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# Empire State Restaurant & Tavern Association

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

## April 2022

Drinks to Go Included in State Budget - Governor Hochul and the New York State Legislature reached agreement on a final state budget that includes allowing restaurants, taverns, bars, and other on premises establishments to sell drinks to go for the next three years. Here are the key provisions:

- Restaurants currently licensed to sell wine, beer, and spirits may do so with food orders for takeout or delivery.
- Food must be included with takeout alcohol orders of wine or spirits. The requirement is for a “substantial food item” to be purchased.
- The price for takeout wine or spirits must be the same as for on-premises consumption.
- Individually prepared cocktails and glasses of wine will be allowed, served in a container with a secure lid or a sealed cap.
- Bottles of wine or spirits may not be sold for takeout.
- There are no limits on serving sizes or limits on the number of servings per meal or per person.

The State Liquor Authority has published guidance on the sale of wine and liquor to go by on-premises retail licensees and they have posted FAQs to help explain the rules for drinks to go. The SLA guidance explains that:

*“**substantial food item**” is defined as sandwiches, soups or other foods, whether fresh, processed, precooked or frozen. Other foods are foods which are similar in quality and substance to sandwiches and soups; for example, salads, wings, or hotdogs would be of that quality and substance; however, a bag of chips, bowl of nuts, or candy alone are not. Obvious efforts to circumvent the law, for example an unreasonably small portion of soup, a serving of canned beans, a handful of lettuce, or charging a small extra fee for an alcoholic beverage in lieu of a food item not actually ordered or delivered will be treated as a violation of the law.”*

*A “**bottle**” is defined to mean the wine and/or liquor that the retailer purchases from a wholesaler in a bottle, box, can, or other similar container. Obvious efforts to circumvent the law, such as transferring the contents of a bottle of wine or liquor to a same or equivalent bottle, will be treated as a violation of the law.*

Here are some answers to frequently asked questions the Liquor Authority has provided to further illustrate the parameters of the law:

*Q: As an on premises licensee with the privilege to sell liquor and/or wine, while the statute prohibits selling bottles of wine, can I sell a carafe of wine of the same volume as a bottle?*

A: No. The statute's intent to restrict the sale of full bottles cannot be evaded by selling the equivalent of a bottle. As set forth in the Authority's guidance, transferring the contents of a bottle into a same or equivalent bottle/container is also a violation of the law.

*Q: As an on premises licensee with the privilege to sell liquor and/or wine, can I sell the contents of a 12 ounce can of wine or liquor as two 6 ounce drinks?*

A: Yes, as long as that offering is also available for on premises consumption at the same price.

*Q: The Authority's guidance states that "transferring the contents of a bottle of wine or liquor to a same or equivalent bottle" is a violation of the provision of the law prohibiting bottle sales of liquor or wine by on premises retailers. Does this prohibition only refer to a transfer of precisely the same volume?*

A: No. The Authority will consider any obvious attempts at circumvention, e.g., transfer of 740ml of wine from a 750ml bottle to another bottle or container, as a violation of the law.

*Q: As an on premises licensee with the privilege to sell liquor and/or wine, how does the restriction on selling bottles, boxes, or cans of wine or liquor apply to containers that contain a single serving? Can I sell a bottle or can that contains a single serving of wine, a single serving ready to drink cocktail, or the like?*

A: Yes, but not in the original container as purchased from a wholesaler. Unlike a multiple serving bottle of wine or liquor, the Authority will not consider it a violation of the law to pour a single serve wine or liquor product into a single serve, sealed container for sale for off premises consumption.

Keep an eye on our website or our future newsletters for any additional guidance the State Liquor Authority provides.

Plans for 2022 Golf Outing Announced - It's time to make your plans to attend the Association's Annual Golf Outing. We're once again hosting the outing at Cronin's Golf Resort in Warrensburg. This year's outing will be held on Monday, June 6<sup>th</sup>. The \$110 per golfer registration fee includes greens fees, cart, lunch, refreshments on the course, hors d'oeuvres and dinner (cash bar), awards, and prizes.

Cronin's cabins are available for overnight stay on a first come – first served basis. Call 518.623.9336 to reserve your cabin. A number of our guests will be staying at the Lake George Holiday Inn. We have a small block of rooms at the hotel for the golf outing. Call the hotel at 518.668.5781 to make your reservation.

Since the golf outing is an Association fundraiser, we need your help raising funds. The best way you can show your support is by signing up for a sponsorship. Your \$100 donation for a tee sponsor shows your support for our cause and will help make the outing a success. We also have other levels of sponsorship if you or any of your vendors want to support our efforts. Reserve your spot in the outing by completing the registration form on the attached brochure and return it to our office. Contact the state association office at 518.436.8121 or [esrta@verizon.net](mailto:esrta@verizon.net) for more information. I hope to see you in Warrensburg in June.