

AMENDED IN ASSEMBLY APRIL 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 593

Introduced by Assembly Member Quirk

February 20, 2013

An act to amend ~~Section 24300~~ *Sections 23986, 24013, and 24014* of, and to add and repeal Section 23059 of, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 593, as amended, Quirk. Alcoholic beverages: Department of Alcoholic Beverage Control.

(1) The Alcoholic Beverage Control Act is administered by the Department of Alcoholic Beverage Control and requires the department to perform various duties relating to the issuance of alcoholic beverage licences.

This bill would require the department to evaluate its onsite license review process for restaurants in order to implement a more expedited licensing process. This bill would also require the department to prepare and submit a report to the Legislature, on or before December 31, 2015, relating to the review.

(2) The Alcoholic Beverage Control Act requires ~~any hearings held on a protest, accusation, or petition for a license to be held at specified locations and to be conducted in accordance with specified administrative procedures~~ *specified applicants for on-sale or off-sale licensees to have a notice of the application published, as provided.*

This bill would ~~additionally require that any hearing held on a protest be held within 60 days of the date from which the initial protest was filed~~ *exempt from that requirement applicants that are required to*

provide specified notices via mail of applications for licenses, including retail licenses, and transfer of licenses, as provided.

(3) Existing law provides that protests against the issuance of a liquor license may be filed with the department. Existing law permits the Department of Alcoholic Beverage Control to reject protests, except protests made by a public agency, public official, or governing body of a city or county, it determines to be false, vexatious, or without reasonable or probable cause.

This bill would permit the department to reject protests, except protests made by a public agency, public official, or governing body of a city or county, it determines are invalid or unreasonable, as described. The bill would also require a protest submitted by a person other than an employee of the department or a public officer to be submitted by an individual and limit the protest to one signatory.

(4) This bill would also make legislative findings related to legislation to provide guidance and direction to the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Appeals Board.

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

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

1 *SECTION 1. The Legislature finds and declares all of the*
 2 *following:*

3 *(a) That it is the intent of the Legislature to enact legislation*
 4 *that would require the Alcoholic Beverage Control Appeals Board*
 5 *to issue its decisions within 120 days of a hearing.*

6 *(b) That it is the intent of the Legislature to enact legislation*
 7 *that would provide the Department of Alcoholic Beverage Control*
 8 *with recruitment and retention incentives.*

9 **SECTION 1.**

10 **SEC. 2.** Section 23059 is added to the Business and Professions
 11 Code, to read:

12 23059. (a) The department shall evaluate its onsite license
 13 review process for restaurants that are bona fide eating places in
 14 order to implement a more expedited licensing process.

15 (b) (1) On or before December 31, 2015, the department shall
 16 prepare and submit to the Legislature a report on the findings
 17 regarding the onsite review process described in subdivision (a).

1 (c) The report required by subdivision (b) shall be submitted in
2 compliance with Section 9795 of the Government Code.

3 (d) This section shall remain in effect only until January 1, 2016,
4 and as of that date is repealed.

5 *SEC. 3. Section 23986 of the Business and Professions Code*
6 *is amended to read:*

7 23986. (a) Any applicant for an on-sale license shall cause a
8 notice of the application, giving the name or names of the applicant
9 and the premises where the business is to be conducted, to be
10 published pursuant to Section 6061 of the Government Code in a
11 newspaper of general circulation, other than a legal or professional
12 trade publication, in the city in which the premises are situated, or
13 if the premises are not in a city, the publication shall be made in
14 a newspaper of general circulation nearest the premises where the
15 business is to be conducted. The form of the notice shall be
16 prescribed by the department. Affidavit of publication shall be
17 filed with the department prior to the issuance of any license. The
18 department shall adopt rules and regulations to enforce the
19 provisions of this section.

20 (b) Any applicant for an on-sale or off-sale license at a premises
21 which is located in a census tract which has an undue concentration
22 of licenses, as defined in paragraph (2) or (3) of subdivision (a) of
23 Section 23958.4, shall cause a notice of the application to be
24 published pursuant to Section 6063 of the Government Code in a
25 newspaper of general circulation other than a legal or trade
26 publication. Publication shall be made in the city in which the
27 premises are situated, or if the premises are not in a city, the
28 publication shall be made in a newspaper of general circulation
29 nearest the premises where the business is to be conducted. The
30 form of the notice shall be prescribed by the department. Affidavit
31 of publication shall be filed with the department prior to the
32 issuance of any license. The department shall adopt rules and
33 regulations to enforce the provisions of this subdivision.

34 (c) *This section shall not apply to any licensee subject to the*
35 *notification requirements of Section 23985.5 or Section 23987.*

36 *SEC. 4. Section 24013 of the Business and Professions Code*
37 *is amended to read:*

38 24013. (a) Protests may be filed at any office of the department
39 within 30 days from the first date of posting the notice of intention
40 to engage in the sale of alcoholic beverages at the premises, within

1 30 days of the mailing of the notification pursuant to Section
2 23985.5, or within 30 days of the mailing of the notices of the
3 department to public officials as required by Section 23987,
4 whichever is later. The time within which a local law enforcement
5 agency may file a protest shall be extended by the period prescribed
6 in Section 23987, pursuant to a request made under that section.

7 (b) (1) The department may reject protests, except protests
8 made by a public agency or public official or protests made by the
9 governing body of a city or county, if it determines the protests
10 are false, vexatious, frivolous, *invalid or unreasonable*, or without
11 reasonable or probable cause at any time before hearing thereon,
12 notwithstanding Section 24016 or 24300. If, after investigation,
13 the department recommends that a license be issued
14 notwithstanding a protest by a public agency, a public official, or
15 the governing body of a city or county, the department shall notify
16 the agency, official, or governing body in writing of its
17 determination and the reasons therefor, in conjunction with the
18 notice of hearing provided to the protestant pursuant to Section
19 11509 of the Government Code. If the department rejects a protest
20 as provided in this section and issues a license, a protestant whose
21 protest has been rejected may, within 10 days after the issuance
22 of the license, file an accusation with the department alleging the
23 grounds of protest as a cause for revocation of the license and the
24 department shall hold a hearing as provided in Chapter 5
25 (commencing with Section 11500) of Part 1 of Division 3 of Title
26 2 of the Government Code.

27 (2) *For purposes of this subdivision, an invalid or unreasonable*
28 *protest includes, but is not limited to, a protest that the department*
29 *determines is _____.*

30 (c) Nothing in this section shall be construed as prohibiting or
31 restricting any right that the individual making the protest might
32 have to a judicial proceeding.

33 *SEC. 5. Section 24014 of the Business and Professions Code*
34 *is amended to read:*

35 24014. (a) A protest made by any person other than an
36 employee of the department or a public officer shall be verified.
37 Verification may be on information and belief.

38 (b) *A protest made pursuant to this section shall be submitted*
39 *by an individual and shall be limited to one signatory.*

1 ~~SEC. 2. Section 24300 of the Business and Professions Code is~~
2 ~~amended to read:~~

3 ~~24300. (a) Any hearings held on a protest, accusation, or~~
4 ~~petition for a license shall be held in the county in which the~~
5 ~~premises or licensee is located; provided, that hearings before the~~
6 ~~department itself on reconsideration or under subdivision (c) of~~
7 ~~Section 11517 of the Government Code may be held at any place~~
8 ~~in the state where the department is meeting. Except as provided~~
9 ~~in Section 24203 and in this section, the proceedings shall be~~
10 ~~conducted in accordance with Chapter 5 (commencing with Section~~
11 ~~11500) of Part 1 of Division 3 of Title 2 of the Government Code,~~
12 ~~and in all cases the department shall have all the powers granted~~
13 ~~therein. The department, in its exclusive discretion, shall consider~~
14 ~~scheduling the hearing at a time, including evening hours, and at~~
15 ~~a place convenient to all parties to a proceeding, including those~~
16 ~~witnesses required to be present, and the public affected.~~

17 ~~(b) Notwithstanding the provisions of subdivision (a), if a protest~~
18 ~~is filed against an application for a license and the proposed~~
19 ~~premises are located within a city, the department may, in its~~
20 ~~discretion, hold the hearing within that city, unless the protest is~~
21 ~~filed by the governing body of the city, in which case the~~
22 ~~department shall hold the hearing within that city.~~

23 ~~(c) For any hearing held pursuant to this division, the department~~
24 ~~may delegate the power to hear and decide to an administrative~~
25 ~~law judge appointed by the director. Any hearing before an~~
26 ~~administrative law judge shall be pursuant to the procedures, rules,~~
27 ~~and limitations prescribed in Chapter 5 (commencing with Section~~
28 ~~11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

29 ~~(d) Any hearing held on a protest shall be scheduled within 60~~
30 ~~days from the date of an initial protest filing.~~