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AB-471 Alcoholic beverages: licenses: new original on-sale general licenses for bona fide public eating places: neighborhood-restricted special on-sale general licenses. (2017-2018)

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Assembly Bill No. 471

CHAPTER 442

An act to amend Sections 23826.10 and 23826.13 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 03, 2017. Filed with Secretary of State October 03, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 471, Ting. Alcoholic beverages: licenses: new original on-sale general licenses for bona fide public eating places: neighborhood-restricted special on-sale general licenses.

The Alcoholic Beverage Control Act, administered by the Department of Alcoholic Beverage Control, regulates the sale and distribution of alcoholic beverages and the granting of licenses for the manufacture, distribution, and sale of alcoholic beverages within the state. The act also provides for a limitation on the amount 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. 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 25 or more diners, for a period of one year. Existing law, beginning January 1, 2017, also provides an exception to the license limitation for a county of the 6th class, as specified, for 5 new original neighborhood-restricted special on-sale general licenses for premises located within specified census tracts in that county, subject to specified requirements. Existing law requires an applicant to, among other things, submit a signed verification by the local government body that states that the applicant has completed a required preapplication meeting regarding the issuance of the license.

This bill, beginning January 1, 2018, would provide for an exception to the limitation for the County of Napa and authorize the department to issue no more than 5 additional new original on-sale general licenses to bona fide public eating places per year with a seating capacity for 25 or more diners, for a period of 4 years.

This bill would revise the exception relating to a county of the 6th class by authorizing the department to issue 5 new original neighborhood-restricted special on-sale general licenses, as specified, each year until a total of 30 of these licenses are issued and sets a limit to how many neighborhood-restricted special on-sale general licenses may be issued per a census tract or tracts within that county. The bill would include additional restrictions as to who may apply for the license and would authorize, with regard to the signed verification described above, the verification to be signed by the designated subordinate officer or body of the local governing body.

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

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

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.

(3) Notwithstanding any other provision of this chapter, in any county of the 29th class, commencing January 1, 2018, in addition to those licenses issued pursuant to paragraphs (1) and (2), the department may issue five additional new original on-sale general licenses for bona fide public eating places per year, for a period of four years. Any premises to qualify for a license under this paragraph shall have a seating capacity for 25 or more diners. In no event shall more than 20 on-sale general licenses for bona fide eating places be issued under this paragraph.

(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 23826.13 of the Business and Professions Code is amended to read:

23826.13. (a) Notwithstanding any other provision of this chapter, in any county of the sixth class, the department may issue no more than a total of five new original neighborhood-restricted special on-sale general licenses to premises located in any of the census tracts listed in subdivision (b) per year beginning on January 1, 2017, until a total of 30 new licenses authorized by this section are issued.

(b) To qualify for a license issued pursuant to this section, the premises for which the license would apply shall be located within one of the following United States Bureau of Census census tracts located within the City and County of San Francisco, subject to the following limitations:

(1) United States Bureau of the Census census tract 612000, 232000, 234000, 233000, or 230030. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(2) United States Bureau of the Census census tract 258000 or 257020. No more than a total of four neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(3) United States Bureau of the Census census tract 264030. No more than a total of two neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within this tract.

(4) United States Bureau of the Census census tract 255000, 256000, 260020, 260010, 260040, 261000, or 263010. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(5) United States Bureau of the Census census tract 309000, 310000, or 312010. No more than a total of four neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(6) United States Bureau of the Census census tract 330000, 329010, 328010, 353000, or 354000. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(7) United States Bureau of the Census census tract 328020, 329020, 351000, or 352010. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(c) In issuing the licenses pursuant to this section, the department shall follow the procedure set forth in Section 23961. A license shall not be issued pursuant to this section to an applicant until any existing on-sale licenses issued to the applicant for the same premises are canceled.

(d) (1) A person who currently holds an on-sale general license for a premises, who currently holds any interest in an on-sale general license for a premises, who has held an on-sale general license for a premises within the 12 months prior to the date of the drawing required by Section 23961, or who has held any interest in an on-sale general license for a premises within the 12 months prior to the date of the drawing required by Section 23961, shall not apply for a license issued pursuant to this section for that licensed premises.

(2) In addition to the other requirements of this section, an application for a neighborhood-restricted on-sale general license shall be subject to all the requirements that apply to an on-sale general license for a bona fide eating place.

(3) Prior to submitting an application for a license issued pursuant to this section, the applicant shall conduct a minimum of one preapplication meeting to discuss the application with neighbors and members of the community within the census tract in which the premises are located.

(A) The applicant shall hold the meeting either on the premises or at an alternate location within a one-mile radius of the premises.

(B) The applicant shall mail notification of the preapplication meeting to all of the following individuals and organizations at least 14 calendar days before the meeting:

(i) Each resident within a 500-foot radius of the premises for which the license is to be issued.

(ii) Any relevant neighborhood associations for the neighborhood in which the premises is located, as identified on a list maintained by the Planning Department of the City and County of San Francisco.

(iii) The Chief of Police for the San Francisco Police Department.

(C) Applicants for a neighborhood-restricted special on-sale general license shall submit, on a form provided by the department, signed verification by the local governing body of the area in which the applicant premises are located, or its designated subordinated officer or body, that states the applicant has completed the preapplication meeting pursuant to this section.

(e) (1) A license issued pursuant to this section shall not be transferred between counties.

(2) A license issued pursuant to this section shall not be transferred to any other premises. This provision shall not apply to any licensee whose premises have been destroyed as a result of fire or any act of God or other force beyond the control of the licensee, for whom the provisions of Section 24081 shall apply.

(3) A license issued pursuant to this section shall not be transferred to any person, partnership, limited partnership, limited liability company, or corporation. This provision shall not apply to licenses transferred under Section 24071, 24071.1, or 24071.2.

(f) Following the cancellation or revocation of a license issued pursuant to this section, the department may issue one additional new original neighborhood-restricted special on-sale general license following the procedure set forth in Section 23961 and the provisions of this section.

(g) A person that holds a neighborhood-restricted special on-sale general license issued pursuant to this section shall not exchange his or her license for an on-sale license for public premises.

(h) Except as specified herein, a neighborhood-restricted special on-sale general license may exercise all of the privileges, and is subject to all the restrictions, of an on-sale general license for a bona fide eating place.

(i) A neighborhood-restricted special on-sale general license issued pursuant to this section shall not, with respect to beer and wine, authorize the exercise of the rights and privileges granted by an off-sale beer and wine license.

(j) (1) The original and annual fees, and any additional fees and surcharges, shall be the same as those imposed upon an on-sale general license for a bona fide eating place.

(2) All moneys collected from the fees imposed pursuant to this section shall be deposited in the Alcohol Beverage Control Fund, pursuant to Section 25761.

(k) The department shall adopt rules and regulations to enforce the provisions of this section.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute 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 in the County of Napa.

SEC. 4. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique distribution and market conditions of liquor licenses in the City and County of San Francisco, that apply only to the City and County of San Francisco.