

City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: Michael Kirn, Acting City Manager
DATE: November 17, 2015
SUBJECT: Consideration of Authorization for Mayor Canning to Send a Letter of Support for Legislative Changes in Regulations Related to Alcohol Beverage Control (ABC) Limits for Type 47 Licenses in Napa County.

APPROVAL FOR FORWARDING:



Michael T. Kirn, Acting City Manager

1 **ISSUE:** Consideration of authorization for Mayor Canning to send a letter of support for
 2 legislative changes in regulations related to Alcohol Beverage Control (ABC) limits for
 3 Type 47 Licenses in Napa County.
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5 **RECOMMENDATION:** Authorize Mayor Canning to send a letter of support for
 6 legislative changes in regulations related to Alcohol Beverage Control (ABC) limits for
 7 Type 47 Licenses in Napa County.
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9 **BACKGROUND/DISCUSSION:** ABC regulates the sale of alcoholic beverages in Napa
 10 County under the 2011 California Alcoholic Beverage Control Act, including the number
 11 of licenses issued to businesses engaged in the sale of alcoholic beverages for on-site
 12 consumption as part of a restaurant. This includes issuance of Type 47 licenses
 13 generally described as the sale of beer, wine and distilled spirits for consumption in a
 14 restaurant or bona fide eating place with a suitable kitchen where meals are prepared
 15 for consumption on the premises.
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17 Since the mid-1970's the number of Type 47 on-site general licenses has been limited
 18 to 1 license for each 2,000 inhabitants in a county and excludes visitors. This limitation
 19 does not reflect the economy associated with the Napa Valley where food service and
 20 consumption of alcoholic beverages is integral to the Napa experience and restaurant
 21 customers may be offered an alcoholic beverage as part of their meal.

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A combined effort is being headed by the Downtown Napa Association (DNA) to increase the number of Type 47 licenses available to Napa County dining establishments, and Assembly Member Dodd has expressed an interest in proposing legislation to expand the number issued by the ABC in Napa County. Napa was originally issued approximately 70 licenses. As a consequence of the limited number of licenses issued by ABC, the “after-market” cost of acquiring a license (from someone who owned one but closed their restaurant or bar) has swelled from twelve-thousand dollars just seven years ago, to almost half a million dollars today.

This places a significant financial burden on property and business owners who want to open a new or expanded dining establishment and who cannot obtain an ABC license at a reasonable cost. This, in turn, impacts economic development in Calistoga and elsewhere in the County.

Other Counties have successfully received unanimous approval by the legislature for an increase in the number of licenses in recent years. In 2008 ABC set up a countywide lottery for fifteen new licenses in Napa County, with five new licenses issued annually over a three-year period. In the first year of that lottery there were 43 applicants – demonstrating the significant pent-up demand for new licenses. The new licenses were dedicated to existing restaurants only. Newly acquired licenses could not be sold within the first two years of ownership.

Assembly Member Dodd has agreed to sponsor legislation provided there is support from jurisdictions in Napa County. If the legislation is successful, it is envisioned that any new licenses would be distributed via countywide lottery similar to the 2008 process (see Attachment 1). The current proposal would be to obtain authorization for ABC to issue 25 additional licenses, allocated by lottery over a five-year period (5 new licenses annually). The proposal also includes the reduction of minimum seating requirement from the current 50 seats to 25 seats, to promote greater opportunity for smaller restaurants and encourage the development of small businesses.

The Board of Supervisors legislative committee has reviewed this proposal, and will ask the Board of Supervisors for support pending concurrence from the cities in Napa County.

ENVIRONMENTAL REVIEW - CEQA COMPLIANCE

Staff has determined that the recommended action is not subject to CEQA, pursuant to CEQA Guidelines Section 15060(c), because it is not a Project as defined by Section 15378 (b) Project does not include: (1) Proposals for legislation to be enacted by the State Legislature.

65 **FISCAL IMPACT:** The results of a reasonable increase in the number of Type 47
66 Licenses in Napa County could result in new or expanded restaurants in Calistoga.

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68 **ATTACHMENTS:**

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70 1. Copy of the 2008 legislation for additional licenses.

ASSEMBLY BILL**No. 2266**

Introduced by Assembly Member Evans
(Principal coauthor: Senator Wiggins)

February 21, 2008

An act to add Section 23826.10 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2266, as introduced, Evans. Alcoholic beverages: licenses.

The Alcoholic Beverage Control Act, administered by the Department of Alcoholic Beverage Control, regulates the sale and distribution of alcoholic beverages and the granting of licenses for the manufacture, distribution, and sale of alcoholic beverages within the state. The act also provides for a limitation on the amount of on-sale general licenses that may be issued by the department based on the population of the county in which the licensed premises are located, as provided.

This bill would provide an exception to this limitation for a county of the 29th class, as specified. The bill makes legislative findings and declarations regarding the necessity of a special statute.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 23826.10 is added to the Business and
- 2 Professions Code, to read:
- 3 23826.10. (a) Notwithstanding any other provision of this
- 4 chapter, in any county of the 29th class, the department may issue

1 15 additional new original on-sale general licenses for bona fide
2 public eating places. Any premises to qualify for a license under
3 this section shall have a seating capacity for 50 or more diners. In
4 no event shall more than 15 on-sale general licenses for bona fide
5 eating places be issued under this section.

6 (b) In issuing the licenses provided for in this section, the
7 department shall follow the procedure set forth in Section 23961.

8 (c) Nothing in this chapter shall prohibit a person who currently
9 holds a valid on-sale general license for seasonal business from
10 applying for an original on-sale general license pursuant to this
11 section.

12 (d) A license issued under this section shall not be transferred
13 from one county to another nor shall it be transferred to any
14 premises not qualifying under this section.

15 SEC. 2. The Legislature finds and declares that, because of the
16 unique circumstances of the economy of the county of the 29th
17 class specified in Section 1, that are applicable only to the county
18 of the 29th class, a statute of general applicability cannot be enacted
19 within the meaning of subdivision (b) of Section 16 of Article IV
20 of the California Constitution, and, therefore, this special statute
21 is necessary.