

Introduced by Senator Wolk

February 24, 2012

An act to amend Section ~~23009~~ 23958.4 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1531, as amended, Wolk. Alcoholic beverages: licensees.

The Alcoholic Beverage Control Act specifies the rules and procedures for the issuance and transfer of alcoholic beverage licenses by the Department of Alcoholic Beverage Control. The act requires the department to deny an application for a license if issuance or transfer of the license would result in or add to an undue concentration where, among other things, the ratio of on-sale or off-sale retail licenses to population in a specified area exceeds the ratio of on-sale or off-sale retail licenses to population within that area's county. Existing law specifies how the number retail licenses within a county is determined for purposes of this prohibition.

This bill would revise the manner in which the number of retail licenses in a county is established.

~~The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon, alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law defines "licensee" to mean any person holding a license, permit, certification, or any other authorization issued by the department.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23958.4 of the Business and Professions
2 Code is amended to read:

3 23958.4. (a) For purposes of Section 23958, “undue
4 concentration” means the case in which the applicant premises for
5 an original or premises-to-premises transfer of any retail license
6 are located in an area where any of the following conditions exist:

7 (1) The applicant premises are located in a crime reporting
8 district that has a 20 percent greater number of reported crimes,
9 as defined in subdivision (c), than the average number of reported
10 crimes as determined from all crime reporting districts within the
11 jurisdiction of the local law enforcement agency.

12 (2) As to on-sale retail license applications, the ratio of on-sale
13 retail licenses to population in the census tract or census division
14 in which the applicant premises are located exceeds the ratio of
15 on-sale retail licenses to population in the county in which the
16 applicant premises are located.

17 (3) As to off-sale retail license applications, the ratio of off-sale
18 retail licenses to population in the census tract or census division
19 in which the applicant premises are located exceeds the ratio of
20 off-sale retail licenses to population in the county in which the
21 applicant premises are located.

22 (b) Notwithstanding Section 23958, the department may issue
23 a license as follows:

24 (1) With respect to a nonretail license, a retail on-sale bona fide
25 eating place license, a retail license issued for a hotel, motel, or
26 other lodging establishment, as defined in subdivision (b) of
27 Section 25503.16, a retail license issued in conjunction with a beer
28 manufacturer’s license, or a winegrower’s license, if the applicant
29 shows that public convenience or necessity would be served by
30 the issuance.

31 (2) With respect to any other license, if the local governing body
32 of the area in which the applicant premises are located, or its
33 designated subordinate officer or body, determines within 90 days
34 of notification of a completed application that public convenience
35 or necessity would be served by the issuance. The 90-day period

1 shall commence upon receipt by the local governing body of (A)
2 notification by the department of an application for licensure, or
3 (B) a completed application according to local requirements, if
4 any, whichever is later.

5 If the local governing body, or its designated subordinate officer
6 or body, does not make a determination within the 90-day period,
7 then the department may issue a license if the applicant shows the
8 department that public convenience or necessity would be served
9 by the issuance. In making its determination, the department shall
10 not attribute any weight to the failure of the local governing body,
11 or its designated subordinate officer or body, to make a
12 determination regarding public convenience or necessity within
13 the 90-day period.

14 (c) For purposes of this section, the following definitions shall
15 apply:

16 (1) “Reporting districts” means geographical areas within the
17 boundaries of a single governmental entity (city or the
18 unincorporated area of a county) that are identified by the local
19 law enforcement agency in the compilation and maintenance of
20 statistical information on reported crimes and arrests.

21 (2) “Reported crimes” means the most recent yearly compilation
22 by the local law enforcement agency of reported offenses of
23 criminal homicide, forcible rape, robbery, aggravated assault,
24 burglary, larceny theft, and motor vehicle theft, combined with all
25 arrests for other crimes, both felonies and misdemeanors, except
26 traffic citations.

27 (3) “Population within the census tract or census division” means
28 the population as determined by the most recent United States
29 decennial or special census. The population determination shall
30 not operate to prevent an applicant from establishing that an
31 increase of resident population has occurred within the census tract
32 or census division.

33 (4) “Population in the county” shall be determined by the annual
34 population estimate for California counties published by the
35 Population Research Unit of the Department of Finance.

36 (5) “Retail licenses” shall include the following:

37 (A) Off-sale retail licenses: Type 20 (off-sale beer and wine)
38 and Type 21 (off-sale general).

39 (B) On-sale retail licenses: All retail on-sale licenses, except
40 Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer

1 and wine for fishing party boat), Type 45 (on-sale beer and wine
2 for boat), Type 46 (on-sale beer and wine for airplane), Type 53
3 (on-sale general for train and sleeping car), Type 54 (on-sale
4 general for boat), Type 55 (on-sale general for airplane), Type 56
5 (on-sale general for vessels of more than 1,000 tons burden), and
6 Type 62 (on-sale general bona fide public eating place intermittent
7 dockside license for vessels of more than 15,000 tons
8 displacement).

9 (6) A “premises to premises transfer” refers to each license
10 being separate and distinct, and transferable upon approval of the
11 department.

12 (d) For purposes of this section, the number of retail licenses
13 in the county shall be ~~determined by the most recent yearly retail~~
14 ~~license count published~~ *established* by the department ~~in its~~
15 ~~Procedure Manual~~ *on an annual basis*.

16 (e) The enactment of this section shall not affect any existing
17 rights of any holder of a retail license issued prior to April 29,
18 1992, whose premises were destroyed or rendered unusable as a
19 result of the civil disturbances occurring in Los Angeles from April
20 29 to May 2, 1992, to reopen and operate those licensed premises.

21 (f) This section shall not apply if the premises have been
22 licensed and operated with the same type license within 90 days
23 of the application.

24 ~~SECTION 1. Section 23009 of the Business and Professions~~
25 ~~Code is amended to read:~~

26 ~~23009. “Licensee” means any person holding a certification,~~
27 ~~a license, a permit, or any other authorization issued by the~~
28 ~~department.~~