
Empire State Restaurant & Tavern Association

Report From The Executive Director...Scott Wexler

September 2022

ABC Reform Commission Begins Work - The Commission to Study Reform of the Alcoholic Beverage Control Law, created as part of this year's State Budget, began its work last month. The Commission was added to the Budget Bill at the insistence of several legislators and outside interests as part of the negotiations to authorize cocktails to go. Its task is to vote on recommendations to modernize and simplify the state's 90-year-old alcohol laws and to issue a final report by May 1, 2023.

The statutory language that created the Commission named several members of the Governor's Cabinet to the panel and provided that an additional ten members were to be appointed by the Governor, two members were to be appointed by the Senate Majority Leader and the Assembly Speaker, and one member was to be appointed by the Senate Minority Leader and the Assembly Minority Leader. Governor Hochul appointed three on-premises representatives, attorneys representing Empire Merchants and Southern Wine & Spirits, a liquor store representative, a representative of the distilled spirits industry, a craft spirits & wine producer, a cider producer, and a representative of a statewide business group. Also appointed to the Commission were two additional liquor store representatives, another representative of the on-premises industry, a brewer, a representative of the beer wholesaler industry, and Counsel to a state legislator. No one was appointed representing grocery beer licensees.

Our Association does not have a representative on the panel and, because the State Liquor Authority has made all proceedings of the Commission private, we can't monitor the meetings and inform you about their work until their report is issued next year. We have heard that not much was accomplished at the first meeting. We expect to continue to receive unofficial updates as their meetings unfold.

The Commission is accepting public comment and we intend to submit comments prior to their next meeting on October 25th. The primary focus of our testimony will be the problems caused by the legal monopolies held by Empire and Southern. The very existence of these monopolies places retailers at their mercy – and the smaller the business the more of a chokehold these wholesalers have on them. The general pricing schedule discriminates against small purchases and that is only made worse by the delivery fees and split case charges the wholesalers add to pad their profits.

We'll make the case for ABC reform to address this issue. Possible solutions include co-op/group buying, allowing on-premises licensees to buy liquor from liquor stores, or requiring every manufacturer to have at least two wholesalers in the state. While it's unlikely any of these changes will get past the two liquor wholesaler representatives on the panel, it's important to make the point.

Members of the public can submit comments to the Liquor Authority about ABC reform. You can submit your comments to abclaw.comments@sla.ny.gov. Weigh in on the liquor wholesalers issue or any other change you think would be beneficial to your business. Let the SLA know what you think!

New Threats to Your Business Emerge As Election Day Approaches - In an apparent effort to demonstrate their priorities should they be successful in their bids for re-election, a number of legislators have introduced proposals imposing new burdens on restaurants, taverns, and bars. The State Legislature is in recess, not expected to return until January, so these new bills are not meant to be advanced now. But, they're clearly intended as a statement of their agenda for next year. Here are some of the threats we're preparing for:

- Eliminate the Tip Wage – This is clearly the most critical issue to your business that is at risk from an activist legislature. One Fair Wage, the latest front group for Saru Jayaraman's crusade to eliminate the tip wage, is actively campaigning to gain support for their legislative proposal to eliminate the tip wage over several years. While there is some legislative support for this, most mainstream legislators understand this is a bad idea.
- Index the Minimum Wage – This proposal would automatically increase the minimum wage each year based on the increase in the cost of living. This proposal keeps the tipped wage in place, but increases it each year at the same rate that the minimum wage is raised. The Chairs of both the Assembly and Senate Labor Committees support this proposal and have made clear it's a priority for them in next year's legislative session.
- Expand Food Waste Mandate – Several years ago when the legislature began considering requiring large food waste generators to donate their edible food waste and recycle their remaining food waste, we expressed concern because we knew that eventually the mandate would be expanded to smaller generators. Before we've completed the first year under this law, a new proposal has emerged that would expand the mandate in phases over the next four years.

What can you do? With Election Day not far away your elected officials and their challengers will be looking for your vote. Tell them what matters to you, listen to what they have to say, and make sure to vote so you make your voice heard. It's the only report card they get and win or lose it matters to send a message that you're paying attention.

Last Call for Big Buck Tickets - We had a successful Early Bird Drawing this month and one lucky winner received \$1000. 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 25th at the Embassy Suites Hotel in downtown in Saratoga. Contact the State Association office for information on buying tickets or attending the dinner and drawing.