

File No. 240138

Committee Item No. \_\_\_\_\_

Board Item No. 41

## COMMITTEE/BOARD OF SUPERVISORS

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Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: February 27, 2024

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Prepared by: Lisa Lew

Date: February 23, 2024

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Supporting California State Assembly Bill No. 2359 (Ting) to Increase the Number of Full-  
2 Service Restaurants in the Excelsior/Outer Mission and Other San Francisco Outer  
3 Neighborhoods]

4 **Resolution supporting California State Assembly Bill No. 2359, authored by Assembly**  
5 **Member Phil Ting, to increase the total number of Type-87 neighborhood restaurant**  
6 **liquor licenses in San Francisco to combat retail vacancies, create economic**  
7 **opportunity for up-and-coming chefs and restaurateurs, and provide more dining**  
8 **options and culinary jobs for residents of the Excelsior/Outer Mission and other**  
9 **neighborhoods outside downtown or the City’s established tourist neighborhoods.**

10  
11 WHEREAS, In 2017, Assembly Member Phil Ting (San Francisco, D-19) authored  
12 California State Assembly Bill No. 471 (AB 471), which significantly expanded the number of  
13 non-transferrable liquor licenses (Type 87) available from five to 30 for specific San Francisco  
14 neighborhoods outside the city center and established tourist neighborhoods; and

15 WHEREAS, AB 471 required California Department of Alcoholic Beverage Control  
16 (ABC) to issue up to five new Type 87 licenses directly to restaurants in those specific  
17 neighborhood commercial corridors each year until all 30 licenses have been issued; and

18 WHEREAS, AB 471 made it significantly more affordable for restaurateurs to purchase  
19 these types of licenses, subsequently reducing the barrier for entry into the restaurant  
20 business for first-time restaurateurs, immigrants, women, people of color, or other  
21 entrepreneurs without access to capital; and

22 WHEREAS, AB 471 capped the number of neighborhood restaurant liquor licenses in  
23 each neighborhood to five; currently in the Excelsior/Outer Mission all five licenses are either  
24 in use or in the application process, and there are no additional Type 87 neighborhood liquor  
25 licenses available in the Excelsior/Outer Mission; and

1           WHEREAS, The Excelsior and Outer Mission have historically struggled with high  
2 vacancies along the corridor; and

3           WHEREAS, As of November 15, 2023, there were 39 vacancies in the Excelsior  
4 corridor from Silver Avenue to Sickles Street; and

5           WHEREAS, The Excelsior Outer Mission could benefit from a greater number of full-  
6 service restaurants as a way of combating retail vacancies and generating economic activity;  
7 and

8           WHEREAS, California State Assembly Bill No. 2359 (AB 2359) would double the  
9 number of Type 87 neighborhood restaurant liquor licenses along the Outer Mission/Excelsior  
10 commercial corridor and other “outer neighborhood” commercial corridors; now, therefore, be  
11 it

12           RESOLVED, The Board of Supervisors recognizes the importance of full-service  
13 restaurants to the health of a commercial corridor and to the vitality of the city as a whole;  
14 and, be it

15           RESOLVED, The Board of Supervisors supports the expansion of affordable Type 87  
16 licenses in neighborhoods outside the downtown or established tourist neighborhoods as a  
17 way to increase economic opportunities for restauranteurs without access to capital; and, be it

18           FURTHER RESOLVED, The Board of Supervisors supports AB 2359 to increase the  
19 number of Type 87 neighborhood restaurant liquor licenses, especially in the Excelsior/Outer  
20 Mission neighborhoods, as a way of increasing economic activity in our outer neighborhoods,  
21 providing culinary jobs and a good night out for residents and visitors alike.

22  
23  
24  
25

**ASSEMBLY BILL**

**No. 2359**

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**Introduced by Assembly Members Ting and Haney**  
(Principal coauthor: Senator Wiener)

February 12, 2024

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An act to amend Section 23826.13 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2359, as introduced, Ting. Alcoholic beverage control: neighborhood-restricted special on-sale general licenses.

The Alcoholic Beverage Control Act, administered by the Department of Alcoholic Beverage Control, regulates the sale and distribution of alcoholic beverages and the granting of licenses for the manufacture, distribution, and sale of alcoholic beverages within the state. The act also provides for a limitation on the amount of on-sale general licenses that may be issued by the department based on the population of the county in which the licensed premises are located, as provided. Existing law provides an exception to the license limitation for a county of the 6th class, as specified, for up to 5 new original neighborhood-restricted special on-sale general licenses for premises located within specified census tracts in that county until a total of 30 new licenses are issued. Existing law limits the total number of these licenses that may be concurrently held in each specified neighborhood.

This bill would increase the total number of new licenses authorized under this provision from 30 to 40 and would increase, for 2 of the specified neighborhoods, the total authorized number of licenses for each neighborhood from 5 to 10 licenses. The bill would update certain census tract numbers to reflect splits made to those tracts in the 2020

Census and would additionally authorize the issuance of a license for a premises located in census tract 352020.

Existing law requires an applicant for a neighborhood-restricted special on-sale general license to conduct a preapplication meeting with neighbors and members of the community, as specified, before submitting an application for a license.

This bill would delete the preapplication meeting requirement.

Existing law prohibits the holder of a neighborhood-restricted special on-sale general license from exercising the rights and privileges granted by an off-sale beer and wine license.

This bill, commencing January 1, 2025, would instead authorize the exercise of specified off-sale privileges. The bill would prohibit the holder of a neighborhood-restricted special on-sale general license that was issued before January 1, 2025, from exercising those off-sale privileges unless the department approves a petition by the licensee, as specified.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 23826.13 of the Business and Professions  
2 Code is amended to read:  
3 23826.13. (a) Notwithstanding this chapter, in any county of  
4 the sixth class, the department may issue no more than a total of  
5 five new original neighborhood-restricted special on-sale general  
6 licenses to premises located in any of the census tracts listed in  
7 subdivision (b) per year beginning on January 1, 2017, until a total  
8 of ~~30~~ 40 new licenses authorized by this section are issued.  
9 (b) To qualify for a license issued pursuant to this section, the  
10 premises for which the license would apply shall be located within  
11 one of the following United States Bureau of Census census tracts,  
12 corresponding to those identified within the ~~2010~~ 2020 Census,  
13 located within the City and County of San Francisco, subject to  
14 the following limitations:  
15 (1) United States Bureau of the Census census tract 612000,  
16 232000, 234000, 233000, or 230030. No more than a total of ~~five~~

1 10 neighborhood-restricted special on-sale general licenses shall  
2 be concurrently held at premises located within all of these tracts.

3 (2) United States Bureau of the Census census tract 258000 or  
4 257020. No more than a total of four neighborhood-restricted  
5 special on-sale general licenses shall be concurrently held at  
6 premises located within all of these tracts.

7 (3) United States Bureau of the Census census tract 264030. No  
8 more than a total of two neighborhood-restricted special on-sale  
9 general licenses shall be concurrently held at premises located  
10 within this tract.

11 (4) United States Bureau of the Census census tract ~~255000,~~  
12 ~~255010, 255020,~~ 256000, 260020, 260010, 260040, 261000, or  
13 263010. No more than a total of ~~five~~ 10 neighborhood-restricted  
14 special on-sale general licenses shall be concurrently held at  
15 premises located within all of these tracts.

16 (5) United States Bureau of the Census census tract 309000,  
17 310000, or 312010. No more than a total of four  
18 neighborhood-restricted special on-sale general licenses shall be  
19 concurrently held at premises located within all of these tracts.

20 (6) United States Bureau of the Census census tract ~~330000,~~  
21 ~~330010, 330020,~~ 329010, 328010, 353000, or 354000. No more  
22 than a total of five neighborhood-restricted special on-sale general  
23 licenses shall be concurrently held at premises located within all  
24 of these tracts.

25 (7) United States Bureau of the Census census tract 328020,  
26 ~~329020, 351000, or 352010.~~ 351010, 351020, 352010, or 352020.  
27 No more than a total of five neighborhood-restricted special on-sale  
28 general licenses shall be concurrently held at premises located  
29 within all of these tracts.

30 (c) In issuing the licenses pursuant to this section, the department  
31 shall follow the procedure set forth in Section 23961. A license  
32 shall not be issued pursuant to this section to an applicant until  
33 any existing on-sale licenses issued to the applicant for the same  
34 premises are canceled.

35 (d) (1) A person who currently holds an on-sale general license  
36 for a premises, who currently holds any interest in an on-sale  
37 general license for a premises, who has held an on-sale general  
38 license for a premises within the 12 months before the date of the  
39 drawing required by Section 23961, or who has held any interest  
40 in an on-sale general license for a premises within the 12 months

1 before the date of the drawing required by Section 23961, shall  
2 not apply for a license issued pursuant to this section for that  
3 licensed premises.

4 (2) In addition to the other requirements of this section, an  
5 application for a neighborhood-restricted on-sale general license  
6 shall be subject to all the requirements that apply to an on-sale  
7 general license for a bona fide eating place.

8 ~~(3) Before submitting an application for a license issued pursuant  
9 to this section, the applicant shall conduct a minimum of one  
10 preapplication meeting to discuss the application with neighbors  
11 and members of the community within the census tract in which  
12 the premises are located.~~

13 ~~(A) The applicant shall hold the meeting either on the premises  
14 or at an alternate location within a one-mile radius of the premises.~~

15 ~~(B) The applicant shall mail notification of the preapplication  
16 meeting to all of the following individuals and organizations at  
17 least 14 calendar days before the meeting:~~

18 ~~(i) Each resident within a 500-foot radius of the premises for  
19 which the license is to be issued.~~

20 ~~(ii) Any relevant neighborhood associations for the  
21 neighborhood in which the premises is located, as identified on a  
22 list maintained by the Planning Department of the City and County  
23 of San Francisco.~~

24 ~~(iii) The Chief of Police for the San Francisco Police  
25 Department.~~

26 ~~(C) Applicants for a neighborhood-restricted special on-sale  
27 general license shall submit, on a form provided by the department,  
28 signed verification by the local governing body of the area in which  
29 the applicant premises are located, or its designated subordinated  
30 officer or body, that states the applicant has completed the  
31 preapplication meeting pursuant to this section.~~

32 (e) (1) A license issued pursuant to this section shall not be  
33 transferred between counties.

34 (2) Except as provided in paragraphs (3) and (4), a license issued  
35 pursuant to this section shall not be transferred to any other  
36 premises.

37 (3) Paragraph (2) shall not apply to any licensee whose premises  
38 have been destroyed as a result of fire or any act of God or other  
39 force beyond the control of the licensee, for whom the provisions  
40 of Section 24081 shall apply.

1 (4) The department may allow a license issued pursuant to this  
2 section to be transferred within the same neighborhood, as  
3 described in paragraphs (1) to (7), inclusive, of subdivision (b).

4 (5) A license issued pursuant to this section shall not be  
5 transferred to any person, partnership, limited partnership, limited  
6 liability company, or corporation. This provision shall not apply  
7 to licenses transferred under Section 24071, 24071.1, or 24071.2.

8 (f) Following the cancellation or revocation of a license issued  
9 pursuant to this section, the department may issue one additional  
10 new original neighborhood-restricted special on-sale general license  
11 following the procedure set forth in Section 23961 and the  
12 provisions of this section.

13 (g) A person that holds a neighborhood-restricted special on-sale  
14 general license issued pursuant to this section shall not exchange  
15 that license for an on-sale license for public premises.

16 (h) Except as specified herein, a neighborhood-restricted special  
17 on-sale general license may exercise all of the privileges, and is  
18 subject to all the restrictions, of an on-sale general license for a  
19 bona fide eating place.

20 ~~(i) A neighborhood-restricted special on-sale general license~~  
21 ~~issued pursuant to this section shall not, with respect to beer and~~  
22 ~~wine, authorize the exercise of the rights and privileges granted~~  
23 ~~by an off-sale beer and wine license.~~

24 *(i) (1) Commencing January 1, 2025, subject to paragraph (2),*  
25 *a licensee may exercise off-sale privileges pursuant to Sections*  
26 *23401 and 23401.5. This section does not limit the authority of*  
27 *the department to impose conditions on a license pursuant to*  
28 *Article 1.5 (commencing with Section 23800).*

29 *(2) The holder of a neighborhood restricted special on-sale*  
30 *general license issued before January 1, 2025, shall not exercise*  
31 *off-sale privileges pursuant to Section 23401 and 23401.5 unless*  
32 *the department approves a petition submitted by the licensee*  
33 *requesting to exercise off-sale privileges. If the department*  
34 *determines that good cause exists to deny the petition, in whole or*  
35 *in part, the department shall endorse the prohibition or other*  
36 *restriction as a condition on the license, which is subject to Article*  
37 *1.5 (commencing with Section 23800). The licensee may make a*  
38 *written request for hearing on the denial of a petition in the same*  
39 *manner as provided in Section 23805.*



1 (j) The department shall adopt rules and regulations to enforce  
2 this section.

3 SEC. 2. The Legislature finds and declares that a special statute  
4 is necessary and that a general statute cannot be made applicable  
5 within the meaning of Section 16 of Article IV of the California  
6 Constitution because of the unique distribution and market  
7 conditions of liquor licenses in the City and County of San  
8 Francisco, that apply only to the City and County of San Francisco.

O

**From:** [Carrillo, Lila \(BOS\)](#)  
**To:** [Somera, Alisa \(BOS\)](#)  
**Cc:** [BOS Legislation, \(BOS\)](#)  
**Subject:** Re: FOR INTRODUCTION: Safai - Resolution - In Support of AB 2359 (Ting) to Increase the Number of Full-service Restaurants in the Excelsior/Outer Mission and other San Francisco Outer Neighborhoods  
**Date:** Wednesday, February 14, 2024 11:26:52 AM  
**Attachments:** [AB 2359 Text.pdf](#)

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Alisa,

Thank you so much for flagging this - i am so sorry for this oversight. Attached please find a copy of AB 2359. I am also confirming that the California State Association of Counties and League of California Cities have not taken a position on this bills.

Kindly,  
Lila

Lila Carrillo, Legislative Aide  
Supervisor Ahsha Safai, District 11  
San Francisco Board of Supervisors  
Office: 415.554.6975

Working from unceded Ohlone Territory

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# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor  inquiries"
- 5. City Attorney Request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Safaí

Subject:

Resolution in support of AB 2359 (Ting) to increase the number of full-service restaurants in the Excelsior/Outer Mission and other San Francisco Outer Neighborhoods

The text is listed:

Resolution in support of AB 2359 (Ting) to increase the total number of Type 87 neighborhood restaurant liquor licenses in San Francisco to combat retail vacancies, create economic opportunity for up-and-coming chefs and restaurateurs, and provide more dining options and culinary jobs for residents of the Excelsior/Outer Mission and other neighborhoods outside downtown or the city's established tourist neighborhoods.

Signature of Sponsoring Supervisor: Safaí

For Clerk's Use Only