

ASSEMBLY BILL

No. 2359

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

February 12, 2024

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.

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