

HOSPITALITY AND TOURISM

INFORMATION MEMO

FEBRUARY 5, 2025

Service of Donated Alcohol by Not-for-Profit Entities and Institutions of Higher Education

Not-for-profit entities and institutions of higher education may hold liquor licenses for their facilities. They may also be involved in catering events where alcohol is served on and off their premises. In connection with these events, these licensees may receive donated alcohol, and should therefore be familiar with the rules regarding service of that alcohol in New York.

The New York State Liquor Authority has issued an Advisory addressing these issues.

This Advisory provides the following guidance:

1. The licensed entity (here, the not-for-profit entity or educational institution), if it holds a liquor license allowing for the “on premises” sale of alcohol, may not accept any donations of alcohol from the following types of donors:
 1. An alcohol manufacturer;
 2. An alcohol importer;
 3. An alcohol wholesaler or distributor; or
 4. Any party holding a retail liquor license (e.g., a liquor store, a restaurant, a bar).
2. The licensed entity may accept donations of alcohol from donors (other than those four (4) types of donors named above) for up to six (6) specific events per calendar year if:
 1. The event is conducted by, and for the benefit of, the licensed entity;
 2. Attendees at the event are not separately charged for the alcoholic beverages (i.e., the event must be “open bar”); and
 3. Any donated alcohol remaining after the event must be removed by (or returned to) the donor.
3. If the licensed not-for-profit entity or educational institution is catering an event for another not-for-profit (e.g. a college allowing a local charity to hold a fundraiser on campus, where the college handles food and alcohol service), the other not-for-profit entity can accept donations of alcohol made to that not-for-profit entity.
 1. The licensed entity can hold the donated alcohol on behalf of the other not-for-profit entity until the event is held.
 2. The licensed entity should ensure that:
 - i. All alcohol remaining after the event is returned to the not-for-profit entity sponsoring the event or to the donor; and

ii. Attendees are not charged for the alcoholic beverages (i.e., “open bar”).

4. If any not-for-profit organization or educational institution wishes to auction (or sell by the bottle) donated alcohol, it can apply for a charitable permit to do so. However, five conditions must be met:

1. Contributions made by an individual donor must be deductible for federal income tax purposes;
2. The funds raised by the sale of alcoholic beverages are to be used for the entity’s not-for-profit purposes;
3. All of the alcoholic beverages must be in sealed containers;
4. Not more than 80 cases of alcoholic beverages can be sold; and
5. The sales can only take place during the hours that a retail off-premises licensee in that county could sell the alcoholic beverages.

5. New York Law does not currently allow alcohol to be used as raffle prizes¹. New York General Municipal Law section 195-d states “[N]o alcoholic beverage shall be offered or given as a prize in any game of chance.” There is a bill pending to change that section of the law, which was reintroduced on Feb. 3, 2023, but it is still currently assigned to the Racing and Wagering Committee.

With respect to whether a licensed not-for-profit entity or educational institution can still serve alcohol at an event where raffles are being held by another not-for-profit entity, the regulations of the New York Gaming Commission at 9 NYCRR 4620.22 state that alcohol may be sold and consumed in the area where the raffle tickets are being sold, and where the raffle drawing is being conducted. The Liquor Authority also previously issued a Declaratory Ruling indicating that the licensee (here, the not-for-profit or educational institution selling the alcohol) is not violating the Liquor Authority’s general prohibition on gambling, as long as the raffle conducted by the not-for-profit entity that is sponsoring the event is legal, and the licensee isn’t involved in the sales or promotion of such a raffle.

If you have any questions regarding the contents of this info memo please contact [Jennifer L. Tsyn](#), any attorney in the firm’s [hospitality and tourism practice](#) or the Bond attorney with whom you have regular contact.

¹ The law considers “raffles” as a “game of chance,” which are treated differently than auctions of alcoholic beverages.

