

Legal Update Article

# **Proposed Amendment to New York Alcoholic Beverage Control Law Affects Hotels in State**

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### Hospitality

New York Governor Andrew Cuomo has proposed language in his budget amending the definition of a “Hotel” under the state Alcoholic Beverage Control (“ABC”) Law Section 3(14) to eliminate the requirement for hotels to have a restaurant in the building of the hotel.

Currently, in order for a hotel to qualify for a “Hotel” liquor license in New York, there must be a restaurant within the building in which the hotel is located (the restaurant does not have to be part of the hotel, just in the same building).

Under existing ABC Law Section 3(27), a restaurant is defined as:

[A] place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods, which may be required for ordinary meals, the kitchen of which must, at all times, be in charge of a chef with the necessary help, and kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health.... “Meals” shall mean the usual assortment of foods commonly ordered at various hours of the day; the service of such food and victuals only as sandwiches or salads shall not be deemed a compliance with this requirement.

Hotels with just a “market” or “suite shop” in the lobby, but no restaurant, are not currently eligible for a Hotel liquor license in New York (since there was no restaurant in the hotel building). Those hotels have traditionally obtained “Tavern Wine” or “On-Premises Bar” liquor licenses, which allow only for the sale, service, and consumption of alcohol in “market” or “suite shop” areas of the hotel.

The proposed legislation removes the requirement that there be a restaurant in the hotel. Under the proposed legislation, in order to qualify for a “Hotel” liquor license, the hotel need only have:

[F]ood available for sale or service to its customers for consumption on the premises in the hotel or in a restaurant or other food establishment located in the same building as the hotel. The availability of sandwiches, soups and other foods, whether fresh, processed, pre-cooked or frozen, shall be deemed in compliance with this requirement.

If the proposed changes are signed into law, hotels that have only a “market” or “suite shop” in the lobby of the hotel will be able to obtain a hotel liquor license, thus allowing guests to purchase alcohol in the “market” or “suite shop” and take the alcohol back to their guest room or other areas of the hotel.

We will be monitoring this legislation and will provide updates on its progress. For more information on hospitality law or government affairs, please contact your Jackson Lewis attorney.

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