or part-time. Your books and records must be kept at your licensed premises and be made available for inspection by SLA investigators. You should keep your records for at least two years.

If two or more licensed on-premises establishments have common ownership, the SLA may allow centralized bookkeeping and accounting for the records of the licensed businesses. For more information about whether you meet the conditions for common ownership, and the procedures to be followed for centralized bookkeeping, please contact the SLA's Licensing Bureau.

## Consumption On or Off Your Licensed Premises

If you have an on-premises license you cannot allow anyone to leave your licensed premises with liquor or wine. The only exception is for those with a Restaurant Wine license. Those licensees may allow a patron to leave with an unfinished bottle of wine that was purchased with a meal. You may sell beer “to go” but you must not allow patrons to leave your premises with an unsealed container if your municipality has an “open container” law.

If you have an off-premises license, you cannot let anyone consume alcoholic beverages in your licensed premises unless it is an authorized tasting. Package or wine store licensees can conduct wine tastings. A manufacturer or wholesaler with the proper permit can conduct tastings at an off-premises establishment. Additional information about tastings at your establishment can be found in the “Can you conduct tastings if you have an off-premises license?” section of this handbook.

## Conditions on Your License

When you received your license, you agreed to comply with certain stipulations or conditions regarding the operation of your business. The SLA may have also imposed certain conditions on the operation of your business to address concerns raised during the review of your application. Those conditions may have included such things as whether you would have music or dancing, the hours you would operate, etc. You are required to comply with those conditions unless and until you obtain the SLA’s approval to operate in a different manner.

## Contaminated Bottles

If you have an on-premises license, you must keep liquor and wine in the original containers as received from the manufacturer or wholesaler. You are also prohibited from reusing, refilling, tampering with, adulterating, diluting or fortifying the contents of those containers. This includes the violation referred to as “contaminated bottles”, where the licensee allows foreign substances into the containers.

## Disorder

If you are an on-premises licensee, you must not allow your establishment to become disorderly. Disorder includes fights, disturbances, the use or sale of controlled substances, prostitution, lewd and indecent conduct and excessive noise. You have an obligation to exercise reasonable diligence and provide adequate supervision over the conduct of your licensed premises and your patrons. The SLA strongly recommends that you contact your local police agency to respond to any disorderly incidents at your establishments. The fact that you call for police assistance will typically not be held against you when the SLA considers whether you exercised reasonable diligence and provided adequate supervision.

## Extension of Your Premises

As a licensee, you are required to confine the service and consumption of alcoholic beverages to the area that is licensed. When you submitted your application you provided the SLA with a description and diagram of that premises. You cannot use any unlicensed area for the sale or consumption of alcoholic beverages.

If you want to use an area that is not already part of your licensed premises, you must submit an alteration application and obtain the SLA's approval. Additional information about alteration applications can be found in the "Once you have a license, do you have to file any other applications?" section of this handbook.

## Inspections

Your licensed premises is subject to inspection by SLA investigators, police officers and peace officers during the hours that you are open for business. This includes your entire licensed premises, even those areas that are not open to the general public. If you refuse to allow the inspection, or interfere in any manner, you will be subject to disciplinary action by the SLA.

## Intoxicated Patrons

It is a crime to sell, deliver or give away alcoholic beverages to a person who is visibly intoxicated. As the licensee, you are subject to disciplinary action by the SLA whether you or your employee served a person who is visibly intoxicated. This applies to both on-premises and off-premises licenses. The SLA recommends that you have all employees who serve or sell alcoholic beverages take an Alcohol Training Awareness Program. The SLA's website contains a list of approved providers of such training.

## Local Regulations

If you are an on-premises licensee, the SLA expects you to comply with all local and state laws and regulations governing the operation of your business. This includes health, fire and building codes. If you are in violation of a state or local law or regulation, you could face disciplinary action by the SLA as well as the agency that enforces the particular provision.

## Nudity

Generally, you are prohibited from allowing anyone to appear nude, or partially nude, in your licensed premises. However, you may allow female entertainers to perform "topless" provided that they are on a stage that is at least 6 feet from the nearest patron and at least 18 inches above the floor immediately surrounding the stage.

## Premixing

If you are an on-premises licensee, you must keep all of your liquor and wine in the original containers as received from the wholesaler or manufacturer. You are prohibited from adding anything to the container to mix with the liquor or wine. You are also prohibited from pouring liquor or wine into another container, whether or not you mix it with something else.

There is one exception to the ban against premixing. You can premix beverages using a dispensing machine that has a capacity of at least one gallon that continuously mixes the combination of beverages.

## Refilling

If you are an on-premises licensee, you must keep all of your liquor and wine in the original containers as received from the wholesaler or manufacturer. You cannot reuse or refill the container. You cannot use larger bottles to refill smaller bottles. You cannot combine the contents of two or more bottles into one bottle. You also may not pour one brand of alcoholic beverages into a bottle for another brand of alcoholic beverages.

## Untaxed Cigarettes and Tobacco Products

If you are found to be in possession of untaxed cigarettes or other tobacco products at your licensed premises, the New York State Department of Taxation & Finance may suspend your registration to sell tobacco products. The Department of Taxation & Finance will send a notice to the SLA advising us that your registration to sell cigarettes has been suspended. The law provides that the notice alone is sufficient reason for the SLA to bring disciplinary action against you.

## ■ HOW CAN YOU PREVENT SALES TO MINORS?

It is a crime to sell, deliver or give away alcoholic beverages to a person under the age of 21. As the licensee, you are subject to disciplinary action by the SLA whether you or your employee served the minor. It does not matter whether you thought the person was at least 21, if they lied about their age, or if they appeared to be at least 21 years old.

You are responsible for sales made directly to the minor. You are also responsible for "indirect deliveries," when another person gives the alcoholic beverage to the minor, if you could have prevented the indirect delivery using reasonable diligence.

Although you are not required to ask for proof of age, the SLA strongly recommends that you do so. Requiring customers to produce valid photo identification, together with verifying that the person providing you with the identification is the same person shown on the identification, may help you avoid any sanctions being imposed by the SLA.

Only the following forms of identification may be accepted: 1) Valid New York State driver's license or a valid driver's license from any other state or Canada; 2) Valid identification issued by the New York Department of Motor Vehicles (Non-Driver ID card); 3) Valid United States military identification; or 4) Valid passport or visa from the United States government or any other country.

College or Sheriff's Department identification cards are not acceptable as the primary means to determine the customer's age. However, they can be used in addition to one of the acceptable forms of identification to verify information. You should ask for identification every time, even from a customer that has previously provided you with some proof of age.

When reviewing identification offered by a customer, you or your employees should be checking: 1) for tampered or fake documents; 2) the date of birth; and 3) whether the person has the same eye color, hair color, height, etc., as set forth in the identification.

The SLA recommends that you have all employees who serve or sell alcoholic beverages take an Alcohol Training Awareness Program. These training programs are not only an effective way to prevent underage sales from taking place but, in the event the SLA charges you with a violation, proof that your staff has participated in training may reduce the penalty that will be imposed by the SLA. The SLA's website contains a list of approved providers of such training.

In addition, you should take the following steps to help prevent sales to minors: post "Date Born After" signs in close proximity to all points of sale and service; have a written policy on what you expect from employees when making alcoholic beverage sales; establish an ongoing training and education program for all employees; encourage responsible drinking when advertising your establishment; and support your employees when they refuse to make a sale. You should also consider the purchase of a scanner device to verify that the identifications presented to you are valid.

A sale to a minor is considered one of the most serious violations of the ABCL. The SLA and law enforcement agencies throughout the state routinely conduct operations to monitor your compliance with the law. These operations may consist of investigators observing sales made to the general public in your establishment. They may also involve the use of underage agents to test whether you have sufficient safeguards in place to prevent sales to minors.

Do not assume that because a customer looks old enough to purchase alcoholic beverages, or lies about his/her age, that you are not responsible if the person is, in fact, a minor. The law imposes the obligation on you and your employees to make sure that the customer is at least 21. You should refuse to make any sale unless you are prepared to accept responsibility if the customer is underage.

## ■ HOW DOES THE SLA ENFORCE THE LAW?

Licensees who violate the ABCL or the Rules of the Authority may be subject to a disciplinary proceeding. These proceedings are based on referrals from other law enforcement agencies or investigations conducted by the SLA's Enforcement Bureau. These referrals and investigations are reviewed by the SLA's Office of Counsel to determine whether there is sufficient evidence to charge a licensee with a violation of the ABCL or the Rules of the Authority.

A disciplinary proceeding starts with the issuance of a pleading that contains the alleged violations committed by the licensee. If you are the subject of a disciplinary proceeding, the SLA will mail a copy of the pleading, by certified mail, to your business address. Another copy will be mailed to the primary residential address that you provided in your application.

Disciplinary proceedings are resolved by either: an administrative hearing; a "no contest" plea to the charges; or an offer negotiated between the licensee and the SLA prosecutor that must be reviewed by the Members of the Authority. If you receive a pleading, you will be provided with additional information about your rights and the process.

If you are found to have committed a violation, the SLA can suspend, cancel or revoke your license. In addition to, or instead of, a suspension, cancellation or revocation, the SLA can also impose a fine. For retailers, the maximum fine for each violation is \$10,000. A claim can also be made against the surety bond that you filed with your application.



**SPANISH VERSION**

