



Testimony SLA Draft Guidance on 3rd Party Service Providers

Good morning. My name is Kevin Dugan and I am the Director of Government Affairs for the New York State Restaurant Association. We are a trade group that represents food and beverage establishments throughout New York State and have advocated on behalf of our members for more than 80 years. Our members are one of the largest and most widely impacted constituencies in New York, as nearly every agency regulates some aspect of this industry. To ensure the continued viability of the restaurant industry, we work with all levels of Government to prioritize regulations that enable these hardworking restaurant owners to continue to make their livelihoods in this wonderful industry.

Today, I am testifying on the issue of 3rd party service providers and their relationship to a restaurant's liquor license. I certainly do not need to tell the State Liquor Authority how vital these licenses are to a restaurant's viability. For many of our members their ability to serve and sell alcohol is directly related to their ability to stay in business. We at the Association understand the magnitude of any decision or interpretation that may alter the current operating system and are hoping to gain some clarity today on what, if anything, this draft guidance changes when it comes to who must be listed on these important licenses.

To that end, the Association has submitted a number of questions for your review. These questions range from asking for clarification of the Liquor Authority's definition of profits vs gross profits, to important liability concerns the Association has over who bears the brunt of the punishment if this guidance is not interpreted correctly. As an Association that represents the restaurant industry, we would have major concerns over any law that may lead to additional litigation against our members, especially if this were to come in an area that has no direct impact to the safety or well-being of our customers and staff. Any clarity when it comes to these concerns would be greatly appreciated.

The draft guidance also makes mention of profit sharing and the need to have those that enter into these types of agreements over the 10% threshold to be listed on a liquor license. In our opinion many 3rd parties do not enter into a profit sharing agreement as it is traditionally defined. Most service providers, especially those in the deliver space take a percentage from particular sales which again, we do not view as a profit sharing relationship. If the State Liquor Authority does view this as profit sharing and an issue that would fall under this guidance we would raise concerns that while this may cap percentages at 10 percent we may very well see flat fees rise to a level that would potentially be untenable for restaurants to handle. We would appreciate some further clarity on this particular issue.

We would also like to ask the Authority if there has been any work done that scopes the impact of this guidance and its effect on the restaurant industry, specifically in what this may do to the 3rd party delivery space. While it is no secret that the restaurant industry has certain concerns with

the fee structure of some of these companies, many restaurants around the state rely on these service providers to do business with a large segment of their customer base. Delivery is one of the fastest growing segments of the restaurant industry and we would caution against any decision that could potentially close off this revenue stream to restaurants in the State of New York. Yes, work needs to be done when it comes to the relationship between restaurants and these delivery companies but we would urge the SLA to carefully examine the impact of this guidance as it may harm restaurants more than help them if handled incorrectly.

As always, the NYS Restaurant Association stands ready to continue our partnership with the SLA to ensure the safe and responsible consumption at our restaurants. Again, very few things matter more to a restaurant's ability to remain open than having a valid liquor license. Adding more service providers to a license is something that restaurants do not want to do. We again thank you in advance for review of the questions that we have submitted to the Liquor Authority for your review and welcome any further discussion on this important issue.

Kevin Dugan

New York State Restaurant Association
