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BUSINESS AND PROFESSIONS CODE - BPC

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

CHAPTER 6. Issuance and Transfer of Licenses [23950 - 24082] (*Chapter 6 added by Stats. 1953, Ch. 152.*)

ARTICLE 4. Issuance and Renewal of Licenses [24040 - 24051] (*Article 4 added by Stats. 1953, Ch. 152.*)

24040. Each license shall be issued to a specific person and, except in the case of licenses authorizing the sale of alcoholic beverages on trains or boats, or the service of alcoholic beverages on airplanes shall be issued for a specific location, the principal address of which shall be indicated on the license. Except as provided in Section 24044, any license issued for a specific location shall be placed in use at that location within 30 days of the date of issuance.

(Amended by Stats. 1963, Ch. 1040.)

24041. Separate licenses shall be issued for each of the premises of any business establishment having more than one location, except as provided for in Sections 23355.1, 23388, 23389, and 23390, except that any manufacturer, importer, or wholesaler may receive, store, and deliver wine as specified in its license, at and from a public warehouse licensed by the department, without holding an additional license at the warehouse. A license at a public warehouse shall be required by an out-of-state business whose alcoholic beverages come to rest, are stored, and shipped from a public warehouse in California.

(Amended by Stats. 2013, Ch. 337, Sec. 3. (SB 818) Effective January 1, 2014.)

24041.5. The provisions of this division do not prohibit the issuance of an off-sale general license for use on part of the same premises for which an off-sale beer and wine license has been issued and is in force, when the two licenses would be held by different persons, provided that such issuance shall be pursuant to rules adopted by the department.

(Added by Stats. 1965, Ch. 826.)

24042. (a) Any licensee under an on-sale general license or an on-sale general license for seasonal business who maintains upon or within the premises for which the license is issued more than one room in which there is regularly maintained a fixed counter or service bar at which distilled spirits are served to members of the public for consumption within the licensed premises shall obtain from the department, and the department may upon request issue, a duplicate of the original license for each room, in excess of one, containing a fixed counter or service bar and shall post a duplicate of the original license in each room. Failure to obtain the duplicate licenses and to pay the fees, as specified in Section 23320, shall subject the licensee to the penalties imposed by this division for failure to obtain an original license or to pay the annual fees therefor.

(b) The duplicate license may be issued to a room reserved for the exclusive use of designated patrons, provided that the department shall, in the event the license is issued, endorse upon the license the terms and conditions under which the privileges conferred by the said license may be exercised, and provided further that upon the receipt by the department of the request for the duplicate license written notice thereof which shall consist of a copy of the request shall immediately be mailed by the department to the sheriff or chief of police within whose jurisdiction the premises are situated and no duplicate license shall be issued by the department until at least 30 days after such mailing. Upon receipt by the department within 30 days of a protest by the sheriff or chief of police within whose jurisdiction the premises are situated, the department shall not issue the duplicate license until after a hearing is held by the department within the county or city affected and said hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code and the department shall have all the powers granted therein.

(c) A licensee under an on-sale general license, or an on-sale general license for seasonal business, issued for a bona fide public eating place may obtain a duplicate license or licenses under this section for rooms which constitute public premises, as defined in Section 23039, and a licensee under the license issued for public premises may obtain a duplicate license or licenses under this section for rooms which constitute bona fide public eating places, except that a duplicate license or licenses for rooms which constitute bona fide public eating places shall only be issued after the department has made the investigation and determination

required by Section 23787. Rooms which constitute bona fide public eating places shall not be considered public premises, as defined in Section 23039, and the provisions of this division applicable solely to these public premises shall not be applicable to these rooms.

(Amended by Stats. 2019, Ch. 29, Sec. 49. (SB 82) Effective June 27, 2019.)

24042.5. Notwithstanding any other provision of this division, any licensee under an on-sale general or on-sale general license for seasonal business who has a premises with a fixed counter or service bar in one room of the premises for the service of distilled spirits to members of the public for consumption on the premises and who has other rooms on the premises which can be utilized for the same purposes by means of a portable bar counter may elect to request the department to license the portable bar counter itself rather than the additional rooms as provided in Section 24042. However, if two or more portable bar counters are utilized at the same time, in the same room, only one portable bar shall be required to be licensed. The licensee shall pay to the department at the time of the application for each portable bar counter an amount equal to the license fee payable for a like period for the distilled spirits privileges of the original on-sale general license or on-sale general license for seasonal business. Failure to obtain the portable bar counter license and to pay the fees, as specified in Section 23320, shall subject the licensee to the penalties imposed by this division for failure to obtain an original license or pay the annual fees therefor.

(Amended by Stats. 2019, Ch. 29, Sec. 50. (SB 82) Effective June 27, 2019.)

24043. Licenses for trains and boats shall be based on the average number in actual operation during the license year of each class of operating units, namely, trains and boats upon which the license privileges are exercised. The average number in actual operation shall be determined as the department may prescribe.

(Amended by Stats. 1955, Ch. 447.)

24044. (a) Licenses for the retail sale of alcoholic beverages may be issued for or transferred to premises that are to be constructed or that are in the process of construction. Alcoholic beverages shall not be sold pursuant to the license until the premises have been completed.

(b) A licensee transferring a license to a premises pursuant to this section shall follow the notification requirements prescribed in Section 23985. Nothing in this section shall require an existing licensee to comply with the notification requirements if the construction is taking place on the existing premises of the existing license.

(Amended by Stats. 2023, Ch. 295, Sec. 2. (SB 844) Effective September 30, 2023.)

24044.5. (a) The department, in its discretion, may issue an interim operating permit to an applicant for any license to operate the premises during the period an application for a license at the premises is pending and when all of the following conditions exist:

- (1) The application has been protested pursuant to Article 3 (commencing with Section 24011).
- (2) The department has made a determination based upon its investigation that the license should be issued.
- (3) The applicant for the interim operating permit has filed with the department an application for issuance of a license at the premises to themselves.
- (4) The application for the interim operating permit is accompanied by a nonrefundable fee of one hundred forty-five dollars (\$145). This fee may be adjusted by the department pursuant to subdivisions (d) and (e) of Section 23320.

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

(c) Purchase of beer and wine by the holder of an interim operating permit issued to an applicant for a retail license shall be made only upon payment before or at the time of delivery in currency or by check. Purchase of distilled spirits by the holder of an interim operating permit issued to an applicant for a retail license shall be made only upon payment before or at the time of delivery in currency or by certified check. However, the holder of an interim operating permit issued to an applicant for a retail license, who also holds one or more retail licenses and is operating under the retail license or licenses in addition to the interim operating permit, and who is not delinquent under the provisions of Section 25509 as to any retail license under which they operate, may purchase alcoholic beverages on credit under the interim operating permit.

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

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

(e) Issuance of the license for which the holder of an interim operating permit issued to an applicant for a retail license has filed an application shall not be approved by the department until the holder of the interim operating permit has filed with the department a statement executed under penalty of perjury that all current obligations have been discharged, and that all outstanding checks issued by them in payment for alcoholic beverages will be honored on presentation.

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

(g) Refusal by the department to issue or extend an interim operating permit shall not entitle the applicant to petition for the permit pursuant to Section 24011, or to a hearing pursuant to Section 24012. Articles 2 (commencing with Section 23985) and 3 (commencing with Section 24011) shall not apply to interim operating permits.

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

(i) Application for an interim operating permit shall be on any form the department shall prescribe. Fees received by the department for issuance of interim operating permits shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

(Amended by Stats. 2019, Ch. 29, Sec. 51. (SB 82) Effective June 27, 2019.)

24045. (a) All licenses, except on-sale general licenses for seasonal businesses and daily on-sale general licenses issued pursuant to Section 24045.1, shall be issued on an annual basis. However, the department may issue special licenses for the sale of beer and wine on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering, or similar occasion at a fee equal to the actual cost of issuing the license, but not to exceed fifty dollars (\$50) per day.

(b) Notwithstanding subdivision (a), a license transferred pursuant to Section 24071 or 24071.1 shall be issued for the unexpired term remaining on the license of the transferor.

(c) The director may assign or reassign dates for the expiration of licenses issued pursuant to this section. The director may establish a registration year for any license issued pursuant to subdivision (a) consisting of any period from six months to 18 months, inclusive, and shall prorate related annual fees to the extent the registration year is greater or less than 12 months, with subsequent renewals being required at yearly intervals.

(Amended by Stats. 2019, Ch. 29, Sec. 52. (SB 82) Effective June 27, 2019.)

24045.1. (a) The department, in its discretion, may issue on a temporary basis a daily on-sale general license and the fee for such license shall be seventy-five dollars (\$75) per day. The license authorizes the sale of distilled spirits, wine, and beer for consumption on the premises where sold, and no off-sale privileges shall be exercised under the license. A daily on-sale general license may only be issued to a political party or affiliate supporting a candidate for public office or a ballot measure, an organization formed for a specific charitable or civic purpose, a fraternal organization in existence for over five years with a regular membership, or a religious organization. Distilled spirits sold under a daily on-sale general license shall have been purchased at retail from the holder of an off-sale general license.

(b) The department may adopt such rules as it determines to be necessary to implement and administer the provisions of this section, including, but not limited to, limitations on the number of times during any calendar year a qualified organization may be issued a license provided for by this section.

(c) The provisions of Article 2 (commencing with Section 23815) of Chapter 5 and Article 2 (commencing with Section 23985) of Chapter 6 of this division shall not be applicable to the licenses provided for by this section.

(Amended by Stats. 2019, Ch. 29, Sec. 53. (SB 82) Effective June 27, 2019.)

24045.2. (a) The department may issue a special temporary retail package off-sale beer and wine license to: (1) a television station, supported wholly or in part by public membership subscription, which is a nonprofit, charitable corporation exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States, or (2) a nonprofit, charitable

corporation exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States that receives and administers donations for a noncommercial, educational television station or public broadcasting station supported wholly or in part by public membership subscription. An applicant for this license shall accompany the application with a fee of one hundred dollars (\$100).

(b) This license shall only entitle the licensee to sell at auction beer and wine donated to it. Notwithstanding any other provision of this division, a licensee may donate beer, wine, or both beer and wine, to a corporation licensed under this section, provided donations are not made in connection with a sale of an alcoholic beverage.

(c) This license shall be for a period not exceeding 30 days. Only one license shall be issued to any corporation in a calendar year.

(Amended by Stats. 2004, Ch. 523, Sec. 1. Effective September 14, 2004.)

24045.3. (a) The department may issue a special temporary retail package off-sale beer and wine license to a women's educational and charitable organization that is a part of a national organization having at least 10 chapters in California at least one of which has been incorporated since 1928, whose purpose is to foster interest among its members in the social, economic, and civic conditions of their community and to give effective volunteer service. An applicant for this license shall accompany the application with a fee of one hundred dollars (\$100).

(b) This license shall only entitle the licensee to sell at auction for charitable purposes beer and wine donated to it. None of the funds realized from this auction shall be used for the administrative expenses of the auction and all funds shall be placed in trust for a charitable purpose. Notwithstanding any other provision of this division, a licensee may donate beer and wine to an organization licensed under this section, provided that donations are not made in connection with a sale of an alcoholic beverage.

(c) This license shall be for a period not exceeding one day. Only one license shall be issued to any organization in a calendar year.

(Amended by Stats. 2005, Ch. 22, Sec. 6. Effective January 1, 2006.)

24045.4. (a) The department may issue a special temporary off-sale general license to any nonprofit corporation which is exempt from payment of income taxes under the provisions of Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States. An applicant for this license shall accompany the application with a fee of one hundred dollars (\$100).

(b) This license shall only entitle the licensee to sell at auction alcoholic beverages donated to it. Notwithstanding any other provision of this division, a licensee may donate alcoholic beverages to a corporation licensed under this section, provided that donations are not made in connection with a sale of an alcoholic beverage.

(c) This license shall be for a period not exceeding 30 days. Only three licenses authorized by this section shall be issued to any corporation in a calendar year.

(Amended by Stats. 2009, Ch. 140, Sec. 23. (AB 1164) Effective January 1, 2010.)

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

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

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

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

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

A temporary permit issued by the department pursuant to this section shall be for a period not to exceed four calendar months. A temporary permit may be extended at the discretion of the department for an additional four calendar months upon payment of an additional fee of one hundred dollars (\$100) and upon compliance with all conditions required herein. A temporary permit is a conditional permit and authorizes the holder thereof to sell the alcoholic beverages as would be permitted to be sold under the privileges of the license for which the transfer application has been filed with the department.

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

All checks received by a seller for alcoholic beverages purchased by the holder of a temporary retail permit shall be deposited not later than the second business day following the date the alcoholic beverages are delivered.

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

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

It shall not be a violation of this section or otherwise grounds for disciplinary action for any licensee to extend credit to the holder of a temporary permit or to receive payment from the permittee in a manner other than authorized herein unless the seller had knowledge of the fact that the purchaser was operating under a temporary permit. Knowledge of the fact may be established by evidence, including, but not limited to, evidence that, at the time of receipt of payment or the extension of credit, the premises operated under a temporary permit were posted with the notice required by Section 23985, or the holder of the temporary permit had recorded notice as required by Section 24073, or the holder of the temporary permit had published notice as required by Section 23986, or the holder of the temporary permit had recorded and published notice pursuant to Division 6 (commencing with Section 6101) of the Commercial Code.

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

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

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

(Amended by Stats. 2005, Ch. 22, Sec. 7. Effective January 1, 2006.)

24045.6. (a) The department may issue a special temporary on-sale or off-sale beer or wine license to any nonprofit corporation that is exempt from payment of income taxes under Section 23701d or 23701e of the Revenue and Taxation Code and Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code. An applicant for this license shall accompany the application with a fee of one hundred dollars (\$100).

(b) This special license shall only entitle the licensee to sell beer or wine bought by, or donated to, the licensee to a consumer and to any person holding a license authorizing the sale of beer or wine. Notwithstanding any other provision of this division, a licensee may donate or sell beer or wine to a nonprofit corporation that obtains a special temporary on-sale or off-sale license under this section, provided that the donation is not made in connection with a sale of an alcoholic beverage.

(c) This special license shall be for a period not exceeding 15 days. In the event the license under this section is issued for a period exceeding two days, it shall be used solely in conjunction with an identifiable fundraising event sponsored or conducted by the licensee and all bottles of beer or wine sold under this license shall bear a label prominently identifying the event. A nonprofit corporation may be issued no more than four special licenses authorized by this section per calendar year.

(d) (1) Notwithstanding Section 25600 or any rule of the department, a nonprofit corporation issued a special temporary on-sale or off-sale beer or wine license pursuant to this section that also obtains a raffle registration from the Department of Justice pursuant to Section 320.5 of the Penal Code may offer, provide, or award alcoholic beverages as a prize in a raffle.

(2) This subdivision does not authorize the awarding of alcoholic beverages as a raffle prize, or the sale or consumption of any alcoholic beverages, that are not otherwise authorized to be sold pursuant to the special temporary on-sale or off-sale beer or wine license obtained by the nonprofit corporation.

(Amended by Stats. 2022, Ch. 136, Sec. 2. (SB 1011) Effective January 1, 2023.)

24045.7. (a) (1) The department may issue a special on-sale general license to any nonprofit theater company, nonprofit radio broadcasting company, or nonprofit cultural film exhibition company that is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States. Any special on-sale general license issued to a nonprofit theater company, nonprofit radio broadcasting company, or nonprofit cultural film exhibition company pursuant to this subdivision shall be for a single specified premises only.

(2) Theater companies or nonprofit radio broadcasting companies holding a license under this subdivision may, subject to Section 25631, sell and serve alcoholic beverages to ticketholders only during, and two hours before and one hour after, a bona fide performance.

(3) (A) Nonprofit cultural film exhibition companies holding a license under this subdivision may, subject to Section 25631, sell and serve alcoholic beverages to ticketholders only during, and two hours before and one hour after, a bona fide film exhibition of the company.

(B) For purposes of this subdivision, "nonprofit cultural film exhibition company" means a company that predominantly exhibits classic, foreign, independent, or rare movies by means of digital or film projection equipment for its members or the general public, or both, in a theater with a seating capacity of at least 100 seats, at least three days per week.

(4) Notwithstanding any other provision in this division, a licensed manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, employee, or agent of that person, may serve on the board of trustees or as an officer, director, or employee of a nonprofit theater company or nonprofit radio broadcasting company operating a venue in the County of Napa, the City of Livermore, the City of Modesto, or the City of Sacramento, licensed pursuant to this subdivision.

(5) A nonprofit radio broadcasting company and a nonprofit cultural film exhibition company shall be subject to the same application fee for a new permanent license and applicable annual fee as a nonprofit theater company, as provided in Section 23320, which may be adjusted pursuant to subdivisions (d) and (e) of Section 23320.

(6) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exceptions established by this subdivision to the general prohibition against tied interests must be limited to their express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

(b) (1) The department may issue a special on-sale beer and wine license to any nonprofit theater company that has been in existence for at least eight years, that for at least six years has performed in facilities leased or rented from a local county fair association, and that is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States.

(2) Theater companies holding a license under this subdivision may, subject to Section 25631, sell and serve beer and wine to ticketholders only during, and two hours before, a bona fide theater performance of the company. Beer and wine may be sold from an open-air concession stand that is not attached to the theater building itself, if the concession stand is located on fair association property within 30 feet of the theater building and the alcoholic beverages sold are consumed only in the theater building itself, or within a designated outdoor area in front of and between the concession stand and the main public entrance to the theater building. This section does not authorize a theater company to sell beer or wine during the run of a county fair.

(Amended by Stats. 2022, Ch. 732, Sec. 2.5. (SB 1370) Effective January 1, 2023.)

24045.75. (a) The department may issue a special on-sale general license to the operator of any for-profit theater located within the City and County of San Francisco, configured with theatrical seating of at least 1,000 seats and primarily devoted to live theatrical performances.

(b) The special on-sale general license shall permit sales, service, and consumption of alcoholic beverages in the lobbies and seating areas of the theater for the period beginning two consecutive hours prior to a live theatrical performance and ending one hour after the live theatrical performance is completed, subject to Section 25631. Any special on-sale general license issued pursuant to this section shall be subject to the limitations provided by Section 23816, but shall not be required to be operated as a bona fide public eating place. The theater further shall not be subject to the provisions of Section 23793.

(c) For purposes of this section, "for-profit theater" shall not include an adult or sexually oriented business, as defined in Section 318.5 of the Penal Code.

(Amended by Stats. 2016, Ch. 187, Sec. 1. (AB 2739) Effective August 25, 2016.)

24045.76. (a) The department may issue a special on-sale general license to the operator of any for-profit cemetery that is more than 100 years old, on the National Register of Historic Places, is located in, and designated an Historic-Cultural Monument by, the City of Los Angeles, and holds both an endowment care fund and a memorial care fund that are exempt from the payment of income taxes under Section 501(c)(13) of the Internal Revenue Code.

(b) The special on-sale general license shall permit sales, service, and consumption of beer, wine, and distilled spirits on the licensed premises. Any special on-sale general license issued pursuant to this section shall not be subject to the limitations provided by Section 23816 and shall not be required to be operated as a bona fide public eating place.

(c) A special on-sale general license described by this section shall not be issued until any existing licenses issued by the department to the operator for the premises of the for-profit cemetery are canceled.

(Amended by Stats. 2019, Ch. 29, Sec. 55. (SB 82) Effective June 27, 2019.)

24045.77. (a) (1) The department may issue a special on-sale general license to the operator of any for-profit theater located within the County of Napa, configured with theatrical seating of at least 800 seats and primarily devoted to live theatrical performances.

(2) A special on-sale general license described by this section shall not be issued until any existing licenses issued by the department to the operator for the premises of the for-profit theater are canceled.

(b) The special on-sale general license shall permit sales, service, and consumption of alcoholic beverages in the lobbies and seating areas of the for-profit theater for the period beginning two consecutive hours prior to a live theatrical performance and ending three hours after the live theatrical performance is completed, subject to Section 25631. Any special on-sale general license issued pursuant to this section shall not be subject to the limitations provided by Section 23816 and shall not be required to be operated as a bona fide public eating place. The for-profit theater further shall not be subject to the provisions of Section 23793.

(c) For the purposes of this section, "for-profit theater" shall not include an adult or sexually oriented business, as defined in Section 318.5 of the Penal Code.

(Added by Stats. 2016, Ch. 347, Sec. 2. (AB 1670) Effective January 1, 2017.)

24045.78. (a) The department may issue a special on-sale general license to a nonprofit arts foundation operating within a former church that is over 100 years old, on the National Register of Historic Places, and is located in designated Landmark No. 120 by the City and County of San Francisco, and is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code.

(b) The special on-sale general license shall permit sales, service, and consumption of beer, wine, and distilled spirits on the licensed premises. Any special on-sale general license issued pursuant to this section shall not be subject to the limitations provided by Section 23816 and shall not be required to be operated as a bona fide public eating place.

(c) (1) The fee for the original special on-sale general license shall be the same as that specified in subparagraph (B) of paragraph (2) of subdivision (a) of Section 23320 for an original on-sale general license.

(2) The annual license fee for the special on-sale general license shall be the same as that for an on-sale general license.

(Amended by Stats. 2022, Ch. 296, Sec. 3. (AB 2971) Effective January 1, 2023.)

24045.8. (a) The department may issue a special temporary off-sale wine license (1) to an executor, administrator, guardian or conservator of an estate, or to an auctioneer acting as an agent of any of the foregoing for the purpose of conducting a sale or auction of bottled wine to nonlicensees pursuant to Section 23104.4, or (2) to a sheriff or a person appointed by the court to execute a court order or writ of execution, for the purpose of conducting a sale of bottled wine to nonlicensees pursuant to Section 23104.5. An applicant for such a license shall accompany the application with a fee of one hundred dollars (\$100).

(b) Such a license shall only entitle the licensee to sell or auction bottled wine included in the inventory of alcoholic beverages.

(c) Such a license shall be for the period required to dispose of the bottled wine to be sold or auctioned, or until the closing of the estate or execution of the court order or writ of execution, whichever occurs first.

(d) The department shall adopt such rules as it determines to be necessary to implement and administer the provisions of this section.

(Added by Stats. 1981, Ch. 212, Sec. 3.)

24045.85. (a) The department may issue a special on-sale beer, wine, or distilled spirits license to any symphony association organized as a nonprofit corporation more than 30 years before the date of application and which is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of 1954 of the United States.

(b) A symphony association holding a license under this section may sell and serve alcoholic beverages only to persons attending concerts on the licensed premises. Sales of alcoholic beverages shall only be permitted, subject to Section 25631, during the period commencing two hours before the performance and ending one hour after the performance.

(c) Original licenses may be issued pursuant to this section until January 1, 1987; thereafter no new licenses shall be issued. Licenses originally issued pursuant to this section prior to January 1, 1987, may continue to be renewed annually by the holder thereof.

(Amended by Stats. 2019, Ch. 29, Sec. 56. (SB 82) Effective June 27, 2019.)

24045.9. (a) The department may issue a special temporary on-sale beer and wine license to: (1) a television station, supported wholly or in part by public membership subscription, which is a nonprofit, charitable corporation exempt from payment of income

taxes under the provisions of the Internal Revenue Code of 1954 of the United States, or (2) a nonprofit, charitable corporation exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States which receives and administers donations for a noncommercial, educational television station or public broadcasting station supported wholly or in part by public membership subscription. An applicant for this license shall accompany the application with a fee of one hundred dollars (\$100).

(b) This license shall only entitle the licensee to sell and serve beer and wine donated to it. Notwithstanding any other provision of this division, a licensee may donate beer or wine to a corporation licensed under this section, provided that the donations are not made in connection with a sale of an alcoholic beverage.

(c) This license shall be for a period not exceeding 30 days. Only one license shall be issued to any corporation in a calendar year.

(d) For purposes of this section, any licensee may also serve that beer or wine donated by him or her at any event for which the license has been issued.

(e) The department shall adopt rules as it determines necessary to implement and administer this section.

(Amended by Stats. 2005, Ch. 22, Sec. 8. Effective January 1, 2006.)

24045.10. (a) The department in its discretion may issue, on a temporary basis, a daily on-sale general license for a vessel of 7,000 tons or more displacement engaged in interstate or foreign commerce, which is located in a county of the third class.

(b) The license shall be issued to the operator of the vessel and shall entitle the licensee to sell only alcoholic beverages on which all applicable excise taxes have been paid only to passengers, bona fide guests of passengers, bona fide guests of the vessel operator, and employees not on duty and only while the vessel is berthed at a dock in port in this state which is on the vessel's regularly scheduled interstate or international cruise itinerary.

(c) The license shall be issued for a period not to exceed two consecutive days. No license shall be issued for use on the same vessel more than 24 times per calendar year.

(d) For the purpose of this section, a "bona fide guest of a passenger" or a "bona fide guest of the operator" means an individual whose presence as a guest on the vessel is in response to a specific invitation by a passenger or the operator.

(e) The fee for the license shall be fifty dollars (\$50) per day.

(f) Application for the license may be made by the vessel's agent on behalf of the vessel's operator upon written authorization by the vessel's operator.

(g) All alcoholic beverages dispensed under authority of the license shall have been purchased from a licensed wholesaler or winegrower in this state.

(Added by Stats. 1986, Ch. 723, Sec. 1.)

24045.11. (a) The department may issue a special on-sale wine license to an establishment licensed to do business as a bed and breakfast inn.

(b) For purposes of this section, "bed and breakfast inn" means an establishment of 20 guestrooms or less, which provides overnight transient occupancy accommodations, which serves food only to its registered guests, which serves only a breakfast or similar early morning meal, and with respect to which the price of the food is included in the price of the overnight transient occupancy accommodation. "Bed and breakfast inn" refers to an establishment as to which the predominant relationship between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest, and the existence of some other legal relationships as between some occupants and the owner or operator is immaterial.

(c) An establishment holding a license under this section is authorized to serve wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment. Wine shall not be given away to guests but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Guests shall not be permitted to remove wine served in the establishment from the grounds.

(Amended by Stats. 2019, Ch. 29, Sec. 57. (SB 82) Effective June 27, 2019.)

24045.12. (a) The department may issue a special on-sale general license to an establishment licensed to do business as a bed and breakfast inn.

(b) For purposes of this section, "bed and breakfast inn" means an establishment of 20 guestrooms or fewer, that provides overnight transient occupancy accommodations, that serves food only to its registered guests, that serves only a breakfast or similar early morning meal, and with respect to which the price of the food is included in the price of the overnight transient occupancy accommodation. "Bed and breakfast inn" refers to an establishment as to which the predominant relationship between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest, and the existence of some other legal relationship as between some occupants and the owner or operator is immaterial.

(c) An establishment holding a license under this section is authorized to serve any alcoholic beverage, as defined in Section 23004, only to registered guests of the establishment. The alcoholic beverage may not be given away to guests, but the price of the beverage shall be included in the price of the overnight transient occupancy accommodation. Guests may not be permitted to remove any alcoholic beverage served in the establishment from the grounds.

(d) An establishment holding a license under this section shall purchase all beer, wine, or distilled spirits for sale on the licensed premises from a licensed wholesaler or winegrower.

(e) A special on-sale general bed and breakfast inn license may be transferred to another person but not to another location.

(Amended by Stats. 2019, Ch. 29, Sec. 58. (SB 82) Effective June 27, 2019.)

24045.13. (a) The department may issue a special temporary off-sale license to a former licensee for the limited purpose of selling any stock of collectible beer, wine, or distilled spirits decanters acquired when previously licensed.

(b) The fee for this license shall be one hundred dollars (\$100).

(c) The license shall be issued for a period not to exceed 120 days. The license may be renewed for up to two additional 120-day periods upon payment of an additional one hundred dollar (\$100) fee for each additional period.

(d) All money collected as fees pursuant to this section shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

(e) The department may adopt rules as it determines necessary to implement and administer this section.

(Added by Stats. 1995, Ch. 139, Sec. 2. Effective January 1, 1996.)

24045.14. (a) Notwithstanding any other provision of this division, the department may issue an on-sale general license to any maritime museum association that has been organized as a nonprofit corporation more than 40 years before the date of application, that owns in its museum inventory not less than three vessels, each of which is 100 feet or more in length, and that is exempt from the payment of income taxes under Section 501(c)(3) of the Internal Revenue Code of 1986.

(b) A maritime museum association holding a license under this section may sell and serve alcoholic beverages only to persons attending prearranged events held onboard its vessels while those vessels are underway or while moored at their home port dock.

(c) A duplicate license shall be required for each vessel in excess of one if alcoholic beverages are sold on the vessel more than 24 times each year.

(d) Original licenses may be issued pursuant to this section until January 1, 1998.

(Amended by Stats. 2019, Ch. 29, Sec. 59. (SB 82) Effective June 27, 2019.)

24045.15. (a) Notwithstanding any other provision of this division, the department may issue a special temporary on-sale or off-sale wine license to any nonprofit corporation having an agricultural purpose that is exempt from the payment of income taxes under Section 501(c)(5) of the Internal Revenue Code of 1986. If the nonprofit corporation's name, or any name under which the nonprofit corporation does business, includes the designation of an American Viticultural Area (AVA) recognized by the United States Bureau of Alcohol, Tobacco and Firearms (BATF), as set forth in Part 9 (commencing with Section 9.1) of Title 27 of the Code of Federal Regulations (27 C.F.R. 9.1 et seq.), the membership of the nonprofit corporation shall include a majority of the winegrowers located in the named AVA in order to obtain a license under this section. No more than one nonprofit corporation located in an AVA is entitled to obtain a license under this section. The applicant shall accompany the application with a fee of one hundred dollars (\$100).

(b) This special license shall only entitle the licensee to sell wine donated or sold to the nonprofit corporation by the member winegrowers to consumers for the purpose of fundraising. The wine shall bear the brand name of the producing winery. Off-sale privileges shall be limited to direct mail, telephone, and online computer services. No member winegrower shall donate or sell more than 75 cases of wine per year to the nonprofit corporation and the nonprofit corporation shall sell no more than 1,000 cases of wine per year under the license. If the nonprofit corporation's name or any name under which the nonprofit corporation does business includes the designation of an American Viticultural Area (AVA) recognized by the United States Bureau of Alcohol, Tobacco and Firearms (BATF), as set forth in Part 9 (commencing with Section 9.1) of Title 27 of the Code of Federal Regulations (27 C.F.R. 9.1 et seq.), the wines sold by the nonprofit corporation must be entitled to use the named AVA as the appellation of origin. In order to avoid confusion between the corporation and any winery whose name also includes the designation of the named AVA, any advertising or solicitation for the sale of wine under this license by the corporation shall include a statement disclosing that the corporation is a nonprofit agricultural organization whose members include individual winegrowers or grapegrowers and whose purpose is to promote its agricultural region and improve its grapes and wines. This advertising or solicitation shall also include a complete roster of the corporation's members and a list of the brand names, varieties, and vintages of the wines offered for sale. The wine shall not be sold at less than its minimum retail price.

(c) This special license shall be for a period not exceeding 60 days. Only one special license authorized by this section shall be issued to any nonprofit corporation in a calendar year.

(Amended by Stats. 2005, Ch. 22, Sec. 9. Effective January 1, 2006.)

24045.16. Notwithstanding any other provision of this division, the department may issue an on-sale general bona fide public eating place license as defined by Section 23038 to any nonprofit charitable arts trust that is exempt from the payment of income taxes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. For the purposes of this section, "arts trust" means an entity devoted to the arts and humanities which operates two or more museums, one of which is located on a site of at least 100 acres, and is within a facility of not less than 450,000 square feet in the County of Los Angeles.

An arts trust holding a license under this section may, subject to Section 25631, sell and serve alcoholic beverages to the public. In addition, a licensee under this section may, subject to Section 25631, directly or indirectly, give or furnish alcoholic beverages to persons at events for consumption on the premises. A premises licensed pursuant to this section shall not be entitled to a caterer's permit pursuant to Section 23399, and shall not be entitled to exercise any off-sale privileges pursuant to Section 23401.

(Added by Stats. 1997, Ch. 20, Sec. 1. Effective June 6, 1997.)

24045.17. Notwithstanding any other provision of law, the department may issue a general on-sale license to a person who does not operate a bona fide eating place or other public premises who meets all of the following:

- (a) Has operated a catering business for not less than five years.
- (b) Has operated or owned for not less than one year a bona fide eating place that had a general on-sale license.
- (c) Caters over 500 events annually.
- (d) Serves alcoholic beverages at no more than 25 percent of the events catered annually and has revenues from the sale of alcoholic beverages which do not constitute more than 25 percent of his or her total annual revenues.
- (e) Obtains an annual permit to serve alcoholic beverages at events and obtains an authorization for each event, as specified in Section 23399.

(Added by renumbering Section 24045.12 (as amended by Stats. 1998, Ch. 639) by Stats. 2007, Ch. 349, Sec. 2. Effective January 1, 2008.)

24045.18. Notwithstanding any other provision of this division, a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine or the holder of a limited off-sale retail wine license may assist a nonprofit organization holding a temporary wine license in conducting a winetasting. The privilege granted under this section for a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine or the holder of a limited off-sale retail wine license shall apply only to wine produced for the donating licensee that is labeled with a brand owned exclusively by the donating licensee and shall include in the tasting only wine donated by the licensee to the event.

(Amended by Stats. 2011, Ch. 292, Sec. 3. (AB 623) Effective January 1, 2012.)

24045.19. (a) The department may issue a special temporary on-sale wine license to a nonprofit corporation, exempt from payment of income taxes under Section 23701a or 23701e of the Revenue and Taxation Code and Section 501(c)(5) or 501(c)(6) of the Internal Revenue Code, if a majority of whose members are either licensed winegrowers, winegrape growers, or professionals in the fields of enology or viticulture. The license shall authorize the sale of wine for consumption on the premises where sold, and no off-sale privileges shall be exercised under this license. An applicant for this license shall accompany the application with a fee equal to the actual cost of issuing the license, but not to exceed seventy-five dollars (\$75) per day.

(b) This special license shall only entitle the licensee to sell to the general public wine bought by, or donated to, the licensee under either of the following conditions:

(1) The wine is sold as part of a class, seminar, or other instructional event organized by the licensee to educate the general public on topics related to enology or viticulture. The instruction may include, without limitation, the history, nature, values, and characteristics of the wines and grapes that were used to make the wines. A single tasting of wine shall not exceed one ounce. The licensee shall remove any wine not consumed during the instruction that the licensee provided following the instruction.

(2) The wine is sold at a winetasting event organized by the licensee to educate and instruct the general public with respect to the uses and value of winegrapes from a particular agricultural region that is related to the licensee's exempt purpose. A single tasting of wine shall not exceed one ounce. If the licensee's name, or any name under which the licensee does business, includes the designation of an American appellation of origin, as defined in Section 4.25 of Title 27 of the Code of Federal Regulations, the wines sold by the licensee pursuant to this license shall be labeled with the named appellation of origin, or an appellation of origin located entirely within the named appellation of origin. The licensee shall remove any wine not consumed during the winetasting event that the licensee provided following the winetasting event.

(c) A class, seminar, instructional event, or winetasting event organized pursuant to this section shall not be directed toward a specific private brand or trade name, although private brands and trade names may be used at the events.

(d) Only six special licenses authorized by this section shall be issued to any single nonprofit corporation in any one calendar year. The special license shall be for a period not to exceed two consecutive days.

(e) Notwithstanding any other provision of this division, licensees may donate wine or sell wine to a nonprofit corporation that obtains a special temporary on-sale license under this section, provided the donation is not made in connection with a sale of an alcoholic beverage.

(Added by Stats. 2008, Ch. 441, Sec. 1. Effective January 1, 2009.)

24046. Upon receipt of any license, the licensee shall post it in a conspicuous place upon the licensed premises. Licenses issued for trains, boats or airplanes may, in lieu of being posted upon the train, boat, or airplane for which issued, be posted in such other place in this State as the department shall designate.

(Amended by Stats. 1959, Ch. 1529.)

24047. Whenever a license certificate is in effect and is lost or destroyed, the department shall issue a duplicate license upon the payment of a fee of twenty-five dollars (\$25).

(Amended by Stats. 2019, Ch. 29, Sec. 60. (SB 82) Effective June 27, 2019.)

24048. Every license, other than a temporary license or a daily on-sale general license issued pursuant to Section 24045.1, is renewable unless the license has been revoked if the renewal application is made and the fee therefor is paid. All licenses expire at 12 midnight on the last day of the month posted on the license. All licenses issued shall be renewed as follows:

(a) On or before the first of the month preceding the month posted on the license, the department shall mail to each licensee at their licensed premises, or at any other email or postal address that the licensee has designated, an application to renew the license.

(b) The application to renew the license may be filed before the license expires upon payment of the annual fee as set forth in subdivision (b) of Section 23320.

(c) For 60 days after the license expires, the license may be renewed upon payment of the annual renewal fee as set forth in subdivision (b) of Section 23320, plus a penalty fee that shall be equal to 50 percent of the annual fee.

(d) Unless otherwise terminated, or unless renewed pursuant to subdivision (b) or (c) of this section, a license that is in effect on the month posted on the license continues in effect through 2 a.m. of the 60th day following the month posted on the license, at which time it is automatically canceled.

(e) On or before the 10th day preceding the cancellation of a license, the department shall send a notice of cancellation to each licensee who has not either filed an application to renew their license or notified the department of their intent not to do so. Failure to send the renewal application in accordance with subdivision (a) or to send the notice provided in this subdivision shall not continue the right to a license.

(f) A license that has been canceled pursuant to subdivision (d) of this section may be reinstated during the 30 days immediately following cancellation upon payment of the annual renewal fee as set forth in subdivision (b) of Section 23320, plus a penalty fee that shall be equal to 100 percent of the annual fee. Payment shall be made by cashier's check, money order, or electronically using any payment method authorized through the department's online payment portal. A license that has been canceled pursuant to subdivision (d) of this section and that has not been reinstated within 30 days pursuant to this subdivision is automatically revoked on the 31st day after the license has been canceled.

(g) A renewal application shall not be deemed filed within the meaning of this section unless the document itself has been actually delivered to, and the required renewal fee has been paid at, any office of the department during office hours, or unless both the document and fee have been filed and remitted pursuant to Section 11003 of the Government Code.

(Amended by Stats. 2022, Ch. 136, Sec. 3. (SB 1011) Effective January 1, 2023.)

24049. The department may refuse to transfer any license when the applicant is delinquent in the payment of any taxes due under the Alcoholic Beverage Tax Law, the Sales and Use Tax Law, the Personal Income Tax Law, or the Bank and Corporation Tax Law, or on unsecured property as defined in Section 134 of the Revenue and Taxation Code, when such tax liability arises in full or in part out of the exercise of the privilege of an alcoholic beverage license, or any amount due under the Unemployment Insurance Code when such liability arises out of the conduct of a business licensed by the Department of Alcoholic Beverage Control.

(Amended by Stats. 1967, Ch. 1034.)

24049.5. (a) The State Board of Equalization or the Franchise Tax Board may seize and sell the license of an off-sale or on-sale general licensee that, upon termination of business, is delinquent in the payment of taxes due under the Sales and Use Tax Law, Personal Income Tax Law, or Corporation Tax Law, respectively. In order for a seizure and sale of a license to be accomplished under this section, the licensee shall have either surrendered the license to the department or failed to pay the annual renewal fee to the department. Immediately upon seizure the State Board of Equalization or Franchise Tax Board shall give written notice by first-

class mail to the department and to the licensee of the seizure and of the intention of the board to sell the license. The seizure and sale shall be in accordance with the provisions of Article 6 (commencing with Section 6796) of Chapter 6 of Part 1 of Division 2 of the Revenue and Taxation Code or Article 4 (commencing with Section 19251) of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code, respectively, and with the provisions of this division. Nothing within these provisions shall be construed to permit the State Board of Equalization or Franchise Tax Board to sell alcoholic beverages.

(b) For the purposes of this section, "termination of business" means the licensee has ceased business operations and has either surrendered the license to the department or the license has expired pursuant to Section 24048.

(c) The licensee may redeem the license at any time before the date of sale of the license by the board or the appropriate reinstatement deadline, whichever occurs first, by conforming to the requirements for reinstatement of a license pursuant to subdivision (f) of Section 24048.

The person who purchases the license at the sale may reinstate the license by paying the applicable fees, but the transfer shall be effective only on approval of the department after the purchaser has complied with the requirements for transfer provided in this division.

(d) Paragraph (1) of subdivision (a) of Section 699.720 of the Code of Civil Procedure shall not be construed to limit the authority of the State Board of Equalization or the Franchise Tax Board to seize and sell licenses pursuant to this section.

(Amended by Stats. 2018, Ch. 727, Sec. 1. (AB 3264) Effective January 1, 2019.)

24051. The department may issue and renew on-sale beer licenses for fishing party boats on payment of the fees without regard to the provisions of Sections 23985, 23986, 23987, 23988, 24013, 24014, or 24043.

(Added by renumbering Section 24052 by Stats. 1961, Ch. 73.)