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# Empire State Restaurant & Tavern Association

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

## February 2023

Associations and Members File to Intervene in Split Case Fee Lawsuit - Our Association, joined by the New York City Hospitality Alliance, the New York State Restaurant Association, and several individual members of each association filed a petition in State Supreme Court seeking to intervene in the litigation brought by Southern Glaser Wine & Spirits against the State Liquor Authority challenging the SLA's rule limiting split case fees to \$0.87 per bottle.

We told the court that the outcome of the case will have a significant economic impact on your business and that our voice needs to be heard in this dispute. Our petition included copies of invoices and price postings along with a price analysis all of which demonstrate the ways Southern discriminates against small retailers. We'll be in court in Albany on April 7<sup>th</sup> trying to persuade the judge to let us intervene. A number of members plan to join us in person for the hearing – feel free to contact our office for details if you also want to join us in Albany.

Key Legislators Introduce ABC Reform Proposals - State Senator James Skoufis and Assemblymember Harry Bronson have introduced a number of proposals to change the alcoholic beverage control law, including several designed to address the problems retailers have with the pricing practices of liquor wholesalers. As you know, split case fees and delivery charges result in a typical small establishment paying a “small business surcharge” of more than \$8000 for the same product over the course of the year, before accounting for quantity discounts.

These legislators, the Chairmen of the committees in the Senate and Assembly with jurisdiction over the alcoholic beverage control law, have introduced legislation that takes on the wholesalers directly, prohibiting wholesalers from charging any fees except the purchase price. This bill, A2482 – S4351 would prevent wholesalers from adding on exorbitant split case fees and arbitrary delivery charges.

Another bill they have introduced, A3071 – S2853 would allow on-premises licensees to purchase up to twelve (12) bottles of wine and spirits (combined) each week from liquor stores. This proposal will be especially helpful for those situations when licensees run out of product in between regular deliveries. A third bill, A353 – S3460 would allow liquor stores to join together into buying cooperatives to group their small purchases into larger ones to take advantage of quantity discounts. This would be helpful to on-premises licensees as well, so we've asked to be included.

The legislative session is just getting underway so it will be some time before we know if these bills will progress. The ABC Law Review Commission is due to issue its report to the legislature by May 1<sup>st</sup> and while these proposals were not considered as part of their deliberations, the report's issuance will present an opportunity to discuss needed changes in the law. We have work to do to make sure our concerns are part of that conversation, so let's get started.

Please contact Senator Skoufis and Assemblymember Bronson to thank them for introducing these bills. The message is pretty simple – *the pricing practices of the liquor wholesalers impose a “small business surcharge” on your purchases, but these bills will remove that burden so please do all you can to enact them into law.* Encourage them to keep up the fight to protect your business.

You can reach Senator Skoufis at skoufis@nysenate.gov or 518.455.3290. You can contact Assemblymember Bronson at bronsonh@nyassembly.gov or 518.455.4527. Be polite and courteous when you contact them – they're our friends. Let's thank them for getting the ball rolling so we can move onto the next step – building support amongst their colleagues for enacting these bills into law.

Governor's Budget Proposal...the Good and the Bad - Governor Hochul presented her Executive Budget proposal earlier this month and it had some proposals that are good for your business, but it also includes some proposals that are bad for your business. Here are the key elements:

Index the Minimum Wage - As promised in the State of the State Message, the Governor proposed indexing the minimum wage to the rate of inflation after the minimum wage in each part of the State reaches \$15 per hour. The proposal includes a 3% annual cap on increases. The Governor's proposal maintains the tipped wage for foodservice workers, subject to annual increases based on the rate of inflation as with the general minimum wage.

State Liquor Authority Improvements – The Governor's budget includes a number of proposals to improve the agency's operations and responsiveness. They include expediting the process for approving corporate changes, expediting the local government notification process, expanding the premises that qualify for temporary retail permits, extending the term of temporary retail permits, and authorizing temporary retail permittees to purchase products on credit.

Waste Reduction & Recycling – This proposal creates an extended producer responsibility program for paper and packaging. It would require all producers to join a producer responsibility organization that will be responsible for creating a program to provide for the collection and recycling of packaging and paper products. There is some discussion about removing wine and spirits containers from this proposal and adding them to the bottle bill.