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DIVISION OF ALCOHOLIC BEVERAGE CONTROL

STATE LIQUOR AUTHORITY

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SLA ELIMINATES 1,592 OUTDATED POLICY DIRECTIVES
Agency Invites Public Comment on Remaining Divisional Orders and Bulletins

Albany, NY – New York State Liquor Authority Chairman Dennis Rosen announced today that the SLA has rescinded 1,592 outdated and obsolete divisional orders, bulletins, and circulars. Over the past six months, SLA staff perused thousands of orders and bulletins in an effort to eliminate archaic and unnecessary policy directives, many dating back to the 1930's. After thorough analysis by agency staff, 125 directives remain active, consisting of 39 divisional orders, 84 bulletins and 2 circular letters. These directives have been scanned and posted on the agency website for public comment.

For years the SLA has been criticized for relying on these directives, most of which were not published or available for licensees to examine. A 2006 audit by the New York State Comptroller's Office noted SLA bulletins were not publicized and that licensees were even unaware of the directives. More recently, the December 2009 report on the SLA by the Law Revision Commission (LRC) noted, "to this day, a comprehensive list of SLA bulletins and a large number of past bulletins are not available to the public." The LRC recommended that a decision with respect to general rulemaking authority be deferred until outstanding divisional orders, bulletins, and regulations have been reviewed and codified. With this review complete, Chairman Rosen called on the Legislature to grant the SLA the power to create rules.

"For too long the agency has been shackled with an outdated statute, compounded by the lack of rule making authority that could breathe life into and provide flexibility to the petrified statute," said Chairman Rosen. "As a result, businesses suffer while the agency is forced to spend resources, agency man hours, and too much of the Full Board's time deliberating and debating about what the 77 year old statute may or may not allow."

The analysis by the SLA found many bulletins had been superseded by later bulletins, with others having been previously rescinded. As a result, licensees often were not aware of all the policy directives that affected them. Rosen maintained that the reliance on issuing a hodge-

podge of uncodified directives was instigated by the absence of general rulemaking authority. Without the authority to issue regulations, the SLA was forced to rely on issuing informal directives in an attempt to clarify the procedures licensees must follow to comply with the often confusing and sometimes contradictory ABC Law. Unfortunately, these directives contain almost no checks and balances, while the rulemaking process has built in safeguards including executive oversight, publication in the state registry and formal public comment periods.

General rulemaking would provide the SLA, which has often been accused of impeding economic development, the ability to not just get out of the way of economic development, but to affirmatively encourage it. Rosen noted examples such as the many new industry products constantly coming onto the market that do not fit the statute's strict definitions of what wine, beer, liquor, or wine products are. While legislation could address these matters, time and capital are often tied up when changes to regulations could more expeditiously address the problem. Currently, every other New York State agency has general rulemaking authority, and forty-three states have granted it to their liquor industry regulators so that they may interpret the idiosyncratic statutes they operate under in a manner consistent with the exigencies of modern times.

Rosen concluded, "New York State must follow these other states, or the SLA cannot but continue to be rightfully accused of standing in the way of economic development in the 21st Century. How could the agency do otherwise when it has limited tools with which to temper the mandates of an archaic statute which was passed in 1934 upon the repeal of Prohibition?"

Since Rosen became SLA Chair in August of 2009, the SLA has streamlined agency operations, made common sense policy changes where permitted, and has eliminated the backlog of pending applications in all of upstate and reduced the backlog by over a thousand of applications statewide. As a result of these efforts, license applications are being acted on four to five months faster than they were a year ago.

Members of the public, licensees and industry officials are asked to submit comments on the remaining active directives by September 30, 2010. All comments should be emailed to Jacqueline Held, Secretary to the Authority, Secretarys_Office@abc.state.ny.us or sent to the attention of the Secretary at: 80 S. Swan St., Suite 900, Albany, New York 12210-8002

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