

STATE OF NEW YORK

EXECUTIVE DEPARTMENT

(Series 1943)
Bulletin #105
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DIVISION OF ALCOHOLIC BEVERAGE CONTROL

TO: MANUFACTURERS AND WHOLESALERS

SUBJECT: PURCHASES OF ALCOHOLIC BEVERAGES

PURCHASES WITHIN THE STATE

The Alcoholic Beverage Control Law provides that:

"No licensee or permittee shall purchase or agree to purchase any alcoholic beverages from any person within the state who is not duly licensed to sell such alcoholic beverage as the case may be, at the time of such agreement and sale nor give any order for any alcoholic beverage to any individual who is not the holder of a solicitor's permit."

The provisions of this Section of the Law are applicable to warehouse receipts pertaining to alcoholic beverages located within or without the state, as well as to the alcoholic beverages themselves.

A sale by a wholesaler who accepts an order for alcoholic beverages from another wholesaler in this state for shipment directly to the purchasing wholesaler by an out-of-state manufacturer or wholesaler must be transacted in the same manner as if the alcoholic beverages were located within the state. Such transaction requires the following:

1. A schedule of prices to wholesalers must be on file with the Liquor Authority and in effect pursuant to the provisions of Section 101-b. The sale must be at the price listed in such schedule. (This applies only to sales of liquor or wine)
2. The alcoholic beverages sold must be invoiced by the first wholesaler (the seller) to the second wholesaler (the purchaser).

An arrangement whereby a wholesaler accepts an order from another wholesaler in this state for alcoholic beverages to be shipped and billed directly to the purchasing wholesaler by an out-of-state manufacturer or wholesaler who remits a brokerage commission to the wholesaler in this state with whom the order was placed, is prohibited.

PURCHASES OUTSIDE THE STATE

A manufacturer or wholesaler may purchase alcoholic beverages from an out-of-state manufacturer or wholesaler provided that:

1. The orders are solicited and accepted outside the state.
2. Title to such alcoholic beverages is taken at a point outside the state.

See also
Rule 14
See 146 & 255

Sec 102
3-a


3. Delivery into the state must be made by the New York licensee in a vehicle owned and operated by him or in a vehicle registered with the Liquor Authority.
4. The delivery is made f.o.b. at a point outside the state.

ESTABLISHMENT OF SALES AGENCY AND PURCHASES THEREUNDER

No manufacturer or wholesaler may negotiate with any person in this state for the purchase of alcoholic beverages unless such person or his principal is licensed by the Liquor Authority or has obtained a Negotiator's Permit, as provided by Section 99-b, subdivision J. This section provides that the Liquor Authority is authorized to issue a permit to a person duly licensed outside the state of New York to manufacture or sell alcoholic beverages at wholesale, or his duly authorized representative, to negotiate and consummate a contract or agreement with a licensed wholesaler in this state for the establishment of an operating agency relationship for the sale of its products in this state.

Such permit does not authorize the permittee to offer for sale or solicit any order for the sale of any alcoholic beverage in this state. After the agency agreement has been consummated, the licensed wholesaler in this state must forward his order for the alcoholic beverages directly to the manufacturer or wholesaler outside the state.

STATE LIQUOR AUTHORITY


JOHN F. O'CONNELL
Chairman