

## **Frequently Asked Questions Regarding Drinks To Go:**

Alcoholic Beverage Control Law §106 contains new privileges for on premises licensees to serve liquor and wine for take out and delivery. The statute can be found here:

<https://sla.ny.gov/system/files/documents/2022/04/drinks-to-go-law.pdf>

The Authority has issued Advisory 2022-2 to further define the requirement of permitting such sales only when accompanied by “substantial food” and the restriction against selling “bottles” of wine or liquor. The Advisory can be found here:

[https://sla.ny.gov/system/files/documents/2022/04/advisory\\_2022-2\\_-\\_sale\\_of\\_wine\\_and\\_liquor\\_to\\_go\\_by\\_on\\_premises\\_retail\\_licensees-2.pdf](https://sla.ny.gov/system/files/documents/2022/04/advisory_2022-2_-_sale_of_wine_and_liquor_to_go_by_on_premises_retail_licensees-2.pdf)

Here are some answers to frequently asked questions to further illustrate the parameters of the law:

**Q:** As an on premises licensee with the privilege to sell liquor and/or wine, while the statute prohibits selling bottles of wine, can I sell a carafe of wine of the same volume as a bottle?

**A:** No. The statute’s intent to restrict the sale of full bottles cannot be evaded by selling the equivalent of a bottle. As set forth in the Authority’s guidance, transferring the contents of a bottle into a same or equivalent bottle/container is also a violation of the law.

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**Q:** As an on premises licensee with the privilege to sell liquor and/or wine, can I sell the contents of a 12 ounce can of wine or liquor as two 6 ounce drinks?

**A:** Yes, as long as that offering is also available for on premises consumption at the same price.

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**Q:** The Authority’s guidance states that “transferring the contents of a bottle of wine or liquor to a same or equivalent bottle” is a violation of the provision of the law prohibiting bottle sales of liquor or wine by on premises retailers. Does this prohibition only refer to a transfer of precisely the same volume?

**A:** No. The Authority will consider any obvious attempts at circumvention, e.g., transfer of 740ml of wine from a 750ml bottle to another bottle or container, as a violation of the law.

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**Q:** As an on premises licensee with the privilege to sell liquor and/or wine, how does the restriction on selling bottles, boxes, or cans of wine or liquor apply to containers that contain a single serving? Can I sell a bottle or can that contains a single serving of wine, a single serving ready to drink cocktail, or the like?

**A:** Yes, but not in the original container as purchased from a wholesaler. Unlike a multiple serving bottle of wine or liquor, the Authority will not consider it a violation of the law to pour a single serve wine or liquor product into a single serve, sealed container for sale for off premises consumption.

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**Q:** Are there any volume limitations or quantity limitations on the sale of drinks to go?

**A:** No. Apart from the prohibition of sales of bottles as explained in the advisory, the statute does not contain limitations on volume or quantity.

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**Q:** I am a manufacturing licensee, am I able to sell drinks to go under the new law?

**A:** Yes, if you have a separate on premises retail license that allows for the sale of liquor and/or wine.

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**Q:** I am an on premises retailer with a "club" license designation on my license certificate, and I do not serve food, may I sell drinks to go without a substantial food item?

**A:** No. The law requires that a substantial food item accompany drinks to go.

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