

# **Restaurant License Quick Reference**

## **LICENSING**

### **Do I need a restaurant license?**

If you intend to sell or serve any alcoholic beverages for on premises consumption from any commercial space, you must have a license or permit. If you will be regularly open to the public, and will serve full entrée style meals (which are more than soups, sandwiches, and the like), a restaurant license is an appropriate license.

### **What distinguishes a restaurant license from a tavern license?**

Primarily two things. First, the type of food a restaurant must serve is in excess of what a tavern must serve; a restaurant must serve full entrée style meals, while a tavern must only serve soups, sandwiches, and the like. Second, a restaurant may with the approval of the Authority share interior access to another business (e.g., a café in a department store), a tavern must not be directly accessible from any other business.

### **Can I be a licensed restaurant owner in New York State?**

#### **Statutory Disqualifiers**

The following are the five categories of person who cannot hold an SLA license:

- (1) persons who have been convicted of any felony, or promoting or permitting prostitution, or sale of liquor without an alcoholic beverage license;
- (2) persons under the age of 21;
- (3) persons who are not a United State citizen, an alien admitted to the United State for permanent lawful residence, or a citizen of a reciprocal trade nation (see [SLA Advisory #2015-21](#));
- (4) persons whose alcoholic beverage license was revoked for cause within the past 2 years;
- (5) persons who are police officers/police officials.

#### **Tied House**

The “tied house law” prohibits any person who holds a direct or indirect interest in any manufacturing or wholesale business (whether in New York State, another state, or abroad) from holding a restaurant license in New York State.

#### **200 Foot Law**

The “200 Foot Law” prohibits the Authority from issuing an on premises retail license<sup>1</sup> for the sale and/or consumption of liquor to any premises which is within 200 feet of and on the same street as a building exclusively used as a school or place of worship. The same restriction does not apply to a license for beer and/or wine only.

### **500 Foot Law**

The “500 Foot Law” prohibits the Authority from issuing an on premises retail license<sup>2</sup> for the sale and/or consumption of liquor to any premises which is within 500 feet of three establishments that are currently operating with on-premises liquor licenses. The restriction only applies in municipalities with a population of 20,000 or more.

### **What type of license should I apply for?**

Restaurant Beer (Eating Place Beer): Allows a person to sell beer, cider, and mead for on premises consumption from a premises being operated as a restaurant. A restaurant is regularly open to the public and serves full entrée style meals which are more than soups, sandwiches, and the like. The license is good for 3 years.

Restaurant Wine: Allows a person to sell beer, cider, mead, wine, and wine products for on premises consumption from a premises being operated as a restaurant. A restaurant is regularly open to the public and serves full entrée style meals which are more than soups, sandwiches, and the like. The license is good for 3 years.

Restaurant Liquor (On Premises): Allows a person to sell beer, cider, mead, wine, wine products, and liquor for on premises consumption from a premises being operated as a restaurant. A restaurant is regularly open to the public and serves full entrée style meals which are more than soups, sandwiches, and the like. The license is good for 3 years.

### **How much does a restaurant license cost?**

Retail licensing fees are dependent on what type of alcoholic beverages will be served and what county the establishment will do business in. See the schedule of retail license fees [here](#).

### **What steps should I take before applying?**

If time is of the essence in opening your doors (and we know it usually is), you should first check with SLA to understand processing times and to be able to plan accordingly. Email [licensing.information@sla.ny.gov](mailto:licensing.information@sla.ny.gov). Additionally, before applying you should get a filing receipt from the Secretary of State after registering your corporation or LLC or obtain a business certificate from your county clerk for your sole proprietorship or partnership.

### **Where do I find the restaurant application?**

---

<sup>1</sup> A restaurant licensed only to serve wine or beer is not subject to the 200 Foot Law.

<sup>2</sup> A restaurant licensed only to serve wine or beer is not subject to the 500 Foot Law.

From our homepage: [www.sla.gov](http://www.sla.gov), visit [Licenses -- Get a License](#). From there you will find the [Application Wizard](#), which will guide you to the correct application.

### **Is a temporary retail operating permit available while my application is pending review?**

If you are purchasing the business of a current licensee (the business assets and not just the real property), and will operate in the same location, you are eligible for a temporary retail operating permit.

If you are opening a new business, and the location is outside of New York City, you are eligible for a temporary retail operating permit.<sup>3</sup>

### **Where do I find the temporary retail permit application?**

From our homepage: [www.sla.gov](http://www.sla.gov), visit [Forms Quick Find](#) in the footer. Use the search function to find [the application](#). Please include the temporary retail permit application with your main retail license application.

### **What must I submit with my license application?**

Once you have downloaded (or emailed yourself) the correct application and instructions, you will also be given a checklist of all necessary items and a coversheet including the correct amount to submit along with the application.

### **When can I sell/serve alcoholic beverages?**

Once you've received approval of your application and your license certificate. A conditional approval is not sufficient – as you must meet the conditions set forth before final approval may be granted.

### **Can I allow BYOB while my application is pending?**

No, you may not have any alcoholic beverages at your premises until you are licensed.

-----

## **LICENSEES**

### **PRIVILEGES**

#### **What alcoholic beverages may I sell at my restaurant?**

A restaurant beer (eating place beer) may sell beer, cider, and mead.

A restaurant wine may sell beer, cider, mead, wine, and wine products.

A restaurant liquor (on premises) may sell beer, cider, mead, wine, wine products, and liquor

---

<sup>3</sup> If the application is subject to a 500 Foot Hearing, the hearing will be held first before eligibility is determined.

**Can I allow patrons bring their own alcoholic beverages (BYOB) to my restaurant?**

Yes, as long as the alcoholic beverage is covered under the establishment’s license. For example, a customer cannot bring liquor into a restaurant that is only licensed for wine and beer. Additionally, the customer must remove any unconsumed portion of the alcoholic beverage when he/she leaves the licensed premises.

The licensee can charge a “corkage” or other fee to a customer bringing his/her own alcoholic beverages to the licensed premises.

**Can I sell alcoholic beverages on the internet?**

Yes, in addition to the sales which take place at your restaurant, you may also take beer (not wine or liquor) orders over the internet. Those internet orders may be picked up at the restaurant by the customer, or they may be delivered to a customer’s New York State residence - they may not be delivered to a commercial business location. If delivery is made by motor vehicle, that vehicle must either be registered to the licensee (in the same name as the license) and a copy of the license should be in the vehicle, or that vehicle must have a trucking permit issued by the SLA.

**Can I sell alcoholic beverages to out of state residents?**

It depends on the laws of the other state.

**Can I hold off premises events?**

Yes, if you have applied for and been granted a catering permit for an event. A catering permit will allow you to provide food and alcoholic beverages at a private, indoor function. The event must be for a third party, i.e., a restaurant cannot cater for itself off premises. You may only serve those types of alcoholic beverages you are allowed to sell at your licensed premises at such a catered event.

Additionally, you may apply for a temporary beer, wine, and cider permit for an off premises event. This permit does not require service of food, or that the event be private, but also does not allow the service of liquor. Temporary beer, wine, and cider permits are limited to 4 for a given location per year.

**Can I conduct tastings at my store?**

Yes, you may conduct tastings at your restaurant.

Additionally, you may have an entity with a marketing permit conduct a tasting at your restaurant of any product you may yourself sell.

**COMPLIANCE**

**Can I employ:**

**Someone who has been convicted of a felony?**

Yes, a felony conviction is not a bar to employment at a licensed restaurant.

### **A minor?**

A minor (person under the age of 18) cannot be employed as a hostess, waitress, or waiter, or in a position that requires him or her to sell, dispense, or handle alcoholic beverages.

Note, however, that a minor may be employed in a position that requires the handling of empty alcoholic beverage containers (dishwasher, busboy, etc.) if he or she is under the direct supervision of someone 21 years of age or older.

### **A police officer?**

No, a police officer cannot work in a restaurant.

### **Can I sell pre-mixed drinks, e.g., sangria or gelatin shots?**

Alcoholic beverages must be kept in their original container until time of service. However, you may sell alcoholic beverages which have been pre-mixed if they are served from a continuously mixing machine with a capacity of 1 gallon or more.

### **What is the “unlimited drink offering” law?**

On premises licensees are prohibited from offering, selling, serving or delivering an unlimited number of drinks to a patron or patrons during a set period of time for a fixed price. For example, a “\$20- all you can drink” special would be a violation of this law.

On premises licensees are also prohibited from advertising, promoting or charging a price for drinks that, in the judgment of the SLA, is an attempt to circumvent the law. The Authority has generally regarded drink prices which are less than one half of the regularly charged price as such an attempt. For example, a “\$1 beer special” when beers are ordinarily \$5 would be a violation of the law.

The law does not apply to: private functions not opened to the public, such as weddings, banquets, or receptions, or other similar functions; or to a package of food and beverages where the service of alcoholic beverages is incidental to the event or function.

### **Can I provide a patron with a complimentary drink?**

No, this too is a violation of the unlimited drink offering law.

### **Who can I buy alcoholic beverages from?**

You must purchase all of your inventory from either a licensed wholesaler or a licensed manufacturer.

### **Can I sell to another retailer (package stores, restaurants, bars, etc.)?**

No, you may only sell to an end consumer.

### **What food must I make available?**

A restaurant must make available full entrée style meals.

### **Must I notify the Authority before making a change in ownership?**

Yes, if you plan to take on or remove owners/investors, change shares of ownership, or appoint or remove officers/directors/members, *before* making those changes, you must submit and wait for the approval of a corporate change application. A corporate change application can be found [here](#).

#### **Are there any exceptions?**

Yes, where a corporation/LLC or has 10 or more stockholders/members and a change involves less than 10% of the stock holdings/ownership of the corporation/LLC and no stockholders/members total holdings/ownership are increased to 10% or more.

### **Can another business entity operate on my licensed premises?**

No, you must have exclusive control of the premises, you cannot allow another business entity to operate there. Note however that unlike other on premises retailers, a licensed restaurant may share interior access with another business (e.g., a café within a department store).

### **What do I do if I need to close for some period of time?**

If any circumstance keeps you from operating the licensed premises for 2 weeks or more, you should return your physical license certificate to the nearest SLA zone office for safekeeping for the time which your business will not be operating. Failure to place your license in safekeeping could result in disciplinary charges. [SLA Advisory #2015-5](#).

### **Must I notify the Authority before I make changes to my restaurant?**

Yes, any significant change requires the filing of an alteration application *before* renovations begin. The form may be found [here](#). A significant change includes:

- Any enlargement or contraction of the premises
- Any physical change that reduces visibility
- Any other change that materially affects the character of the premises

#### **Must I notify the Authority about minor changes?**

Yes, you must file an affidavit request for any change costing less than \$10,000 which does not affect the character or structure of the premises. If the request is not denied within 20 days, it is deemed approved on the 25<sup>th</sup> day from after filing.

### **How do I notify the Authority of minor changes in the business?**

An endorsement application is used for minor changes such as the following:

- Name or Address corrections on the license certificate
- Court appointments of representative
- Dissolution of partnership or addition of partner
- Principal name changes due to marriage or divorce
- Amendment to the corporate name of the licensed premises when there is no change in ownership or corporate entity.

An endorsement application may be found [here](#).

### **Where do I need to post my license and warning signs?**

Your original license certificate must be enclosed in a frame and behind glass and placed in a conspicuous location at the licensed premises. Your pregnancy warning sign must be placed as close as possible to where alcoholic beverages are being served. Your sale to minors and intoxicated persons sign must be displayed in a conspicuous location at the licensed premises.

### **How do I request a replacement license certificate or warning sign?**

Submit a written request for a replacement certificate or signs signed by an authorized principal. For a license, the request must contain a statement as to what may have happened to the license i.e. lost, stolen, damaged. The request should be emailed to: [licensing.information@sla.ny.gov](mailto:licensing.information@sla.ny.gov)

### **What hours can I sell?**

Please visit [here](#) to see the hours in your county.

### **Where can I store my product?**

You may store your product at your licensed premises or at an SLA permitted warehouse (belonging to a you or to a third party).