

Assembly Bill No. 624

CHAPTER 931

An act to amend Sections 23800, 23817.7, 23985.5, and 23987 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 14, 2001. Filed
with Secretary of State October 14, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 624, Oropeza. Alcoholic beverages: licenses.

(1) The Alcoholic Beverage Control Act authorizes the Department of Alcoholic Beverage Control to impose reasonable conditions on the exercise of retail privileges under the act. The department may impose conditions on certain license transfers at the request of a local governing body in whose jurisdiction the license is located.

This bill would require the local governing body to make the request for imposition of conditions within 40 days after the department mails notice of the transfer request, if the license to be transferred is located in an area of undue concentration, as defined.

(2) The act prohibits the application for, and issuance of, an original retail off-sale beer and wine license for any premises if the applicant premises are located in a city, county, or city and county where the number of retail off-sale beer and wine licenses, or total number of retail off-sale beer and wine licenses and off-sale general licenses, exceeds one license for a certain number of inhabitants. Existing law also provides that, notwithstanding that prohibition, the department may approve an application for a retail off-sale beer and wine license in those areas if the applicant shows that public convenience or necessity would be served by the issuance, and certain other conditions are met. Existing law further provides that one condition for the issuance of the license is that the applicant premises are located in a crime reporting district that is below a certain specified threshold.

This bill would allow the department, in considering the application, to take into account adjacent crime reporting districts if the applicant premises are located within 100 feet of the boundaries of any adjacent district.

(3) Under existing law, an applicant for a retail license to sell alcoholic beverages, at a premises that is not currently licensed or for a different retail license, is required to mail a notification of the application to every resident of real property within a 500-foot radius of the premises for which the license is to be issued.

This bill would require that notification to also be mailed to every owner of real property in that area, if the local jurisdiction in which the license is to be issued provides the applicant, free of charge, with the names and addresses of the owners of the real property. Additionally, the bill would require the notification to be written in English and Spanish, and would require the notice to include information on how to obtain the notice in other languages.

(4) This bill would state the intent of the Legislature in enacting these provisions.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Local jurisdictions have the primary responsibility to protect their citizens, and the sale of alcoholic beverages in a community often exacerbates difficulties in providing adequate public safety protection.

(b) While the Department of Alcoholic Beverage Control permits local jurisdictions to recommend conditions regarding an application for an alcoholic beverage license, the timeframe for review is insufficient to conduct an adequate investigation and develop, if needed, appropriate conditions to recommend to the department.

(c) Local jurisdictions are greatly concerned about the capacity of the department to assist with law enforcement problems associated with licensees, as the department has only about 200 officers for approximately 70,000 licensees.

(d) In order to improve the ability of local jurisdictions to gain community input and better evaluate various options related to a specific application, local jurisdictions should be given an extended period of time to review license applications, notices of license applications to affected residences should be enhanced, and the department should be provided additional funding to support law enforcement efforts.

SEC. 2. Section 23800 of the Business and Professions Code is amended to read:

23800. The department may place reasonable conditions upon retail licensees or upon any licensee in the exercise of retail privileges in the following situations:

(a) If grounds exist for the denial of an application for a license or where a protest against the issuance of a license is filed and if the department finds that those grounds may be removed by the imposition of those conditions.

(b) Where findings are made by the department which would justify a suspension or revocation of a license, and where the imposition of a condition is reasonably related to those findings. In the case of a



suspension, the conditions may be in lieu of or in addition to the suspension.

(c) Where the department issues an order suspending or revoking only a portion of the privileges to be exercised under the license.

(d) Where findings are made by the department that the licensee has failed to correct objectionable conditions within a reasonable time after receipt of notice to make corrections given pursuant to subdivision (e) of Section 24200.

(e) (1) At the time of transfer of a license pursuant to Section 24071.1, 24071.2, or 24072 and upon written notice to the licensee, the department may adopt conditions requested by the local governing body, or its designated subordinate officer or agency, in whose jurisdiction the license is located. The request for conditions shall be supported by substantial evidence that the problems either on the premises or in the immediate vicinity identified by the local governing body or its designated subordinate officer or agency will be mitigated by the conditions. Upon receipt of the request for conditions, the department shall either adopt the conditions requested or notify the local governing body, or its designated subordinate officer or agency, in writing of its determination that there is not substantial evidence that the problem exists or that the conditions would not mitigate the problems identified. The department may adopt conditions requested pursuant to this paragraph only when the request is filed within the time authorized for a local law enforcement agency to file a protest or proposed conditions pursuant to Section 23987.

(2) If the license to be transferred subject to paragraph (1) is located in an area of undue concentration as defined in Section 23958.4, the period within which the local governing body or its designated subordinate officer or agency may submit a written request for conditions shall be 40 days after the mailing of the notices required by Section 23987. For purposes of this provision only, undue concentration shall be established when the requirements of both paragraph (1) of subdivision (a) and either paragraph (2) or paragraph (3) of subdivision (a) of Section 23958.4 exist. Pursuant to Section 23987, the department may extend the 40-day period for a period not to exceed an additional 20 days upon the written request of any local law enforcement agency or local government entity with jurisdiction. Nothing in this paragraph is intended to reduce the burden of the local governing body or its designated subordinate officer or agency to support any request for conditions as required by paragraph (1). Notwithstanding Section 23987, the department may not transfer any license subject to this paragraph until after the time period permitted to request conditions as specified in this paragraph.



SEC. 3. Section 23817.7 of the Business and Professions Code is amended to read:

23817.7. (a) Notwithstanding Section 23817.5, the department may approve an application for an off-sale beer and wine license in areas covered by Section 23817.5, if the applicant shows that public convenience or necessity would be served by the issuance, and where all of the following conditions are found to exist:

(1) The applicant premises are located in a crime reporting district that is below that specified pursuant to paragraph (1) of subdivision (a) of Section 23958.4. In considering an application, the department may take into account adjacent crime reporting districts, if the applicant premises are located within 100 feet of the boundaries of any adjacent district. The department shall use an average of reported crimes in the crime reporting district in which the premises are located and reported crimes in any adjacent crime reporting district, if the total of crimes reported in the adjacent district or districts is greater than the crime reporting district in which the premises are located.

(2) The applicant premises are located in an area that falls below the concentration level provided in paragraph (3) of subdivision (a) of Section 23958.4.

(3) The local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines that public convenience or necessity would be served by the issuance.

(b) The department may impose reasonable conditions on a licensee as may be needed in the interest of the public health, safety, and welfare regarding signing, training for responsible beverage sales and hours, and mode of sale.

SEC. 4. Section 23985.5 of the Business and Professions Code is amended to read:

23985.5. (a) Notwithstanding any other provision of this article, in any instance affecting the issuance of any retail license at a premises that is not currently licensed or for a different retail license, the department shall require that the applicant mail notification of the application to every resident and owner of real property within a 500-foot radius of the premises for which the license is to be issued.

(b) The department shall require the applicant to provide notification to the owners of real property, as required in subdivision (a), only if the local jurisdiction in which the license is to be issued provides, free of charge, a list of the names and addresses of the owners to the applicant.

(c) For the notification required by subdivision (a), the department shall develop bilingual notices in English and Spanish. The notice shall include information on how to obtain the notice information in a



minimum of three of the predominant languages other than English or Spanish in the state, according to the most recent United States decennial or special census information.

SEC. 5. Section 23987 of the Business and Professions Code is amended to read:

23987. Upon the receipt by the department of an original application for any license or an application for transfer of any license, written notice thereof, consisting of a copy of the application, shall immediately be mailed by the department to the sheriff, chief of police, and district attorney of the locality in which the premises are situated, to the city or county planning director, whoever has jurisdiction, the board of supervisors of the county in which the premises are situated, if in unincorporated territory, and to the city council or other governing body of the city in which the premises are situated, if within an incorporated area.

Except as specified in paragraph (2) of subdivision (e) of Section 23800, no license shall be issued or transferred by the department until at least 30 days after the mailing by the department of the notices required by this section. The department may extend the 30-day period specified in the preceding sentence for a period not to exceed an additional 20 days, upon the written request of any local law enforcement agency that states proper grounds for extension. Proper grounds for extension are limited to the requesting agency or official being in the process of preparing either a protest or proposed conditions with respect to the issuance or transfer of a license.

