

# Inside NYSABC

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



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## Beer Briefs

### Beer and Diet Soda Sales Lose Fizz

The insider journal *Beer Marketer's Insights* reports that brew sales declined 2.3 percent between 2007 and 2012. Some well-known brands have done much worse. Michelob Light sales sunk nearly 70 percent while Bud Select plunged more than 60 percent over that 5-year period. According to a recent article in the Wall Street Journal, sales of zero- and low-calorie soda fell nearly 7 percent over the past year, while for full-calorie sodas the decline has been just over 2 percent. Experts attribute the drop to health concerns, with soft drink consumers worrying about the safety of artificial sweeteners and beer drinkers concerned about health and rising prices (up 7% in bars and restaurants October 2012-April 2013 in one report). One big winner has been the wine, with 35 percent of Americans telling Gallup pollsters wine is their drink of choice, up from 27 percent in 1992. Beer, meanwhile, has lost more than 10 points in the same time period.

### Light Beer Market Going Flat, Too

The top labels from Anheuser-Busch, Molson Coors and Miller are still high on the list of the most-consumed beers in the U.S., and domestic light beers still represent just more than half of the US beer market, but one recent study shows that 4 of the top 5 light beers lost ground 2010-2012: Bud Light sales off 2.2%, Miller Light down 7.6%, Keystone Light -10.6% and Natural Light off 12.2%. Only Coors Light showed a gain during this period, up 3.3%, and Silver Bullet sales have turned down in 2013. One survey this summer showed that many drinkers think light beer no longer "tastes great." "Getting tired of the taste" was the No. 1 reason why former light beer drinkers were switching. They are migrating to craft beers, ciders, alcohol teas, flavored spirits and other adult beverages. Look for the big players to try to head off the trend with advertising blitzes and repackaging offensives in 2014. For more on the survey: <http://tinyurl.com/k4qwstt>.

## New York State of Mind

Empire State Cellars, located in the Tanger Outlet Mall in Riverhead, sells exclusively New York State beers, wines, cider and spirits, see <http://www.empirestatecellars.com/>. How do they do that? They are a satellite tasting room of Peconic Bay Winery in Cutchogue, which is a farm winery. Farm wineries can

offer tastings and sell for off-premises consumption NY wines, beers, ciders and liquor. A 2011 amendment to the ABC Law promoted as an aid to NY products allows holders of farm winery licenses to operate up to five branch offices located away from the licensed farm winery premises.

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## New DEC Rule Requires Record Keeping on High-Volume Redemptions

A dealer or redemption center must require anyone redeeming more than 2500 containers at one time to provide his/her name, address and the license plate of the vehicle transporting the containers, or, in the case of a not-for-profit corporation, a sales tax exemption certificate. The information must be kept for 12 months and provided to the DEC on request. The bulk redemption form is available at <http://tinyurl.com/bulkRedeem>.

## Long Island is Brew Country

From Oceanside east to Montauk and Fire Island north to Port Jeff, brew pubs and craft breweries are blossoming all over the island. Many of the breweries offer tours and tastings, and sell product to pubs and beverage centers.

### Brew Pubs

#### Black Forest Brew Haus

2015 New Highway, Farmingdale 11735  
 631.391.9500  
<http://www.blackforestbrewhaus.com/orderze/default.aspx>

#### BrickHouse Brewery & Restaurant

67 West Main Street, Patchogue 11772  
 631.447.BEER (447.2337)  
<http://www.brickhousebrewery.com/>

#### Southampton Publick House

40 Bowden Square, Southampton 11968  
 631.283.2800  
<http://www.publick.com>

#### John Harvard's Brew & Ale House

2093 Smithaven Plaza, Lake Grove 11755  
 631.979.2739, Branch of a Massachusetts-based mini-chain  
<https://www.johnharvards.com/>

### Production Breweries

#### Barrier Brewing Company

3001 New Street A2, Oceanside 11572  
 Tasting room hours Wednesday-Thursday-Friday 4-8 pm, Saturday noon-7 pm  
 Sunday 1-5 pm  
<http://barrierbrewing.com>

#### Blind Bat Brewery

Nanobrewery in Centerport  
 "Wood smoked and other odd ales"  
<http://blindbatbrewery.com/>

## NYSABC FAQs

Answers to frequently asked questions.

**Q:** Are store coupons for beer generated by a retail licensee (or C license exercising retail privileges), e.g. \$2 off 18 pack of Budweiser, permitted?

**A:** Yes. Per the SLA, nothing in the ABC Law or regulations prohibit retailers, or C-license acting in their retail capacity, from offering coupons. However, supplier/distributor coupons have to be in a "mail in" version. The SLA does not allow manufacturer coupons that are instantly redeemable at the retailer.



### Got a Question?

Email NYSABC Counsel Ken Rosenblum at [nysabc@gmail.com](mailto:nysabc@gmail.com).

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#### Bluepoint Brewing Company

161 River Avenue, Patchogue 11772  
 631.475.6944  
 Brewery & Tasting Room Hours: Thursday and Friday 3-7 pm, Saturday 12-7pm  
 Free brewery tours Saturdays at 1 and 4 pm.  
<http://www.bluepointbrewing.com>

#### Crooked Ladder Microbrewery

70 West Main Street, Riverhead 11901  
 631.591.3565  
 Monday-Tuesday (by appointment only),  
 Wednesday-Thursday 3-8 pm, Friday-Saturday noon-8pm, Sunday noon-6 pm  
<http://crookedladderbrewing.com/>

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## ABC Law Changes

Several bills from the 2013 legislative session amending the Alcoholic Beverage Control Law have been signed into law by Governor Cuomo. None of them will have a major impact on the beverage center business, but here's a summary just in case.

**A1512/S267.** Creates a "roadside farm market license." Businesses can obtain a license to sell NYS labeled wine produced by no more than 2 licensed farm wineries or special wineries located within 20 miles of the roadside farm market (effective March 26, 2014).

**A2530B/S4101A.** Increases the community service requirement for minors who are found guilty of repeat violations of purchasing alcoholic beverages with false ID (effective November 1, 2013).

**A3869/S3978.** Adds a new item that must be included in all applications (original and renewals): "a statement indicating the type of establishment to be operated at the premises. Such statement shall indicate the occurrence of topless entertainment and/or exotic dancing whether topless or otherwise, including, but not limited to, pole dancing and lap dancing, at the establishment." The SLA cannot waive this new item. So every original application and every renewal application will have to include the required statement (effective September 29, 2013).

**A4834/S4534.** Allows the SLA to issue an on-premises liquor license to the banquet hall of the Afrikan Cultural Center in Brooklyn. The license could not otherwise be issued because the banquet hall is within 200 feet of a place of worship.

**A4851/S3560.** Allows the SLA to issue an on-premises liquor license to the banquet hall of the Brooklyn Botanic Garden's Visitor Center. The license could not otherwise be issued because the banquet hall is within 200 feet of a school.

**A7121/S4913.** Extends until October 2014, a 2010 law that allows the SLA to issue temporary permits to new retail applicants outside of New York City. The existing law only allows for such permits to be issued to applicants buying an existing licensed business.

**A7166/S352.** Adds the word "intentionally" to the language in a section regarding contaminated bottles. The purpose of the amendment is to prevent the SLA from prosecuting licensees for bottles contaminated with fruit flies (and similar substances) when there is no evidence that the licensee intentionally contaminated the bottles. These non-intentional contaminations would, presumably, be dealt with as health code violations by local governmental agencies.

**A7965B/S5739C.** Allows the SLA to issue a farm distillery license to the Fort William Henry Hotel and Conference Center. The license could not otherwise be issued because the company holds a retail on-premises license.

**A8046/S5832.** Creates an exemption from the brand label registration fee for distilled spirits produced in small batches. It also clarifies the standards used in approving brand labels and reduces the amount of information that brand owners and wholesalers must provide to the Authority when applying for brand label approval (effective March 26, 2014).

**A8047/S5883.** Creates a farm cidery license with privileges similar to the farm winery, farm brewery and farm distillery licenses. The law also expands the definition of cider to allow for certain crops other than apples to be used in production and increases the maximum alcohol content of cider from 7% to 8.5% (effective January 15, 2014).



Long Island is Brew Country  
*continued from page 3*

### **Fire Island Beer Company**

POB 546, Ocean Beach 11770  
631.482.8118  
<http://www.fireislandbeer.com/>

### **Great South Bay Brewery**

25 Drexel Drive, Bay Shore 11706  
631.EZ-AT-GSB  
Thursdays & Fridays 3-8 pm,  
Saturdays & Sundays noon-5pm  
<http://greatsouthbaybrewery.com/>

### **Greenport Harbor Brewing Company**

234 Carpenter Street, Greenport 11944  
Tasting Room Hours Friday-Saturday  
noon-7 pm, Sunday-Monday noon-5 pm  
<http://www.harborbrewing.com>

### **Long Ireland Beer Company**

817 Pulaski Street, Riverhead 11901  
631.403.4303  
Tasting Room Hours: Thursday & Friday  
3-7 pm, Saturday 1-6 pm, Sunday 1-6 pm  
<http://www.longirelandbrewing.com/>

### **Montauk Brewing Company**

62 South Erie Avenue, Montauk 11954  
631.668.8471  
Tasting Room Friday 3-7 pm,  
Saturday-Sunday noon-6 pm  
<http://www.montaukbrewingco.com/>

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# SURFING THE 'NET



The Internet is filled with interesting and valuable resources about the beverage business. Following are some samples from a recent surfing expedition:

**The Beer Advocate**, the leading beer geek magazine: <http://beeradvocate.com/>

**Beer Marketer's Insights**, the leading source of information about the US beer industry, provides up-to-date news and information for the beer business pro. Services include newsletters, an annual industry update, fax and email news services, and two annual conferences. <http://www.beerinsights.com/>

**The Beer Institute**, organized in 1986, represents the more than 2800 breweries in the US before Congress, state legislatures and public forums. Website includes newsletters, press releases, legislative updates. <http://www.beerinstitute.org/>

**New York State Beer Wholesalers Association** represents the legislative and regulatory interests of 44 members franchised beer wholesalers in state and local government. The group, which dates back to 1934, has the primary goal of upholding the three-tier system. While the beer might be fresh, the website is stale. <http://www.nybeer.org/>

**NY State Association of Convenience Stores**, the trade association representing convenience stores across the state, lots of good information about cigarette marketing, rules and regs. <http://www.nyacs.org/>

**National Beer Wholesalers Association** represents the interests of 3,300 licensed beer distributors throughout the United States, primarily at the federal level. The website is full of news, recipes, pairings, statistics and self-congratulation. <http://www.nbwa.org>

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# Department of Environmental Conservation Sign Posting Requirements

New York's "Bottle Law" has several different sign posting requirements:

**Bottle Bill of Rights.** All dealers must post a "New York Bottle Bill of Rights" sign conspicuously at the "point of sale", which can be the customer service area or the cash register area. This sign must be at least 8" x 10", with print at least 1/4" in a color which contrasts with the background color. Following is a reduced size sample. A copy of the full-size form is available on the DEC website, at <http://tinyurl.com/bottleBOR>.

**Redemption Warning.** All dealers must also post at each redemption area

a sign stating that there is a penalty for returning containers on which a deposit was never paid in New York. The print on this one must be at least 1", so compliance requires that this sign be printed on 11" x 17" paper. Following is a reduced size sample. A copy of this sign is available on the DEC website, <http://tinyurl.com/redemptionSign>.

**WARNING: Persons tendering for redemption containers on which a deposit was never paid in this state may be subject to a civil penalty of up to one hundred dollars per container or up to twenty-five thousand dollars for each such tender of containers.**



**Daily Redemption Limits.** A dealer whose primary business is the sale of food or beverages for off-premises consumption and whose premises are less

than 10,000 sf may limit redemptions to 72 containers per visit, per redeemer, per day, provided that:

- (a) The dealer has a written agreement with a redemption center (RC), either at a fixed location in same county and within 1/2 mile or a mobile RC within 1/4 mile which will accept containers on behalf of the dealer; and the RC's hours are at least 9:00 a.m. through 7:00 p.m. daily (fixed location) or at least 4 consecutive hours between 8:00 a.m. and 8:00 p.m. daily (mobile); and
- (b) The dealer provides at least one consecutive 2-hour period between 7:00 a.m. and 7:00 p.m. daily when it will accept up to 240 containers, per redeemer, per day.

A dealer who elects this option must post a sign "open to public view" identifying the location *and* hours of the RC and the daily 2-hour period when it will accept up to 240 containers, per redeemer, per day. This sign must be at least 8" x 10", with print at least 1/4" in a color which contrasts with the background color.

Redemption hours cannot be changed without first posting a 30-day notice.

## NEW YORK BOTTLE BILL OF RIGHTS

STATE LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE CONTAINERS OF THE SAME TYPE AND BRAND THAT WE SELL OR OFFER FOR SALE

YOU HAVE CERTAIN RIGHTS UNDER THE NEW YORK STATE RETURNABLE CONTAINER ACT:

**THE RIGHT** to return your empties for refund to any dealer who sells the same brand, type and size, whether you bought the beverage from the dealer or not. It is illegal to return containers for refund that you did not pay a deposit on in New York State.

**THE RIGHT** to get your deposit refund in cash, without proof of purchase.

**THE RIGHT** to return your empties any day, any hour, except for the first and last hour of the dealer's business day (empty containers may be redeemed at any time in 24-hour stores).

**THE RIGHT** to return your containers if they are empty and intact. Washing containers is not required by law, but is strongly recommended to maintain sanitary conditions.

The New York State returnable container act can be enforced by the New York State Department of Environmental Conservation, the New York State Department of Agriculture and Markets, the New York State Department of Taxation and Finance, the New York State Attorney General and/or by your local government.

To report a violation, call 1-877-846-8802 (9am - 5pm M-F).

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## Surfing the 'Net' *continued from page 5*

**New York State Liquor Authority** <http://www.sla.ny.gov/>

**The Alcohol and Tobacco Tax and Trade Bureau (TTB)** formerly The Alcohol, Tobacco and Firearms division of the US Treasury Department (ATF), regulates brewing, brew pubs, brew your own beer facilities, includes forms, regulations, statistics, on-line applications. <http://www.ttb.gov/beer/index.shtml>.

**The New York State Department of Environmental Conservation (DEC).** NY State's Bottle Law: text of the laws and DEC regulations, forms, updates, and statistics: <http://www.dec.ny.gov/chemical/8500.html>

## Long Island is Brew Country *continued from page 5*

**Moustache Brewing Company**  
400 Hallett Ave. Suite A, Riverhead 11901  
631.591.3250  
Microbrewery under construction in Riverhead  
<http://www.moustachebrewing.com/>

**Port Jeff Brewing Company**  
22 Mill Creek Road  
Pt. Jefferson 11777  
1.877.4PJ-BREW  
Open daily noon-8:00 pm, free tours  
Saturday 4 pm  
<http://www.portjeffbrewing.com>

**Rocky Point Artisan Brewers**  
Nano in Rocky Point, no tours or tastings.  
<http://beer.donavanhall.net/rpab/>

**Spider Bite Brewing Co.**  
Holbrook 11741  
631.942.3255  
<http://spiderbitebeer.com/>

**4th Annual Long Island Nano Cask Festival.** Sample the products of some of LI's nanos at the 4th Annual Long Island Nano Cask Beer Festival on Sunday, January 26, 2014 in Rocky Point, see <https://www.facebook.com/LInano-caskalefestival>. The event is sponsored by Rocky Point Artisan Brewers; other participants include Barrage Brewing Company, Blind Bat Brewery, Ghost Cat Brewing (a just-licensed LI home brewery), Great South Bay Brewing, Green-

port Harbor Brewing, Montauk Brewing, Port Jeff Brewing Company and Spider Bite Brewing.

### **Long Island Craft Brewers Guild.**

Stay current on developments in LI's craft brewing community, at the Long Island Craft Brewers Guild, <http://long-islandcraftbrewers-guild.com/>. The site includes a Long Island Craft Brewery Trail Map and LI beer events listings.



**NYSABC**  
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**Bay Shore, NY 11706-7217**

