

## LEGISLATIVE DIGEST

[Police, Administrative Codes - Alcohol Regulation]

**Ordinance amending the Police Code to prohibit possession of an open alcohol container at any premises with an off-sale license from the Alcohol Beverage Control Board, and to require some conditions before the Board of Supervisors may consider granting any licensee a letter of public convenience and necessity under California Business and Professions Code, Section 23958.4; amending the Administrative Code to impose additional reporting requirements from the Police Department to the Board of Supervisors; and making environmental findings.**

### Existing Law

Article 1 of the Police Code sets forth actions that constitute public nuisances in San Francisco, such as solicitation of pedestrians; obstruction of street and sidewalks; accumulation of litter on sidewalks; and consuming alcoholic beverages on public streets.

Section 1298 of the Police Code authorizes the Chief of Police to request that the California Department of Alcoholic Beverage Control ("ABC") place conditions on a retail licensee or upon any licensee in the exercise of retail privileges, pursuant to California Business and Professions Code Section 23800, and to file with the ABC written objections to or concurrence with the removal or modification of any conditions on an ABC liquor license, pursuant to California Business and Professions Code Section 23803.

Chapter 26 of the Administrative Code contains the Deemed Approved Off-Street Alcohol Nuisance Regulations. As part of those regulations, the code requires that the Police Department submit a yearly report to the Board of Supervisors, with a copy to the San Francisco Public Library for public review, that lists all Deemed Approved Off-Sale Alcohol Uses and the conditions and/or penalties placed upon each use.

### Amendments to Current Law

This Ordinance would amend Section 21 of the Police Code to prohibit possession of an open alcohol container at an ABC licensed premises. It would require licensees to post a visible sign at the premises giving notice to the public of this prohibition. State law expressly authorizes municipalities to prohibit this conduct and require posting. (See California Penal Code, Section 647e.)

This Ordinance would amend Section 1298 of the Police Code to authorize the Chief of Police to draft and propose that the Board of Supervisors approve Resolutions of Public Convenience or Necessity ("PCN") pursuant to California Business and Professions Code

Section 23958.4. Under state law, PCN findings from the local legislative bodies (in this case, the Board of Supervisors) or its designee are required to obtain a liquor license in areas of overconcentration of liquor licenses, such as much of San Francisco. The Ordinance provides that the Board of Supervisors shall not approve a Resolution of PCN unless the proposed licensee agrees, in writing, that if the ABC issues an off-sale the license, it will be subject to some conditions. The Ordinance lists some minimum required conditions, and other potentially applicable conditions. Among the first, it establishes minimum volume requirements for distilled spirits and wine, and a prohibition on sale of single-serve containers of beer or coolers. Among the latter, it includes, for example, a requirement that ice be sold only in quantities of no less than 7 pounds per sale, and a restriction on the sale of alcohol for off-premises consumption between the hours of 11 p.m. and 2 a.m.

Finally, the Ordinance amends Section 26.28 of the Administrative Code to add to the Police Department's yearly reporting requirements to the Board of Supervisors under the Deemed Approved Regulations. It states that, in addition to the current reporting requirements, the Department shall also include in the report all complaints or incidents at or near any Deemed Approved Off-Sale Alcohol Use, and any referrals or other communications the Department made to ABC about an existing license or proposed license.

#### Background Information

This purpose of this Ordinance is to address the problem of public intoxication at or near liquor stores.

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