
Empire State Restaurant & Tavern Association

Report From The Executive Director...Scott Wexler

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State Liquor Authority to End Attorney Certification Program - The Members of the Liquor Authority voted to end the Attorney Certification Program in February 2022. This program, implemented by former Chairman Dennis Rosen in 2009, gave applications filed by attorneys who “certified” the accuracy of the information priority in the license application process. At the start, Chairman Rosen directed that all attorney certified applications proceed ahead of any other applicants. Over time the process changed to give attorney certified applications a one month head start over others.

We objected to this dual track license application process loudly and aggressively. We made clear our belief that it would increase legal fees for applying for a license increasing the cost of opening a new business and putting those applicants that can’t afford the lawyers’ fees at a severe disadvantage. Twelve years later the Authority has found that the attorney certification program is fundamentally broken because the majority of the attorney certified applications, when scrutinized, are found to have as many errors as regular applications. And they finally acknowledged that it’s unfair to those applicants that can’t afford the attorney certification process.

Chairman Bradley made clear that he recognizes it’s taking too long to process applications and permits, calling it a “crisis.” He asked for suggestions for how to speed the license application process and said the Authority would organize a meeting with industry stakeholders to discuss improving the application process. We’ll see if anything comes of these consultations, but it is good to finally be rid of the unfair attorney certification program so all applications that are properly completed are treated the same.

Campaign to Eliminate Tip Credit Gains New Support - The campaign to eliminate the tip credit and require food service workers to be paid the full minimum wage picked up the support of New York State Comptroller Tom DiNapoli. Speaking at a One Fair Wage (OFW) event in support of eliminating the tip credit, DiNapoli threw his weight behind legislation pending in Albany as an alternative to action by the Governor. Separately, One Fair Wage and a group of progressive organizations delivered what they claimed were 17,000 petition signatures from “service workers” in support of eliminating the tip credit to Governor Hochul’s office. The choice of words suggests that not all of the signors are “food service workers” as perhaps the typical person might infer. In addition to these more high profile actions, OFW is also meeting with many legislators or their staffs to make the case for eliminating the tip credit.

We've taken notice of their activity and have begun a counter-offensive. Working with our partners at the New York State Restaurant Association and the New York City Hospitality Alliance we're speaking out loudly and clearly that this industry is in desperate shape. Labor shortages, supply chain issues, rising expenses, and the ever-evolving public health situation are an impossible burden for many to bear. And we've started to push back on the false narrative that the tip credit impacts food service workers' wages negatively.

One important step was the recent publication of an op-ed in the New York Daily News by Maggie Rycynski, a bartender in upstate New York and the organizer of the Supporters of the Tip Credit Facebook group. This group's membership peaked at over 20,000 in 2018 when Governor Cuomo was considering eliminating the tip credit. And it was instrumental in organizing hundreds of food service workers across New York State to testify at the Department of Labor's tip credit hearings. Hopefully Maggie's op-ed is the start of a similar movement in 2022.

So, it looks like we're in for a fight. But we're ready and we have the facts on our side – if they matter. We need you to be ready too. Watch for our updates and calls to action as the battle continues. This is too important a fight to sit out!

RNDC to Enter New York Market - Republic National Distributing Co. (RNDC) is set to enter the New York market through a partnership with Opici Family Distributing. RNDC is the second largest wine & spirits wholesaler in the country overall, with projected 2021 revenue of \$12.5 billion. The New York market is currently dominated by Southern Glazer's Wine & Spirits and Empire Merchants who have projected revenues in New York of \$2.1 billion and \$1.8 billion respectively. This move is certain to impact the wholesale distribution market in New York as RNDC seeks to gain market share. We'll have to keep a close eye on them and try to use this to the advantage of retailers.

The entry of RNDC into the marketplace is the latest and most significant change to the wholesale wine and spirits business in recent days, but it's one of numerous changes that have occurred recently. Another significant change has been the full throated embrace of wine and spirits products by the franchised beer wholesalers. In just a few short years they've gone from being legally prohibited from selling wine & spirits to the distributors of some of the hottest products on the market. The move by beer wholesalers into the market complements the developments at the major brewers who all have "new product" divisions, but franchised beer wholesalers are not limited in their product offerings to the major brewers' new products.

While Southern and Empire will continue to have exclusive arrangements with the major brands for years to come, these developments open the door to increased competition and increased choices when you seek to purchase wine and spirits. That doesn't mean we're abandoning our advocacy efforts. We continue to fight for your right to buy wine & spirits at the liquor store or through a purchasing group and we're pressing the Legislature and the Liquor Authority to reign in split case fees and delivery charges that add substantial costs to your bottom line. Stay tuned!