

AMENDED IN ASSEMBLY AUGUST 2, 2016

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL

No. 1285

Introduced by Senator Leno

February 19, 2016

An act to add Section 23826.13 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1285, as amended, Leno. Alcoholic beverages: licenses.

The Alcoholic Beverage Control Act, administered by the Department of Alcoholic Beverage Control, regulates the sale and distribution of alcoholic beverages and the granting of licenses for the manufacture, distribution, and sale of alcoholic beverages within the state. The act also provides for a limitation on the amount of on-sale general licenses that may be issued by the department based on the population of the county in which the licensed premises are located, as provided. Existing law also provides for various annual fees for the issuance of alcoholic beverage licenses, depending on the type of license issued.

This bill would, beginning January 1, 2017, provide an exception to the license limitation for a county of the 6th class, as specified, for ~~28~~ 5 new original neighborhood-restricted special on-sale general licenses for premises located within specified census tracts in that county, subject to specified requirements. This bill would impose an original fee and annual renewal fee for the license, which would be deposited in the Alcohol Beverage Control Fund, and would require an applicant for this license to submit a specified application, submitted under the penalty of perjury, to the Department of Alcoholic Beverage Control. This bill would also require the applicant to submit a signed verification by the

local government in which the licensed premises would be located stating that the applicant has completed certain preapplication requirements.

By requiring an applicant to submit an application under penalty of perjury, thereby expanding the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason and that no reimbursement shall be made pursuant to those statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

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

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

1 SECTION 1. Section 23826.13 is added to the Business and
2 Professions Code, to read:

3 23826.13. (a) Notwithstanding any other provision of this
4 chapter, in any county of the sixth class, the department may issue
5 no more than a total of ~~28~~ five new original neighborhood-restricted
6 special on-sale general licenses *to premises located in any of the*
7 *census tracts listed in subdivision (b)* beginning on January 1,
8 2017.

9 (b) To qualify for a license issued pursuant to this section, the
10 premises for which the license would apply shall be located within
11 one of the following United States Bureau of Census census tracts
12 located within the City and County of ~~San Francisco~~, subject to
13 ~~the following limitations:~~ *San Francisco*:

14 (1) ~~For~~ United States Bureau of the Census census tracts 612000,
15 232000, 234000, 233000, and 230030, no more than a total of four
16 new original neighborhood-restricted special on-sale general
17 licenses shall be issued to premises located within all of these
18 ~~tracts:~~ *or 230030.*

1 ~~(2) For United States Bureau of the Census census tracts 258000~~
2 ~~and 257020, no more than a total of four new original~~
3 ~~neighborhood-restricted special on-sale general licenses shall be~~
4 ~~issued to premises located within both of these tracts. or 257020.~~

5 ~~(3) For United States Bureau of the Census census tract 264030,~~
6 ~~no more than a total of four new original neighborhood-restricted~~
7 ~~special on-sale general licenses shall be issued to premises located~~
8 ~~within this tract. 264030.~~

9 ~~(4) For United States Bureau of the Census census tracts 255000,~~
10 ~~256000, 260020, 260010, 260040, 261000, and 263010, no more~~
11 ~~than a total of four new original neighborhood-restricted special~~
12 ~~on-sale general licenses shall be issued to premises located within~~
13 ~~all of these tracts. or 263010.~~

14 ~~(5) For United States Bureau of the Census census tracts 309000,~~
15 ~~310000, and 312010, no more than a total of four new original~~
16 ~~neighborhood-restricted special on-sale general licenses shall be~~
17 ~~issued to premises located within all of these tracts. or 312010.~~

18 ~~(6) For United States Bureau of the Census census tracts 330000,~~
19 ~~329010, 328010, 353000, and 354000, no more than a total of four~~
20 ~~new original neighborhood-restricted special on-sale general~~
21 ~~licenses shall be issued to premises located within all of these~~
22 ~~tracts. or 354000.~~

23 ~~(7) For United States Bureau of the Census census tracts 328020,~~
24 ~~329020, 351000, and 352010, no more than a total of four new~~
25 ~~original neighborhood-restricted special on-sale general licenses~~
26 ~~shall be issued to premises located within all of these tracts. or~~
27 ~~352010.~~

28 (c) In issuing the licenses pursuant to this section, the department
29 shall follow the procedure set forth in Section 23961. A license
30 shall not be issued pursuant to this section to an applicant until
31 any existing on-sale licenses issued to the applicant for the same
32 premises are canceled.

33 (d) (1) A person who currently holds an on-sale general license
34 for a premises shall not apply for a license issued pursuant to this
35 section for that licensed premises.

36 (2) In addition to the other requirements of this section, an
37 application for a neighborhood-restricted on-sale general license
38 shall be subject to all the requirements that apply to an on-sale
39 general license for a bona fide eating place.

1 (3) Prior to submitting an application for a license issued
2 pursuant to this section, the applicant shall conduct a minimum of
3 one preapplication meeting to discuss the application with
4 neighbors and members of the community within the census tract
5 in which the premises are located.

6 (A) The applicant shall hold the meeting either on the premises
7 or at an alternate location within a one-mile radius of the premises.

8 (B) The applicant shall mail notification of the preapplication
9 meeting to all of the following individuals and organizations at
10 least 14 calendar days before the meeting:

11 (i) Each resident within a 500-foot radius of the premises for
12 which the license is to be issued.

13 (ii) Any relevant neighborhood associations for the
14 neighborhood in which the premises is located, as identified on a
15 list maintained by the Planning Department of the City and County
16 of San Francisco.

17 (iii) The Chief of Police for the San Francisco Police
18 Department.

19 (C) Applicants for a neighborhood-restricted special on-sale
20 general license shall submit, on a form provided by the department,
21 signed verification by the local government body that states the
22 applicant has completed the preapplication meeting pursuant to
23 this section.

24 (e) (1) A license issued pursuant to this section shall not be
25 transferred between counties.

26 (2) A license issued pursuant to this section shall not be
27 transferred to any other premises. This provision shall not apply
28 to any licensee whose premises have been destroyed as a result of
29 fire or any act of God or other force beyond the control of the
30 licensee, for whom the provisions of Section 24081 shall apply.

31 (3) A license issued pursuant to this section shall not be
32 transferred to any person, partnership, limited partnership, limited
33 liability company, or corporation. This provision shall not apply
34 to licenses transferred under Section 24071, 24071.1, or 24071.2.

35 (f) Upon the cancellation of any license issued pursuant to this
36 section, the license shall be returned to the department for issuance
37 to a new applicant following the procedure set forth in Section
38 23961 and the provisions of this section.

1 (g) A person that holds a neighborhood-restricted special on-sale
2 general license issued pursuant to this section shall not exchange
3 his or her license for an on-sale license for public premises.

4 (h) Except as specified herein, a neighborhood-restricted special
5 on-sale general license may exercise all of the privileges, and is
6 subject to all the restrictions, of an on-sale general license for a
7 bona fide eating place.

8 (i) A neighborhood-restricted special on-sale general license
9 issued pursuant to this section shall not, with respect to beer and
10 wine, authorize the exercise of the rights and privileges granted
11 by an off-sale beer and wine license.

12 (j) (1) The original and annual fees, and any additional fees
13 and surcharges, shall be the same as those imposed upon an on-sale
14 general license for a bona fide eating place.

15 (2) All moneys collected from the fees imposed pursuant to this
16 section shall be deposited in the Alcohol Beverage Control Fund,
17 pursuant to Section 25761.

18 (k) The department shall adopt rules and regulations to enforce
19 the provisions of this section.

20 SEC. 2. The Legislature finds and declares that a special law
21 is necessary and that a general law cannot be made applicable
22 within the meaning of Section 16 of Article IV of the California
23 Constitution because of the unique distribution and market
24 conditions of liquor licenses in the City and County of San
25 Francisco, that apply only to the City and County of San Francisco.

26 SEC. 3. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

35 No reimbursement shall be made pursuant to Part 7 (commencing
36 with Section 17500) of Division 4 of Title 2 of the Government
37 Code for costs mandated by the state pursuant to this act. It is
38 recognized, however, that a local agency or school district may
39 pursue any remedies to obtain reimbursement available to it under

- 1 Part 7 (commencing with Section 17500) and any other provisions
- 2 of law.

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