

Date of Hearing: April 8, 2021

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Jim Frazier, Chair

AB 495 (Bigelow) – As Amended March 18, 2021

SUBJECT: Alcoholic beverages

SUMMARY: This bill provides that a licensee who transfers an alcoholic beverage license to a premise that is under construction must follow certain notification requirements unless the construction is taking place on the premise of the existing license. Specifically, **this bill:**

- 1) Specifies that a licensee transferring a license to another premise that is either in the process of being constructed, or in the process of construction, must follow the existing 30-day notification requirement.
- 2) Makes technical changes.

EXISTING LAW:

- 1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the 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 or occupation taxes for this purpose.
- 2) Provides licenses for the retail sale of alcoholic beverages may be issued for or transferred to premises which are to be constructed or which are in the process of construction. No alcoholic beverages shall be sold pursuant to the license until the premises have been completed.
- 3) Provides an application signed by both the present licensee and the transferee must be filed with ABC. The department then proceeds as it would on a new application and may deny the transfer if the transferee-applicant is not qualified for a license. If such transfer also involves a change of the premises, ABC's approval of the new premises is required.
- 4) States neither the transferor nor the transferee should assume that the license would be transferred on a particular date, or at all, merely because the application has been filed. ABC may deny the application, or protests or accusations may be filed which may result in delay or denial of the transfer. ABC is not required to investigate the personal qualifications or premises of a currently licensed person when a license is being transferred between partners and no new partner is being licensed.
- 5) Provides after filing an application to engage in the sale of any alcoholic beverage at any premises, notice of intention to so commence shall be posted in a conspicuous place at the entrance to the premises. The applicant shall notify the department of the date when such notice is first posted. No license shall be issued for the premises until the notice has been so posted for at least 30 consecutive days. The notice shall be in such form, as ABC shall prescribe. (Bus. & Prof. Code §23985)

6) States notice of the application for a license pursuant to Bus. & Prof. Code §24044 shall be posted at the proposed premises after the application is filed and shall remain so posted for at least 30 consecutive days. The applicant shall notify ABC of the date when such notice is first posted.

7) Provides that separate licenses shall be issued for each of the premises of any business establishment having more than one location, as defined.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill. According to the author's office, this bill will ensure that interested parties are made aware of a potential license transfer of an existing license to another premise that is either in the process of being constructed, or in the process of construction. The author believes that if a licensee wishes to transfer an existing license to another area, they should be required to provide proper notice to the affected parties and the general-public. This bill does not change the procedures for a new and original license for the retail sale of alcoholic beverages under the Act.

Background. A retail alcoholic beverage license in California is subject to strict regulation by ABC. There are more than 60 different types of ABC licenses authorized in California, each with its own set of privileges and obligations specific to the category of license involved.

The two most common California retail premises that require ABC licenses are: (1) "Off-sale" establishments (e.g., grocery stores, liquor stores, convenience stores), in which alcoholic beverages are sold to consumers in sealed packages for consumption off the premises; and (2) "On-sale" establishments (e.g., restaurants, hotels, cafeterias, nightclubs, bars, and cafes), in which alcoholic beverages are sold primarily for consumption on the premises.

When an ABC license is transferred from one location to another, the transaction is referred to as a "premises-to-premises" transfer. When an ABC license is transferred from one person or entity to another person or entity, the transaction is referred to as a "person-to-person" transfer. Both types of transfer may occur simultaneously (i.e., a "double transfer"), depending on the situation.

Generally, investigations for the issuance or transfer of a license take approximately 55-65 days, and by law, the license cannot be issued for a minimum of 30 days. Circumstances often result in a longer waiting period; therefore, before final approval and issuance of a license, applicants are cautioned regarding extensive financial commitments, plans for grand openings, etc. If new construction or considerable remodeling is necessary, the applicant should seek prior approval under Bus. & Prof. Code §24044 before beginning any actual work.

It is the applicant's responsibility to: (a) Post the Public Notice of Application at the premises for 30 days, and (b) Give information to ABC as needed for the investigation. In some cases, ABC may also require the applicant to: (a) Publish a notice in the newspaper, (b) Mail a notice to all persons living within a 500' radius of the premises, and/or (c) Obtain proof from the local planning department that the zoning permits an ABC license.

The intended transferee may operate the licensed premises during the transfer period if a 120-day permit has been obtained. To qualify for this temporary permit, the premises must be currently licensed and have been operating within the past 30 days prior to application.

When the lease on the licensed premises is terminated and the premises must be vacated, a licensee must surrender their license to ABC within 15 days. During the maximum one-year surrender period, the licensee may transfer the license to other locations or transfer the license to other persons. All renewal fees must be paid during the surrender period.

ABC may approve an application for premises under construction. A retail license may be transferred or issued by ABC to premises that are under construction and the transferor has closed his business or surrendered his license. No alcoholic beverages shall be sold until the premises are completed. Actual delivery of the license is withheld until ABC is satisfied that all conditions set forth in the law and rules are met. (Bus. & Prof. Code §24044 and Rule 64)

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file

Opposition

None on file

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