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ADVISORY #2022-34

Subject: Temporary Retail (ST) Permits – eligibility, notice requirements and conditions

As a result of recent changes to the ABC Law, this advisory is issued to provide guidance regarding eligibility for ST permits. After an application is reviewed, it will either be approved, disapproved, or forwarded to the Full Board for a determination. All sections of this advisory should be reviewed because certain ST permits are subject to additional restrictions based on where the premises is located and if the premises is subject to the 500 Foot Law.

Applicants eligible for ST permits

The following retail license applicants are eligible for an ST permit:

- transfer applications (statewide).
- new grocery stores, drug stores and roadside farm markets (statewide).
- new on-premises beer licenses (statewide).
- new on-premises wine licenses (statewide).
- new on-premises liquor licenses that are not subject to 500 Foot Law (statewide).
- new on-premises liquor licenses outside of NYC that are subject to 500 Foot Law: (1) only after the 500 Foot Hearing; and (2) only if the ALJ finds that the applicant has demonstrated that it would be in the public interest to issue the license.
- new on-premises liquor licenses within NYC that are subject to 500 Foot Law and: (1) there was at least one license in effect at the location within the last two years; (2) no license at the premises was suspended, cancelled or revoked within the last two years; (3) only after the 500 Foot Hearing; and (4) only if the ALJ finds that the applicant has demonstrated that it would be in the public interest to issue the license.

Applicants not eligible for ST permits

The following license applications are not eligible for an ST permit:

- new package and wine stores (statewide).
- new on-premises liquor licenses outside of NYC that are subject to 500 Foot Law and the ALJ conducting 500 Foot Hearing concludes that the applicant has not demonstrated that it would be in the public interest to issue the license.
- new on-premises liquor licenses within NYC that are subject to 500 Foot Law and: (1) there has not been at least one license in effect at the location within the last two years; or (2) a license at the premises was suspended, cancelled or revoked within the last two years; or (3) the ALJ conducting 500 Foot Hearing concludes that the applicant has not demonstrated that it would be in the public interest to issue the license.

Community Board Notice

ST permit applicants for any on-premises license (beer, wine, or liquor) in NYC must provide notice to its Community Board. Failure to provide this notice will result in disapproval of the ST permit application. This notice is in addition to the notice of the license application that must also be sent to the Community Board, however:

- applicants can use one form to provide notice for both the license and permit.
- the notice for the ST permit has the same time restrictions as the regular notice - it must be delivered in the same manner at least 30 days before (but no more than 270 days before) the ST permit application is filed.
- if the application is already filed and the applicant is now requesting an ST permit, the 30-day period starts on the date that the notice for the license was sent to the Community Board (For example, an applicant delivered the standard notice on November 1st, then filed its license application on December 1st. Now that it is eligible for an ST, it sends the notice for the ST to the Community Board on December 31st. The 30-day period for the ST notice starts on November 1st, so the ST application can be filed immediately).

Applications subject to the 500 Foot Law

An ST permit for a new license application subject to the 500 Foot Law can only be issued after the 500 Foot Hearing and only if the ALJ finds that the applicant has demonstrated that it would be in the public interest to issue the license. If the ALJ finds public interest, the ST permit can be issued even if there is opposition to the license application. If the ALJ does not find public interest, action on the ST permit application will be deferred until the Members of the Authority consider the license application. If the license application is approved, the ST permit can be issued.

If the premises is in NYC, the ST permit will be subject to the following conditions: 1) closing time no later than 12 AM any night; (2) any outdoor space closes at 10 PM Sundays through Thursdays and 11 PM on Fridays and Saturdays; (3) no outdoor music; and (4) recorded background music only indoors- no live music, DJs, karaoke, or dancing.

Transfer applications

To be considered a “transfer application, the seller’s license at the location must have been active and the business open and operating within 30 days of the filing of the ST permit application. If the applicant is expanding the size of the premises or changing the class of license, the application should be treated as a “new” application to determine eligibility for ST permit.

Applicants are reminded that, if the seller is also applying for a liquidator’s permit, that application will be denied if the seller is on the C.O.D. list. If the only thing being sold as part of the transfer is the alcoholic beverage inventory, the license application will no longer be treated as a transfer application.

Removal and class change applications

Applications to move the licensed premises to a new location (removal applications) or switch from one class of licensee to another (class change applications) are considered “new” applications for determining eligibility for a ST permit. A class change includes not only going from one type of alcoholic beverage (for example: wine store to package store or on-premises wine to on-premises liquor), but also includes changing from one type of on-premises liquor (or wine) license to another type (for example: changing from a restaurant license to a tavern license).

Method of Operation under the ST Permit

Except for applications for premises in NYC that are subject to the 500 Foot Law, the applicant must operate under the ST permit using the method of operation described in the license application. This applies to new and transfer applications. ST permits for premises in NYC that are subject to the 500 Foot Law will have the following conditions: 1) closing time no later than 12 AM any night; 2) any outdoor space closes at 10 PM Sundays through Thursdays and 11 PM on Fridays and Saturdays; 3) no outdoor music; and 4) recorded background music only indoors- no live music, DJs, karaoke, or dancing.

Applications subject to the 200 Foot Law

If the applicant’s premises is subject to the 200 Foot Law, a ST permit cannot be issued to the applicant. The license application itself will also be disapproved.

Additional Bars

If the applicant has applied for an additional bar (or bars) with the license application, it must also apply for an ST permit for each additional bar to use that bar while the license application is under review.

Seasonal licensees

An ST permit cannot be issued to an applicant seeking a seasonal license if the season for that license has not yet started.

Extension of ST permit

The original ST permit is good for 90 days. The applicant can request extensions of the permit. Each extension is for 30 days. If an applicant's ST permit expires the applicant has 15 days from the date of the expiration to request an extension. If granted, the extension is effective the date it is issued. If more than 15 days has passed since the ST permit expired, the applicant must file for a new 90-day permit.

Applicants are reminded that while they can have a ST permit after receiving a conditional approval, no extensions of the ST will be granted if the applicant requires an extension of the conditional approval.

This matter was heard and determined by the Members of the Authority at a Full Board meeting held on November 22, 2022 before Chairman Vincent Bradley, Commissioner Lily Fan, and Commissioner Greeley Ford. The above written advisory was approved by the Members of the Authority on November 22, 2022.

Dated: 12/13/22



Donald Roper
Secretary to the Authority