
Empire State Restaurant & Tavern Association

Report From The Executive Director...Scott Wexler

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Association Joins the Retailer Age Verification Alliance - We've joined together with the Food Industry Alliance of New York State, the New York Association of Convenience Stores, and the Gaming Commission to launch the Retailer Age Verification Alliance to provide education regarding lottery age verification and help develop best practices to deny youth access to lottery products in order to prevent problem gambling. We also need your input so we can develop best practices for age verification.

While there's a lot of attention in your business to preventing underage sales of alcohol, we want to remind you that the sale of lottery products are also age-restricted. The law prohibits anyone under twenty-one years of age from purchasing Quick Draw tickets in an on-premises licensed establishment, but for all other lottery products the law prohibits sales to those under eighteen years of age. Making an illegal sale of a lottery ticket to an underage person can be quite costly – not only does it put your lottery and liquor licenses in jeopardy, but it's also a criminal offense.

Our alliance has developed a short, anonymous survey (enclosed) that we are asking our members who are lottery agents to complete. Your responses will inform future discussions to explore the challenges of age verification of lottery products. We're also looking for volunteers to participate in focus groups the Alliance plans to conduct later this year. Call the State Association office at 518-436-8121 or email us at esrta@verizon.net to volunteer. Please return your survey by October 11th so we can include your input into our discussions.

Workplace Harassment Expanded by the Legislature...More to Come? - Governor Cuomo signed into law sweeping new workplace harassment legislation passed by the Assembly and Senate. This legislation eliminates the requirement that harassment be "severe or pervasive" in order to be legally actionable, mandates that all non-disclosure agreements allow employees to file a complaint of harassment or discrimination, and extends the statute of limitations for employment sexual harassment claims filed from one year to three years. By eliminating the "severe or pervasive" standard and expanding the definition of harassment to include any type of conduct based on a protected characteristic that rises above the level of "petty slight or trivial inconveniences" the law lowers the bar significantly for employees alleging workplace harassment. And there may be more on the way.

The Legislature passed another bill – the Securing Wages Enforced Against Theft Act (SWEAT) – that will allow an employee lien to be imposed on a business claimed to have committed wage theft, regardless of whether they've been found liable of wage theft or even a credible complaint. We've joined together with a group of associations representing tens of thousands of businesses throughout New York State to make clear to Governor Cuomo the damage this will do and the unfairness of holding your property hostage based on a claim of a wage and hour violation.

Sexual Harassment Training Requirement Deadline Approaches - The deadline for your employees participating in a sexual harassment training program is October 9th so, if you haven't already taken care of this now's the time. We've chosen not to endorse any program but we've found several that appear compliant with New York State's requirements:

- TrainingNow.com (\$12 per employee - \$16 per manager)
- ReadyTrainingOnline.com (\$25 per employee - \$35 per manager)
- NYC Commission on Human Rights: <https://www1.nyc.gov/site/cchr/law/sexual-harassment-training.page> (no charge)

Make sure all of your current employees are trained by October 9th. In the future, all new employees must participate in a training as soon as possible after being hired. This is not a one-time training...all employees need to take a training program once every year.

Local Governments Placing More Restrictions on Business - The past few months has seen a spike in activity by local governments across New York State to regulate new aspects of your business. The most common activity has been around environmental issues – plastic bags, plastic straws, disposable cutlery and polystyrene (Styrofoam) bans of one sort or another. The state banned plastic bags for some uses, but restaurants are exempt from the state ban. Some local governments are enacting local laws to extend the ban to include restaurants. Others are imposing local definitions of “recyclable paper bags” under the state law to require different bags than allowed by the state law. All of these efforts cause confusion to the public and the business community and are likely unlawful – not that it matters to these wrong-headed officials.

Bans on polystyrene and disposable cutlery are also popping up across the state. Most of these proposals prohibit food service establishments from providing customers with polystyrene containers for takeout and from using disposable cutlery made from plastic but they don't prohibit stores from selling these items to the public. So your restaurant can't give a customer one Styrofoam container or plastic fork, but the customer can go to the local store and buy them.

Another emerging area of local regulation is plastic straws. A number of governments have adopted local laws restricting plastic straws – several have banned them completely while others allow you to provide straws upon the request of the customer. The state legislature may take up this subject next year so perhaps there will be a statewide straw rule.

Monroe County recently enacted a law to require restaurants to secure grease traps. A toddler fell into a local restaurant's grease trap in July and died spurring their action. Scheduled to take effect at the end of the month, the new law requires grease traps to be locked or bolted in and secured with a heavy cover. The Monroe County Department of Public Health will be responsible for enforcing this law once it takes effect.

Last Call for Big Buck Tickets - We've got a few tickets left for the Big Bucks Raffle. The drawing will be held at dinner during our Fall Board Meeting on October 22nd in Saratoga. The meeting is being held at the Saratoga Casino Hotel and the dinner is at The Lodge, the hotel's rustic restaurant which has been a Saratoga Springs fixture for years. The beautiful building is full of history and charm and has proven to be a great location for this annual event. Contact the State Association office for information on buying tickets or attending the dinner and drawing.