

2015 Legislative  
*Roundtable Breakfast*  
BUFFALO/NIAGARA

*Friday April 10, 2015*  
8:30 - 10:00 a.m.

*Buffalo/Niagara Marriott*  
1340 Millersport Highway, Amherst, NY 14221

*Room: Ballroom 5*

co-sponsored by:





## Buffalo/Niagara Legislative Roundtable Breakfast

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## Program

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**8:30 a.m.**

Registration & Breakfast Buffet

**9:15 - 10:00 a.m.**

**Welcome:**

**Introduction of State & Local Leaders**

**Presentation of State Issues**

Jan Marie Chesterton, *President, NYS Hospitality & Tourism Association*

**Presentation of Local Issues**

Patrick Kaler, *President & CEO, Visit Buffalo Niagara*

John Percy, *President & CEO, Niagara Tourism & Convention Corporation*

Roundtable Discussion with State and Local Elected Officials

## Sponsors



## New York State Hospitality & Tourism Association

The New York State Hospitality & Tourism Association (NYSH&TA) is a not-for-profit trade organization representing nearly 1,000 lodging properties, totaling over 122,000 guest rooms, or 70% of total guest room inventory in the state. NYSH&TA's membership is also comprised of approximately 50 parks and attractions, over 100 industry suppliers, and more than 100 cooperating organizations, tourism educators, students and individuals combined. Founded in Saratoga Springs in 1887, NYSH&TA's mission is to lead and protect the New York State hospitality and tourism industry by providing advocacy, education, and resources. The Association provides benefits in three major categories: **representation and advocacy** on behalf of the industry before state lawmakers and regulatory agencies; **resources** in the form of money-saving programs, networking opportunities and marketing exposure via the website; **educational offerings** that help members best serve their customers.



## Minimum Wage

The minimum wage in New York is currently \$8.75 per hour, and the federal minimum wage is currently \$7.25 per hour.

- In 2013, Governor Cuomo signed legislation increasing the State's minimum wage from \$7.25 to \$9.00 by 2015 to better align with the cost of living.
- This year, the Governor has proposed raising the statewide minimum wage again, to \$10.50 by the end of 2016. Additionally, because New York City has one of the highest costs of living in the world, the Governor proposed raising the City's minimum wage to \$11.50.

While as an industry, we support a fair minimum wage, it is important to note that such increases negatively impact job creation and expansion of business across the state. Therefore, NYSH&TA will work with the NYS Business Council and other industries to voice concerns that the Governor's proposal is too steep an increase, in too short a period, which will negatively impact job creation and the state's economy.

Direct feedback from NYSH&TA business members include:

- *"This proposed increase in the minimum wage will negatively impact tourism as well as most small businesses."*
- *"Over a four-year period a proposed 41% increase in wages is not in proportion to increased revenues and other expenses."*
- *"We can't possibly absorb the increase without passing on the costs to our guests."*
- *"Prices will increase and jobs will be lost.... we would first look to increase prices, then reduce operation, cut hours, and positions."*

During this legislative session, our message was heard. An increase to the minimum wage will not be dealt with in this New York State budget. However, while not part of the State Budget, a minimum wage increase is still an Assembly priority this session.

## Illegal Hotels – Leveling the Playing Field

In response to the growing trend of companies, like Airbnb, promoting illegal owner-occupied hotels within the state, NYSH&TA is looking to provide a statutory solution in New York to limit and potentially prohibit their impact on the legal hospitality industry. As we are aware, the owner-occupied hotel listings are often for short-term rentals, similar to

the duration one would typically book a hotel room. Because the owner-occupier may list their own private dwelling on the site, these illegal hotels often escape registration, licensing, health, safety, tax, and insurance laws, and come under no regulation or supervision. Currently, there is a lack of basic oversight for the short-term online rental market, which poses a threat to the state, residents, and tourists.

Currently, sensible regulations and processes exist for the hotel and lodging industry that do not always apply to short-term online rentals, including:

- A variety of safety design and security features and procedures.
  - ◆ Fire and sprinkler systems, smoke detectors, and accessible fire extinguishers.
  - ◆ Security systems, electric locks with deadbolts, and night latches.
  - ◆ Closed-circuit television and secured access control as well as the availability of safe deposit boxes.
- Knowledgeable response capabilities of a hotel team, including medical, fire, and security response, evacuation assistance, and in many cases a direct link to local emergency services.
- Regular health and safety inspections by local, municipal, or state departments and agencies.
- Compliance with Americans with Disabilities Act design requirements as well as other safeguards like providing such added security as swimming pools with anti-entrapment features and exceeding balcony railing standards.
- The added security of knowing that hotels are covered under liability insurance.

For the safety and well-being of residents, tourists, and the state, there is a need for legislation to combat illegal hotels within New York by requiring compliance with state and local hotel laws.

Additionally, travellers and communities deserve the proper safeguards that protect them from the potential dangers and risks posed by the short-term online industry.

All short-term rental providers shall be subject to all of the same registration, requirements, regulations and restrictions to which owners and operators of bed & breakfasts, inns, hotels and motels are subject, including:

- Occupancy & Sales Taxes; proper state and federal income tax collections, or
- Building & Health (sanitary) Codes (including subject to Agency inspections); and
- Homeowner Insurance certification

Additionally, short-term rentals and illegal hotels pay no taxes on their transactions, depriving the state of tens of millions in much needed revenues.

For example:\*

- Ithaca-Elmira Region = \$850,000 potential loss in County and Occupancy taxes in 2014 - Steuben/Thompson/Chemung counties
- Albany/Schenectady Region = \$1.2 million potential loss in County and Occupancy taxes in 2014- Albany/Schenectady/Saratoga/Rensselaer counties
- Long Island = \$1.5 million potential loss in County and Occupancy taxes in 2014 - Nassau/Suffolk counties
- Upstate Region = \$600,000 potential loss in County and Occupancy taxes in 2014 - Essex/Warren/Jefferson/Lewis counties

\*not including state sales tax (based on lodging industry data for regional annual average occupancy and average daily rates)

As legal hotels continue to expand throughout the State, they don't just add beds for tourists, they add good paying jobs for New Yorkers.

The legislation would be applicable to all municipalities, except New York City. In 2010, the State Legislature enacted stricter fire safety standards for Class B or transient use dwellings for hotels in New York City only. NYSH&TA continues to support not only the New York City hotels, but the City of New York and its efforts to eliminate illegal hotels while doing so practically, allowing well-established legal hotels to convert their certificates of occupancy and remain in compliance.

## Tourism Funding

As part of the 2015-2016 Executive Budget proposal, the tourism industry was encouraged to hear Governor Cuomo announce the State's economic development agencies will implement a \$45 million tourism campaign in 2015-16, to attract visitors from around the world. This is clearly a sign the administration continues to value the tourism industry's contributions to the state's overall economic well-being.

It is essential for the sustainability of these investments, which are a proven investment for the state, that both the industry and Legislature continue to participate and partner with the administration to market and promote all of New York's destinations, attractions and events.

Given the Matching Grant Program's track record as a revenue source for State and local governments, as well as a job generator, tourism is not only a wise investment, but a critical one that yields unmatched and well sustained returns for New York's economy. Accordingly, we will continue to support funding for programs such as Market NY and Taste NY that allocated funds for regional marketing and promotions across the State, which have proven to be huge successes and opportunities to show both domestically and internationally all that New York has to offer.

Tourism funding specifics in the 2015-2016 Budget include:

- Matching Grants: \$4.315 million (\$500K increase over previous year)
- I Love NY: \$2.5M
- TASTENY: \$1.1 million.
- Market NY: \$5 million
- Finger Lakes Tourism Alliance: \$100K
- Queens Economic Development Corp: \$100K
- Long Island farm bureau for tourism promotion: \$50K
- Long Island wine council for tourism promotion: \$50K

## Regional Economic Development Councils

NYSH&TA remains an ardent supporter of the REDCs as they have been a proven funding source for tourism promotion and marketing across all of the State. In 2014, the State awarded nearly \$12M in tourism-related projects through Round 4 of the Regional Economic Development Council (REDC) process. As we move forward and begin discussions on the 2015-2016 State Budget we strongly support a 5th round of funding for the Regional Economic Development Council process as the Councils have delivered real results.

- **Nearly 150** tourism projects have been funded thru the first 4 rounds of REDC process
- **Roughly \$75 Million** has been allocated for tourism projects thru the first 4 rounds of REDC process

## Tourism Summits

NYSH&TA was an active participant and supporter of all the Tourism Summits and will continue to partner with the State to promote and grow the tourism industry in New York. Participation at these events and summits, provide a chance for continued partnerships to be developed which ultimately enhance the marketing and promotion of all New York.

- In 2015-2016 the Governor is calling for a 3rd Round of Summits/Events Across NY (\$25 Million in I Love NY & Advertising)

## Scaffold Law

The Scaffold Law, which dates back to the 1885, holds contractors and property owners fully liable in lawsuits for gravity-related construction injuries, regardless of partial contributing fault by a worker. According to an independent study in 2012,

Scaffold Law lawsuits represented half of the top settlements in New York and are responsible for escalating insurance and building costs across the state. These costs threaten the viability of many small businesses and impose millions of dollars in costs on taxpayers. New York is the only state in the nation where such a law is still on the books. Legislation to reform the Scaffold Law currently enjoys bipartisan support in both houses of the legislature, and NYSH&TA joins with many others in the business community supporting its passage this legislative session.

## **Improvements for Small Business**

In Governor Cuomo's "2015 Opportunity Agenda" – a four percent tax reduction for small businesses and a set of new resources for small business owners looking to start or grow their businesses, was outlined. Cuomo has announced the creation of NY Business Express, a one-stop shop to help small businesses get started and grow. The Governor's proposed tax cut would put small business tax rates at their lowest rate ever. Overall, NYSH&TA supports the Governor in his efforts to streamline the regulatory process to do business in New York.

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## **Buffalo/Niagara National Travel Issues**

The Buffalo/Niagara Region is home to some of the nation's most recognized tourism attractions, which is why it is important this area's tourism businesses are aware of the federal programs that help deliver business to the region. This area of the state is much different than any other in that it depends heavily on international travelers to fill hotel rooms, restaurants and tourist destinations.

Below are several important issues, and some details on how you can make sure the US Congress can help us all succeed in this ever-crowded tourism marketplace.

### **Issues:**

## **Great Lakes Harbor Dredging, Water Levels Still an Issue**

A huge issue we have yet to resolve deals with Great Lakes water levels and the corresponding problems associated with shallow draft harbors throughout our region. The Great Lakes Shallow Draft Harbor Coalition has been pushing the Federal government to release funds for dredging from the Harbor Maintenance Trust Fund, but we need to unite to address the problem and take matters into our own hands. The Water Resource Development Act finally passed last year, but it didn't provide the funding we thought it would because the available monies simply haven't been appropriated. We need to work together to help develop a dredging management plan that involves the counties, boaters, marinas, the state and other users of the resource. On Lake Ontario, six of the counties have gotten together to form a dredging management plan that would call for creating an LDC and purchase the equipment to dredge. It would also establish a variety of funding mechanisms. This could be the answer to their problems, but it's not going to happen overnight. Help is needed in the legislative arena to help make this a reality. On the water level front, each of those six counties is also opposed to Plan 2014, an International Joint Commission initiated calling for higher highs and lower lows in Lake Ontario. This is something we must continue to oppose until the dredging issues are resolved.

## Casino Revenue Legislation

While NYS and the Seneca Nation have come to an agreement related to the Casino compact, there is still an upcoming deadline. Current legislation regarding Distribution is set to expire December 31, 2016. It is imperative to allow multiple year budgeting, strategic and marketing planning that confirmation of current distribution allocation occur. Any delay in legislation could severely impact marketing initiatives and possibly cash flow for organizations involved. Previously, when faced with delayed and changed legislation NTCC was faced with staff layoffs. In addition, NTCC significantly reduced marketing and promotion programming having a direct impact and decreasing visitation and ultimately reducing the economic impact within employment and tax dollars generated. We respectfully request, the conversation to start and complete prior to approaching deadline. As all Casino recipients will be planning their 2016 budget within the 2015 Calendar year, confirmation of consistent funding for these entities will be beneficial.

## Excessive Wine Fee

This is a Federal/NY state issue: There is a 102% LCBO "Fee" charged on any wine brought into Ontario from NY. This effectively doubles the price of our wines for tourists returning to Ontario with mementos of their wonderful visit to NY wine county (and it prevents purchases from Canadians). The US Duty on wine brought from Ontario is \$1.35 per case of 12 bottles and is never charged for American tourists. We would like a 3 case (27 liter) exemption for tourists returning to Ontario with NY wine. The opportunity is to sell wine to tourists from the 8 million people living in the GTA. This would help regions across NY State including Lake Erie, Niagara, the Finger Lakes and The Thousand Islands.

- a.) Senator Schumer has raised this issue several times with his Canadian counterparts, with no result.
- b.) Do we need to place a NY Fee on Ontario wine in order to get the Canadian's attention to this unfair practice?

## Federal Label Regulations

The labeling is a federal issue and impacts our ability to sell wines. Wines made from Grapes purchased in Ontario Canada are not eligible for Vintage date, Varietal identification, or Appellation. Try selling a wine with no varietal name, date or indication of where it came from. Since source of grapes is an issue that is legislated around the world, I assume it matters. However, our current system of using political boundaries, rather than regional boundaries is peculiar. For example, Arizona wineries can import grapes from all over California with no restriction on labeling. Both Arizona and California are very large states. The growing climate of Arizona is significantly different than California, and the grapes will express themselves differently as well. The idea of such labeling laws is to preserve some regional flavor to wines produced. To accomplish this goal, it would be ideal to have a set distance from a winery, such as a X mile radius, rather than using political state borders as the boundary. Regions remain distinct and the "Large vs Small" state issues are leveled for all businesses. This would also encourage wineries to purchase grapes from Canada or Mexico, without labeling restrictions if they were grown within a X mile radius of the winery.

## Support US Travel's Issues

The Buffalo/Niagara tourism region also supports the US Travel's Destination Capitol Hill issues for this year.

- Preserve and continue to expand the Visa Waiver Program – Pass the JOLT Act
- Air Travel Modernization: Keeping America Globally Connected and Competitive
- Trade Promotion Authority Will Strengthen America's Travel Economy
- Travel and Tourism Caucuses Promote Travel-Friendly Policies

A special thank you to the  
**Buffalo/Niagara Marriott**  
for hosting this event!