

what they already offer for in-restaurant dining is a common-sense way to help the industry recover and adapt to economic trends.

- 2) **ABC's First Notice of Regulatory Relief.** After the Governor issued a statewide stay-at-home order on March 19, 2020, ABC issued the first of many regulatory relief notices to help restaurants crippled by serving only takeout or delivery meals. The first notice allows licensees with on-sale privileges the right to sell alcoholic beverages for off-sale consumption in manufacturer pre-packaged containers, or if not in manufacturer's containers, in a container with a fully sealed and secured lid or cap sold in conjunction with a meal. ABC states this is a temporary measure intended to provide immediate relief during the crisis only, and will not continue the policy after the pandemic. AB 1242 continues the policy for another two years after the conclusion of the COVID-19 state of emergency.
- 3) **Third-Party Provider (TPP) Alcohol Delivery.** AB 1242 allows restaurants to continue providing alcohol for off-sale consumption through pick-up and delivery, including delivery through TPPs. While there are no laws or regulations specific to TPPs, ABC issued advisories in 2009 and 2011 (before the prevalence of app-based on-demand alcohol delivery), defining a TPP as an unlicensed entity involved with the promotion, marketing and facilitation of sales of alcoholic beverages by licensees over the internet. Because existing law states that only licensees may engage in activities for which a license is required, all sales transactions involving TPPs are ultimately conducted by the licensee.

ABC has defined penalties for violations involving a licensee, including selling an alcoholic beverage to a minor. In 2020, ABC issued 1,709 citations for sales to minors. Additionally, existing law provides that giving alcohol to a minor is a misdemeanor and could result in jail time if the minor subsequently causes great bodily injury or death to themselves or another person. ABC cannot sanction TPPs, so the responsibility, and any potential criminal liability, is with the licensee and TPP driver.

ABC's April 30, 2020 industry advisory revealed significant violations of ABC's First Notice of Regulatory Relief, noting: "Most concerning is that minors are routinely able to purchase alcohol through delivery from restaurants. There have been instances in which the licensee's own employees have done so, but a far greater rate has been evident among third-party delivery services." While the number of violations stemming from delivery has significantly decreased since the beginning of the pandemic, enforcement efforts show the violation rate for delivery transactions is still higher than in-person transactions. The industry advisory also revealed violations regarding the packaging of to-go drinks, including the provision of alcoholic beverages without meals, beverages in containers not properly sealed and beverages in the passenger compartments of vehicles.

- 4) **Related Legislation.** AB 61 (Gabriel) allows ABC to issue a third-party delivery license relating to alcoholic beverage delivery from a restaurant, and provides other forms of pandemic relief for restaurants. AB 61 is pending hearing in this committee.

SB 389 (Dodd) is substantively similar to this bill. SB 389 is pending on the Senate Floor.

SB 314 (Wiener) codifies and extends various provisions of ABC's regulatory relief. SB 314 is pending on the Senate Appropriations Committee Suspense File.