
THIRD READING

Bill No: SB 58
Author: Wiener (D), et al.
Amended: 3/25/19
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 10-4, 3/12/19
AYES: Dodd, Allen, Archuleta, Borgeas, Bradford, Galgiani, Glazer, Hill,
Portantino, Wiener
NOES: Wilk, Chang, Hueso, Nielsen
NO VOTE RECORDED: Jones, Rubio

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/16/19
AYES: Portantino, Bradford, Hill, Jones, Wieckowski
NOES: Bates

SUBJECT: Alcoholic beverages: hours of sale

SOURCE: Author

DIGEST: This bill requires the Department of Alcoholic Beverage Control (ABC) to create a pilot program, beginning January 1, 2022, to issue an additional hours license to an on-sale licensee in a qualified city that would allow the selling of alcoholic beverages between the hours of 2 a.m. and 4 a.m., as specified.

ANALYSIS:

Existing law:

- 1) Establishes the Department of 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.

- 2) Provides that any on-sale or off-sale licensee, or agent or employee of the licensee, who sells, gives or delivers to any person any alcoholic beverage between the hours of 2 a.m. and 6 a.m. of the same day, and any person who knowingly purchases any alcoholic beverages between those hours, is guilty of a misdemeanor.
- 3) 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.

This bill:

- 1) Requires the Department of ABC, beginning January 1, 2022, to conduct a pilot program whereby the Department of ABC may issue an additional hours license that would authorize, the selling, giving, or purchasing of alcoholic beverages at an individual on-sale licensed premises between the hours of 2 a.m. and 4 a.m. within a qualified city; and, requires the Department of ABC to adopt rules and regulations as specified.
- 2) Defines “qualified city” to mean the Cities of Cathedral City, Coachella, Fresno, Long Beach, Los Angeles, Oakland, Palm Springs, Sacramento, San Francisco, and West Hollywood.
- 3) Provides that in a city that has additional serving hours, any on-sale licensee, or agent or employee of the licensee, who sells or gives to any person any alcoholic beverage or any person who knowingly purchases any alcoholic beverage between the hours of 4 a.m. and 6 a.m. is guilty of a misdemeanor.
- 4) Requires the local governing body of a qualified city to designate a task force comprised of members, including at least one member of law enforcement and one additional member of the Department of the California Highway Patrol (CHP), to develop a recommended local plan, as specified.
- 5) Requires the local governing body of a qualified city, to adopt an ordinance that satisfies the elements of the local plan, and to submit the ordinance to the Department of ABC for review; and, authorizes the local governing body of a qualified city to charge an additional hours licensee a fee to fund local law enforcement, as specified.
- 6) Requires the Department of ABC, upon receipt of an application by an on-sale licensee for an additional hours license, to make a thorough investigation; and,

- requires the applicant to notify the law enforcement agencies of the city, the residents located within 500, and any other interested parties, as specified.
- 7) Authorizes a person whose protest has been rejected to file an accusation with the Department of ABC, and requires the Department of ABC to hold a hearing, as specified.
 - 8) Restricts access to premises with an additional hours license to patrons 21 years of age or older during the additional hours period, as specified.
 - 9) Requires the applicant for an additional hours license to pay a nonrefundable fee of \$2,500 at the time of application. An original and annual fee for an additional hours license shall be \$2,500.
 - 10) Requires the CHP, on or before January 1, 2026, to provide the Legislature with a report on the regional impact of the additional hours service areas, as specified.
 - 11) Requires a qualified city that chooses to participate in the pilot program to provide the Legislature with a report on the regional impact of the additional hours licenses within one year of the first additional hours license being issued in that city, and then once each year thereafter, as specified.
 - 12) Includes a sunset date of January 2, 2027, and makes various legislative findings and declarations.

Background

The Department of ABC and alcohol in California. The Department of ABC is vested with the exclusive authority to license and regulate the manufacture, distribution and sale of alcoholic beverages within California. There are more than 92,000 ABC licenses throughout the state. Retail licenses are the most common type of license encountered by the public – this includes on-sale licensees that are authorized to sell alcoholic beverages for consumption on the premises such as restaurants and bars, and off-sale licensees that are authorized to sell alcoholic beverages for consumption off of the premises such as grocery and liquor stores.

There are approximately 9,000 on-sale licenses located within “qualified cities” (Cathedral City, Coachella, Fresno, Long Beach, Los Angeles, Oakland, Palm Springs, Sacramento, San Francisco, and West Hollywood) which potentially could be impacted by this bill. The vast majority of these on-sale licenses include Types 40, 41, 42, 47, and 48, which are generally restaurants, bars, taverns, and night clubs. Since 1935, California alcohol licensed businesses have been

prohibited from selling, serving and allowing open containers of beverage alcohol to remain in the public portion of the business from 2 a.m. to 6 a.m.

State vs. local control of alcohol policy. The Department of ABC is vested with the exclusive authority to license and regulate the manufacture, distribution, and sale of alcoholic beverages within California. Over the years, local governments have often petitioned the Legislature for greater authority to directly regulate establishments that sell alcohol in respective communities. In 1995, the ABC Act was amended to allow a local government to comment on a pending alcohol license application, raising the standard for an on-sale or off-sale licensee in an area of high crime or an over-concentrated census tract.

Under this bill, the local governing body of a qualified city must establish a task force, including at least one member of law enforcement and one additional member of the CHP, which will be responsible for developing a recommended local plan. The local plan must, among other things, show that the public convenience or necessity will be served by the additional service hours, identify the service area in which licensed premises would be eligible for additional service hours and further identify the area that would be affected by additional service hours, show significant support by residents and businesses within the additional hours service area, include a public safety plan created by local law enforcement including crime statistics and data derived from various public safety agencies, and show that transportation services are readily available during additional service hours.

Based on the assessment, the local governing body must adopt an ordinance that satisfies the local plan and submit that ordinance to the Department of ABC. The on-sale licensee, wishing to obtain an additional hours license, must submit an application for the additional hours privilege, as well as a nonrefundable application fee of \$2,500.

Upon receipt of the ordinance, the Department of ABC is required to review the ordinance to ensure compliance with the provisions of this bill. The Department of ABC is prohibited from issuing an additional hours license to an applicant within a qualified city if the ordinance from that qualified city does not meet all of the local plan requirements of this bill.

Each qualified city that chooses to participate in this pilot program is required to provide the Legislature with a report on the regional impact of the additional hours licenses within one year of the first additional hours license being issued in that city, and then once each year thereafter. The report is required to include information on any impact the additional service hours had on crime rates in the

city, including arrests for driving under the influence and domestic violence. Additionally, the CHP is required to provide the Legislature with a report on the regional impact of the additional service areas including information on any additional costs incurred by adjacent cities, counties, and law enforcement as a result of the additional service hours within five years of implementation of this bill.

Last call in other states. The end of alcohol service at on-sale establishments, commonly referred to as “last call,” can vary dramatically from state to state. The State of Utah for example has last call at 12 a.m., in restaurants and 1 a.m. in bars and taverns, while the State of Nevada allows for the sale of alcohol 24-hours a day. The states of Louisiana and New Jersey additionally allow for the sale of alcohol 24-hours a day, however these two states have authorized counties and local municipalities to set or restrict opening and closing times for on-sale establishments.

A number of large states, including states with high rates of tourism, tend to allow for extended service in densely populated urban centers. Examples include the state of New York, which authorizes establishments to serve until 4 a.m., however the actual closing time is left up to each of New York’s 62 counties. In Florida, the county or municipality in which the business is located regulates the operating hours, and most cities stop serving alcohol at 2 a.m., however, some cities have exemptions to the law, and authorize later closing times.

Comments

Purpose of the bill. According to the author’s office, “social and nightlife venues are an economic driver in many communities, and the State’s food service and entertainment industries generate billions of dollars in consumer spending and employ well over a million Californians. This optional tool for local control over nightlife will increase tax revenue and tourism as well as revitalize business districts. No city would be required to allow alcohol service past 2 a.m. Rather, the bill allows these nine cities to opt in: pure local control.”

Potential public safety impacts. Opponents of SB 58, and previous bills seeking to extend service hours of alcohol, outline numerous health and safety concerns leading to negative impacts on a community’s quality of life. Specifically, opponents argue that this bill will lead to drinkers driving from areas where bars close earlier to bars with later last calls, late night drinkers sharing the road with early morning commuters, and increased alcohol-related harm, including driving under the influence accidents and fatalities.

Related/Prior Legislation

SB 905 (Weiner, 2018) was substantially similar to this bill, and would have authorized the Department of ABC, beginning January 1, 2020, to issue an additional hours license to an on-sale licensee in a qualified city that would allow the selling, giving, or purchasing of alcoholic beverages at the licensed premises between the hours of 2 a.m. and 4 a.m., upon completion of specified requirements. (Vetoed by Governor Brown)

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

According to the Senate Appropriations Committee:

- Estimated costs of approximately \$600,000 to ABC for FY 2020-21 and ongoing costs ranging from \$2 million to \$3 million annually thereafter for developing the program, reviewing local plans, processing licenses, and enforcement. This includes staffing and resources, as specified.
- One-time, significant costs up to \$500,000 to the CHP for involvement in task forces. This assumes all ten cities will choose to create a task force and subsequently require a member of law enforcement to participate.
- One-time costs of approximately \$45,000 to CHP for increased workload to complete the required report to the Legislature.
- Estimated costs to the Department of Justice of about \$8,000 in FY 2021-22 and ongoing costs of \$4,000 per year thereafter for advising ABC when actions are taken against a licensee and for record management (Legal Services Revolving Fund, General Fund).
- Ongoing revenue, ranging from approximately \$1.65 million in FY 2021-22 to over \$3 million in subsequent years, from fees generated from the additional hours licenses. The amount of revenue depends on the volume of license applications and renewals in subsequent years. (ABCF)

SUPPORT: (Verified 5/16/19)

213 Hospitality
California Hotel & Lodging Association
California Music & Culture Association
California Restaurant Association
California Teamsters
California Travel Association

Cathedral City
Central City Association of Los Angeles
City and County of San Francisco
City of Coachella
City of Fresno
City of Los Angeles
City of Oakland
City of Palm Springs
City of Sacramento
City of West Hollywood
Downtown Long Beach Alliance
Hotel Council of San Francisco
Lyft
San Francisco Bar Owner Alliance
San Francisco Chamber of Commerce
San Francisco Travel Association
Valley Industry and Commerce Association
West Hollywood Chamber of Commerce

OPPOSITION:(Verified 5/16/19)

Alcohol & Drug Abuse Prevention Team
Alcohol Justice
Alcohol Policy Panel of San Diego County
Asian American Drug Abuse Program, Inc.
Barbary Coast Neighborhood Association
Boyle Heights Stakeholders Association
California Alcohol Policy Alliance
California Alliance for Retired Americans
California Association for Alcohol and Drug Educators
California Council on Alcohol Problems
Coalition to Ban Billboard Blight
County Behavioral Health Directors Association of California
DogPAC San Francisco
East Sacramento Improvement Association
Friends of Capitol Mansions
Institute for Public Strategies
Koreatown Youth & Community Center
Los Angeles Drug & Alcohol Policy Alliance
Monument Youth Drug and Alcohol Coalition
P3 Partnership for a Positive Pomona

Paso Por Paso, Inc.
Public Health Institute
Pueblo Y Salud, Inc.
San Diego County Police Chiefs' and Sheriffs' Association
San Fernando Valley Partnership
San Marcos Prevention Coalition
Saving Lives Coalition
Spa-2 Communities in Action
Tarzana Treatment Centers
The Wall Las Memorias Project
United Coalition East Prevention Project
West County Alcohol Marijuana and Prescription Drug Coalition
Winn Park Historic District Association
Women Against Gun Violence
Women's Christian Temperance Union

ARGUMENTS IN SUPPORT: In support of the bill, the California Hotel & Lodging Association writes that, “California must compete with Chicago, Washington D.C., New York City, Las Vegas, Atlanta, Miami Beach, and New Orleans, all of which have late-night service hours beyond 2 a.m. SB 58 would align California with at least 15 other states where local jurisdictions have the authority to decide alcohol beverage service hours.”

ARGUMENTS IN OPPOSITION: In opposition to the bill the California Alcohol Policy Alliance and Alcohol Justice write that “[i]n 2018, Senator Wiener introduced SB 905, which would have allowed nine cities to decide for themselves in a half-baked, so-called ‘pilot project’ to extend sales from 2 a.m. to 4 a.m. The legislature ignored the overwhelming evidence that 76% of the state’s population would be turned into unwitting ‘Splash Zone’ lab rats suffering increased public health and safety harms. They passed the bill, but Governor Brown, heeding the advice of the CHP, wisely vetoed the bill with these words: ‘I believe we have enough mischief from midnight to 2 without adding two more hours of mayhem.’”

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