

AMENDED IN SENATE AUGUST 23, 1995

AMENDED IN SENATE JULY 5, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 683

Introduced by Assembly Member Tucker

February 21, 1995

An act to amend ~~Section 24300~~ Sections 24200, 24300, and 25612.5 of, to add Section 23057 to, and to repeal Section 24015.5 of, the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 683, as amended, Tucker. Alcoholic beverages.

(1) The Alcoholic Beverage Control Act provides that persons under the age of 21 years may be used by peace officers to apprehend licensees, or their employees or agents, who sell alcoholic beverages to minors.

This bill would require the Department of Alcoholic Beverage Control to send information regarding this procedure to all on-sale and off-sale licensees with each license renewal notice.

(2) *Existing law establishes various matters, including a licensee's failure, within a reasonable time after specified notice, to take reasonable steps to correct objectional conditions that occur during business hours on any public sidewalk abutting a licensed premises and constitute a*

nuisance, as grounds for the suspension or revocation of a liquor license, except with respect to certain licenses, including a retail on-sale license for a bona fide public eating place, as defined in a specified statute. Existing law establishes certain general operating standards that are applicable, as provided, to the licensed premises of certain retailers of alcoholic beverages, the violation of which is punishable as a misdemeanor, except with respect to certain licenses, including a retail license for a bona fide public eating place, as defined in a specified statute.

This bill would also except from those provisions an on-sale license for a convention center, exhibit hall, or auditorium, or an on-sale beer and wine license for a ball park, stadium, or coliseum featuring professional sporting events, defined as a bona fide public eating place under specified statutes.

(3) The Alcoholic Beverage Control Act provides that any hearings held on a protest, accusation, or petition for a license shall be held at the county seat of the county in which the premises or licensee ~~are~~ is located, as specified.

This bill would, instead, provide that those hearings shall be held in the county in which the premises or licensee ~~are~~ is located, as specified.

~~(3)~~

(4) *The bill would also require the Department of Alcoholic Beverage Control, by July 1, 1996, to review certain regulations it has promulgated.*

(5) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 23057 is added to the Business
- 2 and Professions Code, to read:
- 3 23057. The department shall send, with each renewal
- 4 notice to any on-sale or off-sale licensee, information
- 5 regarding the use of persons under the age of 21 years by
- 6 peace officers to apprehend licensees, or the employees



1 or agents of licensees, who sell alcoholic beverages to
2 minors.

3 SEC. 2. Section 24015.5 of the Business and
4 Professions Code is repealed.

5 SEC. 3. *Section 24200 of the Business and Professions*
6 *Code, as amended by Section 13 of Chapter 91 of the*
7 *Statutes of 1995, is amended to read:*

8 24200. The following are the grounds that constitute
9 a basis for the suspension or revocation of licenses:

10 (a) When the continuance of a license would be
11 contrary to public welfare or morals. However,
12 proceedings under this subdivision are not a limitation
13 upon the department's authority to proceed under
14 Section 22 of Article XX of the California Constitution.

15 (b) Except as limited by ~~Chapter 11 (commencing~~
16 ~~with Section 24850) and Chapter 12 (commencing with~~
17 ~~Section 25000)~~, the violation or the causing or permitting
18 of a violation by a licensee of this division, any rules of the
19 board adopted pursuant to Part 14 (commencing with
20 Section 32001) of Division 2 of the Revenue and Taxation
21 Code, any rules of the department adopted pursuant to
22 the provisions of this division, or any other penal
23 provisions of law of this state prohibiting or regulating the
24 sale, exposing for sale, use, possession, giving away,
25 adulteration, dilution, misbranding, or mislabeling of
26 alcoholic beverages or intoxicating liquors.

27 (c) The misrepresentation of a material fact by an
28 applicant in obtaining a license.

29 (d) The plea, verdict, or judgment of guilty, or the plea
30 of nolo contendere to any public offense involving moral
31 turpitude or under any federal law prohibiting or
32 regulating the sale, exposing for sale, use, possession, or
33 giving away of alcoholic beverages or intoxicating liquors
34 or prohibiting the refilling or reuse of distilled spirits
35 containers charged against the licensee.

36 (e) Failure to take reasonable steps to correct
37 objectionable conditions on the licensed premises,
38 including the immediately adjacent area that is owned,
39 leased, or rented by the licensee, that constitute a
40 nuisance, within a reasonable time after receipt of notice



1 to make those corrections from a district attorney, city
2 attorney, county counsel, or the department, under
3 Section 373a of the Penal Code. For the purpose of this
4 subdivision only, “property or premises” as used in
5 Section 373a of the Penal Code includes the area
6 immediately adjacent to the licensed premises that is
7 owned, leased, or rented by the licensee.

8 (f) Failure to take reasonable steps to correct
9 objectionable conditions that occur during business hours
10 on any public sidewalk abutting a licensed premises and
11 constitute a nuisance, within a reasonable time after
12 receipt of notice to correct those conditions from the
13 department. This subdivision shall apply to a licensee only
14 upon written notice to the licensee from the department.
15 The department shall issue this written notice upon its
16 own determination, or upon a request from the local law
17 enforcement agency in whose jurisdiction the premises
18 are located, that is supported by substantial evidence that
19 persistent objectionable conditions are occurring on the
20 public sidewalk abutting the licensed premises. For
21 purposes of this subdivision:

22 (1) “Any public sidewalk abutting a licensed
23 premises” means the publicly owned,
24 pedestrian-traveled way, not more than 20 feet from the
25 premises, that is located between a licensed premises,
26 including any immediately adjacent area that is owned,
27 leased, or rented by the licensee, and a public street.

28 (2) “Objectionable conditions that constitute a
29 nuisance” means disturbance of the peace, public
30 drunkenness, drinking in public, harassment of passersby,
31 gambling, prostitution, loitering, public urination, lewd
32 conduct, drug trafficking, or excessive loud noise.

33 (3) “Reasonable steps” means all of the following:

34 (A) Calling the local law enforcement agency. Timely
35 calls to the local law enforcement agency that are placed
36 by the licensee, or his or her agents or employees, shall
37 not be construed by the department as evidence of
38 objectionable conditions that constitute a nuisance.

39 (B) Requesting those persons engaging in activities
40 causing objectionable conditions to cease those activities,



1 unless the licensee, or his or her agents or employees, feel
2 that their personal safety would be threatened in making
3 that request.

4 (C) Making good faith efforts to remove items that
5 facilitate loitering, such as furniture, except those
6 structures approved or permitted by the local
7 jurisdiction. The licensee shall not be liable for the
8 removal of those items that facilitate loitering.

9 (4) When determining what constitutes “reasonable
10 steps,” the department shall consider site configuration
11 constraints related to the unique circumstances of the
12 nature of the business.

13 (g) Subdivision (f) does not apply to a bona fide public
14 eating place, as defined in Section 23038, 23038.1, or
15 23038.2, that is so operated by a retail on-sale licensee or
16 *on-sale beer and wine licensee*; a hotel, motel, or similar
17 lodging establishment, as defined in subdivision (b) of
18 Section 25503.16; a wine growers license; a licensed beer
19 manufacturer, as defined in Section 23357; those same or
20 contiguous premises for which a retail licensee
21 concurrently holds an off-sale retail beer and wine license
22 and a beer manufacturer’s license; or those same or
23 contiguous premises at which an on-sale licensee or
24 *on-sale beer and wine licensee* who is licensed as a bona
25 fide public eating place as defined in Section 23038,
26 23038.1, or 23038.2, a hotel, motel, or similar lodging
27 establishment as defined in subdivision (b) of Section
28 25503.16, a licensed beer manufacturer, as defined in
29 Section 23357, or a wine growers license, sells off-sale beer
30 and wine under the licensee’s on-sale license.

31 *SEC. 4.* Section 24300 of the Business and Professions
32 Code is amended to read:

33 24300. (a) Any hearings held on a protest, accusation,
34 or petition for a license shall be held in the county in
35 which the premises or licensee are located; provided, that
36 hearings before the department itself on reconsideration
37 or under subdivision (c) of Section 11517 of the
38 Government Code may be held at any place in the state
39 where the department is meeting. Except as provided in
40 Section 24203 and in this section, the proceedings shall be



1 conducted in accordance with Chapter 5 (commencing
 2 with Section 11500) of Part 1 of Division 3 of Title 2 of the
 3 Government Code, and in all cases the department shall
 4 have all the powers granted therein. The department, in
 5 its exclusive discretion, shall consider scheduling the
 6 hearing at a time, including evening hours, and at a place
 7 convenient to all parties to a proceeding, including those
 8 witnesses required to be present, and the public affected.

9 (b) Notwithstanding the provisions of subdivision (a),
 10 if a protest is filed against an application for a license and
 11 the proposed premises are located within a city, the
 12 department may, in its discretion, hold the hearing within
 13 that city, unless the protest is filed by the governing body
 14 of the city, in which case the department shall hold the
 15 hearing within that city.

16 ~~SEC. 4.—~~

17 *SEC. 5. Section 25612.5 of the Business and*
 18 *Professions Code is amended to read:*

19 25612.5. (a) This section shall apply to licensees other
 20 than a retail on-sale licensee *or on-sale beer and wine*
 21 *licensee* who is licensed and operates as a bona fide public
 22 eating place, as defined in Section 23038, *23038.1, or*
 23 *23038.2*, or as a hotel, motel, or similar lodging
 24 establishment, as defined in subdivision (b) of Section
 25 25503.16; a wine growers license; a licensed beer
 26 manufacturer, as defined in Section 23357; a retail
 27 licensee who concurrently holds an off-sale retail beer
 28 and wine license and a beer manufacturer’s license for
 29 those same or contiguous premises; and a retail on-sale
 30 licensee *or on-sale beer and wine licensee* who is licensed
 31 and operates as a bona fide public eating place, as defined
 32 in Section 23038, *23038.1, or 23038.2*, or as a hotel, motel,
 33 or similar lodging establishment, as defined in subdivision
 34 (b) of Section 25503.16, a licensed beer manufacturer, as
 35 defined in Section 23357, or a wine growers license, who
 36 sells off-sale beer and wine under the on-sale license on
 37 those same or contiguous premises.

38 (b) The Legislature finds and declares that it is in the
 39 interest of the public health, safety, and welfare to adopt
 40 operating standards as set forth in this section for



1 specified retail premises licensed by the department. The
2 standards set forth in this section are state standards that
3 do not preclude the adoption and implementation of
4 more stringent local regulations that are otherwise
5 authorized by law.

6 (c) Other than as provided in subdivision (a), each
7 retail licensee shall comply with all of the following:

8 (1) A prominent, permanent sign or signs stating “NO
9 LOITERING IS ALLOWED ON OR IN FRONT OF
10 THESE PREMISES” shall be posted in a place that is
11 clearly visible to patrons of the licensee. The size, format,
12 form, placement, and languages of the sign or signs shall
13 be determined by the department. This paragraph shall
14 apply to a licensee only upon written notice to the
15 licensee from the department. The department shall
16 issue this written notice only upon a request, from the
17 local law enforcement agency in whose jurisdiction the
18 premises are located, that is supported by substantial
19 evidence that there is loitering adjacent to the premises.

20 (2) A prominent, permanent sign or signs stating “NO
21 OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE
22 ALLOWED ON THESE PREMISES” shall be posted in
23 a place that is clearly visible to patrons of the licensee. The
24 size, format, form, placement, and languages of the sign
25 or signs shall be determined by the department. This
26 paragraph shall apply to a licensee only upon written
27 notice to the licensee from the department. The
28 department shall issue this written notice only upon a
29 request, from the local law enforcement agency in whose
30 jurisdiction the premises are located, that is supported by
31 substantial evidence that there is drinking in public
32 adjacent to the premises.

33 (3) No alcoholic beverages shall be consumed on the
34 premises of an off-sale retail establishment, and no
35 alcoholic beverages shall be consumed outside the edifice
36 of an on-sale retail establishment.

37 (4) The exterior of the premises, including adjacent
38 public sidewalks and all parking lots under the control of
39 the licensee, shall be illuminated during all hours of
40 darkness during which the premises are open for business



1 in a manner so that persons standing in those areas at
2 night are identifiable by law enforcement personnel.
3 However, the required illumination shall be placed so as
4 to minimize interference with the quiet enjoyment of
5 nearby residents of their property.

6 (5) Litter shall be removed daily from the premises,
7 including adjacent public sidewalks and all parking lots
8 under the control of the licensee. These areas shall be
9 swept or cleaned, either mechanically or manually, on a
10 weekly basis to control debris.

11 (6) Graffiti shall be removed from the premises and all
12 parking lots under the control of the licensee within 120
13 hours of application.

14 (7) No more than 33 percent of the square footage of
15 the windows and clear doors of an off-sale premises shall
16 bear advertising or signs of any sort, and all advertising
17 and signage shall be placed and maintained in a manner
18 that ensures that law enforcement personnel have a clear
19 and unobstructed view of the interior of the premises,
20 including the area in which the cash registers are
21 maintained, from the exterior public sidewalk or
22 entrance to the premises. However, this latter
23 requirement shall not apply to premises where there are
24 no windows, or where existing windows are located at a
25 height that precludes a view of the interior of the
26 premises to a person standing outside the premises.

27 (8) Upon request of the local law enforcement agency
28 in whose jurisdiction the licensed premises are located or
29 at the discretion of the department, each public
30 telephone located on off-sale premises (or located in an
31 adjacent area under the control of the off-sale licensee)
32 shall be equipped with devices or mechanisms that
33 prevent persons from calling into that public telephone.

34 (9) A copy of the applicable operating standards shall
35 be available during normal business hours for viewing by
36 the general public.

37 *SEC. 6. The department shall review regulations it*
38 *has promulgated in Division 1 (commencing with Section*
39 *1) of Title 4 of the California Code of Regulations, that*
40 *were initially adopted on or before January 1, 1976. The*



1 *review shall be completed by July 1, 1996, and shall afford*
2 *the public the ability to present testimony to the*
3 *department.*

4 *SEC. 7.* This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or
6 safety within the meaning of Article IV of the
7 Constitution and shall go into immediate effect. The facts
8 constituting the necessity are:

9 ~~Strict~~

10 (a) *Strict* regulation of the alcoholic beverage control
11 laws of the State of California is of utmost concern to
12 California citizens. The use of decoy customers is an
13 important tool of investigators at the Department of
14 Alcoholic Beverage Control. The Department of
15 Alcoholic Beverage Control responsibly intends to inform
16 owners of retail establishments that they will continue to
17 use decoy customers as one of their investigative tools. ~~In~~
18 ~~addition, this~~

19 (b) *This* act also will allow Department of Alcoholic
20 Beverage Control hearings to be conducted at locations
21 that will be more convenient both to the department and
22 licensees. This change will result in financial savings to
23 the State of California as well as to licensees. ~~In~~

24 (c) *This act also will clarify a statutory cross-reference*
25 *in Sections 24200 and 25612.5 of the Business and*
26 *Professions Code made by Sections 3 and 4 of Chapter 629*
27 *of the Statutes of 1994.*

28 *In order that these important functions and*
29 *responsibilities, responsibilities, and clarifications may be*
30 *undertaken as soon as possible, it is necessary that this act*
31 *go into effect immediately.*

