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**AB-1670 Alcoholic beverages: licenses.** (2015-2016)

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**Assembly Bill No. 1670**

**CHAPTER 347**

An act to amend Section 23826.10 of, and to add Section 24045.77 to, the Business and Professions Code, relating to alcoholic beverages.

[ Approved by Governor September 14, 2016. Filed with Secretary of State September 14, 2016. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1670, Dodd. Alcoholic beverages: licenses.

Existing law, the Alcoholic Beverage Control Act, regulates the application, issuance, and suspension of alcoholic beverage licenses by the Department of Alcoholic Beverage Control. The act provides that a violation of its provisions is a misdemeanor, unless otherwise specified.

The act provides for a limitation on the number of on-sale general licenses that may be issued by the department based on the population of the county in which the licensed premises are located, as provided. However, existing law provides an exception to this limitation for the County of Napa and authorizes the department to issue 5 additional new original on-sale general licenses per year for bona fide public eating places with a seating capacity for 50 or more diners, for a period of 3 years. Existing law prohibits more than 15 of these licenses from being issued pursuant to this exception.

This bill would authorize the department to issue no more than 5 additional new original on-sale general licenses to bona fide public eating places with a seating capacity of 25 or more diners, for a period of 1 year.

Existing law authorizes the Department of Alcoholic Beverage Control to issue a special on-sale general license to any nonprofit theater company, subject to specified requirements.

This bill would authorize the department to issue a special on-sale general license to the operator of any for-profit theater located in the County of Napa, configured with theatrical seating and primarily devoted to live theatrical performances, which would permit sales, service, and consumption of alcoholic beverages in the lobbies and seating areas of the theater at specified times. The bill would not require the licensee to operate as a bona fide public eating place. By expanding the definition of a crime, this bill would impose a state-mandated local program.

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

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

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 23826.10 of the Business and Professions Code is amended to read:

**23826.10.** (a) (1) Notwithstanding any other provision of this chapter, in any county of the 29th class, commencing January 1, 2009, the department may issue five additional new original on-sale general licenses for bona fide public eating places per year, for a period of three years. Any premises to qualify for a license under this paragraph shall have a seating capacity for 50 or more diners. In no event shall more than 15 on-sale general licenses for bona fide eating places be issued under this paragraph.

(2) Notwithstanding any other provision of this chapter, in any county of the 29th class, the department, in addition to those licenses issued pursuant to paragraph (1), may issue no more than a total of five additional new original on-sale general licenses for bona fide public eating places from January 1, 2017, to December 31, 2017, inclusive. Any premises to qualify for a license under this paragraph shall have a seating capacity for 25 or more diners.

(b) In issuing the licenses provided for in this section, the department shall follow the procedure set forth in Section 23961.

(c) Nothing in this chapter shall prohibit a person who currently holds a valid on-sale general license for seasonal business from applying for an original on-sale general license pursuant to this section.

(d) A license issued under this section shall not be transferred from one county to another nor shall it be transferred to any premises not qualifying under this section.

**SEC. 2.** Section 24045.77 is added to the Business and Professions Code, to read:

**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.

**SEC. 3.** The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the economy of the County of Napa and the cultural importance of for-profit theaters within the County of Napa.

**SEC. 4.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.