

STATE OF NEW YORK
LIQUOR AUTHORITY

To: All licensed manufacturers and wholesalers

Subject: Purchase of alcoholic beverages by manufacturers for retail sale

The Alcoholic Beverage Control Law (“ABCL”) contains certain provisions that allow licensed manufacturers, to a limited extent, to sell alcoholic beverages at retail. In response to inquiries from the industry seeking guidance as to the ability of, and conditions governing, licensed manufacturers purchasing product from other licensed manufacturers and licensed wholesalers for purposes of resale, this Advisory is being issued.

Sale by licensed wholesalers to licensed manufacturers

ABCL §53 (beer wholesalers), ABCL §58 (cider wholesalers), ABCL §58-a (beer wholesalers selling cider), ABCL §62 (liquor wholesalers) all provide that those wholesalers may sell, at wholesale, alcoholic beverages to other licensed wholesalers and licensed retailers. Unlike the statute governing wine wholesalers [ABCL §78], those statutes do not specifically allow beer, cider and liquor wholesalers to sell product intended for retail sale to licensed manufacturers.

It is the view of the Authority that, for purposes of the above referenced sections of the ABCL, the word “retailers” [§53, §58-a and §62] and “retail licensee” [§58] should be read to include licensed manufacturers who are authorized to sell alcoholic beverages at retail. Accordingly, licensed wholesalers may sell, at wholesale, alcoholic beverages to such manufacturers. Please note that, with respect to wine and liquor, all such sales must be made using the retail price schedules posted pursuant to ABCL §101-b(3)(b).

Purchases of NYS labeled wine and/or NYS labeled liquor by licensed wineries and farm wineries

Unlike other provisions regarding the retail sale of alcoholic beverages by a licensed manufacturer, the ABCL contains specific restrictions regarding purchases by licensed wineries of NYS labeled wine and by licensed farm wineries of NYS labeled wine and NYS labeled liquor. Specifically, ABCL §76(11)(b)(vi) [for wineries] and §76-a(4)(b)(6) can be read to require that the purchases be made only from a licensed manufacturer, either outright or on consignment.

In the view of the Authority, the above referenced provisions of the ABCL do not require purchases only from the licensed manufacturer. The provisions merely allow the licensed manufacturer, when purchasing directly from another licensed manufacturer, to either purchase the alcoholic beverages outright or on consignment, which is otherwise prohibited under the ABCL. Wineries and farm wineries may also purchase NYS labeled wine and NYS labeled liquor (farm wineries only) from licensed wholesalers.

Price schedules

Please note that all purchases by a licensed manufacturer (for purposes of retail sales) from a licensed wholesaler or another manufacturer must be made using the retail price schedules posted pursuant to ABCL §101-b(3)(b).