

SENATE THIRD READING  
SB 58 (Wiener)  
As Amended September 3, 2019  
Majority vote

## **SUMMARY:**

Would authorize the Department of Alcoholic Beverage Control (ABC) to create a pilot program, beginning January 1, 2022, and before January 2, 2027, to issue an additional hours license to an on-sale licensee in a qualified city (Cathedral City, Coachella, Fresno, Long Beach, Los Angeles, Oakland, Palm Springs, Sacramento, San Francisco, and West Hollywood) that would allow the selling, giving, or purchasing of alcoholic beverages at the licensed premises between the hours of 2 a.m. and 3 a.m., upon completion of specified requirements.

### **Major Provisions**

- 1) Requires ABC, beginning January 1, 2022, to conduct a pilot program whereby ABC may issue an additional hour 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 3 a.m. within a qualified city; and, requires ABC to adopt rules and regulations as specified.
- 2) Requires the local governing body, as defined, of a qualified city to designate a task force that includes 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 that meets all of the following requirements: a) Show that the public convenience or necessity will be served by the additional hour and identify the area affected by the additional hour and the area affected by the additional hour; b) Show significant support by residents and businesses within the additional hour service area for the additional hour, pursuant to a determination by the local governing body; c) Include an assessment by the local governing body, prepared in consultation with local law enforcement, regarding the potential impact of an additional hour service area and the public safety plan, created by local law enforcement, for managing those impacts that has been approved by the local governing body. The assessment shall include crime statistics, data derived from police reports, emergency medical response data, sanitation reports, and public health reports related to the additional hour service area; d) Show that transportation services are readily accessible in the additional hour service area and assess and include programs to increase public awareness of those transportation services; e) Include programs to increase public awareness of the impacts of alcohol consumption; f) Include an assessment of the potential impact of an additional hour service area on adjacent cities, counties, and cities and counties, including, but not limited to, nearby law enforcement agencies; and g) Specify that the qualified city chooses to participate in the pilot program.
- 3) Requires the local governing body, upon its independent assessment, to adopt an ordinance that satisfies the elements of the local plan.
- 4) Upon receipt of an adopted ordinance, as specified, including documentation regarding protests to the ordinance, ABC shall review the ordinance to ensure that the ordinance contains the required information, as specified. ABC shall not issue an additional hour license to an applicant if the ordinance from the qualified city does not meet the requirements, as specified. ABC may review ordinances beginning January 1, 2020.

- 5) Provides ABC may issue additional hour licenses beginning January 1, 2020. An additional hour license issued on or after January 1, 2020, and before January 1, 2022, shall become effective on January 1, 2022. An additional hour license issued on or after January 1, 2022, shall become effective on its effective date.
- 6) States the determination of the necessity for, and types of, local licensing and local permitting shall be made by the local governing body.
- 7) Requires ABC, upon receipt of an application, to make a thorough investigation, as defined. ABC may deny an application if the issuance of that license would tend to create a law enforcement problem or if issuance would result in or add to an undue concentration of licenses.
- 8) Authorizes ABC to collect a \$2,500 application fee and a \$2,500 annual license fee for the additional hour license and authorizes a local governing body to collect additional fees from licensees to fund local law enforcement.
- 9) On or before January 1, 2026, the CHP shall submit a report with specified information on the regional impact of the additional hour service areas and requires a participating city to provide the Legislature with a report on similar topics within one year of the first license being issued in that city and each year thereafter.
- 10) Includes a sunset date of January 2, 2027, and makes various legislative findings and declarations.

#### COMMENTS:

ABC has the exclusive authority to license and regulate the manufacturing, distribution and sale of alcoholic beverages within the state. Currently, approximately 50,000 on-sale licensees exist in the state. Over the years, local governments have requested to have increased authority to directly regulate establishments that sell alcohol in respective communities, especially concerning zoning laws and conditional use permits. Since 1935, California alcohol licensed businesses have been prohibited from selling, serving or allowing open containers of beverage alcohol to remain in the public portion of the business from 2:00 a.m. to 6:00 a.m.

SB 905 (Wiener), of 2018, which was nearly identical to this bill, was vetoed by Governor Brown, whose veto message stated:

*"Without question, these two extra hours will result in more drinking. The businesses and cities in support of this bill see that as a good source of revenue. The California Highway Patrol, however, strongly believes that this increased drinking will lead to more drunk driving. California's laws regulating late night drinking have been on the books since 1913. I believe we have enough mischief from midnight to 2 without adding two more hours of mayhem."*

This bill is similar to last year's SB 905. One notable difference in the inclusion of Fresno in the list of possible participating cities.

**According to the Author:**

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, this bill allows these 10 cities to opt in: pure local control."

**Arguments in Support:**

Supporters state that SB 905 is a well-balanced solution that provides cities the ability to participate in a pilot program that will give them control over night-life, while helping to grow the travel and tourism industry. Currently California destination cities are at a disadvantage when competing with cities both nationally and internationally for tourists, conventions, and conferences. California must compete with Chicago, Washington D.C., New York City, Las Vegas, Atlanta, Miami Beach, and New Orleans, all of whom have late-night service hours beyond 2 a.m. This bill will align California with at least 15 other states where local jurisdictions have the authority to decide alcoholic beverage service hours. This bill is a well-balanced solution that provides local cities the ability to participate in a pilot program that will give them additional tools to enhance their local economies, while helping to grow the travel and tourism industry.

Supporters note that additional alcohol service hours will strengthen the local nightlife, hospitality, and tourism sectors and would significantly enhance a city's vibrancy. Extending and staggering closing times could also help reduce sidewalk congestion, noise, and the potential for interpersonal conflicts as patrons exit nightlife venues at the end of an evening. This bill would ensure that the task force designated with developing a local implementation plan appropriately considers public safety, land use, potential conflicts with neighbors, transportation, and other considerations in order to develop a plan specifically tailored a city's needs. Moreover, a local governing body would need to approve the plan prior to its submission to ABC to ensure that the plan appropriately balances all of the important interests.

**Arguments in Opposition:**

Opponents outline numerous health and safety concerns and state this bill will lead to quality of life deterioration, 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 DUI accidents and fatalities. They further note the lack of resources and enforcement capacity to deal effectively with the extra service hours and mitigate the additional harms of late night drinking. Law enforcement is already over extended trying to cover existing closing times. Extending the drinking hour to will create the opportunity for customers to become more intoxicated and more fatigued. Public transportation options are already limited at 2:00 a.m. and will be even more with an additional hour. Furthermore, it will have regional consequences, especially for municipalities within driving distance of cities who adopt a later closing time forcing neighboring cities to absorb increased financial and societal burden related to DUI.

Opponents also note that this bill lacks any evidence to support the bill author's claim that extending hours of sale would not increase alcohol-related harm. Forty years of peer-reviewed, public health research finds that two or more hours of increased alcohol sales will produce

increases in alcohol consumption and related problems including violence, emergency room admissions, injuries, alcohol-impaired driving, and motor vehicle crashes.

**FISCAL COMMENTS:**

According to the Assembly Appropriations Committee analysis: 1) One-time costs of \$600,000 (ABC Fund) in 2020-21 for ABC to develop the pilot program, including the adoption of regulations, and ongoing annual costs in excess of \$2 million beginning in 2021-22 for continued program development, licensing and enforcement. Direct costs will likely be covered by the application fee and annual licensing fee. 2) Ongoing costs to the Department of Justice (DOJ) of about \$4,000 (Legal Services Revolving Fund, General Fund) starting in 2021-22 for enforcement. 3) Significant one-time costs, likely in the hundreds of thousands of dollars (Motor Vehicles Account), for CHP to participate in local task forces and to complete the required report.

**VOTES:**

**SENATE FLOOR: 29-6-3**

**YES:** Allen, Archuleta, Atkins, Beall, Borgeas, Bradford, Caballero, Dodd, Galgiani, Glazer, Grove, Hertzberg, Hill, Hurtado, Jones, Leyva, McGuire, Mitchell, Monning, Moorlach, Morrell, Nielsen, Pan, Portantino, Roth, Skinner, Stone, Wieckowski, Wiener

**NO:** Bates, Chang, Jackson, Rubio, Umberg, Wilk

**ABS, ABST OR NV:** Durazo, Hueso, Stern

**ASM GOVERNMENTAL ORGANIZATION: 11-5-5**

**YES:** Gray, Aguiar-Curry, Berman, Bonta, Brough, Daly, Eduardo Garcia, Gipson, Jones-Sawyer, Low, Robert Rivas

**NO:** Cooley, Lackey, Melendez, Quirk-Silva, Salas

**ABS, ABST OR NV:** Bigelow, Cooper, Gallagher, Mathis, Blanca Rubio

**ASM APPROPRIATIONS: 13-4-1**

**YES:** Gonzalez, Bloom, Bonta, Brough, Calderon, Carrillo, Chau, Eggman, Fong, Eduardo Garcia, Obernolte, Quirk, Robert Rivas

**NO:** Bigelow, Diep, Maienschein, Petrie-Norris

**ABS, ABST OR NV:** Gabriel

**UPDATED:**

VERSION: September 3, 2019

CONSULTANT: Eric Johnson / G.O. / (916) 319-2531

FN: 0001745