

STATE OF NEW YORK
LIQUOR AUTHORITY

TO: All retailers, wholesalers, manufacturers and agency staff

SUBJECT: Wine Products

The purpose of this advisory is to provide guidance to industry members and agency staff with respect to the sale and distribution of wine products.

In 1984, the ABCL was amended to add a new classification of alcoholic beverage called “wine products”, as defined in §3(36-a). At that time §79-a was also added to the ABCL. That section allowed persons holding an off-premises beer license to obtain a permit to also sell wine products for off-premises consumption. In 1987, with the addition of §54-a, a separate off-premises beer and wine product license was created. In 1989, §79-b was added to allow persons holding on-premises beer licenses to obtain a permit to also sell wine products for on-premises consumption.

The ABCL, however, does not address other issues regarding the sale and distribution of wine products. The following is a summary of the Authority’s interpretation of the ABCL with respect to those issues. Bulletin 547, which addresses the same subject, is hereby rescinded.

Contents of wine product

Wine products are defined in ABCL §3(36-a) as beverages “containing wine to which is added concentrated or unconcentrated juice, flavoring material, water, citric acid, sugar and carbon dioxide and containing not more than six per centum alcohol by volume, to which nothing other than such wine has been added to increase the alcoholic content of such beverage.” [Emphasis added]. Given the use of the word “and”, the beverage must contain each of the contents referenced in the definition.

Retail sales

In addition to those holding a license under §54-a or a permit under §79-a or §79-b, persons holding the following licenses may sell wine products at retail:

On-premises liquor;

On-premises wine;

Off-premises liquor;

Off-premises wine; and

“C” beer wholesaler.

Wholesale distribution

Persons holding the following licenses may sell wine products at wholesale:

Beer wholesaler;

Liquor wholesaler;

Wine wholesaler;

Winery; and

Farm winery or micro winery, but only wine products made exclusively from grapes or other fruits or agricultural products grown or produced in this state.

Production

Persons holding the following licenses may manufacture wine products:

Winery; and

Farm winery or micro winery, but only wine products made exclusively from grapes or other fruits or agricultural products grown or produced in this state.

Terms of sale

Wholesalers and manufacturers must sell wine products in accordance with the terms of sale set forth in ABCL §101-aa & §101-aaa. Therefore, the provisions of §101-aaa apply to all sales of wine products to retailers except with respect to package and wine stores. Sales of wine products to those licensees are governed by §101-aa.

Notwithstanding the language of the above-referenced provisions, based on currently accepted industry practice, the Authority will allow sales of wine products by liquor and wine wholesalers to any licensee to be governed by §101-aa. This exception shall be effective until June 30, 2012 to afford such wholesalers sufficient time to seek an amendment of the statutes. After that date, absent legislative action, such sales will be governed by §101-aaa.

Brand label registration

The brand or trade name label of wine products must be registered with and approved by the Authority. The exception provided in ABCL §107-a(4)(c)(3) for wine does not apply to wine products.

Price posting

Wine products are not subject to the price posting requirements of ABCL §101-b.