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# Supreme Court of the United States

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October Term, 1972

No. 60 Original

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COMMONWEALTH OF PENNSYLVANIA,  
*Plaintiff,*

*vs.*

STATE OF NEW YORK, STATE OF KANSAS, COMMONWEALTH OF MASSACHUSETTS, STATE OF NEW MEXICO, STATE OF SOUTH CAROLINA, STATE OF GEORGIA, STATE OF NEW JERSEY, STATE OF OKLAHOMA, STATE OF ALABAMA, STATE OF IDAHO, STATE OF IOWA, STATE OF MAINE, STATE OF MICHIGAN, STATE OF MISSISSIPPI, STATE OF MONTANA, STATE OF NEW HAMPSHIRE, STATE OF NORTH CAROLINA, STATE OF OHIO, STATE OF OREGON, STATE OF UTAH, STATE OF VERMONT, COMMONWEALTH OF VIRGINIA, STATE OF WASHINGTON, STATE OF WEST VIRGINIA, and STATE OF WYOMING,  
*Defendants.*

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## BRIEF OF NEW YORK OPPOSING PENNSYLVANIA'S MOTION FOR LEAVE TO FILE A COMPLAINT

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## **BRIEF OF NEW YORK OPPOSING PENNSYLVANIA'S MOTION FOR LEAVE TO FILE A COMPLAINT**

### **Statement**

The State of New York files this brief in opposition to Pennsylvania's motion for leave to file a complaint herein against New York and 24 other States.

### **The Complaint**

Pennsylvania's complaint seeks judgment declaring invalid and enjoining enforcement of statutes, regulations and practices of the 25 defendant States which prohibit the sale of alcoholic liquor and beverages within their respective States "unless the vendor affirms, warrants and represents that the price of each unit of alcoholic liquor or beverages is no higher than the lowest price at which said unit is sold elsewhere in the United States".

Pennsylvania complains that such statutes, regulations and practices, commonly called the liquor affirmation policy, violate the commerce clause of the United States Constitution and laws enacted pursuant thereto because the liquor affirmation policy prevents plaintiff, the sole wholesaler and sole retailer of alcoholic liquor and beverages within its borders and "the largest purchaser of alcoholic liquor and beverages in the United States", from bargaining for and receiving discounts, including quantity and prompt pay discounts, on its purchases of alcoholic liquor and beverages.

Pennsylvania does not identify any constitutional provision other than the commerce clause or any statute which it claims is violated by the liquor affirmation policy.

### **The New York Liquor Affirmation Statute**

The New York liquor affirmation statute is part of New York Alcoholic Beverage Control Law § 101-b, the text of which is set forth in Appendix A hereto. Subdivision 3, ¶¶ (d)-(i), added by chapter 531 of the Laws of 1964 (and subsequently amended and relettered), prohibits the sale to a wholesaler in New York of any brand of liquor unless the brand owner or his licensed agent files a verified affirmation

that the bottle and case price of liquor to wholesalers in New York, as set forth in the seller's price schedule for the applicable period, is no higher than the lowest price at which that brand of liquor will be sold to any wholesaler in the United States or to any State which operates retail liquor stores.

The New York statute, subdivision 3, ¶ (g), requires the "lowest price" to reflect all discounts, rebates, free goods, allowances and inducements to wholesalers and retailers; it permits the lowest price to make allowances for differences in State taxes and fees and actual cost of delivery.

The New York affirmation is required only with respect to sales of liquor<sup>1</sup>; New York does not require an affirmation with respect to sales of wine or beer.

### ARGUMENT

**This Court should not take jurisdiction of the action because Pennsylvania may not invoke the commerce clause to defeat New York's power under the Twenty-First Amendment to regulate wholesale prices of liquor in New York.**

**A. Pennsylvania misconstrues the decisions of this Court upon which it relies as authority for bringing this action.**

In seeking leave to file its complaint Pennsylvania relies on *Seagrams & Sons v. Hostetter*, 384 U. S. 35 (1966), and *United States v. Frankfort Distilleries*, 324 U. S. 293 (1945). Both cases deal with the Twenty-First Amendment to the United States Constitution, the second section of which provides:

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<sup>1</sup> New York Alcoholic Beverage Control Law § 3(19), defines liquor as follows: " 'Liquor' means and includes any and all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing."

"The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited."

The *Seagram* case, *supra*, challenged the constitutionality of New York's liquor affirmation statute in the context of an action brought by distillers, wholesalers and importers before the statute became operational. In sustaining the constitutionality of the New York statute, this Court repeated its consistently held opinion that the Twenty-First Amendment bestowed upon the States broad regulatory powers over the liquor traffic within their territories (p. 42). It also repeated that a State is totally unconfined by traditional commerce clause limitations when it restricts the importation of intoxicants destined for use, distribution, or consumption within its borders (p. 42). The Court wrote further (pp. 42-43):

"\* \* \* [T]he present case concerns liquor destined for use, distribution, or consumption in the State of New York. In that situation, the Twenty-first Amendment demands wide latitude for regulation by the State. We need not now decide whether the mode of liquor regulation chosen by a State in such circumstances could ever constitute so grave an interference with a company's operations elsewhere as to make the regulation invalid under the Commerce Clause." (Footnote reference omitted.)

Further on the Court added (p. 43):

"The serious discriminatory effects of § 9 [of chapter 531, 1964 Session Laws of New York, adding New York's affirmation statute to Alcoholic Beverage Control Law § 101-b] alleged by appellants on their business outside of New York is largely a matter of conjecture. It is by no means clear, for instance, that § 9 must inevitably produce higher prices in other states, as claimed by appellants, rather than lower prices



sought for New York. It will be time enough to assess the alleged extra-territorial effects of § 9 when a case arises, that clearly presents them."

Pennsylvania has taken the last sentence quoted out of its context in its effort to invoke the jurisdiction of this Court. As appears above, the question not passed upon by this Court in *Seagram* was "whether the mode of liquor regulation chosen by a State in such circumstances could ever constitute so grave an interference with a company's operations elsewhere as to make the regulation invalid under the Commerce Clause" (pp. 42-43), *i.e.*, the unresolved question dealt with *private* rights of the distillers and not with the rights of another State.

Likewise, in *United States v. Frankfort Distilleries*, *supra*, this Court dealt with *private* rights, those of producers, wholesalers and retailers engaged in a conspiracy to fix prices in Colorado. In *Frankfort Distilleries* this Court held Congress was not wholly without power to regulate the conduct of private persons who engage in interstate commerce outside of Colorado. The Court emphasized (p. 229):

"The Sherman Act is not being enforced in this case in such manner as to conflict with the law of Colorado. Those combinations which the Sherman Act makes illegal as to producers, wholesalers and retailers are expressly exempted from the scope of the Fair Trade Act of Colorado, and thus have no legal sanction under state law either. We therefore do not have here a case in which the Sherman Act is applied to defeat the policy of the state." (Footnote reference omitted.)

The instant case has no relevance to congressional control of individuals engaged in interstate liquor traffic. *Frankfort Distilleries* is inapposite to Pennsylvania's present application.

**B. Neither Pennsylvania nor the purchasers of liquor from Pennsylvania are aggrieved by the liquor affirmation policy of the defendant States.**

In *Alabama v. Arizona*, 291 U. S. 286 (1934), this Court wrote (pp. 291-292):

"A state asking leave to sue another to prevent the enforcement of laws must allege, in the complaint offered for filing, facts that are clearly sufficient to call for a decree in its favor. \* \* \* The burden upon the plaintiff State fully and clearly to establish all essential elements of its case is greater than that generally required to be borne by one seeking an injunction in a suit between private parties. *Connecticut v. Massachusetts*, 282 U. S. 660, 669."

A State which enjoys monopoly in both the wholesale and retail sales of liquor within its borders is not aggrieved because it cannot purchase liquor at a lower price. Pennsylvania has cited no authority in support of its position that it would be aggrieved if in fact the liquor affirmation policy did cause it to lose possible discounts on its liquor purchases.

On the other hand, *Alabama v. Arizona, supra*, and *Whitfield v. Ohio*, 297 U. S. 431 (1936), support New York in its position that a State has no right under the commerce clause to a free market with respect to a commodity which has been divested of its character as an article of commerce by operation of Federal law. In *Alabama v. Arizona*, this Court denied leave to file a complaint in which Alabama challenged (a) statutes of other States enacted to regulate or prohibit sales of goods produced by convict labor and (b) the Hawes-Cooper Act, 45 Stat. 1084, 49 U. S. C. § 60, which provided that prison-made goods, upon arrival and delivery in any State, become subject to operation of State laws as though produced in

such State. Leave to file the complaint was denied because the State did not allege facts sufficient to invoke the Court's original jurisdiction. In *Whitfield v. Ohio*, *supra*, this Court met the issue raised by Alabama in its complaint against Arizona in *Alabama v. Arizona*, namely, constitutionality of (a) the Hawes-Cooper Act which deprived prison-made goods of their character as an article of commerce and (b) constitutionality of a State law forbidding sale of convict-made goods. Whitfield had been convicted of selling in Ohio shirts made by convicts in Alabama. In *Whitfield v. Ohio*, this Court held that Ohio, acting in accordance with its power under the Hawes-Cooper Act to regulate sales of prison-made goods, could deprive Alabama of a free market for such goods.

In the instant case, Pennsylvania complains that New York's regulation of liquor prices within New York, which this Court sustained in *Seagram & Sons v. Hostetter*, *supra*, is depriving Pennsylvania of a free market in purchasing liquor for the State's liquor monopoly. Since this Court held Alabama did not have a right to a free market in selling its prison-made goods, it follows that Pennsylvania has no right to a free market in buying liquor. As a State, therefore, it is not aggrieved if in fact the liquor affirmation policy deprives it of an opportunity to receive special discounts for its liquor monopoly.

Nor are the people who purchase liquor in Pennsylvania aggrieved. By maintaining a monopoly of wholesale and retail liquor sales in Pennsylvania, the State is eliminating two profits from the price of each bottle sold, *i.e.*, the wholesaler's profit and the retailer's profit. Under such circumstances, the retail price of liquor in Pennsylvania (exclusive of transportation charges and taxes whether

denominated as such or as some other form of State revenue) should be lower than that of the same liquor in States which license private enterprise to carry on the liquor trade.

New York submits, therefore, that leave to file the complaint should be denied because neither Pennsylvania nor its liquor purchasers are aggrieved by the liquor affirmation statutes.

**C. The Twenty-first Amendment which permits Pennsylvania to maintain a monopoly of liquor sales in that State also permits New York to require that the wholesale price of liquor in New York be no higher than the lowest price elsewhere in the country.**

As stated above, Pennsylvania does not identify any constitutional provision other than the commerce clause or any statute which it claims is violated by the liquor affirmation statutes.

In complaining of extra territorial effects of the liquor affirmation policy of the defendant States, Pennsylvania fails to apply the criteria set forth by this Court in the *Seagram* case (p. 43):

“The mere fact that state action may have repercussions beyond state lines is of no judicial significance so long as the action is not within that domain which the Constitution forbids.” *Osborn v. Ozlin*, 310 U. S. 53, 62. Cf. *Hoopeston Canning Co. v. Cullen*, 318 U. S. 313; *South Carolina Highway Dept. v. Barnwell Bros.*, 303 U. S. 177, 189; *Baldwin v. G. A. F. Seelig*, 294 U. S. 511, 528.”

As recently as December 18, 1972 this Court reaffirmed its frequently repeated holding that by virtue of the Twenty-first Amendment a State is totally unconfined by traditional commerce clause limitations when it restricts

the importation of liquor for use, distribution or consumption within its borders. *Heublein, Inc. v. South Carolina Tax Commission*, .... U. S. ...., 41 LW 4093. See also, *California v. LaRue*, .... U. S. ...., 41 LW 4039, December 5, 1972. It is this freedom from commerce clause restraints which permits Pennsylvania to maintain a monopoly of all liquor sales in the State. And now Pennsylvania, a beneficiary of this freedom, seeks to challenge New York's power to regulate liquor prices in New York.

In *California v. Washington*, 358 U. S. 64 (1958), this Court cited the Twenty-first Amendment as authority for refusing to take jurisdiction of an action in which California, which was not taking advantage of the freedom from commerce clause limitations afforded by the Twenty-first Amendment, sought to challenge a Washington statute which discriminated against California wines.

Pennsylvania's present application lacks even the underlying equities which were insufficient to give merit to California's case. Pennsylvania is seeking terms more favorable than those of any other purchaser in its attack on a statute which merely prevents discrimination against New York consumers whereas Washington did discriminate against California wines. Furthermore, Pennsylvania, which has the economic power of a large monopoly because it enjoys freedom from commerce clause limitations, seeks to deny that same freedom to New York whereas California did not seek anything other than equal treatment in the Washington market.

Since the Twenty-first Amendment barred California's suit, it follows that the Twenty-first Amendment also bars Pennsylvania's action.

**Conclusion**

**Pennsylvania's Motion to invoke the jurisdiction of this Court should be denied.**

**Dated: January 31, 1973.**

Respectfully submitted,

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**APPENDIX A**

**Text of New York Alcoholic Beverage Control  
Law § 101-b**

**§ 101-b. UNLAWFUL DISCRIMINATIONS PROHIBITED; FILING OF  
SCHEDULES; SCHEDULE LISTING FUND**

1. It is the declared policy of the state that it is necessary to regulate and control the manufacture, sale, and distribution within the state of alcoholic beverages for the purpose of fostering and promoting temperance in their consumption and respect for and obedience to the law. In order to eliminate the undue stimulation of sales of alcoholic beverages and the practice of manufacturers and wholesalers in granting discounts, rebates, allowances, free goods, and other inducements to selected licensees, which contribute to a disorderly distribution of alcoholic beverages, and which are detrimental to the proper regulation of the liquor industry and contrary to the interests of temperance, it is hereby further declared as the policy of the state that the sale of alcoholic beverages should be subjected to certain restrictions, prohibitions and regulations. The necessity for the enactment of the provisions of this section is, therefore, declared as a matter of legislative determination.

2. It shall be unlawful for any person who sells liquors or wines to wholesalers or retailers

(a) to discriminate, directly or indirectly, in price, in discounts for time of payment or in discounts on quantity of merchandise sold, between one wholesaler and another wholesaler, or between one retailer and another retailer purchasing liquor or wine bearing the same brand or trade name and of like age and quality; (b) to grant, directly or indirectly, any discount, rebate, free goods, allowance or other inducement of any kind whatsoever, except a discount

*Text of New York Alcoholic Beverage Control Law § 101-b*

not in excess of two per centum for quantity of liquor, a discount not in excess of five per centum for quantity of wine and a discount in excess of one per centum for payment on or before ten days from date of shipment.

3. (a) No brand of liquor or wine shall be sold to or purchased by a wholesaler, irrespective of the place of sale or delivery, unless a schedule, as provided by this section, is filed with the liquor authority, and is then in effect. Such schedule shall be in writing duly verified, and filed in the numbers of copies and form as required by the authority, and shall contain, with respect to each item, the exact brand or trade name, capacity of package, nature of contents, age and proof where stated on the label, the number of bottles contained in each case, the bottle and case price to wholesalers, the net bottle and case price paid by the seller, which prices, in each instance, shall be individual for each item and not in "combination" with any other item, the discounts for quantity, if any, and the discounts for time of payment, if any. Such brand of liquor or wine shall not be sold to wholesalers except at the price and discounts then in effect unless prior written permission of the authority is granted for good cause shown and for reasons not inconsistent with the purpose of this chapter. Such schedule shall be filed by (1) the owner of such brand, or (2) a wholesaler selling such brand and who is designated as agents for the purpose of filing such schedule if the owner of the brand is not licensed by the authority, or (3) with the approval of the authority, by a wholesaler, in the event that the owner of the brand is unable to file a schedule or designate an agent for such purpose.

(b) No brand of liquor or wine shall be sold to or purchased by a retailer unless a schedule, as provided by this



*Text of New York Alcoholic Beverage Control Law § 101-b*

section, is filed with the liquor authority, and is then in effect. Such schedule shall be in writing duly verified, and filed in the number of copies and form as required by the authority, and shall contain, with respect to each item, the exact brand or trade name, capacity of package, nature of contents, age and proof where stated on the label, the number of bottles contained in each case, the bottle and case price to retailers, the net bottle and case price paid by the seller, which prices, in each instance, shall be individual for each item and not in "combination" with any other item, the discounts for quantity, if any, and the discounts for time of payment, if any. Such brand of liquor or wine shall not be sold to retailers except at the price and discounts then in effect unless prior written permission of the authority is granted for good cause shown and for reasons not in consistent with the purpose of this chapter. Such schedule shall be filed by each manufacturer selling such brand to retailers and by each wholesaler selling brand to retailers. Where any schedule filed after the effective date hereof pursuant to paragraph (a) of this subdivision with respect to any brand of liquor reflects a reduction or increase in the bottle or case price of any item set forth therein from the bottle or case price of such item theretofore in effect for the previous month, for the period during which the bottle and case price of any item set forth therein shall remain in effect, any schedule of prices to retailers filed by a wholesaler pursuant to this paragraph with respect to such item of liquor shall reflect, in the event of a decrease, a like reduction in percentum in the bottle or case price of such item set forth therein, and in the event of an increase, not more than a like increase in percentum in the bottle or case price of such item set forth therein. Nothing

*Text of New York Alcoholic Beverage Control Law § 101-b*

herein contained however shall prohibit changes in prices to retailers by a wholesaler for any item of liquor which changes are based on increased costs of labor or other operating costs, on the written permission of the authority, for good cause shown and for reasons not inconsistent with the purpose of this chapter, except that the case and bottle price from wholesaler to retailer may be decreased or increased without such permission to reflect any changes in or new taxes or fees applicable to liquor with the same effect as if such decrease or increase in taxes or fees were set forth in the schedule of prices filed pursuant to paragraph (a) hereof.

(c) Provided however, nothing contained in this section shall require any manufacturer or wholesaler to list in any schedule to be filed pursuant to this section any item offered for sale to a retailer under a brand which is owned exclusively by one retailer and sold at retail within the state exclusively by such retailer.

(d) There shall be filed in connection with and when filed shall be deemed part of the schedule filed for a brand of liquor pursuant to paragraph (a) of this subdivision an affirmation duly verified by the owner of such brand of liquor, or by the wholesaler designated as agent for the purpose of filing such schedule if the owner of the brand of liquor is not licensed by the authority, that the bottle and case price of liquor to wholesalers set forth in such schedule is no higher than the lowest price at which such item of liquor will be sold by such brand owner or such wholesaler designated as agent, or any related person, to any wholesaler anywhere in any other state of the United States or in the District of Columbia, or to any state (or state agency) which

*Text of New York Alcoholic Beverage Control Law § 101-b*

owns and operates retail liquor stores (i) at any time during the calendar month for which such schedule shall be in effect, and (ii) if a like affirmation has been filed at least once but was not filed during the calendar month immediately preceding the month in which such schedule is filed, then also at any time during the calendar months not exceeding six immediately preceding the month in which such schedule shall be in effect and succeeding the last calendar month during which a like affirmation was in effect. As used in this paragraph (d), the term "related person" shall mean any person (1) in the business of which such brand owner or wholesaler designated as agent has an interest, direct or indirect, by stock or other security ownership, as lender or lienor, or by interlocking directors or officers, or (2) the exclusive, principal or substantial business of which is the sale of a brand or brands of liquor purchased from such brand owner or wholesaler designated as agent, or (3) which has an exclusive franchise or contract to sell such brand or brands.

(e) There shall be filed in connection with and when filed shall be deemed part of any other schedule filed for a brand of liquor pursuant to paragraph (a) of this subdivision an affirmation duly verified by the person filing such schedule that the bottle and case price of liquor to wholesalers set forth in such schedule is no higher than the lowest price at which such item of liquor will be sold by such person to any wholesaler anywhere in any other state of the United States or in the District of Columbia, or to any state (or state agency) which owns and operates retail liquor stores, (i) at any time during the calendar month for which such schedule shall be in effect, and (ii) if a like affirmation has been filed at least once but was not filed during the calendar

*Text of New York Alcoholic Beverage Control Law § 101-b*

month immediately preceding the month in which such schedule is filed, then also at any time during the calendar months not exceeding six immediately preceding the month in which such schedule shall be in effect and succeeding the last calendar month during which a like affirmation was in effect.

(f) In the event an affirmation with respect to any item of liquor is not filed within the time provided by this section, any schedule for which such affirmation is required shall be deemed invalid with respect to such item of liquor, and no such item may be sold to or purchased by any wholesaler or retailer during the period covered by any such schedule.

(g) In determining the lowest price for which any item of liquor was sold in any other state or in the District of Columbia, or to any state (or state agency) which owns and operates retail liquor stores, appropriate reductions shall be made to reflect all discounts in excess of those to be in effect under such schedule, and all rebates, free goods, allowances and other inducements of any kind whatsoever offered or given to any such wholesaler or state (or state agency) as the case may be, purchasing such item in such other state or in the District of Columbia; provided that nothing contained in paragraphs (d) and (e) of this subdivision shall prevent differentials in price which make only due allowance for differences in state taxes and fees, and in the actual cost of delivery. As used in this paragraph, the term "state taxes or fees" shall mean the excise taxes imposed or the fees required by any state or the District of Columbia upon or based upon the gallon of liquor, and the term "gallon" shall mean one hundred twenty-eight fluid ounces.

*Text of New York Alcoholic Beverage Control Law § 101-b*

(h) Notwithstanding and in lieu of any other penalty provided in any other provisions of this chapter, any person who makes a false statement in any affirmation made and filed pursuant to paragraph (d) or (e) of this subdivision shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than ten thousand dollars or by imprisonment in a county jail or penitentiary for a term of not more than six months or by both such fine and imprisonment. Every affirmation made and filed pursuant to paragraph (d) or (e) of this subdivision shall be deemed to have been made in every county in this state in which the brand of liquor is offered for sale under the terms of said schedule. The attorney general or any district attorney may prosecute any person charged with the commission of a violation of this paragraph. In any such prosecution by the attorney general, he may appear in person or by his deputy or assistant before any court or any grand jury and exercise all the powers and perform all the duties in respect of any such proceeding which the district attorney would otherwise be authorized or required to exercise or perform, and in such prosecution the district attorney shall only exercise such powers and perform such duties as are required of him by the attorney general or his deputy or assistant so attending.

(i) Upon final judgment of conviction of any person after appeal, or in the event no appeal is taken, upon the expiration of the time during which an appeal could have been taken, the liquor authority may refuse any affirmation required to be filed by such person.

(j), (k) relettered (h), (i).

*Text of New York Alcoholic Beverage Control Law § 101-b*

4. Each such schedule shall be filed on or before the tenth day of each month on a date to be fixed by the authority, and the prices and discounts therein set forth shall become effective on the first day of the calendar month following the filing thereof and shall be in effect for such calendar month. Within ten days after the filing of such schedule the authority shall make them or a composite thereof available for inspection by licensees. Within three business days after such inspection is provided for, a wholesaler may amend his filed schedule for sales to retailers in order to meet lower competing prices and discounts for liquor or wine of the same brand or trade name, and of like age and quality, filed pursuant to this section by any licensee selling such brand, provided such amended prices are not lower and discounts are not greater than those to be met. Any amended schedule so filed shall become effective on the first day of the calendar month following the filing thereof and shall be in effect for such calendar month. All schedules filed shall be subject to public inspection, from the time that they are required to be made available for inspection by licensees, and shall not be considered confidential. Each manufacturer and wholesaler shall retain in his licensed premises for inspection by licensees a copy of his filed schedules as then in effect. The liquor authority may make such rules as shall be appropriate to carry out the purpose of this section.

5. For the purpose of raising the moneys necessary to defray the expenses incurred in the administration of this section, on or before the tenth day after this act becomes a law, there shall be paid to the liquor authority by each manufacturer and wholesaler licensed under this chapter to sell

*Text of New York Alcoholic Beverage Control Law § 101-b*

to retailers liquors and/or wines, a sum equivalent to ten per centum of the annual license fee prescribed by this chapter for each such licensee. A like sum shall be paid by each person hereafter applying for any such license or the renewal of any such license, and such sum shall accompany the application and the license fee prescribed by this chapter for such license or renewal as the case may be. In the event that any other law requires the payment of a fee by any such licensee or applicant as set forth in this section for schedule listing, then and in such event the total fee imposed by this section and such other law or laws on each such licensee shall not exceed in the aggregate a sum equivalent to ten per centum of the annual license fee prescribed by this chapter for such license.

6. The authority may revoke, cancel or suspend any license issued pursuant to this chapter, and may recover (as provided in section one hundred twelve of this chapter) the penal sum of the bond filed by a licensee, or both, for any sale or purchase in violation of any of the provisions of this section or for making a false statement in any schedule filed pursuant to this section or for failing or refusing in any manner to comply with any of the provisions of this section.











