

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 2121 (Gonzalez) – As Amended April 12, 2016

SUBJECT: Alcoholic beverage control: Responsible Interventions for Beverage Servers Training Act of 2016

SUMMARY: Establishes the Responsible Interventions for Beverage Servers (RIBS) Training Act of 2016, beginning July 1, 2020, that would require an alcohol server, as defined, to successfully complete an approved RIBS training course within 3 months of employment and every 3 years thereafter. The bill would provide that an approved RIBS training course include information on, among other things, state laws and regulations relating to alcoholic beverage control and the impact of alcohol on the body. Specifically, **this bill:**

1) Provides that beginning July 1, 2020, an alcohol server shall successfully complete an approved RIBS training course within three months of employment and every three years thereafter. The licensee shall ensure that those persons required to successfully complete an approved RIBS training course do so. A current certificate or card provided by any approved training course provider shall be sufficient documentation of successful completion and shall be accepted throughout the state.

2) Provides that on or before January 1, 2019, the Department of Alcoholic Beverage Control (ABC) shall establish a list, published on its Internet Web site, of approved RIBS training courses that may be used to fulfill the requirements, as specified.

3) States that an approved RIBS training course shall consist of at least four hours of instruction and include, but shall not be limited to, the following information:

(a) The social impact of alcohol.

(b) The impact of alcohol on the body.

(c) State laws and regulations relating to alcoholic beverage control, including laws and regulations related to driving under the influence.

(d) Intervention techniques to prevent the service or sale of alcoholic beverages to underage persons or intoxicated patrons.

(e) The development of management policies that support the prevention of service or sale of alcoholic beverages to underage persons or intoxicated patrons.

(f) The course shall provide basic, introductory instruction on the elements, as described.

4) Provides that a RIBS training course may be offered through a trainer-led class and assessment or self-training and assessment. A RIBS certificate or card shall be issued only upon successful completion of an approved RIBS training course and assessment. A minimum score of 70 percent on the assessment shall be required to successfully complete the course. An approved RIBS training course shall issue a certificate or card to individuals who successfully complete a

course. The certificate or card shall be valid for three years from the original date of issuance, regardless of whether the alcohol server changes employers during that period.

5) Provides ABC may, by regulation, establish additional training standards and curricula to be included in an approved RIBS training course. ABC shall establish minimum standards and promulgate regulations for the training and scope of practice for a person who sells or serves alcoholic beverages.

6) Provides at least one approved RIBS training course shall cost a participant no more than fifteen dollars (\$15), inclusive of the certificate or card provided upon successful completion of the training course.

7) States that at least one approved RIBS training course shall be offered in Spanish. If no RIBS training courses meet these requirements, then the requirement in this bill shall not apply.

8) Provides ABC shall review an approved RIBS training course at least once every three years after the course is approved.

9) Maintains that beginning January 1, 2019, ABC shall include information on the RIBS training course requirement, as specified, including information on documentation requirements, on the application for a license and with the license renewal notices sent to licensees.

10) States that beginning January 1, 2020, a licensee applying for a new license that authorizes alcohol to be served on the licensed premises shall certify on the application that all employees of the licensee have either successfully completed a RIBS training course or, within the first calendar year of the issuance of the license, will have successfully completed a RIBS training course. The licensee shall provide ABC with documentation of successful completion.

11) Provides that beginning January 1, 2020, a licensee applying for the renewal of the license that authorizes alcohol to be served on the licensed premises shall certify on the application, and provide ABC with documentation, that all employees of the licensee have successfully completed a RIBS training course.

12) Defines "Alcohol server" as a person who sells or serves alcoholic beverages, or a person who manages a person who sells or serves alcoholic beverages, for consumption on the premises of a licensed facility.

13) Defines "RIBS training course" as a Responsible Interventions for Beverage Servers training course approved by the ABC.

14) Defines "Self-training and assessment" as a process where the individual trains, and takes an assessment, without the presence or intervention of a trainer or instructor, and includes, but is not limited to, training and assessment by a computer program or the Internet.

EXISTING LAW:

1) The Alcoholic Beverage Control Act, administered by ABC, regulates the granting of licenses for the manufacture, distribution, and sale of alcoholic beverages within the state.

- 2) Defines an "On-sale" license as authorizing the sale of all types of alcoholic beverages namely, beer, wine and distilled spirits, for consumption on the premises (such as at a restaurant or bar).
- 3) Provides that every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any habitual or common drunkard or to any obviously intoxicated person is guilty of a misdemeanor.
- 4) States no person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage shall be civilly liable to any injured person or the estate of such person for injuries inflicted on that person as a result of intoxication by the consumer of such alcoholic beverage.
- 5) Allows ABC to issue licenses and authorizations for the retail sale of beer, wine and distilled spirits on a temporary basis for special events (Special Daily Beer and/or Wine License, Daily On Sale General License).
- 6) States a cause of action may be brought by or on behalf of any person who has suffered injury or death against any person licensed, or required to be licensed, as specified, or any person authorized by the federal government to sell alcoholic beverages on a military base or other federal enclave, who sells, furnishes, gives or causes to be sold, furnished or given away any alcoholic beverage, and any other person who sells, or causes to be sold, any alcoholic beverage, to any obviously intoxicated minor where the furnishing, sale or giving of that beverage to the minor is the proximate cause of the personal injury or death sustained by that person.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill: According to the information provided by the author, the Licensee Education on Alcohol and Drugs (LEAD) program and Responsible Beverage Service Training (RBS) are not required in California, meaning many bartenders and servers are not prepared to recognize patrons who have been over-served and to safely intervene to prevent tragedy. Excessive alcohol consumption can impair an individual's mental and physical abilities, which creates a public safety risk when an individual operates a motor vehicle while intoxicated. When individuals drive under the influence, it not only puts the driver at risk -- it threatens the lives of passengers and all others who share the road. The social cost is clear, as drunk driving causes the deaths of 10,000 of our loved ones every year.

The author states by requiring a beverage server be trained to intervene before patrons become over-served alcohol can play an important role in ensuring that the public is protected. AB 2121 can follow the lead of 18 other states and the District of Columbia by making this training a requirement of those serving alcoholic beverages to patrons.

The author additionally notes according to "the National Highway Traffic Safety Administration, more than 10,000 people die on our streets every year – the equivalent of one fatality every 51 minutes due to drunk driving. While we cannot entirely stop every individual from making bad decisions that put innocent people at risk, we do have a responsibility to intervene when we can."

The author notes, "While law enforcement does its best with checkpoints and other enforcement, these approaches only help after someone has already made the choice to get behind the wheel when they should not. Bottom line, this is not good enough. By establishing a uniform, standard education requirement for all servers, California can improve the likelihood that a server will intervene upfront before a patron become a danger or commit a crime. And that saves lives."

The author contends this bill "will ensure that all servers learn the necessary skills to protect the patron, public, server and business. We know drunk driving ruins lives and kills too many innocent people. That is why we need to make sure those on the front line are equipped to help."

Background: Responsible Beverage Service Training (RBS) is not mandatory in California. However, some cities and counties do require RBS training to sell or serve alcoholic beverages at establishments within those jurisdictions. For instance, the City of Solana Beach requires training within 30 days of being hired - certification is valid for 3 years. The City of Berkeley requires training within 90 days of being hired - certification is valid for 2 years. The City of Rohnert Park mandates training within 60 days of being hired. The City of Petaluma requires training within 90 days of being hired - certification is valid for 3 years.

ABC offers a free and voluntary 4-hour class, called Licensee Education on Alcohol and Drugs, or LEAD, for retail licensees, their employees and applicants. In 1991, the program began due to a grant from the California Office of Traffic Safety. The LEAD Program provides the licensee and applicant with practical information on serving alcoholic beverages safely, responsibly, and legally, and preventing illicit drug activity at the licensed establishment. At the conclusion of the class, an exam is given on the material that was covered. Each person that fulfills all of the training requirements receives a certificate, via email, certifying that they successfully completed a LEAD training course.

The LEAD Program is one of several training programs that offer responsible beverage service training. ABC provides a list of other RBS training providers on its web site. ABC encourages its licensees to participate in these classes as a means to minimize the risk of liability for criminal, civil and ABC regulatory actions, to potentially lower liability insurance premiums, and to develop strategies for addressing challenging situations associated with the sale of alcohol. ABC does not offer the LEAD Program in languages other than English.

California Dram Shop Law: Under current state law, owners of bars, restaurants and liquor stores can face criminal misdemeanor charges (which carry penalties of six to 12 months in county jail, a minimum \$1,000 fine, or both) and be held liable for civil damages to an injured third party where such owners serve a minor who is visibly intoxicated. A vendor who provides alcohol to a person 21 years of age or older cannot be held liable for damages if the person then injures someone else, even if the person was obviously intoxicated at the time. The law states that the consumption of alcohol, not the furnishing of the beverages, is the proximate cause of injuries that an intoxicated person inflicts on another individual, a position that largely eliminates dram shop liability.

In Support: According to the Federal Centers for Disease Prevention and Control, representing local health departments throughout our state, "Excessive alcohol use can lead to increased risk of health problems including injuries, violence, liver disease, and cancer. AB 2121 seeks to mitigate these risks by requiring responsible beverage service training programs. These training programs would educate servers on the impact of alcohol, current laws and regulations, and

intervention techniques to prevent sales to underage and intoxicated persons. Local health departments support efforts that promote public health of our communities and reduce the risks associated with alcoholic beverage consumption."

According to the California Medical Association, binge drinking, defined as consuming five or more drinks for men and four or more drinks for women, is strongly associated with alcohol-impaired driving. An analysis of the Behavioral Risk Factors Surveillance System survey found that over 10% of binge drinkers drove during or within two hours of binge drinking. Of those, over 50% reported that they had been drinking at a licensed establishment. RBS training provides bartenders and servers with tools to effectively identify when a patron has had too much to drink, and how to safely intervene if the patron attempts to get into their car. RBS has been found to increase appropriate server practices, increase refusal to serve obviously intoxicated patrons, and decrease the percentage of intoxicated patrons leaving an establishment. Three years after Oregon mandated responsible beverage service training, fatal single vehicle nighttime crashes decreased by an estimated 23%.

In Opposition: The Civil Justice Association of California (CJAC) opposes this measure "unless it is amended to add liability protection for servers, bartenders, and restaurant and bar owners. As introduced, AB 2121 will lead to the establishment of dram shop liability. If every server or manager has to complete uniform training, and every licensee has to make sure every manager and server completes the training, then the training materials may become the de facto template for the duty owed by the licensee, manager, server or establishment to its patrons and to anyone injured by them. AB 2121 should be amended to indicate that neither the required training nor any failure by a licensee, manager or server to meet the requirements of the new Section 2, Article 4 is a basis for civil liability. CJAC suggests the addition of a new B & P Section 25681 (c): *No person required to complete an approved RIBS training course or ensure completion by another person pursuant to (a) or (b) of this section shall be civilly liable to any injured person or the estate of such person for injuries inflicted on that person as a result of intoxication by the consumer of an alcoholic beverage.*"

Policy considerations: The bill as currently written applies only to on-sale premises (bars, restaurants, wineries, distilleries, etc.) which means that an "alcohol server," as defined, at off-sale retail establishments would not be required to receive server training. Should the bill be amended to include a person who sells alcoholic beverages for consumption off the premises of a licensed establishment? Is there a difference between training an on-sale server to intervene before a patron becomes over-served alcohol and an off-sale employee selling alcohol to an individual who is clearly intoxicated and poses a public safety risk, if the transaction is completed?

AB 2121 is unclear whether it mandates training for alcohol servers at special events. Non-profits often obtain Special Daily Wine/Beer Licenses or Special Daily On-Sale General Licenses for fairs, festivals and the like. Is it the intent of the author to require server training for these types of special ABC licenses?

The bill only addresses seller/servers and presumably, floor managers/supervisors. Should training for on-site owners and managers be mandatory too?

AB 2121 introduces a new term, "RIBS," for what is commonly known throughout the state as "RBS" (responsible beverage service). Currently, ABC, as well as cities in counties (in local

ordinances) use the term, RBS not RIBS. Should the bill be amended to reflect RBS to maintain consistency and to prevent local cities and counties from having to amend their local ordinances to read RIBS rather than RBS?

REGISTERED SUPPORT / OPPOSITION:

Support

County Health Executives Association of California
California Medical Association
California Police Chiefs Association
Liquor License Advisor, Inc.

Opposition

Civil Justice Association of California

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