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SB-1011 Alcoholic beverages. (2021-2022)

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Senate Bill No. 1011

CHAPTER 136

An act to amend Sections 23826.13, 24045.6, 24048, and 24300 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 19, 2022. Filed with Secretary of State July 19, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1011, Committee on Governmental Organization. Alcoholic beverages.

(1) Existing law, 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. Existing law establishes limitations 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. Existing law 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.

This bill would specify that the above-described census tracts correspond to those identified within the 2010 Census.

(2) Existing law prohibits any licensee from giving any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, but permits alcoholic beverages to be provided in consumer contests and sweepstakes subject to specified conditions. Existing law permits the department to issue a special temporary on-sale or off-sale beer or wine license to certain nonprofit corporations that entitles the licensee to sell beer or wine, as specified. Existing law limits the period of a special license to 15 days and provides that a special license shall be issued only 3 times in a calendar year.

This bill would authorize up to 4 special licenses per nonprofit corporation per calendar year.

(3) Existing law requires a special license that is issued for a period exceeding 2 days to be used solely for retail sales in conjunction with an identifiable fundraising event, as specified.

This bill would expand that provision, instead requiring a special license that is issued for a period exceeding 2 days to be used solely in conjunction with an identifiable fundraising event, as specified.

(4) Under existing law, an alcoholic beverage license is generally renewable unless the license has been revoked, except if it is a temporary license or a specified on-sale general license. Existing law prescribes procedures for the renewal of licenses that presume the use of mail for certain purposes. Existing law authorizes the reinstatement of a license that has been canceled pursuant to specified provisions during the 30 days immediately following cancellation upon payment by cashier's check or money order of the annual renewal fee plus a prescribed penalty fee.

This bill would authorize the use of electronic mail for purposes of certain provisions of the above-described renewal process and would replace references to mailing with references to sending. With regard to payments made for the reinstatement of licenses, the bill would require that payment be made by cashier's check, money order, or electronically using payment methods authorized through the online payment portal of Department of Alcoholic Beverage Control.

(5) Existing law generally requires that a hearing held on a protest, accusation, or petition for an alcoholic beverage license be held in the county in which the premises or licensee is located. Existing law authorizes specified hearings before the Department of Alcoholic Beverage Control to be held at any place in the state where the department is meeting.

This bill would authorize any hearing held on a protest, accusation, or petition for an alcoholic beverage license to be conducted in whole or in part by electronic means. The bill would require that any hearing conducted in person be held in the county in which the licensed premises or the licensee is located. For any part of a hearing conducted by electronic means, the bill would authorize the location of the hearing to be any place from which the department or any of the parties participates in the hearing. The bill would delete provisions that may compel holding a hearing in a city if a protest is filed against a license application and the proposed premises are in the city.

This bill would authorize a party to a hearing that is noticed to be conducted electronically, as specified, to file a written motion to object to the electronic hearing and to request that the hearing, or portion of the hearing, to be conducted by electronic means be held in person and without the use of electronic communication. The bill would require that motion to include a proposed county for the location of the hearing and establish good cause regarding why an electronic hearing would be inappropriate. The bill would require this motion to be made to the presiding officer of the hearing and would specify the manner in which it is to be made.

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

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

SECTION 1. Section 23826.13 of the Business and Professions Code is amended to read:

23826.13. (a) Notwithstanding 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, corresponding to those identified within the 2010 Census, 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 before 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 before 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) Before 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) Except as provided in paragraphs (3) and (4), a license issued pursuant to this section shall not be transferred to any other premises.

(3) Paragraph (2) 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.

(4) The department may allow a license issued pursuant to this section to be transferred within the same neighborhood, as described in paragraphs (1) to (7), inclusive, of subdivision (b).

(5) 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 that 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) The department shall adopt rules and regulations to enforce this section.

SEC. 2. Section 24045.6 of the Business and Professions Code is amended to read:

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.

SEC. 3. Section 24048 of the Business and Professions Code is amended to read:

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.

SEC. 4. Section 24300 of the Business and Professions Code is amended to read:

24300. (a) Notwithstanding subdivision (b) of Section 11440.30 of the Government Code, hearings held on a protest, accusation, or petition for a license may be conducted, in whole or in part, by electronic means.

(b) Any hearing that is conducted in person shall be held in the county in which the licensed premises or the licensee is located. If any part of the hearing is conducted by electronic means, the location of the hearing may be any place from which the department or any of the parties participates in the hearing. A hearing before the department itself on reconsideration or under subdivision (c) of Section 11517 of the Government Code may be held at any place in the state where the department is meeting.

(c) Except as provided in Section 24203 and in this section, the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all cases the department shall have all the powers granted therein. The department, in its exclusive discretion, shall consider scheduling the hearing, including all or any portion of a hearing conducted by electronic means, at a time, including evening hours, and at a place convenient to all parties to a proceeding, including those witnesses required to be present, and the public affected.

(d) If a hearing or any part of a hearing is noticed to be conducted by electronic means, any party may file a written motion to object to the electronic hearing and to request that the hearing, or portion of the hearing, to be conducted by electronic means be held in person and without the use of electronic communication. That motion shall include a proposed county for the location of the hearing and shall establish good cause as to why an electronic hearing, in whole or in part, would be inappropriate. A motion requesting an in-person hearing shall be made to the presiding officer in the same manner as a continuance request pursuant to Section 11524 of the Government Code.

(e) For any hearing held pursuant to this division, the department may delegate the power to hear and decide to an administrative law judge appointed by the director. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.