

# Inside NYSABC

The official newsletter of the New York State Association of Beverage Centers



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## Governor Cuomo Hosts Second New York State Wine, Beer, Spirits and Cider Summit, Proposes Major Overhaul Of Alcoholic Beverage Control Law

NY Governor Andrew Cuomo hosted the state's 2nd Annual Wine, Beer, Spirits and Cider Summit in Albany on Tuesday, April 8. He used the all-day session to announce a new \$6 million promotional campaign to raise the profile of NY's beverage producers, roll out proposed legislation to streamline the state's alcoholic beverage control laws, and simplify state agency regulations relating to alcohol manufacture and sales.

### The highlights:

**Promotion and Marketing.** The State will commit \$2 million in direct spending to support the industry's growth via a \$1 million targeted advertising campaign and \$1 million in tourism promotion funding. Additionally, Empire State Development (ESD) will launch a \$2 million grant program that matches \$2 million in industry contributions for the marketing and promotion of NY-produced wine, beer, spirits and cider.

**New Legislation.** The governor announced plans to introduce legislation designed to consolidate and simplify distilling licenses, raise production limits and lower licensing fees for craft manufacturers, expand marketing opportunities, modernize shipping laws, and increase retail outlets where small craft manufacturers can sell, serve, and offer samples of their products.

**Agency Actions.** Cuomo promised that in the coming weeks the State Liquor Authority (SLA), the Department of Agriculture and Markets and the Department of Taxation and Finance will issue advisories clarifying laws and regulations that have previously caused confusion in the beverage industry. He said the SLA will eliminate unnecessary paperwork and clarify standards on brand label registrations and the sales of growlers; eliminate the need for farm wineries to obtain a bond; reduce costs to manufacturers and wholesalers with multiple licenses by allowing them to deliver all their products in one shipment; provide guidance to the industry concerning the new "roadside farm market law;" and offer breweries interim licenses to expedite the start of operations.

**Tourism Initiatives.** A *Taste NY* marketing and branding program at state liquor stores will be created to maximize exposure and sales. The program will include *Taste NY* signage to highlight New York-made wine and spirits and encourage store owners to build product displays highlighting New York brands. *Taste NY* will also

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# Major Overhaul of Alcoholic Beverage Control Law Proposed *continued from front cover*

offer bus tours from New York City to wine and beverage trails in the Finger Lakes, Mid-Hudson, Long Island, Niagara and Thousand Island regions. For more on *Taste NY*: <http://www.taste.ny.gov>.

**One-Stop-Shop to be Expanded.** In 2013, Governor Cuomo launched a “one-stop-shop” in the Empire State Economic Development Agency to provide New York’s wine, beer and spirits producers with a single point of government contact for help with regulations, licensing, state incentives, and any other questions or issues facing the industry. The shop will be expanded to market state financing options to the farm-based beverage industry; a new on-line marketplace will connect farmers to beverage producers; a new business mentor program for the craft beverage industry will be launched; and state-operated webinars will be hosted on a variety of industry-related topics. To access the “one-stop-shop”: <http://esd.ny.gov/nysbeveragebiz.html>.

For specifics on the Governor’s proposed legislation and the new SLA Advisories, see below.

## **Governor’s Proposal to Simplify ABC Law Would Allow Grocery, Convenience Stores To Offer Tastings**

Following on the heels of the Governor’s Monday, April 8 Wine, Beer, Spirits and Cider Summit, in a Wednesday, April 10 meeting the SLA rolled out details of the Governor’s 123-page proposal to revise the ABC Law.

The bottom line for C-Licenses: there are no changes in the C License, but groceries and convenience stores (A licenses) will be allowed to offer tastings using their own employees. The details:

At the session, held live in Albany and broadcast to SLA headquarters in Harlem and around the state via conference telephone call, SLA Chairman Dennis Rosen said the main purposes of the proposal is to reorganize the ABC Law along functional lines (all retail together, all wholesale in the same section, etc.), and to simplify the law for farm wineries, distilleries and breweries. After the Chairman’s introduction, SLA Special Counsel Tom Donohue went through the changes. In response to a question from NYSABC Counsel Ken Rosenblum, he reaffirmed there is no intent to change anything for C Licenses.

The only major proposal that affects Cs is that **all** retail off-premises beer licensees, including groceries and convenience stores, would be allowed to offer beer tastings



**NYSABC Directors Neil Kavanaugh and Henry Kane with Governor Andrew Cuomo at Wine, Beer and Spirits Summit in Albany on April 8, 2014.**

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## Law Would Allow Stores to Offer Tastings *continued from page 3*

using their own employees. The only limitation is the tastings must be offered from a keg, not poured from a can or bottle. The text of the Governor's proposed law on tastings is available on the NYSABC website, at <http://www.nysabc.org/pages/abc.php>.

Chairman Rosen said the Governor supports the SLA bill, which he expects will be fast-tracked. The only issue he acknowledged might be a problem is the expansion of tasting to grocery and convenience stores, which he said has drawn strong opposition from several regions, including Long Island.

### SLA Advisories Clarify Issues

As a companion piece to the proposed ABC Law revisions, the SLA has approved a series of advisories intended to clarify some open issues, simplify procedures, and in one case add a requirement to a new law that prohibits accepting EBT cards for the sale of alcoholic beverages. Most relate to farm wineries and other specialized manufacturers, but several affect C-Licenses.

Advisory #2014-11 **Growlers** makes it clear that off-premises licensees can sell growlers: "...licensees selling beer or cider at retail for off-premises consump-

tion may pour the beer or cider from the original container into a growler for the consumer. The growler may be one provided or sold by the licensee, or one provided by the consumer."

Advisory #2014-12 **Deliveries of Alcoholic Beverages** changes the SLA's position that a company holding multiple licenses (e.g., a beer wholesale license and a liquor wholesale license) cannot deliver beer and liquor together in the same vehicle. The new rule is that licensees with multiple licenses may transport any and all alcoholic beverages they manufacture or sell in the same vehicle at the same time, provided that copies of all relevant licenses are maintained in the cab of the vehicle.

Advisory #2014-16 **EBT Transactions**. A companion to a new law that prohibits welfare benefits from being used to purchase alcohol and tobacco, or to be used at liquor stores, casinos and strip clubs, this advisory requires C Licenses to block EBT access from POS credit/debit card terminals and ATMs. See details, next article.

Summaries of all the advisories are available here <http://www.governor.ny.gov/press/04102014-wine-beer-spirits-cider-summit>.



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# SURFING THE 'NET



## NYSABC Rolls Out New Website

*NYSABC is on the web! Check out the new site, at <http://www.nysabc.com>. The site has copies of NYSABC newsletters, alerts on new laws, rules and regulations that affect the industry, links to federal and state regulatory agencies and beverage business news sources, and a quick way to contact NYSABC.*

**New York State Association of Beverage Centers**  
51 Garfield St. Bay Shore, NY 11706-7217

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**Breaking News:** Suffolk County Raises Minimum Age for Tobacco Sales to 21, Effective January 1, 2015  
[Get the details and download a printable sign >](#)

**Alert:** New Suffolk law to prohibit tobacco, e-cig sales to persons under 21 in effect January 1, 2015  
[Get the details >](#)

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## New State Law Prohibits Cs From Accepting EBT Cards; SLA Rule Requires EBT Use to be Blocked at Credit Card Terminals and ATMs

Governor Cuomo has signed legislation prohibiting certain SLA licensees from accepting Electronic Benefit Transfer (EBT) cards for payments. The new legislation, which becomes effective on May 30, 2014, applies to C Licenses.

The SLA has also approved a new companion advisory that requires C licensees to make sure that access to electronic cash purchases from EBT accounts is disabled at their licensed premises. A licensee that has POS service already has an existing contract with a third party processor that routes electronic transactions through the commercial debit and credit networks. The SLA advisory **requires licensees to contact that third party processor and request that the third party processor**

**disable or remove EBT access from the licensee's account.** Once the EBT access has been disabled, an EBT cardholder who attempts to use the card will receive the same message that any other customer with a non-participating debit/credit card would receive, and the card simply will be declined.

For "C" Licenses that have an ATM on their licensed premises, **separate action is required to ensure that EBT cardholders are not able to withdraw money from ATMs at these locations. These licensees should contact the financial institution that is part of the licensee's contract for ATM services and request that the financial institution add the New York EBT card's unique**

**Bank Identification Number (BIN), which is 600486, into their system and flag it as an unacceptable transaction. Once the BIN has been uploaded into the system, an EBT cardholder who attempts to use the card at those ATMs will be declined.**

A violation of this new law subjects the licensee to possible disciplinary action, which could include license revocation, cancellation or suspension.

If you have any questions or need help in implementing EBT card blocking, contact Al Rios at the New York State Office of Temporary and Disability Assistance, 518-473-9696 or e-mail [al.rios@otda.ny.gov](mailto:al.rios@otda.ny.gov).

## Suffolk County Raises Minimum Age For Tobacco Sales To 21, Effective January 1, 2015

A Suffolk County law passed in March will raise the age for the sale of tobacco products (including e-cigarettes) to 21, effective January 1, 2015. NY City banned the sale of tobacco products to persons under 21 in November, and a similar law has been proposed in Nassau County.

Following is a summary of the Suffolk law. The full text is available on the NYSABC website, along with a printable warning sign required by the law.

**Post Sign.** Sign must be on a white card in red capital letters at least 3/4 inch in height:

**SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ROLLING PAPERS OR PIPES TO PERSONS UNDER 21 YEARS OF AGE IS PROHIBITED UNDER PENALTY OF LAW.**

**E-Cigarettes, Liquid Nicotine Also Covered.** The sale of e-cigarettes and liquid nicotine to persons under 21 is also prohibited.

**Proof Required.** Valid state, federal or Canadian driver's license or non-driver's identification card, passport or US Armed Forces ID card.

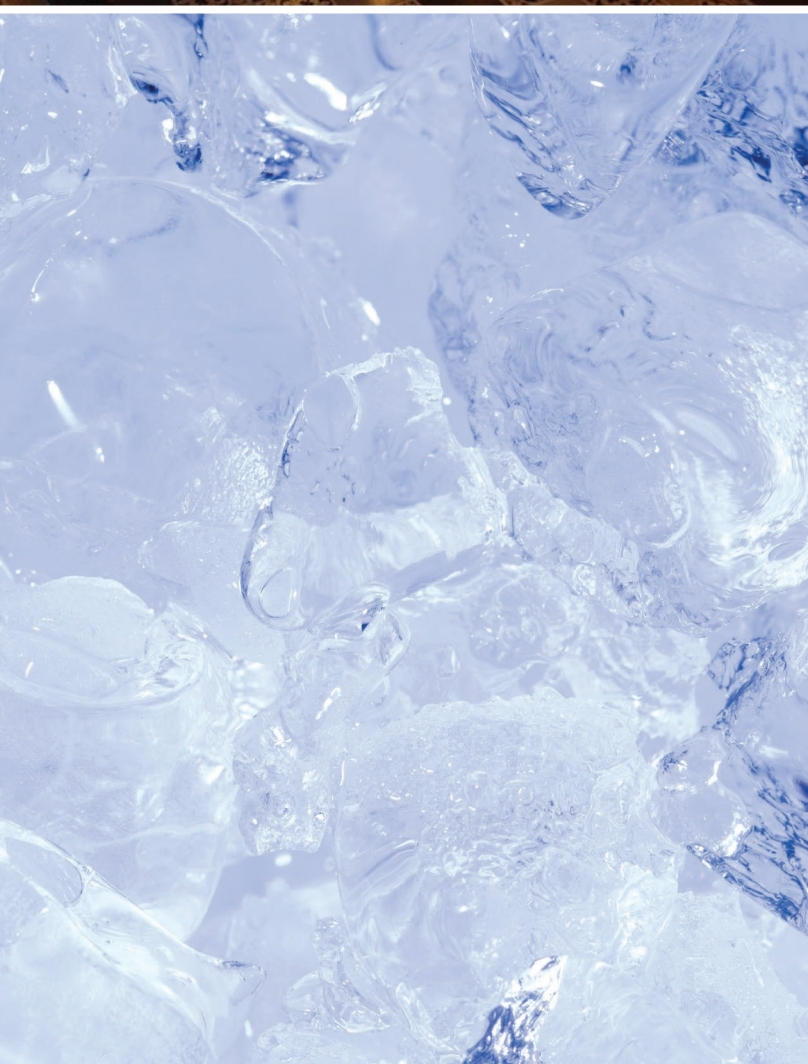
**Product Display.** Covered tobacco products (including e-cigarettes and liquid nicotine) must be stored behind the counter in an area accessible only to store personnel, or in a locked container.

**Penalties.** Fine by Health Department, \$300-\$1000 for the first violation, minimum of \$500, maximum of \$1500 for each subsequent violation.





NYSABC leadership spent the day in Albany on Monday, March 24, 2014, meeting with key legislators, industry stakeholders and policy makers. Shown left with Laura Haight, Senior Environmental Advocate, New York Public Interest Research Group (NYPIRG), one of the state's most respected bottle law advocates, are L-R, Director/Counsel Ken Rosenblum, Director Neil Kavanaugh, Legislative Liaison Pete Sobol, and Director Henry Kane.



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## **NJ Firm Pays \$160K for Pocketing Container Deposits**

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NY State Attorney General Eric Schneiderman announced that NJ-based FID Distributors will pay nearly \$160,000 for violating the Returnable Container Act (the “Bottle Bill”). A joint AG/DEC investigation found that FID sold beverages in NY from 2010-12, without registering as a deposit initiator or creating the required deposit refund account. The firm allegedly collected over \$400K in deposits over that period, which means that they owed the state 80%, or \$330K. The state settled for less than half the amount, due to the company’s “poor financial health.”

## **AB Buys Blue Point**

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Anheuser-Busch has purchased Blue Point Brewing Company of Patchogue, Long Island’s oldest craft brewery. Price and details of the deal, which will close later this year, were not announced. Blue Point, founded in 1998, now accounts for about 1% of the beer sold on Long Island. The move continues the trend of big beer takeovers of craft brewers. Blue Point is AB’s second major craft acquisition; it bought Chicago-based Goose Island in 2011.

## **Diet Coke Sales Flat**

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Typically one of the safest investments around, Coca-Cola has had a tough time recently. The stock is up only 11 percent since 2012, compared with a 26 percent gain for rival Pepsi and a 47 percent climb in the S&P 500 over the same time. Coke’s U.S. soda market has been the major weakness, where consumers have shied away from diet drinks because of health concerns. Coke may be looking at acquiring Monster Beverage, either to fill the gap or preempt a takeover by a rival. <http://www.cnn.com/id/101561329>.

## **Coffee, Tea or Craft Beer?**

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Atlanta-based SweetWater Brewing Company has partnered with Delta Air Lines to offer the brewery’s flagship 420 Extra Pale Ale on Delta’s 34 daily flights between Atlanta and LaGuardia Airport. The partnership was made possible when SweetWater began canning two of its most popular brews, avoiding the restrictions on glass in many venues. Southwest already serves New Belgium Brewing’s Fat Tire Amber Ale, and JetBlue has a deal with Boston Beer to serve Samuel Adams in the air. <http://www.cnn.com/id/101532224>.

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