

ASSEMBLY BILL

No. 928

Introduced by Assembly Member Linder

February 26, 2015

An act to amend Section 24044.5 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 928, as introduced, Linder. Alcoholic beverages.

Existing law, the Alcoholic Beverage Control Act, regulates the application, issuance, and suspension of alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law permits the department, in its discretion, to issue an interim operating permit to an applicant for a license to operate a premises during the period an application for a license at the premises is pending, if specified conditions exist.

This bill would make technical, nonsubstantive changes to these provisions.

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 24044.5 of the Business and Professions
- 2 Code is amended to read:
- 3 24044.5. (a) The department, in its discretion, may issue an
- 4 interim operating permit to an applicant for ~~any~~ a license to operate
- 5 the premises during the period an application for a license at the

1 premises is pending and ~~when~~ *if* all of the following conditions
2 exist:

3 (1) The application has been protested pursuant to Article 3
4 (commencing with Section 24011).

5 (2) The department has made a determination based upon its
6 investigation that the license should be issued.

7 (3) The applicant for the interim operating permit has filed with
8 the department an application for issuance of a license at the
9 premises to himself or herself.

10 (4) The application for the interim operating permit is
11 accompanied by a fee of one hundred dollars (\$100).

12 (b) An interim operating permit issued by the department
13 pursuant to this section shall be for a period not to exceed 120
14 days. An interim operating permit may be extended at the discretion
15 of the department for additional 120-day periods as necessary upon
16 payment of an additional fee of one hundred dollars (\$100) and
17 upon compliance with all conditions required by this section. ~~Any~~
18 *An* interim operating permit issued by the department shall be
19 automatically canceled when a final determination made by the
20 department regarding the protests becomes effective or when the
21 application for the license is withdrawn, whichever occurs first.
22 An interim operating permit is a conditional permit and authorizes
23 the holder to whom issued to exercise the rights and privileges of
24 the license for which the application has been filed with the
25 department. Any conditions for which the applicant has petitioned
26 pursuant to Article 1.5 (commencing with Section 23800) of
27 Chapter 5 shall apply to any interim operating permit issued by
28 the department.

29 (c) Purchase of beer and wine by the holder of an interim
30 operating permit issued to an applicant for a retail license shall be
31 made only upon payment before or at the time of delivery in
32 currency or by check. Purchase of distilled spirits by the holder of
33 an interim operating permit issued to an applicant for a retail
34 license shall be made only upon payment before or at the time of
35 delivery in currency or by certified check. However, the holder of
36 an interim operating permit issued to an applicant for a retail
37 license, who also holds one or more retail licenses and is operating
38 under the retail license or licenses in addition to the interim
39 operating permit, and who is not delinquent under the provisions
40 of Section 25509 as to any retail license under which he or she

1 operates, may purchase alcoholic beverages on credit under the
2 interim operating permit.

3 (d) All checks received by a seller for beer or wine purchased
4 by the holder of an interim operating permit issued to an applicant
5 for a retail license shall be deposited not later than the second
6 business day following the date the beer or wine is delivered.

7 A check dishonored on presentation shall not be deemed
8 payment. The receipt by the seller or his or her agent in good faith
9 from a holder of an interim operating permit of a check dishonored
10 on presentation shall not be cause for disciplinary action against
11 the seller.

12 (e) Issuance of the license for which the holder of an interim
13 operating permit issued to an applicant for a retail license has filed
14 an application shall not be approved by the department until the
15 holder of the interim operating permit has filed with the department
16 a statement executed under penalty of perjury that all current
17 obligations have been ~~discharged~~, *discharged* and that all
18 outstanding checks issued by him or her in payment for alcoholic
19 beverages will be honored on presentation.

20 (f) It shall not be a violation of this section or grounds for
21 disciplinary action for ~~any~~ a licensee to extend credit to the holder
22 of an interim operating permit issued to an applicant for a retail
23 license or to receive payment from the holder of an interim
24 operating permit in a manner other than authorized herein unless
25 the seller has knowledge of the fact that the purchaser was
26 operating under an interim operating permit. Knowledge of the
27 fact may be established by evidence, including, but not limited to,
28 evidence that, at the time of receipt of payment or the extension
29 of credit, the premises operated under an interim operating permit
30 were posted with the notice required by Section 23985, or the
31 holder of the interim operating permit has recorded notice as
32 required by Section 24073, or the holder of the interim operating
33 permit has published notice as required by Section 23986, or the
34 holder of the interim operating permit has recorded and published
35 notice pursuant to Division 6 (commencing with Section 6101) of
36 the Commercial Code.

37 (g) Refusal by the department to issue or extend an interim
38 operating permit shall not entitle the applicant to petition for the
39 permit pursuant to Section 24011, or to a hearing pursuant to
40 Section 24012. Articles 2 (commencing with Section 23985) and

1 3 (commencing with Section 24011) shall not apply to interim
2 operating permits.

3 (h) Notwithstanding any other provision of law, the department
4 may, in its discretion, cancel or suspend summarily at any time an
5 interim operating permit if the department determines that good
6 cause for the cancellation or suspension exists. Chapter 8
7 (commencing with Section 24300) shall not apply to interim
8 operating permits.

9 (i) Application for an interim operating permit shall be on any
10 form the department shall prescribe. If an application for an interim
11 operating permit is withdrawn before issuance or is refused by the
12 department, the fee that accompanied the application shall be
13 refunded in full, and Section 23959 shall not apply. Fees received
14 by the department for issuance of interim operating permits shall
15 be deposited in the Alcohol Beverage Control Fund as provided
16 in Section 25761.

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