

From the Office of John Suchy
March 28, 2014

Re: Food Service at Café Permit and Restaurant Premises

At the February 6, 2014 regular meeting of the Liquor Control Commission, the topic of food service at restaurant and café liquor permit premises was discussed, specifically, the level of food service required to be maintained by a restaurant or café permit holder in order to qualify and maintain its respective type of liquor permit. The department's most recent memorandum on the subject was reviewed to determine if it should be updated or revised.

The prior memorandum allowed the holder of a café liquor permit to rely on another business to provide food to the permittee's (or permit holder's) customers, thus satisfying the permit's requirement to "regularly keep food available for sale". At that time, the department accepted an arrangement where the café would provide its customers with menus of local food providers that would deliver the food, upon request, to the customers of the café. Now, the department has revised its prior guidance and has issued a revised and clarifying memorandum as it relates to café liquor permit premises (see relevant parts below). The language and requirements relating to restaurant permits remains unchanged.

Sec. 30-22a, Connecticut General Statutes, provides, in relevant part:

(a) A cafe permit shall allow the retail sale of alcoholic liquor to be consumed on the premises of a cafe. *Premises operated under a cafe permit shall regularly keep food available for sale to its customers for consumption on the premises.* The availability of sandwiches, soups or other foods, whether fresh, processed, precooked or frozen, shall be deemed compliance with this requirement. (*Emphasis added.*)

- 1) Can a café rely on another business to provide food to its café customers and would that satisfy the café's permit's requirement to "regularly keep food available for sale"?

No. A café liquor permit must maintain and provide sandwiches, soups or other food available for sale and consumption to its patrons, during the hours when there are café customers usually requesting such items, such as lunch and dinner. Upon careful and thorough review, it has been determined that to allow a café liquor permitted premises to only provide a customer with food that is ordered by or for such customer, but which is provided and delivered to the premises from an other food business, would not be consistent with the Liquor Control Act or its intent. Nothing prevents a permit premises to have available on its premises food which had been preordered, prepared, and delivered by another food business to the permit premises, enough to meet a reasonably anticipated demand, and offered for sale to permit premises patrons.

Going forward, **the Commission will not accept the providing of menus from outside venues as proof of compliance with the requirement that food be available to its customers as set forth in Sec. 30-22a,**

Connecticut General Statutes Failure to comply with such food requirements may result in further enforcement action with regard to the alleged violation of Sec. 30-22a, Conn. General Statutes.

Sec. 30-22, Connecticut General Statutes, provides, in relevant part:

(f) "Restaurant" means space, in a suitable and permanent building, kept, used, maintained, advertised and held out to the public to be a place where hot meals are regularly served...

- 1.) Does a restaurant have to serve hot meals at all times that the restaurant is open for business?

A restaurant meets the food service requirement where, during the hours when a restaurant is usually open, hot meals are served to all customers ordering them. A restaurant which has food available during the hours when there are restaurant customers requesting such items, such as lunch and dinnertime satisfies the requirement. The key phrase is the statutory requirement that meals are "regularly served"- it does not state "always served". Thus, it is not necessary for example, for a restaurant to serve "hot meals" at 11:00 p.m. in order to be in compliance with the statutory food service requirement.

When questioning compliance with this requirement, we need to determine whether the service of meals is sufficient in nature and amount to evidence and afford assurance of a bona fide restaurant instead of what the courts have called a "mere pretext for obtaining a permit to sell alcoholic liquor as a principal purpose and enterprise." Guillara v. Liquor Control Commission, 121 Conn. 441, 446, 185 A. 398 (1936).

