



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code:  Section:

[Up^](#) [Add To My Favorites](#)

**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 9. ALCOHOLIC BEVERAGES [23000 - 25762]** ( *Division 9 added by Stats. 1953, Ch. 152.*  )

**CHAPTER 1.5. Administration [23049 - 23098]** ( *Chapter 1.5 added by Stats. 1954, 1st Ex. Sess., Ch. 20.*  )

**ARTICLE 4. Appeals From Decisions of the Department [23080 - 23089]** ( *Article 4 added by Stats. 1954, 1st Ex. Sess., Ch. 20.*  )

**23080.** As used in this article, "decision" when used in reference to the department means any final determination of the department imposing a penalty assessment or affecting a license which may be appealed to the board under Section 22 of Article XX of the California Constitution, and does not include any emergency decision for temporary, interim relief issued pursuant to the authority conferred to the department pursuant to Section 11460.10 of the Government Code.

(Amended by Stats. 2019, Ch. 257, Sec. 1. (SB 788) Effective September 5, 2019.)

**23081.** On or before the tenth day after the last day on which reconsideration of a final decision of the department can be ordered, any party aggrieved by a final decision of the department may file an appeal with the board from such decision. The appeal shall be in writing and shall state the grounds upon which a review is sought. A copy of the appeal shall be served by the appellant to each party who appeared in the proceeding before the department, including the department which shall thereafter be treated in all respects as a party to the appeal. The right to appeal shall not be affected by failure to seek reconsideration before the department.

(Amended by Stats. 2021, Ch. 306, Sec. 1. (AB 1589) Effective January 1, 2022.)

**23081.5.** An appeal to the board shall be deemed filed on the date it is received by the board electronically or by mail to the principal office; provided, however, an appeal mailed to the board by means of registered mail shall be deemed filed with the board on the date of the registry with the United States Post Office.

(Amended by Stats. 2021, Ch. 306, Sec. 2. (AB 1589) Effective January 1, 2022.)

**23082.** No decision of the department shall become effective during the period in which an appeal may be filed and the filing of an appeal shall stay the effect of the decision until such time as a final order is made by the board.

(Added by Stats. 1954, 1st Ex. Sess., Ch. 20.)

**23083.** (a) The board shall determine the appeal upon the record of the department and upon any briefs which may be filed by the parties. If any party to the appeal requests oral argument, the board shall schedule a date and time for argument. The board shall not receive any evidence other than that contained in the record of the proceedings of the department.

(b) Notwithstanding Section 11425.10 of the Government Code, Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the determination.

(Amended by Stats. 2021, Ch. 306, Sec. 3. (AB 1589) Effective January 1, 2022.)

**23083.5.** (a) The department shall collect a 3-percent surcharge on the annual fees provided for in Section 23320 on behalf of the appeals board at the same time the department makes its regular collections of annual fees pursuant to Section 23320. The surcharge shall be rounded to the nearest five dollars (\$5) and pay the costs of the appeals board in carrying out its duties.

(b) All surcharges collected by the department on behalf of the appeals board pursuant to this section shall be deposited in the Alcoholic Beverage Control Appeals Fund, which is hereby created. All moneys in the Alcoholic Beverage Control Appeals Fund shall be available to the appeals board, upon appropriation by the Legislature, to pay the actual costs of the appeals board in carrying out its duties under this chapter.

(Amended by Stats. 2019, Ch. 29, Sec. 5. (SB 82) Effective June 27, 2019.)

**23084.** The review by the board of a decision of the department shall be limited to the questions:

- (a) Whether the department has proceeded without, or in excess of, its jurisdiction.
- (b) Whether the department has proceeded in the manner required by law.
- (c) Whether the decision is supported by the findings.
- (d) Whether the findings are supported by substantial evidence in the light of the whole record.
- (e) Whether there is relevant evidence, which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the department.

*(Added by Stats. 1954, 1st Ex. Sess., Ch. 20.)*

**23085.** In appeals where the board finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the department, it may enter an order remanding the matter to the department for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the department. When the order reverses the decision of the department, the board may direct the reconsideration of the matter in the light of its order and may direct the department to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the department.

*(Added by Stats. 1954, 1st Ex. Sess., Ch. 20.)*

**23086.** In all cases, the board shall enter its order within 60 days after the appeal is submitted for decision.

*(Amended by Stats. 2022, Ch. 294, Sec. 1. (AB 2921) Effective January 1, 2023.)*

**23087.** Whenever any matter is pending before the board or a court of record involving a dispute between the department and a licensee, petitioner or protestant and the parties to such a dispute agree upon a settlement or adjustment thereof, the tribunal shall upon the stipulation by the parties that such an agreement has been reached, remand the matter to the department.

*(Added by Stats. 1959, Ch. 545.)*

**23088.** An order of the board on appeal from a decision of the department shall be in writing and shall be filed by delivering copies to the parties personally or electronically or by mailing copies to them by certified mail. An order shall become final upon being filed as provided herein, and there shall be no reconsideration or rehearing by the board.

*(Amended by Stats. 2021, Ch. 306, Sec. 4. (AB 1589) Effective January 1, 2022.)*

**23089.** Final orders of the board may be reviewed by the courts specified in Article 5 (commencing with Section 23090) of this chapter within the time and in the manner therein specified and not otherwise.

*(Added by Stats. 1967, Ch. 1525.)*