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# Empire State Restaurant & Tavern Association

*Report From The Executive Director...Scott Wexler*

## September 2018

NYS Sexual Harassment Prevention Law...What You Need to Know - The 2018-19 state budget included new provisions to prevent sexual harassment. The law establishes protections from sexual harassment for employees, individuals working as contractors and others, such as visitors to your business – including your patrons. It imposes obligations on state officials, employers and government contractors. All employers are barred from using mandatory arbitration and nondisclosure agreements related to sexual harassment, they're required to adopt sexual harassment prevention policies and must train all of their employees in sexual harassment prevention practices annually.

Under the new law employers are prohibited from using mandatory arbitration clauses for sexual harassment complaints in employment contracts. Employers are also barred from using nondisclosure agreements in settlements, except when requested by the victim. These provisions of the law took effect in July, ninety days after becoming law.

All employers are required to establish a sexual harassment prevention policy under the new law. The policy must meet the minimum standards established by Department of Labor. The Department has prepared a draft of the standards and will be finalized soon once they assess public comments on the draft. The Department will also prepare a sample policy that employers can use as is (after inserting their information). Employers must provide a copy of their policy in writing to all of their employees. While there's no requirement to get a signed acknowledgment from your employees that they received their copy of the policy, it's a good idea. The requirement to have a sexual harassment prevention policy in place that meets the state's minimum standards takes effect October 9<sup>th</sup>.

The law also requires that employers establish a sexual harassment prevention training program and provide training to all their employees annually. The training must meet the minimum standards established by Department of Labor. The initial guidance from the Department called for all current employees to be trained by January 1<sup>st</sup>. We expect the final guidance will push back the deadline, although we can't predict how long a delay will be granted. We'll know the deadline as soon as the Department of Labor finalizes their guidance and standards. That will also inform us what components employers should look for when selecting a training program. The Department has prepared sample trainings, scripts and other resources based on the draft requirements which they'll update once the requirements are finalized. As with the sample policy they're developing, you'll be able to use these sample trainings for your business. You can access this information at [www.ny.gov/programs/combating-sexual-harassment-workplace](http://www.ny.gov/programs/combating-sexual-harassment-workplace).

2018 ABC Law and ATAP Training Sessions Planned - The Association is once again conducting a statewide series of training sessions for owners, managers and servers in conjunction with the State Liquor Authority. Our ABC Law seminar focuses on the responsibilities of licensees in maintaining a premises that is in compliance with the Alcoholic Beverage Control law. This training covers the topics vital to keeping on-premises establishments compliant with the law. Our Alcohol Training Awareness Program (ATAP) addresses the duty of servers to prevent sales to those underage or visibly intoxicated. This training informs servers of their obligations under the law, provides them with the skills to prevent illegal sales and the tools to assist them in authenticating proof of age. The seminars we've scheduled so far are:

October 29	Buffalo	Hyatt Regency Hotel
October 30	Canandaigua	NY Kitchen
November 5	Melville	Melville Marriott
November 6	Nanuet	Hilton Garden Inn
November 12	Lake Placid	Crowne Plaza Hotel
November 13	Syracuse	Genesee Grande Hotel

These seminars are free thanks to the generous support of our sponsors. The ABC Law sessions will be held from 10:00 am – 1:00 pm (registration opens at 9:30 am) and the ATAP sessions will be held from 1:30 pm – 3:00 pm (registration opens at 1:15 pm).

All servers who participate in the ATAP session will receive a Certificate of Completion from the State Liquor Authority. The holder of a Certificate of Completion and their employer are eligible for the training incentive defense under the ABC Law. Licensees may be eligible to have the penalty imposed by the State Liquor Authority for an illegal sale capped at \$1000 or reduced by 25% (depending on the circumstances) while servers can use the Certificate of Completion to avoid being penalized if prosecuted for serving an underage or intoxicated person.

More details on each of these sessions and registration information are available on our website, [www.esrta.org](http://www.esrta.org), or you can contact the association office by email at [esrta@verizon.net](mailto:esrta@verizon.net) or by phone at 877.436.8121.

Last Call for Big Bucks Raffle - We've only got a few more tickets available in this year's Big Buck's Raffle. The drawing is only a few weeks away so this is your last opportunity to get in on the chance to win big! Contact the state association office at 877.436.8121 to get your ticket before the drawing on October 23<sup>rd</sup>.