

AMENDED IN ASSEMBLY APRIL 20, 1999

AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1407**

---

---

**Introduced by Committee on Governmental Organization  
(Wesson (Chair), Battin (Vice Chair), Baugh, Cardoza,  
Granlund, Longville, Margett, Vincent, Wiggins, and  
Wright)**

February 26, 1999

---

---

An act to amend ~~Section~~ *Sections 24045 and 24071.2* of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1407, as amended, Committee on Governmental Organization. Alcoholic beverage licenses: limited liability companies: *license transfers*.

The Alcoholic Beverage Control Act sets forth procedures for applications for alcoholic beverage licenses by limited liability companies and requires limited liability companies to maintain a register of ownership interests available for inspection by the Department of Alcoholic Beverage Control.

*Existing law authorizes the Department of Alcohol Beverage Control to issue temporary permits to transferees of licenses to operate premises during the pendency of the transfer process.*

This bill would correct ~~an~~ erroneous *and obsolete cross-reference* *cross-references* in 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 24045.5 of the Business and*  
2 *Professions Code is amended to read:*

3 24045.5. The department in its discretion may issue a  
4 temporary permit to the transferee of any license to  
5 continue the operation of the premises during the period  
6 a transfer application for the license from person to  
7 person at the same premises is pending and when all the  
8 following conditions exist:

9 (a) The premises shall have been operated under a  
10 license within 30 days of the date of filing the application  
11 for a temporary permit.

12 (b) The license for the premises shall have been  
13 surrendered pursuant to rules of the department.

14 (c) The applicant for the temporary permit shall have  
15 filed with the department an application for transfer of  
16 the license at the premises to himself or herself.

17 (d) The application for the temporary permit shall be  
18 accompanied by a temporary permit fee of one hundred  
19 dollars (\$100).

20 A temporary permit issued by the department  
21 pursuant to this section shall be for a period not to exceed  
22 120 days. A temporary permit may be extended at the  
23 discretion of the department for an additional 120-day  
24 period upon payment of an additional fee of one hundred  
25 dollars (\$100) and upon compliance with all conditions  
26 required herein. A temporary permit is a conditional  
27 permit and authorizes the holder thereof to sell the  
28 alcoholic beverages as would be permitted to be sold  
29 under the privileges of the license for which the transfer  
30 application has been filed with the department.

31 Purchase of beer and wine by the holder of a temporary  
32 permit shall be made only upon payment before or at the  
33 time of delivery in currency or by check. Purchase of



1 distilled spirits by the holder of a temporary permit shall  
2 be made only upon payment before or at the time of  
3 delivery in currency or by certified check. However, the  
4 holder of a temporary retail permit who also holds one or  
5 more retail licenses and is operating under the retail  
6 license or licenses in addition to the temporary permit,  
7 and who is not delinquent under the provisions of Section  
8 25509 as to any retail license under which he or she  
9 operates, may purchase alcoholic beverages on credit  
10 under the temporary permit.

11 All checks received by a seller for beer or wine  
12 purchased by the holder of a temporary retail permit shall  
13 be deposited not later than the second business day  
14 following the date the beer or wine is delivered.

15 A check dishonored on presentation shall not be  
16 deemed payment. The receipt by the seller or his or her  
17 agent in good faith from a holder of a temporary permit  
18 of a check dishonored on presentation shall not be cause  
19 for disciplinary action against the seller.

20 Transfer of the license for which the holder of a  
21 temporary permit has filed an application shall not be  
22 approved by the department until the holder of the  
23 temporary permit has filed with the department a  
24 statement executed under penalty of perjury that all  
25 current obligations have been discharged, and that all  
26 outstanding checks issued by him or her in payment for  
27 alcoholic beverages will be honored on presentation.

28 It shall not be a violation of this section or otherwise  
29 grounds for disciplinary action for any licensee to extend  
30 credit to the holder of a temporary permit or to receive  
31 payment from the permittee in a manner other than  
32 authorized herein unless the seller had knowledge of the  
33 fact that the purchaser was operating under a temporary  
34 permit. Knowledge of the fact may be established by  
35 evidence, including, but not limited to, evidence that, at  
36 the time of receipt of payment or the extension of credit,  
37 the premises operated under a temporary permit were  
38 posted with the notice required by Section 23985, or the  
39 holder of the temporary permit had recorded notice as  
40 required by Section 24073, or the holder of the temporary



1 permit had published notice as required by Section 23986,  
2 or the holder of the temporary permit had recorded and  
3 published notice pursuant to Division 6 (commencing  
4 with Section 6101) of the Commercial Code.

5 Refusal by the department to issue or extend a  
6 temporary permit shall not entitle the applicant to  
7 petition for the permit pursuant to Section 24011, or to a  
8 hearing pursuant to Section 24012. Articles 2  
9 (commencing with Section 23985) and 3 (commencing  
10 with Section 24011) shall not apply to temporary permits.

11 Notwithstanding any other provision of law, a  
12 temporary permit may be canceled or suspended  
13 summarily at any time if the department determines that  
14 good cause for the cancellation or suspension exists.  
15 Chapter 8 (commencing with Section 24300) shall not  
16 apply to temporary permits.

17 Application for a temporary permit shall be on any  
18 form the department shall prescribe. If an application for  
19 temporary permit is withdrawn before issuance or is  
20 refused by the department, the fee which accompanied  
21 the application shall be refunded in full, and ~~Sections~~  
22 ~~Section 23959 and 23960~~ shall not apply. Fees received by  
23 the department for issuance of temporary permits shall  
24 be deposited in the Alcohol Beverage Control Fund as  
25 provided in Section 25761.

26 *SEC. 2.* Section 24071.2 of the Business and  
27 Professions Code is amended to read:

28 24071.2. (a) When the ownership of 50 percent or  
29 more of the membership interests in a limited liability  
30 company required to report the issuance or transfer of  
31 memberships under Section 23405.2 is acquired by or  
32 transferred to a person or persons who did not hold the  
33 ownership of 50 percent of the membership interests on  
34 the date the license was issued to the limited liability  
35 company, the license of the limited liability company  
36 shall be transferred to the limited liability company as  
37 newly constituted. The fee for the transfer shall be equal  
38 to 50 percent of the original fee for the license, except that  
39 the minimum fee shall be one hundred dollars (\$100) and  
40 the maximum fee shall be eight hundred dollars (\$800).



1 In situations involving the multiple and simultaneous  
2 transfer of licenses under this section, the regular transfer  
3 fee shall be required for only one of the licenses being  
4 transferred and the remainder of the licenses shall be  
5 transferred for a fee of one hundred dollars (\$100) each.  
6 All of the transfer fees collected pursuant to this section  
7 shall be deposited in the Alcohol Beverage Control Fund,  
8 as provided in Section 25761. Before the license is  
9 transferred, the department shall conduct an  
10 investigation pursuant to Section 23958. Any person or  
11 persons who own 50 percent or more of the membership  
12 interests of the limited liability company shall have all the  
13 qualifications required of a person holding the same type  
14 of license.

15 (b) No retail license shall be transferred by a limited  
16 liability company under this section unless, before the  
17 filing of the transfer application with the department, the  
18 company initiating the transfer records, in the office of  
19 the county recorder of the county or counties in which  
20 the premises to which the license has been issued are  
21 situated, a notice of the intended transfer, stating all of  
22 the following:

23 (1) The name and address of the limited liability  
24 company.

25 (2) The name and address of the person or persons  
26 acquiring ownership of 50 percent or more of the  
27 membership interests of the limited liability company.

28 (3) The amount of the consideration paid for the  
29 membership interests.

30 (4) The kind of license or licenses intended to be  
31 transferred.

32 (5) The address or addresses of the premises to which  
33 the license or licenses have been issued.

34 A copy of the notice of the intended transfer, certified  
35 by the county recorder, shall be filed with the  
36 department together with the transfer application.

37 (c) Notwithstanding any other provision of this  
38 division to the contrary, a limited liability company as  
39 newly constituted by transfer under this section shall not  
40 be eligible for any new credit from any person named in



1 Section 25509 until all delinquent payments owed by the  
2 limited liability company as formerly constituted are  
3 made, nor shall any retail licensee, by transferring its  
4 license under this section, avoid the provisions of Section  
5 25509 with regard to 42-day or 30-day periods, percentage  
6 charges for unpaid balances, or cash-on-delivery basis.

7 (d) Nothing in this section shall be deemed to  
8 authorize the formation of a limited liability company  
9 composed of only one member in violation of subdivision  
10 (b) of Section 17050 of the Corporations Code.

