
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

Senator Bill Dodd

Chair

2019 - 2020 Regular

Bill No:	AB 3139	Hearing Date:	8/14/2020
Author:	Gray, et al.		
Version:	7/23/2020 Amended		
Urgency:	Yes	Fiscal:	Yes
Consultant:	Felipe Lopez		

SUBJECT: Alcoholic beverages: licensees

DIGEST: This bill modifies rules around an on-sale alcoholic beverage licensee's use of an alternate location while the licensee rebuilds or repairs the original licensed location following a fire or other act of God. In addition, the bill provides a tied-house exception to the Orpheum and Golden Gate Theaters in the City and County of San Francisco. Finally, the bill extends a current tied-house exception that allows specified licensees to serve on the board of trustees, as specified, to a nonprofit theater company operating a theater in the City of Modesto.

ANALYSIS:

Existing law:

- 1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation and sale of alcoholic beverages in this state and the collection of license fees for this purpose.
- 2) Provides that a licensee whose licensed premises were destroyed as a result of fire or any act of God or other force beyond the control of the licensee may carry on his or her business for a period of up to 180 days or six months, as applicable, at a location within 500 feet of the licensed premise while the destroyed premises are being repaired or rebuilt.
- 3) Provides that the license of a licensee whose premises have been destroyed as a result of a fire or an act of God, or have been taken as a result of eminent domain, may be transferred to another location within the same county without payment of the fee for transfer of a license from one premises to another

premises. Within 6 months of the fire or act of God, if the destroyed premises have been reconstructed and the license has not been transferred to another person, the license may be transferred back to the location of the destroyed premises without a fee transfer payment.

- 4) Authorizes a licensee to transfer a license back to the original premises, without payment of a transfer fee, if the transfer is made within 18 months of the destruction of the original premises.
- 5) Defines an “on-sale” license as authorizing the sale of all types of alcoholic beverages: namely, beer, wine and distilled spirits, for consumption on the premises (such as at a restaurant or bar). An “off-sale” license authorizes the sale of all types of alcoholic beverages for consumption off the premises in original, sealed containers.
- 6) Authorizes the Department of ABC to issue a special on-sale general license to any nonprofit theater company, as specified.
- 7) Generally prohibits certain alcoholic beverage licensees, including manufacturers, from holding any ownership interest in an on-sale license, subject to a variety of exceptions.
- 8) Creates an exception to tied-house restrictions by permitting specified licensees to serve on the board of trustees or as an officer, director, or employee of a nonprofit theater company operating in the County of Napa and in the City of Livermore.
- 9) Prohibits specified licensees from paying a retailer for advertising. The ABC Act creates a variety of exceptions from this prohibition, including permitting specified licensees to purchase advertising space and time from an on-sale licensee, as specified.

This bill:

- 1) Extends the distance from 500 feet to 1,000 feet that an on-sale alcoholic beverage licensee can conduct business in an alternate location, of the licensee’s destroyed premises, while the licensed premises are being repaired or rebuilt.
- 2) Authorizes the Director of ABC to extend the 180-day period by 60 days, as specified.

- 3) Extends a current exception in law that allows specified licensees to serve on the board of trustees or as an officer, director, or employee of a nonprofit theater company operating in the county of Napa and in the City of Livermore to also include a similar exception to a nonprofit theater company operating a theater in the City of Modesto.
- 4) Extends a current tied-house exception to allow specified licensees to purchase advertising space and time, from on-sale retail licensees at the Orpheum and Golden Gate Theaters in the City and County of San Francisco, as specified.
- 5) Makes several other minor code maintenance changes.
- 6) Contains an urgency clause.

Background

Purpose of the bill. According to the author's office, "this bill is the result of recent wildfires in California that destroyed ABC licensed establishments. After the fire, licensees were able to reopen their business at a temporary location while the original building was being rebuilt. But for some licensees the estimated construction period was more than six months. Under current law, however, an on-sale or off-sale alcoholic beverage licensee is only allowed to operate at a temporary location for six months without losing their liquor license."

This bill would allow the Director of ABC, in his or her discretion, to extend the time period by an additional 60 days, so the business owner can rebuild their facilities in the event of a catastrophic fire or any act of God or other force beyond the control of the licensee.

AB 3139 also expands, the distance from 500 feet to 1,000 feet that a specified alcoholic beverage licensee can conduct business in an alternate location, of the licensees destroyed premises, while the licensed premises are being repaired or rebuilt. This change will give a business owner more discretion to secure a location to conduct related operations.

Essentially, a licensee would be able to continue to operate in a substitute location within 1,000 feet of the destroyed premises, for a period of up to 240 days.

Tied-house laws. Tied-house laws generally prohibit suppliers and retailers from sharing common owners and legally restrict alcohol beverage suppliers' ability to gain control over retailers through indirect means. The original policy rationale for this body of law was to: (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the

marketplace; (3) prohibit commercial bribery and to protect the public from predatory marketing practices; and (4) discourage and/or prevent the intemperate use of alcoholic beverages.

These provisions prohibit a manufacturer from paying for advertising space at a stadium or sports arena where the facility is licensed to sell alcoholic beverages at events held at the stadium or arena.

Over the years numerous exceptions to this prohibition have been added to the ABC Act e.g. Levi's Stadium in Santa Clara, Oakland Coliseum in Oakland, Arrowhead Pond Arena in Anaheim, Kern County Arena in Bakersfield, the National Orange Show Events Center in San Bernardino, Auto Club Speedway, (formerly California Speedway) in Fontana, Grizzly Stadium in Fresno, Raley Field in West Sacramento, HP Pavilion in San Jose, StubHub Center (formerly the Home Depot Center) in Carson, and numerous other venues.

Prior/Related Legislation

AB 1825 (Governmental Organization, Chapter 696, statutes of 2019) expanded an existing tied-house exception (Los Angeles Stadium at Hollywood Park), to allow for the advertising of alcohol within the retail, entertainment, commercial, and mixed-use development which includes the stadium and performance venue, as specified.

SB 582 (Bradford, Chapter 672, Statutes of 2017) extended an existing exception in the ABC Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include a specified stadium (The Los Angeles Stadium at Hollywood Park), and venue located in the City of Inglewood, and a specified outdoor stadium of at least 70,000 seats in Los Angeles County (The Los Angeles Memorial Coliseum).

AB 2080 (La Malfa, Chapter 93, Statutes of 2008) allowed an on-sale alcoholic beverage licensee to extend the amount of time they can carry on business in an alternate location to 180 days. Licensees can only operate in an alternate location if their premises were destroyed by a fire or a natural disaster and the alternate location is within 500 feet of their permanent location.

AB 3065 (Committee on Governmental Organization, Chapter 910, Statutes of 2006) extended the time frame, from six weeks to three months, in which a beer manufacturer or beer wholesaler is authorized to provide assistance to retailers whose equipment, fixtures, or supplies were lost or damaged as a result of a natural disaster and whose premises are located in an area proclaimed to be in a state of disaster by the Governor.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

Broadway San Francisco

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to Broadway San Francisco, “our theaters have been shuttered since March 11th and will be amongst the last businesses to open under the state’s phased re-opening plan. The economic pain caused by the closure is immeasurable and the slow climb out will be unpredictable and difficult. When we can re-open safely, AB 3139 will provide a modest allowance for relationships that will mutually benefit the Orpheum and Golden Gate theaters and alcohol manufacturers.”