

Date of Hearing: April 6, 2016

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 2739 (Chiu) – As Introduced February 19, 2016

SUBJECT: Department of Alcoholic Beverage Control: special on-sale general license: for-profit theater

SUMMARY: Deletes in a provision in current law that the Department of Alcoholic Beverage Control (ABC) shall not issue a special on-sale general license to the operator of any for-profit theater located within the City and County of San Francisco, configured with theatrical seating of at least 1,000 seats and primarily devoted to live theatrical performances until any existing licenses issued by the department to the operator for the premises of the for-profit theater are canceled.

EXISTING LAW:

- 1) 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.
- 2) Provides ABC may issue a special on-sale general license to any nonprofit theater company that meets specified requirements. Theater companies holding a license pursuant to these provisions may only sell and serve alcoholic beverages to ticketholders during, and two hours prior to and one hour after, a bona fide theater performance of the company. There are 90 of these Type 64 licenses in California for non-profit theater companies who meet the specified requirements. All licenses are renewed on a 12-month basis.
- 3) Provides ABC may issue a special on-sale general license to the operator of any for-profit theater located within the City and County of San Francisco, configured with theatrical seating of at least 1,000 seats and primarily devoted to live theatrical performances.
- 4) Prohibits that special on-sale general license from being issued until any existing licenses issued by the department to the operator for the premises of the for-profit theater are canceled.
- 5) Provides the special on-sale general license shall permit sales, service, and consumption of alcoholic beverages in the lobbies and seating areas of the theater for the period beginning two consecutive hours prior to a live theatrical performance and ending one hour after the live theatrical performance is completed, as specified.
- 6) Makes it explicit that any special on-sale general license issued shall be subject to the limitations provided in existing law that caps the number of new on-sale general licenses issued by the ABC at one for every 2,000 inhabitants of the county where the establishment is located. Also, provides that the license issued does not mandate that the premises be operated as a bona fide public eating-place.

7) Stipulates that the theater shall not be subject to an existing provision of the ABC Act that prohibits the transferring of a license unless the applicant can show that substantial public demand cannot otherwise be satisfied. Specifies that a “for-profit theater” shall not include an adult or sexually oriented business, as defined in Penal Code Section 318.5.

8) 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.

9) 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.

FISCAL EFFECT: Unknown

COMMENTS:

Background: In 2013, AB 525 (Ting), Chapter 235, created a new special on-sale general license in the ABC Act that enabled the operator of any for-profit theater (Curran, Orpheum and Golden Gate Theatres), configured with theatrical seating of at least 1,000 seats and primarily devoted to live theatrical performances, located within the City and County of San Francisco. The measure was intended to create a special license category to accommodate the business goals of an operator of any for-profit theater located in the City and County of San Francisco.

Before the passage of AB 525, patrons of a for-profit theater located in the City and County of San Francisco were prevented from approaching service bars to purchase alcoholic and non-alcoholic beverages and carrying those drinks elsewhere in the lobby or to their seats. The bill was narrowly crafted to enhance the experience of theatergoers at many of the city's grand historically renovated theaters. Additionally, the measure contained several provisions to ensure appropriate controls relating to licensing.

Purpose of the bill: The author states this bill will make a change to the above-mentioned bill relating to the issuance of a special on-sale general license (Type 71) for any for-profit theater in the City and County of San Francisco. Such a license enables each theater to serve beer, wine, and distilled spirits to patrons.

The Curran Theatre, which opened in February 1922, closed on January 1, 2015 for renovations to the 1,650-seat theater, and is set to reopen in January 2017. Prior to its closure, the Curran Theatre was operated by an ABC licensee that will no longer have ownership interest in the theater or the alcohol beverage service when it reopens. AB 2739 would delete the requirement that prior to ABC issuing a Type 71 license; any existing license issued for the premises must be “cancelled” by the operator.

The author states that a change in statute is necessary because current law did not take into account the possibility that an owner or operator of an existing theater may change ownership, which would leave the new owner without the ability to apply for and be issued a new license by

ABC unless the prior license is cancelled by the previous owner(s). This requirement will prevent the Curran Theatre from applying for a new special on-sale general license or from serving alcoholic beverages to its patrons when it reopens to the public in January 2017.

The author further states that the “cancellation” requirement is a unique licensing process and is inconsistent with how other licenses are issued by the department under the ABC Act and specific policies that allow for the application and purchase of a new license from the ABC by the new owner or operator of a premise.

Prior legislation: AB 525 (Ting), Chapter 235, Statutes of 2013. Created a new special on-sale general license in the ABC Act that enables the operator of any for-profit theater, as specified, located within the City and County of San Francisco, to serve alcoholic beverages during certain hours in specified areas of the theater.

SB 1531 (Wolk), Chapter 334, Statutes of 2012. Created a narrow tied-house exception, until January 1, 2018, enabling the Napa Valley Opera House to accept wine and monetary donations from wineries located within the Counties of Napa, Sonoma, Lake, and Mendocino.

AB 2793 (Governmental Organization Committee), Chapter 273, Statutes of 2010. Among other things, authorized a licensed winegrower to serve on the board of trustees of a nonprofit theater company operating a theater in the City of Livermore, as specified. Also, authorized ABC to issue a club license to nonprofit lawn bowling clubs that do not discriminate or restrict membership, as specified.

SB 131 (Wiggins), Chapter 638, Statutes of 2009. Created an exception to the ABC Act, until December 31, 2014, authorizing the San Francisco Symphony, which holds an on-sales liquor license, to accept monetary and alcoholic beverage product contributions (for free) from licensed alcoholic beverage manufacturers.

AB 23 (Ma), Chapter 23, Statutes of 2008. Allowed those licensees operating a cabaret theater to admit persons under 21 years of age to theater performances at any time, provided that alcoholic beverages are not sold, served, or consumed on the premises during those performances.

AB 1429 (Governmental Organization), Chapter 567, Statutes of 2001. Among other things, deleted the requirement that a nonprofit theater company must be in existence for at least ten years in order for ABC to issue a special on-sale general license.

REGISTERED SUPPORT / OPPOSITION:

Support

Curran Live, LLC

Opposition

None on file

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