

Date of Hearing: April 6, 2016

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 1558 (Mathis) – As Amended March 16, 2016

**SUBJECT:** Alcoholic beverages: licenses

**SUMMARY:** Adds a new Section to the Alcoholic Beverage Control (ABC) Act which authorizes the Department of Alcoholic Beverage Control (ABC) to issue no more than a total of 5 new original on-sale general licenses, over a 2-year period, for bona fide public eating places, public premises, or both in the County of Inyo. Specifically, **this bill:**

- 1) Provides in the County of Inyo, ABC may issue no more than a total of five additional new original on-sale general licenses for bona fide public eating places, public premises, or both from January 1, 2017, to December 31, 2019, inclusive. To qualify for a license, the premises upon which a bona fide public eating-place is operated shall have a seating capacity for 50 or more diners.
- 2) Requires ABC to follow existing “drawing for priority” procedures with respect to the issuance of these new licenses as set forth in ABC Act.
- 3) Provides that a person who currently holds a valid on-sale general license for seasonal business is not prohibited from applying for an original on-sale general license pursuant to this measure.
- 4) Makes it explicit that a license issued pursuant to this measure shall not be transferred from one county to another nor shall it be transferred to any premise not qualifying under these provisions.

**EXISTING LAW:**

- 1) The enactment of the 21<sup>st</sup> Amendment to the U.S. Constitution in 1933 repealed the 18th Amendment and ended the era of Prohibition. Accordingly, states were granted the authority to establish alcoholic beverage laws and administrative structures to regulate the sale and distribution of alcoholic beverages.
- 2) Establishes ABC and grants it exclusive authority to administer the provisions of the Alcoholic Beverage Control 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.
- 3) Provides that ABC must deny an application for a license if issuance would create a law enforcement problem, or if issuance would result in, or add to, an undue concentration of licenses in the area where the license is desired. For liquor stores and other specified retail license, however, the ABC is authorized to issue a license if the respective local government determines that public convenience or necessity would be served by granting the license.

Caps the number of new on and off-sale general licenses issued by the ABC at one for every 2,500 inhabitants of the county where the establishment is located (2,000:1 for on sale licenses). If no licenses are available from the state due to the population restrictions, those people interested in obtaining a liquor license may purchase one from an existing licensee, for whatever price the market bears. In 1994, the Legislature approved a 3-year moratorium on the issuance of new off-sale beer and wine licenses, which at the time was not bound by any population to license restriction. In 1997, this moratorium was made permanent.

4) Defines “bona fide public eating place” to mean a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local Department of Health.

5) 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). An “*off-sale*” license authorizes the sale of all types of alcoholic beverages for consumption *off the premises* in original, sealed containers.

6) Provides for 58 counties and 58 "classes" of counties – one county to each class based on their 1970 Census populations.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

Background: As noted above, existing law provides for a limitation on the number of new on-sale general licenses that may be issued in a given year by ABC based on the population growth of the county in which the licensed premises are located (one license for every 2,000 residents). Thus, if a county grows by 10,000 people in a given year ABC will sell five new licenses in that county. ABC holds a drawing if there are more buyers than licenses available. The cost of an original on-sale general eating-place license (Type 47) is \$13,800. Individuals seeking to open a full-service restaurant with a bar or cocktail menu who fail to obtain a liquor license through this process typically must locate an existing licensed owner willing to sell his or her license. Usually, that is done by contacting a liquor license broker. The cost of obtaining a license on the secondary market is driven by supply and demand and potential sellers may ask for upwards of \$150,000. According to ABC, currently there are approximately 13,360 Type 47 licenses statewide.

ABC's records from 2015 indicate that Inyo's population was 18,574, which translates into 17 on-sale general licenses within the county. In 2015, ABC issued additional liquor licenses to counties with satisfactory population growth verified by the Department of Finance (DOF). Inyo County was not eligible for additional liquor licenses based on the set criteria. However, ABC records indicate that one new on-sale general license was made available and issued through the priority drawing process in 2013.

Purpose of the bill: Under current law, the number of liquor licenses issued in a given county is tied to the population of that county which creates a problem for restaurants and hotels that would like to cater to the large number of visitors in the area but are unable to because they do not have a license to serve alcohol. This measure is expected to lead to an increase in full service restaurants in the County of Inyo

According to the author, while the County could not show satisfactory proof of population growth, the number of businesses unable to obtain a license each year demonstrates the County's need for additional liquor licenses.

The author states, although the distribution of liquor licenses across Inyo County reflects the population, ABC does not take into account the many tourists who visit the County each year, making it even more difficult for entrepreneurs to succeed in a volatile economic climate. This bill will provide Inyo County with five additional liquor licenses to accommodate the growing tourism industry that accounts for a significant portion of the local economy.

Related legislation: AB 1670 (Dodd) of 2016. Would authorize ABC to issue a maximum of 25 new original on-sale general licenses, over a five-year period, for bona fide public eating-places in the County of Napa. (Pending in the Assembly G.O. Committee)

SB 1285 (Leno) of 2016. This bill would, beginning January 1, 2017, provide an exception to this limitation for a county of the 6th class, as specified, for 28 new original special on-sale general licenses for bona fide eating places for premises located within specified census tracts in that county, subject to specified requirements. (Pending in Senate G.O. Committee)

Prior legislation: AB 461 (Achadjian), Chapter 110, Statutes of 2013. Authorized ABC to issue no more than a total of five new original on-sale general licenses, over a three-year period, for bona fide public eating-places in the County of San Luis Obispo.

AB 1320 (Allen), Chapter 467, Statutes of 2012. Authorized ABC to issue a maximum of 15 new original on-sale general licenses, over a 3-year period, for bona fide public eating-places in the County of Marin.

AB 2266 (Evans), Chapter 130, Statutes of 2008. Authorized ABC to issue a maximum of 15 new original on-sale general licenses, over a three-year period, for bona fide public eating-places in the County of Napa.

SB 762 (Cox), Chapter 193, Statutes of 2007. Authorized ABC to issue 10 new original on-sale general licenses for bona fide public eating-places in the County of Mono.

SB 1092 (Berryhill), Chapter 571, Statutes of 1975. Authorized ABC to issue five additional new original on-sale general licenses for bona fide public eating places (seating for 100 or more diners) in any county where the inhabitants number less than 5,000 but more than 3,000 (Mono County) according to the 1970 federal census and where the major economy of that county is dependent upon the year-round use of that county's recreational facilities.

SB 784 (Berryhill), Chapter 407, Statutes of 1975. Authorized ABC to issue three additional original off-sale general licenses in a county of the 58th class (Alpine County).

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Bishop Area Chamber of Commerce & Visitors Bureau  
City of Bishop  
Inyo County Board of Supervisors

**Opposition**

None on file

**Analysis Prepared by:** Eric Johnson / G.O. / (916) 319-2531