

INFORMED MERCHANTS PREVENTING ALCOHOL RELATED CRIME TENDENCIES



STATE *of* CALIFORNIA

IMPACT

Off-Sale Licensee Informational Guide

DEPARTMENT *of* ALCOHOLIC BEVERAGE CONTROL

ABC.CA.GOV

ABC MISSION

The mission of the Department of Alcoholic Beverage Control (ABC) is to administer the provisions of the Alcoholic Beverage Control Act in a manner that fosters and protects the health, safety, welfare and economic well-being of the people of the State.

The IMPACT Program is a prevention and education program developed by ABC in 1984. It uses the community oriented policing approach of involving local merchants in deterring crime.

GOALS AND OBJECTIVES

The IMPACT Program's primary goal is to reduce alcohol-related crime in and around licensed premises.

The program's major objectives are:

- a) Conduct visits and inspections of licensed premises;
- b) Identify instances of non-compliance at licensed premises;
- c) Take appropriate enforcement action on any major violations observed; and
- d) Conduct follow up visits as needed to check for compliance.



IMPACT

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This is for educational purposes and subject to change. Statutory references may not be stated in their entirety. Please see Department website for the complete ABC Act.

Program Components

Inspection And Advisement

IMPACT teams select and survey licensed outlets at random. During their visits, IMPACT teams remind licensees of the responsibilities and accountability associated with the sale of alcohol. The officers also inspect licensed premises for compliance with State and local laws. The officers may look for loitering, litter, graffiti, posted signs, slot machines, lack of food service in restaurants, illegal weapons, or other violations.

Although the focus is to educate, officers will take action if they see any major violations during the inspections. A checklist is used to note any violations observed and it is given to the licensee. Licensees must then correct any problem areas.

If the licensee has any questions after the IMPACT team has left the premises, the licensee may call the nearest ABC district or branch office or local law enforcement agency.

Follow-Up Visits

About 20 days later, officers conduct follow-up visits to see if the licensee corrected the problems noted. If the licensee has not, the checklist is noted and the information is given to the local ABC district or branch office for possible disciplinary action against the license. In addition, officers may issue a criminal citation for any criminal violations.

Media

IMPACT teams use the media to publicize their activities. Media stories are generally positive, telling how the program helps bring about voluntary compliance among licensees who may be unaware of the law.

Results And Impact

Response from the public has been very favorable. Merchants have accepted the program and its philosophy because they are being offered a chance to identify and correct any problems without penalties. Local communities endorse the program because it (1) improves the relationship between law enforcement and merchants, and (2) improves neighborhood conditions.

Local law enforcement agencies generally use traffic, vice, or patrol hours.

ABC Contact Information

The Department of Alcoholic Beverage Control has District offices throughout the State to assist the public with its licensing needs. For a complete listing of ABC District Offices and other information about the ABC, please check our website at www.abc.ca.gov.

Peace Officer Powers

INSPECTION POWERS:

Police officers, sheriff's deputies, and ABC Agents are all sworn law enforcement officers (peace officers) with powers of arrest. Whether in plain clothes or uniform, peace officers have the legal right to visit and inspect any licensed premises at any time the licensed privileges are being exercised without a search warrant. This includes inspecting the bar and back bar, store room, office, closed or locked cabinets,

safes, kitchen, or any other area within the licensed premises.

It is legal and reasonable for licensees to exclude the public from some areas of the premises. However, licensees cannot and must not deny entry to, resist, delay, obstruct, or assault a peace officer. (Sections 25616, 25753 and 25755 B & P Code; Sections 148 and 242 Penal Code)

B & P CODE 25755. PEACE OFFICER POWERS

- a) The director and *the persons employed by the department for the administration and enforcement of this division are peace officers* in the enforcement of the penal provisions of this division, the rules of the department adopted under the provisions of this division, and any other penal provisions of law of this state prohibiting or regulating the sale, exposing for sale, use, possession, giving away, adulteration, dilution, misbranding, or mislabeling of alcoholic beverages or intoxicating liquors, and these persons are authorized, while acting as peace officers, to enforce any penal provisions of law while in the course of their employment.
- b) The director, the persons employed by the department for the administration and enforcement of this division, peace officers listed in Section 830.1 of the Penal Code, and those officers listed in Section 830.6 of the Penal Code while acting in the course and scope of their employment *as peace officers may*, in enforcing the provisions of this division, *visit and inspect the premises of any licensee at any time during which the licensee is exercising the privileges authorized by his or her license on the premises.*
- c) Peace officers of the Department of the California Highway Patrol, members of the University of California and California State University Police Departments, and peace officers of the Department of Parks and Recreation, as defined in subdivisions (a), (b), (c), and (f) of Section 830.2 of the Penal Code, may, in enforcing this division, visit and inspect the premises of any licensee located on state property at any time during which the licensee is exercising the privileges authorized by his or her license on the premises.

Books and Records

B & P CODE 25616. FALSE RETURNS AND RECORDS

Any person who knowingly or willfully files a false license fee report with the department, and *any person who refuses to permit the department or any of its representatives to make any inspection or examination* for which provision is made in this division, or who fails to keep books of account as prescribed by the department, or who fails to preserve such books for the inspection of the department for such time as the department deems necessary, or who alters, cancels, or obliterates entries in such books of account for the purpose of falsifying the records of sales of alcoholic beverages made under this division *is guilty of a misdemeanor* and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and imprisonment.

B & P CODE 25752. RECORDS

No licensee may manufacture, import, sell or distribute alcoholic beverages, except wine, in the State of California unless he keeps records at his licensed premises of such manufacture, importation, sale or distribution of alcoholic beverages manufactured, imported, sold or distributed by the licensee in this State. Such records shall include all expenditures incurred by the licensee in the manufacture, importation, sale or distribution of alcoholic beverages, except wine, in this State. Provided, however, that any licensee licensed at more than one premises may keep all said records at one of his licensed premise. Records herein required to be kept for a period of three years from the date of the transaction.

B & P CODE 25753. EXAMINING BOOKS; INSPECTING PREMISES

The department may make any examination of the books and records of any licensee or other person and may visit and inspect the premises of any licensee it may deem necessary to perform its duties under this division.

Posting of License and License Conditions

B & P CODE 24046. POSTING LICENSE

Upon receipt of any license, the licensee shall post it in a conspicuous place upon the licensed premises.

B & P CODE 23800. CONDITIONS

The department may place reasonable conditions upon retail licensees or upon any license in the exercise of retail privileges.

B & P CODE 23801. RESTRICTIONS

The conditions authorized by Section 23800 may cover any matter relating to the privileges to be exercised under the license, the personal qualifications of the licensee, the conduct of the business or the condition of the premises, which will protect the public welfare and morals.

B & P CODE 23802. ENDORSEMENT OF CONDITIONS ON LICENSE

Such conditions shall be endorsed upon the license and any renewal thereof and shall be binding upon all persons to whom the license is transferred.

B & P CODE 23804. VIOLATION OF CONDITIONS

A violation of a condition upon a license shall be grounds for the suspension or revocation of such license.

STATE OF CALIFORNIA
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
ALCOHOLIC BEVERAGE LICENSE
OFF-SALE GENERAL

VALID FROM		EXPIRES
Oct 25, 2012	GAP INCORPORATED 3927 LENNANE DRIVE STE 150 SACRAMENTO, CA 95834	Sep 30, 2013

TYPE NUMBER DUP		
21 522474		
AREA CODE		OR
3405 23	BUSINESS ADDRESS (IF DIFFERENT)	
	OWNERS: GAP INCORPORATED	CONDITIONS 7

IMPORTANT INFORMATION

EFFECTIVE PERIOD: This license is effective only for the operating period shown above. A new license will be sent 4 to 6 weeks **before** the expiration date on your license if payment is timely. Your license status will remain in good standing for 60 days after the expiration date if the renewal payment was received timely. To check the status of your license, visit <http://www.abc.ca.gov/abc/LicenseMenu.html>.

RENEWAL DATES: It is the licensee's responsibility to pay the required renewal fee by the expiration date shown above. A penalty is charged for late renewal and the license can be automatically revoked for failure to pay.

RENEWAL PAYMENTS: Renewal payments can be made in person by visiting your local office or sent by mail to ABC Headquarters, 3927 Lennane Drive, Suite 150, Sacramento, CA 95834. If you do not have your renewal notice, your license number and the reason for payment (ex. "renewal") must be clearly indicated on the check. You can contact your local ABC office for your renewal fee amount.

SEASONAL LICENSES: It is the licensee's responsibility to pay the required renewal fee prior to the next operating period.

POSTING: Cover this license with glass or other transparent material and post it on premises in a conspicuous place.

CONDITIONS: A copy of all applicable conditions must be kept on premises.

LICENSEE NAME: Only 10 names will be printed on each license. If there are more names associated with the license, they will be indicated by "AND XX OTHERS". All names are on file and available upon request from your local ABC office.

DBA: If you change your business name please notify your local ABC office.

If you have any questions regarding this license, contact your local ABC office. You can find the contact information for each district office at <http://www.abc.ca.gov/districts.html>.

NOTE: CONTACT YOUR LOCAL ABC OFFICE IF YOUR LICENSED PREMISES WILL BE TEMPORARILY CLOSED FOR MORE THAN 15 DAYS OR WILL BE PERMANENTLY CLOSED.

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Retail Operating Standards

NOTICE:

This law applies to stores (License Types 20 & 21), bars, and taverns (License Type 40, 42, 48 and 61), but does not apply to bona fide eating places (License Types 41, 47 or 75), convention centers,

exhibit halls, auditoriums, ball parks, stadiums, coliseums, hotels, motels, certain marine parks, wineries or beer manufacturers.

B & P CODE 25612.5. RETAIL OPERATING STANDARDS.

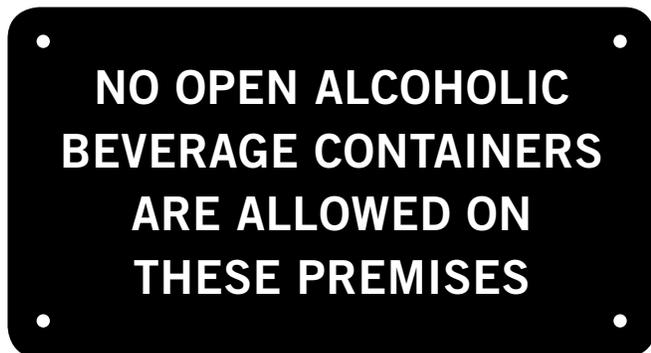
- 1) A prominent, permanent sign or signs stating “**NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES**” shall be posted in a place that is clearly visible to patrons of the licensee. The size, format, form, placement, and languages of the sign or signs shall be determined by the department. This paragraph shall apply to a licensee only upon written notice to the licensee from the department. The department shall issue this written notice only upon a request, from the local law enforcement agency in whose jurisdiction the premises are located, that is supported by substantial evidence that there is loitering adjacent to the premises.
- 2) A prominent, permanent sign or signs stating “**NO OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED ON THESE PREMISES**” shall be posted in a place that is clearly visible to patrons of the licensee. The size, format, form, placement, and languages of the sign or signs shall be determined by the department. This paragraph shall apply to a licensee only upon written notice to the licensee from the department. The department shall issue this written notice only upon a request, from the local law enforcement agency
- in whose jurisdiction the premises are located, that is supported by substantial evidence that there is dunking in public adjacent to the premises.
- 3) No alcoholic beverages shall be consumed on the premises of an off-sale retail establishment, and no alcoholic beverages shall be consumed outside the edifice of an on-sale retail establishment.
- 4) The exterior of the premises, including adjacent public sidewalks and all parking lots under the control of the licensee, shall be illuminated during all hours of darkness during which the premise are open for business in a manner so that persons standing in those areas at night are identifiable by law enforcements personnel. However, the required illumination shall be placed so as to minimize interference with the quiet enjoyment of nearby residents of their property.
- 5) Litter shall be removed daily from the premises, including adjacent public sidewalks and all parking lots under the control of the licensee. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis to control debris.
- 6) Graffiti shall be removed from the premises and all parking lots under the control of the

licensee within 72 hours of application. If the graffiti occurs on a Friday or weekend day, or on a holiday, the licensee shall remove the graffiti within 72 hours following the beginning of the next weekday.

- 7) No more than 33 percent of the square footage of the windows and clear doors of an off-sale premises shall bear advertising or signs of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises. However, this latter requirement shall not apply to premises where there are no windows, or where existing windows are located at a height that precludes a view of the interior of the premises to a person standing outside the premises.
- 8) Upon request of the local law enforcement agency in whose jurisdiction the licensed premises are located or at the discretion of the department, each public telephone located on off-sale premises (or located in an adjacent area under the control of the off-sale licensee)

shall be equipped with devices or mechanisms that prevent persons from calling into that public telephone.

- 9) Every licensed retailer who sells or rents video recordings of harmful matter, as defined by Section 313 of the Penal Code, shall create an area within his or her business establishment for the placement of video recordings of harmful matter and for any material that advertises the sale or rental of these video recordings. This area shall be labeled “adults only.” The licensed retailer make reasonable efforts to arrange the video recordings in this area in such a way that minors may not readily access the video recordings or view the video box covers. The failure to create and label the “adults only” area is an infraction punishable by a fine of not more than one hundred dollars (\$100). The failure to place a video recording or advertisement, regardless of its content, in this area shall not constitute an infraction.
- 10) A copy of the applicable operating standards shall be available during normal business hours for viewing by the general public.



Intoxicated Persons and Disorderly Premises

B & P CODE 25602. OBVIOUSLY INTOXICATED PERSON

- a) 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.
- b) No person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage pursuant to subdivision (a) 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 such alcoholic beverage.

B & P CODE 25602.1. CIVIL LIABILITY

Notwithstanding subdivision (b) of Section 25602, 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, pursuant to Section 23300, 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.

B & P CODE 25601. DISORDERLY PREMISES

Every licensee, or agent or employee of a licensee, who keeps, permits to be used, or suffers to be used, in conjunction with a licensed premises, any disorderly house or place in which people abide or to which people resort, to the disturbance of the neighborhood, or in which people abide or to which people resort for purposes which

are injurious to the public morals, health, convenience, or safety, is guilty of a misdemeanor.

B & P CODE 24200. OBJECTIONABLE CONDITIONS

The following are the grounds that constitute a basis for the suspension or revocation of licenses:

- e) Failure to take reasonable steps to correct objectionable conditions on the licensed premises, including the immediately adjacent area that is owned, leased, or rented by the licensee, that constitute a nuisance, within a reasonable time after receipt of notice to make those corrections from a district attorney, city attorney, county counsel, or the department, under Section 373a of the Penal Code. For the purpose of this subdivision only, “property or premises” as used in Section 373a of the Penal Code includes the area immediately adjacent to the licensed premises that is owned, leased, or rented by the licensee.
- f) Failure to take reasonable steps to correct objectionable conditions that occur during business hours on any public sidewalk abutting a licensed premises and constitute a nuisance, within a reasonable time after receipt of notice to correct those conditions from the department. This subdivision shall apply to a licensee only upon written notice to the licensee from the department. The department shall issue this written notice upon its own determination, or upon a request from the local law enforcement agency in whose jurisdiction the premises are located, that is supported by substantial evidence that persistent objectionable conditions are occurring on the public sidewalk abutting the licensed premises; for purposes of this subdivision:
 - » 1) “Any public sidewalk abutting a licensed premises” means the publicly owned, pedestrian-traveled way, not more than

20 feet from the premises, that is located between a licensed premises, including any immediately adjacent area that is owned, leased, or rented by the licensee, and a public street.

- » 2) “Objectionable conditions that constitute a nuisance” means disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking, or excessive loud noise.
- » 3) “Reasonable steps” means all of the following:
 - A) Calling the local law enforcement agency. Timely calls to the local law enforcement agency that are placed by the licensee, or his or her agents or employees, shall not be construed by the department as evidence of objectionable conditions that constitute a nuisance.
 - B) Requesting those persons engaging in activities causing objectionable conditions to cease those activities, unless the licensee, or his or her agents or employees, feel that their personal safety would be threatened in making that request.
 - C) Making good faith efforts to remove items that facilitate loitering, such as furniture, except those structures approved or permitted by the local jurisdiction. The licensee shall not be liable for the removal of those items that facilitate loitering.
- » 4) When determining what constitutes “reasonable steps,” the department shall consider site configuration constraints related to the unique circumstances of the nature of the business.
- (g) Subdivision (f) does not apply to a bona fide public eating place, as defined in Section 23038, 23038.1, or 23038.2, that is so operated by a retail on-sale licensee or on-sale beer and wine licensee; a hotel, motel, or similar lodging establishment, as defined in subdivision (b) of Section 25503.16; a winegrowers license; a licensed beer manufacturer, as defined in Section 23357; those same or contiguous premises for which a retail licensee concurrently holds an off-sale retail beer and wine license and a beer manufacturer’s

license; or those same or contiguous premises at which an on-sale licensee who is licensed as a bona fide public eating place as defined in Section 23038, a hotel, motel, or similar lodging establishment as defined in subdivision (b) of Section 25503.16, a licensed beer manufacturer, as defined in Section 23357, or a winegrowers license, sells off-sale beer and wine under the licensee’s on-sale license.

Minors

B & P CODE 25658. SALES TO MINORS

- a) Except as otherwise provided in subdivision (c), every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.
- b) Except as provided in Section 25667, any person under the age of 21 years who purchases any alcoholic beverage, or any person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.
- c) Any person who violates subdivision (a) by purchasing any alcoholic beverage for, or furnishing, giving, or giving away any alcoholic beverage to, a person under the age of 21 years, and the person under the age of 21 years thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to himself, herself, or any other person, is guilty of a misdemeanor.
- d) Any on-sale licensee who knowingly permits a person under the age of 21 years to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor.

B & P CODE 25658.5. ATTEMPT TO PURCHASE BY MINOR

- a) Any person under the age of 21 years who attempts to purchase any alcoholic beverage from a licensee, or the licensee's agent or employee, is guilty of an infraction and shall be punished by a fine of not more than two hundred fifty dollars (\$250), or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service

as determined by the court. A second or subsequent violation of this section shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service, as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

- b) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 13202.5 of the Vehicle Code.

B & P CODE 25660. DOCUMENTARY EVIDENCE OF AGE

- a) Bona fide evidence of majority and identity of the person is any of the following: (1) A document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, description, and picture of the person. (2) A valid passport issued by the United States or by a foreign government. (3) A valid identification card issued to a member of the Armed Forces that includes a date of birth and a picture of the person.
- b) Proof that the defendant-licensee, or his or her employee or agent, demanded, was shown, and acted in reliance upon bona fide evidence in any transaction, employment, use, or permission forbidden by Section 25658, 25663,

or 25665 shall be a defense to any criminal prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon.

B & P CODE 25659. RIGHT TO REFUSE SERVICE TO MINORS

For the purpose of preventing the violation of Section 25658, any licensee, or his or her agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence that he or she is over the age of 21 years. A licensee, or his or her agent or employee, may seize any identification presented by a person that shows the person to be under the age of 21 years or that is false, so long as a receipt is given to the person from whom the identification is seized and the seized identification is given within 24 hours of seizure to the local law enforcement agency that has jurisdiction over the licensed premises. A licensee, his or her agent or employees decision to not seize a license shall not create any civil or criminal liability.

B & P CODE 25663. EMPLOYMENT OF MINORS

- b) Any off-sale licensee who employs or uses the services of any person under the age of 18 years for the sale of alcoholic beverages shall be subject to suspension or revocation of his or her license, except that a person under the age of 18 years may be employed or used for those purposes if that person is under the continuous supervision of a person 21 years of age or older.

SYNOPSIS OF MINOR EMPLOYEES:

Persons age 18 and older may sell alcohol unsupervised. Persons age 17 and younger may sell alcohol if under the continuous supervision of a person age 21 or older. "Continuous supervision" means that an adult person must be present on the premises to

provide direction and assistance, if needed. Establishments engaged in the concurrent sale of motor vehicle fuel shall abide by the following conditions: Employees on duty between the hours of 10 p.m. and 2 a.m. who sell alcoholic beverages shall be at least 21 years of age.

Drugs and Drug Paraphernalia

B & P CODE 24200.5. SELLING DRUGS OR SOLICITING DRINKS

Notwithstanding the provisions of Section 24200, *the department shall revoke a license upon any of the following grounds:*

- a) If a retail licensee has knowingly permitted the illegal sale, or negotiations for the sales, of controlled substances or dangerous drugs upon his or her licensed premises. Successive sales, or negotiations for sales, over any continuous period of time shall be deemed evidence of permission.
- b) If the licensee has employed or permitted any persons to solicit or encourage others, directly or indirectly, to buy them drinks in the licensed premises under any commission, percentage, salary, or other profit-sharing plan, scheme, or conspiracy.

B & P CODE 24200.6. DRUG PARAPHERNALIA

The department may revoke or suspend any license if the licensee or the agent or employee of the licensee is deemed to have knowledge that the item or items used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, if the department or any other state or local law enforcement agency notifies the licensee in writing that the items, individually or in combination, are commonly sold or marketed for that purpose.

H & S CODE 11364.7. TRAFFICKING IN DRUG PARAPHERNALIA

- a) *Any person who delivers, furnishes, or transfers, possesses with intent to deliver, furnish, or transfer, or manufactures with the intent to deliver, furnish, or transfer,*

drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, except as provided in subdivision (b), in violation of this division, is guilty of a misdemeanor.

- b) Except as authorized by law, any person who manufactures with intent to deliver, furnish, or transfer drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body cocaine, cocaine base, heroin, phencyclidine, or methamphetamine in violation of this division shall be punished by imprisonment in a county jail for not more than one year, or in the state prison.
- c) *Any person, 18 years of age or over, who violates subdivision (a) by delivering, furnishing, or transferring drug paraphernalia to a person under 18 years of age who is at least three years his or her junior, or who, upon the grounds of a public or private elementary, vocational, junior high, or high school, possesses a hypodermic needle, as defined in paragraph (7) of subdivision (a) of Section 11014.5, with the intent to deliver, furnish, or transfer the hypodermic needle, knowing, or under circumstances where one reasonably should know, that it will be used by a person under 18 years of age to inject into the human body a controlled substance, is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than one year, by a fine of not more than one*

thousand dollars (\$1,000), or by both that imprisonment and fine.

- d) The violation, or the causing or the permitting of a violation, of subdivision (a), (b), or (c) **by a holder of a business or liquor license** issued by a city, county, or city and county, or by the State of California, and in the course of the licensee's business **shall be grounds for the revocation of that license.**
- e) All drug paraphernalia defined in Section 11014.5 is subject to forfeiture and **may be seized by any peace officer** pursuant to Section 11471.

H & S CODE 11364.5. DRUG PARAPHERNALIA

- d) As used in this section, "drug paraphernalia" means all equipment and materials of any kind which are intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following:
 - » 1) Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
 - » 2) Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
 - » 3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
 - » 4) Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.
 - » 5) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.
 - » 6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for

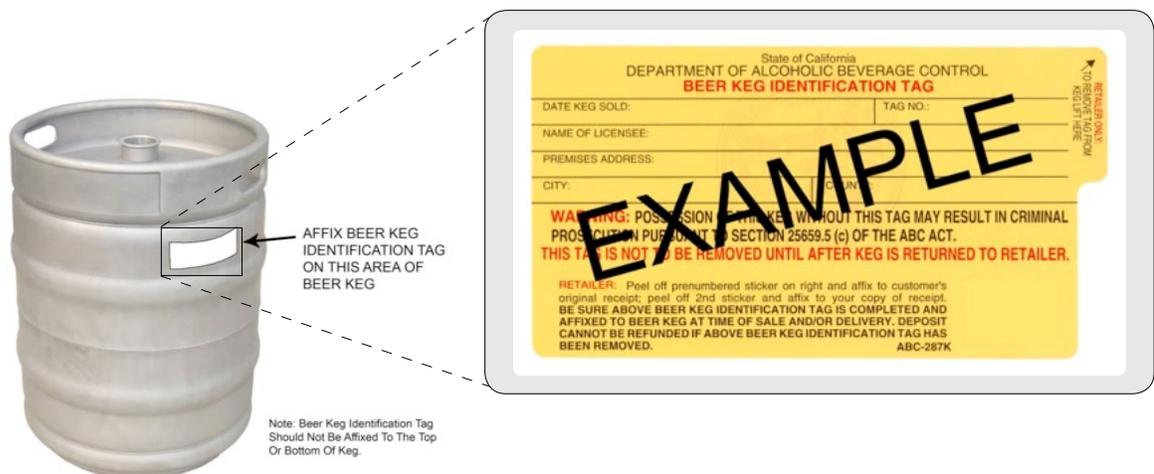
use in cutting controlled substances.

- » 7) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
- » 8) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.
- » 9) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.
- » 10) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.
- » 11) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.
- » 12) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as the following:
 - A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
 - B) Water pipes.
 - C) Carburetion tubes and devices.
 - D) Smoking and carburetion masks.
 - E) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand.
 - F) Miniature cocaine spoons, and cocaine vials.
 - G) Chamber pipes.
 - H) Carburetor pipes.
 - I) Electric pipes.
 - J) Air-driven pipes.
 - K) Chillums.
 - L) Bongos.
 - M) Ice pipes or chillers.

Beer Keg Registration

B & P CODE 25659.5. BEER KEG REGISTRATION

- a) Retail licensees selling keg beer for consumption off licensed premises shall place an identification tag on all kegs of beer at the time of sale and shall require the signing of a receipt for the keg of beer by the purchaser in order to allow kegs to be traced if the contents are used in violation of this article. The keg identification shall be in the form of a numbered label prescribed and supplied by the department that identifies the seller. The receipt shall be on a form prescribed and supplied by the department and shall include the name and address of the purchaser and the purchaser's driver's license number or equivalent form of identification number. A retailer shall not return any deposit upon the return of any keg that does not have the identification label required pursuant to subdivision (a).
- b) Any licensee selling keg beer for off premise consumption who fails to require the signing of a receipt at the time of sale and fails to place a numbered identification label on the keg shall be subject to disciplinary action pursuant to this division. The licensee shall retain a copy of the receipt, which shall be retained on the licensed premise for a period of six months. The receipt records shall be available for inspection and copying by the Department or other authorized law enforcement agency.
- c) Possession of a keg containing beer with knowledge that the keg is not identified as required by subdivision (a) is a misdemeanor.
- d) Any purchaser of keg beer who knowingly provides false information as required by subdivision (a) is guilty of a misdemeanor.
- e) The identification label required pursuant to subdivision (a) shall be constructed of material and made attachable in such a manner as to make the label easily removable for the purpose of cleaning and reusing the keg by a beer manufacturer.
- f) The Department is authorized to charge a fee not to exceed the actual cost of supplying receipt forms and identification labels required pursuant to subdivision (a). Fees collected pursuant to this subdivision shall be deposited in the Alcohol Beverage Control Fund.
- g) As used in this section, "keg" means any brewery-sealed, individual container of beer having a liquid capacity of six gallons or more.



Hours of Sale

B & P CODE 25631. RETAIL HOURS OF SALE

Any on-sale or off-sale licensee, or agent or employee of that licensee, who sells, gives, or delivers to any persons any alcoholic beverage or any person who knowingly purchases any alcoholic beverage between the hours of 2 o'clock a.m. and 6 o'clock a.m. of the same day, is guilty of a misdemeanor.

For the purposes of this section, on the day that a time change occurs from Pacific standard time to Pacific daylight saving time, or back again to Pacific standard time, "2 o'clock a.m." means two hours after midnight of the day preceding the day such change occurs.

B & P CODE 25633. HOURS FOR DELIVERY

Except as otherwise provided in this section, no person licensed as a manufacturer, winegrower, distilled spirits manufacturer's agent, rectifier, or wholesaler of any alcoholic beverage shall deliver or cause to be delivered any alcoholic beverage to or for any person holding an on-sale or off-sale license on Sunday or except between the hours of 3 a.m. and 8 p.m. of any day other than Sunday. Any alcoholic beverage may be delivered at the platform of the manufacturing, producing, or distributing plant at any time. Nothing contained in this section prohibits the transportation or the carriage and delivery in transit at any time of any alcoholic beverage between the premises of a manufacturer, winegrower, wholesaler, distiller, importer, or any of them. Every person violating the provisions of this section is guilty of a misdemeanor.

Harmful Matter

TO LICENSEE:

You may not sell, rent, give, or show harmful matter to persons under age 18.

Harmful matter includes, but is not limited to, a book, magazine, newspaper, or video that “...depicts or describes in a patently offensive way sexual conduct... and lacks serious literary, artistic, political, or scientific value for minors.”

If you sell harmful matter, you must use reasonable care in ascertaining the true age of a minor.

If you sell or rent videos of harmful matter, you must create an area within your licensed premises for the placement of the

videos and label it, “Adults Only.”

If you sell books or magazines of harmful matter, you should contact your local police or sheriff’s department about any local ordinances that may apply. Some cities and counties require you to place “blinder racks” in front of such material so that the lower two-thirds of the material is not exposed to view.

If you violate Penal Code Section 313.1, you may be subject to criminal penalties as set forth in Penal Code Section 313.4 below, and suspension or revocation of your alcoholic beverage license by the Department of Alcoholic Beverage Control.

PENAL CODE SECTION 313.1. HARMFUL MATTER

- a) *Every person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly sells, rents, distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter to the minor shall be punished as specified in Section 313.4*
- b) Every person who misrepresents himself or herself to be the parent or guardian of a minor and thereby causes the minor to be admitted to an exhibition of any harmful matter shall be punished as specified in Section 313.4.
- c) (1) Any person who knowingly displays, sells, or offers to sell in any coin-operated or slug-operated vending machine or mechanically or electronically controlled vending machine that is located in a public place, other than a public place from which minors are excluded, any harmful matter displaying to the public view photographs or pictorial representations of the commission of any of the following acts shall be punished as specified in Section 313.4:

sodomy, oral copulation, sexual intercourse, masturbation, bestiality, or a photograph of an exposed penis in an erect and turgid state. (2) Any person who knowingly displays, sells, or offers to sell in any coin-operated vending machine that is not supervised by an adult and that is located in a public place, other than a public place from which minors are excluded, any ABC-545 (3/99) harmful matter, as defined in subdivision (a) of Section 313, shall be punished as specified in Section 313.4.

- d) Nothing in this section invalidates or prohibits the adoption of an ordinance by a city, county, or city and county that restricts the display of material that is harmful to minors, as defined in this chapter, in a public place, other than a public place from which minors are excluded, by requiring the placement of devices commonly known as blinder racks in front of the material, so that the lower two-thirds of the material is not exposed to view.
- e) *Any person who sells or rents video recordings of harmful matter shall create an area within his or her business establishment for the placement of video recordings of harmful matter and for any material that advertises the sale or rental of these video recordings. This area shall be labeled "adults only."* The failure to create and label the area is an infraction, punishable by a fine not to exceed one hundred dollars (\$100). The failure to place a video recording or advertisement, regardless of its content, in this area shall not constitute an infraction... [This means licensees may place videos in storage areas that are not exposed to minors.]

PENAL CODE SECTION 313. DEFINITIONS

- a) "Harmful matter" means matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.
- b) "Matter" means any book, magazine, newspaper, video recording, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription, or mechanical,

chemical, or electrical reproduction or any other articles, equipment, machines, or materials. "Matter" also includes live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

- c) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.
- d) "Distribute" means to transfer possession of, whether with or without consideration.
- e) "Knowingly" means being aware of the character of the matter.
- f) "Exhibit" means to show.
- g) "Minor" means any natural person under 18 years of age.

PENAL CODE SECTION 313.4. PENALTY

Every person who violates Section 313.1, other than subdivision (e), is punishable by fine of not more than two thousand dollars (\$2,000), by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. However, if the person has been previously convicted of a violation of Section 313.1, other than subdivision (e), or of any section of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code, the person shall be punished by imprisonment in the state prison.

Gambling

PENAL CODE 330. GAMBLING

Every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan-tan, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, or any device, for money, checks, credit, or other representative of value, and every person who plays or bets at or against any of those prohibited games, is guilty of a misdemeanor, and shall be punishable by a fine not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

PENAL CODE 330A. SLOT MACHINES

- a) Every person, who has in his or her possession or under his or her control, either as owner, lessee, agent, employee, mortgagee, or otherwise, or who permits to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or her, or under his or her management or control, any slot or card machine, contrivance, appliance or mechanical device, upon the result of action of which money or other valuable thing is staked or hazarded, and which is operated, or played, by placing or depositing therein any coins, checks, slugs, balls, or other articles or device, or in any other manner and by means whereof, or as a result of the operation of which any merchandise, money, representative or articles of value, checks, or tokens, redeemable in or exchangeable for money or any other thing of value, is won or lost, or taken from or obtained from the machine, when the result of action or operation of the machine, contrivance, appliance, or mechanical device is dependent

upon hazard or chance, and every person, who has in his or her possession or under his or her control, either as owner, lessee, agent, employee, mortgagee, or otherwise, or who permits to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or her, or under his or her management or control, any card dice, or any dice having more than six faces or bases each, upon the result of action of which any money or other valuable thing is staked or hazarded, or as a result of the operation of which any merchandise, money, representative or article of value, check or token, redeemable in or exchangeable for money or any other thing of value, is won or lost or taken, when the result of action or operation of the dice is dependent upon hazard or chance, is guilty of a misdemeanor.

Concurrent Sales of Gasoline and Alcohol

B & P CODE 23790.5. CONCURRENT SALES

- d) Notwithstanding any other provision of law, establishments engaged in the concurrent sale of motor vehicle fuel with beer and wine for off-premises consumption shall abide by the following conditions:
 - » 1) No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler as of January 1, 1988.
 - » 2) No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
 - » 3) No sale of alcoholic beverages shall be made from a drive-in window.
 - » 4) No display or sale of beer or wine shall be made from an ice tub.
 - » 5) No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.
 - » 6) Employees on duty between the hours of 10 p.m. and 2 a.m. who sell beer or wine shall be at least 21 years of age to sell beer and wine.

The standards contained in this subdivision are minimum state standards which do not limit local regulation otherwise permitted under this section.

Tobacco Sales

PENAL CODE 308. TOBACCO SALES

- a)(1) Every person, firm, or corporation that knowingly or under circumstances in which it has knowledge, or should otherwise have grounds for knowledge, sells, gives, or in any way furnishes to another person who is under the age of 18 years any tobacco, cigarette, or cigarette papers, or blunts wraps, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, is subject to either a criminal action for a misdemeanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of two hundred dollars (\$200) for the first offense, five hundred dollars (\$500) for the second offense, and one thousand dollars (\$1,000) for the third offense. Notwithstanding Section 1464 or any other provision of law, 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the office of the city attorney, county counsel, or district attorney, whoever is responsible for bringing the successful action, and 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the city or county for the administration and cost of the community service work component provided in subdivision (b).
- b) Proof that a defendant, or his or her employee or agent, demanded, was shown, and reasonably relied upon evidence of majority shall be defense to any action brought pursuant to this subdivision. Evidence of majority of a person is a facsimile of or a reasonable likeness of a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Selective Service Act, or an identification card issued to a member of the Armed Forces. For purposes of this section, the person liable for selling or furnishing tobacco products to minors by a tobacco vending machine shall be the person authorizing the installation or placement of the tobacco vending machine upon premises he or she manages or otherwise controls and under circumstances in which he or she has knowledge, or should otherwise have grounds for knowledge, that the tobacco vending machine will be utilized by minors. (2) For purposes of this section, "blunt wraps" means cigar papers or cigar wrappers of all types that are designed for smoking or ingestion of tobacco products and contain less than 50 percent tobacco. (b) Every person under the age of 18 years who purchases, receives, or possesses any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking of tobacco, products prepared from tobacco, or any controlled substance shall, upon conviction, be punished by a fine of seventy-five dollars (\$75) or 30 hours of community service work.
- c) Every person, firm, or corporation that sells, or deals in tobacco or any preparation thereof, shall post conspicuously and keep so posted in his, her, or their place of business at each point of purchase the notice required pursuant to subdivision (b) of Section 22952 of the Business and Professions Code, and any person failing to do so shall, upon conviction, be punished by a fine of fifty dollars (\$50) for the first offense, one hundred dollars (\$100) for the second offense, two hundred fifty dollars (\$250) for the third offense, and five hundred dollars (\$500) for the fourth offense and each subsequent violation of this provision, or by imprisonment in a county jail not exceeding 30 days.
- d) For purposes of determining the liability of persons, firms, or corporations controlling

franchises or business operations in multiple locations for the second and subsequent violations of this section, each individual franchise or business location shall be deemed a separate entity.

- e) It is the Legislature's intent to regulate the subject matter of this section. As a result, no city, county, or city and county shall adopt any ordinance or regulation inconsistent with this section.

**The Sale of Tobacco Products to Persons
Under 18 Years of Age**

**To Report an Unlawful Tobacco Sale Call:
1-800-5 ASK-4-ID**

Is Prohibited by Law and Subject to Penalties
Valid Identification May Be Required

Business and Professions Code Section 22952

This sign must be readable by the consumer and must not be altered, covered or obliterated in whole or in part.

Weapons

TO LICENSEE:

California Penal Code prohibits manufacturing, selling, and/or possessing certain firearms, explosives, or other weapons absent very specific circumstances. Nunchaku (commonly known as “nunchucks”), brass knuckles,

throwing stars and daggers, switchblades, gravity knives are just a few of the types of dangerous weapons that are included in this law. Please refer to the complete statute or related statutes for specific prohibitions.



Other Related Statutes

B & P CODE 23402. PURCHASES BY RETAIL LICENSEES

No retail on-sale or off-sale licensee, except a daily on-sale general licensee holding a license issued *pursuant to Section 24045.1, (by the Alcoholic Beverage Control)* shall purchase alcoholic beverages for resale from any person except a person holding a beer manufacturer's, wine grower's, rectifier's, brandy manufacturer's, or wholesaler's license.

B & P CODE 25607. UNLAWFUL POSSESSION ON PREMISES

- a) Except as provided in subdivision (b), it is unlawful for any person or licensee to have upon any premises for which a license has been issued any alcoholic beverages other than the alcoholic beverage which the licensee is authorized to sell at the premises under his or her license. It shall be presumed that all alcoholic beverages found or located upon premises for which licenses have been issued belong to the person or persons to whom the licenses were issued. Every person violating the provisions of this section is guilty of a misdemeanor. The department may seize any alcoholic beverages found in violation of this section.

PENAL CODE 496. STOLEN PROPERTY

- a) Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in a state prison, or in a county jail for not more than one year. However, if the district attorney or the grand

jury determines that this action would be in the interests of justice, the district attorney or the grand jury, as the case may be, may, if the value of the property does not exceed nine hundred fifty dollars (\$950), specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in a county jail not exceeding one year. A principal in the actual theft of the property may be convicted pursuant to this section. However, no person may be convicted both pursuant to this section and of the theft of the same property.

- b) Every swap meet vendor, as defined in Section 21661 of the Business and Professions Code, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value in excess of nine hundred fifty dollars (\$950) that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be punished by imprisonment in a state prison, or in a county jail for not more than one year. Every swap meet vendor, as defined in Section 21661 of the Business and Professions Code, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value of nine hundred fifty dollars (\$950) or less that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to

make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be guilty of a misdemeanor.

- c) Any person who has been injured by a violation of subdivision (a) or (b) may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit, and reasonable attorney's fees.
- d) Notwithstanding Section 664, any attempt to commit any act prohibited by this section, except an offense specified in the accusatory pleading as a misdemeanor, is punishable by imprisonment in the state prison, or in a county jail for not more than one year.

Prop 65 Notice

PROP 65. NOTICE. CANCER/PREGNANCY WARNING SIGNS PROPOSITION 65 NOTICE TO ALCOHOLIC BEVERAGE LICENSEE

As you may be aware, California's Proposition 65 requires businesses that serve or sell alcoholic beverages to provide consumers with a warning concerning certain reported health risks associated with the consumption of alcoholic beverages. Effective July 1989, warning signs were required to be posted that read:

This sign is required under California Code of Regulations, Division 2, Chapter 3, Article 6, Section 12601 (b)(1)(D) that states that these warnings for alcoholic beverages may be provided through the use of point-of-sell or point-of-display signs or notices.

It is our intent to assist you in gaining proper compliance so as to avoid the potential of a costly lawsuit with statutory penalties of up to \$2,500 per sale in violation of the law. To that end, we are requesting you to do the following:

- 1) Check to be sure that your business is properly posted with a warning sign with the wording described above. For all establishments, a 10" x 10" black and white notice must be displayed at each public entrance where alcoholic beverages are served. For off-sale establishments, a red and white 5" x 5" sign must be displayed at each check-out counter.
- 2) If you are in need of a sign(s), or if the existing sign(s) are worn and need replacing, call (800) 421-3003 or your local wholesaler and the necessary materials will be sent at NO CHARGE or obligation to you.

For more information contact OEHHA Proposition 65 Program at (916) 445-6900, or visit www.oehha.ca.gov/prop65/p65faq.html.

WARNING

**Chemicals Known To The
State Of California To
Cause Cancer, Or Birth
Defects Or Other
Reproductive Harm May
Be Present In Foods
Or Beverages Sold
Or Served Here.**

Clerk's Affidavit and Sign

TO LICENSEE:

Section 25658.4 requires every person who sells alcoholic beverages in your store to read, understand and sign a Clerk's Affidavit. You may photocopy this form or create your own. If you create your own, its content must match parts 1 through 4 of this form. You must keep the signed Clerks' Affidavits on your licensed premises at all times and make them available for inspection by the Department.

If you have more than one store, you may keep the signed Clerks' Affidavits at a location other than your licensed stores. However, you must notify the Department in advance and in writing. If you decide to keep the signed Clerks' Affidavits at a location

other than your licensed stores, you must maintain at each store a notice of where the signed Clerk's Affidavits are kept. In addition, you must provide any signed Clerk's Affidavit to the Department, upon its written demand, within 10 days.

Section 25658.4 also requires you to post a sign like the one shown on page 31 in your store. You must post it at your entrance, point of sale or any other location visible to your customers and employees. The sign should be at least 8-1/2 x 11 inches.

Failure to comply with the above may result in the suspension or revocation of your ABC license.

PART 1: REVIEW OF LAWS

(Clerk Must Read And Understand These Laws)

B & P CODE 25658. SALES TO MINORS

- a) Except as otherwise provided in subdivision (c), every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.
- b) Any person under the age of 21 years who purchases any alcoholic beverage, or any

person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.

- c) Any person who violates subdivision (a) by purchasing any alcoholic beverage for, or furnishing, giving, or giving away any alcoholic beverage to, a person under the age of 21 years, and the person under the age of 21 years thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to himself, herself, or any other person, is guilty of a misdemeanor.

- e) (1) Except as otherwise provided in paragraph (2) or (3), any person who violates this section shall be punished by a fine of two hundred fifty dollars (\$250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation of subdivision (b) shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides. (2) Except as provided in paragraph (3), any person who violates subdivision (a) by furnishing an alcoholic beverage, or causing an alcoholic beverage to be furnished, to a minor shall be punished by a fine of one thousand dollars (\$1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school. (3) Any person who violates subdivision (c) shall be punished by imprisonment in a county jail for a minimum term of six months not to exceed one year, by a fine of one thousand dollars (\$1,000), or by both imprisonment and fine.

B & P CODE 25658.5 ATTEMPT TO PURCHASE BY MINOR

- a) Any person under the age of 21 years who attempts to purchase any alcoholic beverage from a licensee, or the licensee's agent or employee, is guilty of an infraction and shall be punished by a fine of not more than two hundred fifty dollars (\$250), or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not

employed or is not attending school, or a combination of fine and community service as determined by the court. A second or subsequent violation of this section shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service, as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

- b) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 13202.5 of the Vehicle Code.

B & P CODE 25660. DOCUMENTARY EVIDENCE OF AGE AND IDENTITY; PROOF OF RELIANCE AS DEFENSE

- a) Bona fide evidence of majority and identity of the person is any of the following:
 - » 1) A document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, description, and picture of the person.
 - » 2) A valid passport issued by the United States or by a foreign government.
- b) Proof that the defendant-licensee, or his or her employee or agent, demanded, was shown, and acted in reliance upon bona fide evidence in any transaction, employment, use, or permission forbidden by Section 25658, 25663, or 25665 shall be a defense to any criminal prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon.

Note: The person accepting identification must make a reasonable inspection of the identification and act with due diligence to confirm that the



identification presented is that of the person presenting it. The picture and physical description on the identification must match the customer. If the identification is altered or mutilated, it is not acceptable. It must be currently valid, in other words, not expired.

B & P CODE 25631. RETAIL HOURS OF OPERATION

Any on- or off-sale licensee, or agent or employee of that licensee, who sells, gives, or delivers to any persons any alcoholic beverage or any person who knowingly purchases any alcoholic beverage between the hours of 2 o'clock a.m. and 6 o'clock a.m. of the same day, is guilty of a misdemeanor.

For the purposes of this section, on the day that a time change occurs from Pacific standard time to Pacific daylight saving time, or back again to Pacific standard time, "2 o'clock a.m." means two hours after midnight of the day preceding the day such change occurs.

B & P CODE 25632. CONSUMPTION

Any retail licensee, or agent or employee of such licensee, who permits any alcoholic beverage to be consumed by any person on the licensee's licensed premises during any hours in which it is unlawful to sell, give, or deliver any alcoholic beverage for consumption on the premises is guilty of a misdemeanor.

B & P CODE 25633. HOURS FOR DELIVERY

Except as otherwise provided in this section, no person licensed as a manufacturer, winegrower, distilled spirits manufacturer's agent, rectifier, or wholesaler of any alcoholic beverage shall deliver or cause to be delivered any alcoholic beverage to or for any person holding an on-sale or off-sale license on Sunday or except between the hours of 3 a.m. and 8 p.m. of any day other than Sunday. Any alcoholic beverage may be delivered at the platform of the manufacturing, producing, or distributing plant at any time. Nothing contained in this section prohibits the transportation or the carriage and delivery in transit at any time of any alcoholic beverage between the premises of a manufacturer, winegrower, wholesaler, distiller, importer, or any of them. Every person violating the provisions of this section is guilty of a misdemeanor.

Note: Some stores must stop selling alcoholic beverages earlier than 2:00 a.m. because of local laws or special conditions (restrictions) on the ABC license.

B & P CODE 25602. OBVIOUSLY INTOXICATED PERSON

- a) 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.
- b) No person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage pursuant to subdivision (a) 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 such alcoholic beverage.

Note: It is illegal to sell alcohol to a person who is displaying obvious symptoms of intoxication.

B & P CODE 25602.1. CIVIL LIABILITY

Notwithstanding subdivision (b) of Section 25602, 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, pursuant to Section 23300, 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.

B & P CODE 23393 & 23394. OFF-SALE PRIVILEGES

B & P Code 23393. A retail package off-sale beer and wine license authorizes the sale, to consumers only and not for resale, of beer in containers, and wine in packages and in quantities of 52 gallons or less per sale, for consumption off the premises where sold.

B & P Code 23394. An off-sale general license includes the privileges specified in Section 23393

and authorizes the sale, to consumers only and not for resale, except to holders of daily on-sale general licenses issued pursuant to Section 24045.1, of distilled spirits for consumption off the premises where sold. Standards of fill for distilled spirits authorized for sale pursuant to this section shall conform in all respects to the standards established pursuant to regulations issued under the Federal Alcohol Administration Act (27 U.S.C. Secs. 201 et seq.) and any amendments thereto.

Note: Alcoholic beverages may only be sold in sealed, unopened bottles, packages or containers. No person may drink alcoholic beverages in a store or in adjacent parking lots or other areas under the control of the store.

B & P CODE 25659.5. BEER KEG REGISTRATION

- a) Retail licensees selling keg beer for consumption off licensed premises shall place an identification tag on all kegs of beer at the time of sale and shall require the signing of a receipt for the keg of beer by the purchaser in order to allow kegs to be traced if the contents are used in violation of this article. The keg identification shall be in the form of a numbered label prescribed and supplied by the department that identifies the seller. The receipt shall be on a form prescribed and supplied by the department and shall include the name and address of the purchaser and the purchaser's driver's license number or equivalent form of identification number. A retailer shall not return any deposit upon the return of any keg that does not have the identification label required pursuant to subdivision (a).
- b) Any licensee selling keg beer for off premise consumption who fails to require the signing of a receipt at the time of sale and fails to place a numbered identification label on the keg shall be subject to disciplinary action pursuant to this division. The licensee shall retain a copy of the receipt, which shall be retained on the licensed premise for a period of six months. The receipt records shall be available for inspection and copying by the Department or other authorized law enforcement agency.
- c) Possession of a keg containing beer with knowledge that the keg is not identified as required by subdivision (a) is a misdemeanor.
- d) Any purchaser of keg beer who knowingly

provides false information as required by subdivision (a) is guilty of a misdemeanor.

- e) The identification label required pursuant to subdivision (a) shall be constructed of material and made attachable in such a manner as to make the label easily removable for the purpose of cleaning and reusing the keg by a beer manufacturer.
- f) The Department is authorized to charge a fee not to exceed the actual cost of supplying receipt forms and identification labels required pursuant to subdivision (a). Fees collected pursuant to this subdivision shall be deposited in the Alcohol Beverage Control Fund.
- g) As used in this section, "keg" means any brewery-sealed, individual container of beer having a liquid capacity of six gallons or more.

Note: Keg receipts must be fully completed at the time of sale and be maintained in the store with accurate, corresponding identification labels.



PART 2: CLERK'S PRIOR VIOLATIONS

(Clerk Must Check One)

- I have never been convicted of violating any law in the Alcoholic Beverage Control Act (such as selling an alcoholic beverage to an underage or obviously intoxicated person).
- I have been convicted of violating a law (or laws) in the California Alcoholic Beverage Control Act (such as selling an alcoholic beverage to an underage or obviously intoxicated person). [If you checked this box, please explain in full what happened. Use the space below or a separate sheet of paper, if necessary]

PART 3: DECLARATION UNDER PENALTY OF PERJURY

(Clerk Must Complete This Section)

I have read and understand this affidavit. I swear that all statements I have made in this affidavit are true. I swear that I signed this affidavit, on the date stated, under "penalty of perjury." I understand that if I did not tell the truth in this affidavit, I may be found guilty of perjury.

Signature of Clerk Date

Name of Clerk (Printed)

Home Address City State / Zip

Home Telephone Work Telephone

PART 4: ACKNOWLEDGMENT OF LICENSEE

(Licensee Must Complete This Section)

I have reviewed the attached Clerk's Affidavit with the person who signed it. I will keep a signed copy of the Clerk's Affidavit at (address):

- I understand if I do not have a signed Clerk's Affidavit for every person who sells alcoholic beverages in my store, the ABC may discipline my license.

Signature of Licensee (Or Licensee's Agent) Date ABC License Number



PART 5: NOTICE TO LICENSEE

(Licensee Must Read This Section, Then Post Sign In Store)

Pursuant to Section 25658.4 of the Business and Professions Code, you must post a sign in your store that warns customers about certain laws and penalties relating to the sale of alcoholic beverages to, or the purchase of alcoholic beverages by, any person under the age of 21 years. The sign must be placed at an entrance or at a point of sale in your store, or in any other location in your store that is visible to your customers and employees. A sample sign that complies with Section 25658.4(b) and (c) is shown on the following page.



NOTICE TO CUSTOMERS

Pursuant to Section 25658.4 Business and Professions Code

This store will not sell alcoholic beverages in violation of the California Alcoholic Beverage Control Act.

We will refuse to sell an alcoholic beverage to any customer if we reasonably suspect that: (1) The customer is under the age of 21 years; (2) The customer looks or acts intoxicated; (3) The request to buy an alcoholic beverage is made between the hours of 2:00 a.m. and 6:00 a.m. on any day or in violation of legally required shorter hours of sale; (4) The customer intends to drink the alcoholic beverage in this store or on adjacent property immediately outside this store; or (5) Any other violation of the California Alcoholic Beverage Control Act will occur as a result of the sale.

FINES AND PENALTIES

for the Sale or Furnishing of Alcoholic Beverages to, or the Purchase of Alcoholic Beverages by, Persons Under Age 21

For the Person Under Age 21 Who Tries to Purchase Alcohol

Up to \$100 fine and/or 24-32 hours of community service; second offense, up to a \$250 fine and/or 36-48 hours of community service (and a one-year suspension or delay of the person's driver's license).

For the Person Under Age 21 Who Purchases Alcohol

A \$250 fine and/or 24-32 hours of community service; second offense, up to a \$500 fine and/or 36-48 hours of community service (and a one-year suspension or delay of the purchaser's driver's license).

For the Person Who Furnishes Alcohol or Causes Alcohol to be Furnished to a Person Under Age 21

A \$1,000 fine and at least 24 hours of community service (and a one-year suspension or delay of the furnisher's driver's license if the furnisher is under age 21). If great bodily injury or death occurs, the penalty is 6-12 months county jail and/or a \$1,000 fine.

For the Person Who Sells Alcohol to a Person Under Age 21

A \$250 fine and/or 24-32 hours of community service; second offense, up to a \$500 fine and/or 36-48 hours of community service (and a one-year suspension or delay of the seller's driver's license if the seller is under age 21).

*In addition, the Department of Alcoholic Beverage Control (ABC)
will file charges to suspend or revoke this store's license to sell alcoholic beverages.*

--The Management





DEPARTMENT *of* ALCOHOLIC BEVERAGE CONTROL
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