

# ISSUANCE OF ORIGINAL AND INTERCOUNTY TRANSFER OF ON-SALE GENERAL AND OFF-SALE GENERAL LICENSES

*Instructions: Please read this entire form before filing your application.*

## INTRODUCTION

Licenses to sell beer and wine are readily available from the State if the applicant and the premises qualify. However, original (new) *general* licenses, which authorize the sale of beer, wine *and distilled spirits*, are restricted in number and issued only once each year based upon population increases within each county.<sup>1</sup> If there are more applicants than licenses available, a public drawing is held. (The only other way to obtain a general license is to purchase an existing license from someone who has one already.) To enter the drawing, an applicant must have been a resident of California for at least 90 days prior to the date scheduled for the priority drawing (see Residency, page 2).

The new and intercounty general licenses are known as "priority" licenses because each applicant is given a priority ranking based on the number of applicants versus number of licenses available.

Priority licenses are off-sale general (for package stores) and on-sale general (for bona fide public eating places and special on-sale general for clubs<sup>2</sup>).

Priority licenses are subject to conditions and restrictions (see page 4).

## FILING PERIOD

During the period of **September 08 through September 19, 2008**, ABC offices will accept applications for priority licenses in eligible counties (see page 8).

## APPLICATION FEES

The fee for an original on-sale general or off-sale general license is \$12,000; the fee for an intercounty transfer is \$6,000. The fee must be paid by certified check, cashier's check, or money order only. This way, ABC is able to automatically refund the application fees, less \$100 service charge, of all unsuccessful applicants. Applicants whose application fees have been automatically refunded will retain their priority ranking until the priority list expires. Successful applicants must pay additional fees later, at the time of filing the formal application. A successful applicant is one whose priority position (number) is not higher than the number of licenses available.

<sup>1</sup>Article XX, Section 22 of the State Constitution and Sections 23793, 23816, 23817, 23821, 23954.5, 24070, and 24072 of the ABC Act.

<sup>2</sup>Special on-sale general licenses may not be issued to an individual, but may only be issued to an organization (e.g., a corporation, association, limited partnership, etc.). The premises for which a special on-sale general license is issued may be used only for club members, guests, or catered events. It must operate as a club (e.g., athletic or social club) and not as a public premises or a bona fide public eating place. (Section 23399.2 of the ABC Act)

If an applicant owes money to California taxing agencies (Board of Equalization, Franchise Tax Board or Department of Employee Development), a claim against the priority application fee may be made by the taxing agency. If such a claim is made, the amount owed will be deducted from the priority application fee at the time of automatic refund or withdrawal.

## NAMES ON APPLICATION

The application for a priority license must list the names of **all** persons or entities who have an interest in the priority application or who will have an interest in the business to be licensed. *Failure to do so is grounds for denial of the application and loss of priority status. There can be no "hidden owners" or "silent partners" or change in ownership after the priority application has been filed.*

## RESIDENCY

Every applicant for a priority license must be a resident of California for at least **90 days prior to the date of the drawing**. Applicants must submit proof of residency only if they are successful applicants.

- **Corporations** — A California corporation begins its existence upon the filing of its Articles of Incorporation with the Secretary of State. For out-of-state corporations, the 90-day residency begins with the date registered with the Secretary of State to do business in California.
- **Limited Partnerships** — The 90-day residency begins with the date the form LP-1 is filed with the Secretary of State. For out-of-state limited partnerships, the 90-day residency begins with the date registered with the Secretary of State to do business in California.
- **Limited Liability Companies** — The 90-day residency begins with the date the form LLC-1 is filed with the Secretary of State. For out-of-state limited liability companies, the 90-day residency begins with the date registered with the Secretary of State to do business in California.
- **Partnerships** — Each partner must provide proof of residency.
- **Individuals** — **Persons applying for a license as the sole owner will be required to provide proof of residency and legal presence in the United States. If an application is submitted without the proof of residency and legal presence in the United States and the application is not filed with the same exact name that is listed on his/her legal documents, the applicant will be disqualified. A list of the documents (ABC-69) acceptable as proof of legal presence in the United States can be obtained from any ABC District Office or web site at [www.abc.ca.gov](http://www.abc.ca.gov).**

## FILING THE APPLICATION

**How to File in Person.** Applications may be filed in person by going to one of the ABC offices listed on Page 9. You may file your application at the ABC office that handles the county where your proposed premises will be located, or at any ABC office that is more convenient for you. ABC offices are open on each business day from 8:00 a.m. until 5:00 p.m. On **September 19, 2008**, only those applicants within the doors of the office at 5:00 p.m. may file priority applications. The following items are required:

1. The required fee (certified check, cashier's check or money order, payable to Alcoholic Beverage Control);
2. **Each Applicant, including P-12 licensees** must complete Form ABC-521-1, Priority Application Questionnaire;
3. If you are applying for both an original and intercounty transfer of the same type license, complete a separate Form ABC-521-1 for each location, include a copy of the lease, deed, or escrow instructions showing tenancy for each of the premises *or* submit a completed Form ABC-264, Statement of Legal Tenancy-Priority **for each premises**.
4. Signed Form ABC-213, Application for Priority License (completed by ABC front counter staff). Only one person must appear and sign the Form ABC-213 on behalf of the applicant entity. However, a successful applicant must comply with the signature requirements of Section 23953 of the Business and Professions Code (see Formal Application for License, Page 6).
5. **If the application is not complete and correct when filing in person on September 19, 2008, the application will be disqualified .**

**How to File by Mail.** To file an application by mail, submit items (1) through (4) below to ABC. To minimize the transfer of application documents between ABC offices, you are encouraged to mail the documents *to the ABC District or Branch Office serving the premises to be licensed* (page 9). However, if it is more convenient to file all documents for multiple counties at *one ABC office*, you may do so. **Your envelope containing Items (1) through (4) must be postmarked on or before Friday, September 19, 2008:**

1. The required fee (certified check, cashier's check or money order payable to Alcoholic Beverage Control);
2. **Each Applicant, including P-12 licensees** must complete Form ABC-521-1, Priority Application Questionnaire;
3. Completed Form ABC-213-SIG, Priority Application Signature Sheet (this form must be notarized); and
4. If you are applying for both an original and intercounty transfer of the same type license, complete a separate Form ABC-521-1 for each location, include a copy of the lease, deed, or escrow instructions showing tenancy for each of the premises *or* submit a completed Form ABC-264, Statement of Legal Tenancy-Priority **for each premises**.
5. **If the application is received or postmarked by September 19, 2008 and is not complete or correct, the application will be disqualified.**

**Next Steps.** After you file your application, either in person or by mail, please wait to receive written notice from ABC. The notice, which will be mailed to you on or after **October 2, 2008**, will advise you of your priority status.

If you are successful, file your formal application for specific premises at the nearest ABC district office. Call first to find out what forms and additional fees are needed.

If you are unsuccessful, be sure to keep the district office apprised of your current mailing address to maintain your priority position.

## CONDITIONS AND RESTRICTIONS

### **Applicant**

Applicants may not pool funds to file more than one priority application.

A married couple may file only one priority application.

Any person or entity, who files for a priority license, may not have an interest in any other priority application in the same county and drawing.

If filing as a sole owner, application must be filed in the exact name that is listed on their approved Alien Verification Documents.

Each priority application must show the names of all persons having an interest in the license application, including **all**:

#### **•Partnerships**

- General/Limited partners of a Limited Partnership
- Stockholders or prospective stockholders
- Limited liability company officers
- Limited liability company manager(s)
- Limited liability company members
- Corporate Officers and Directors

The application must state that the applicants have no interest in any other application being filed in the same county for the same type license, with the exception of an intercounty application.

No corporation, limited partnership, or limited liability company may file a priority application if it holds the controlling interest in another entity that has filed for the same type of license in the same county. Nor may a priority application be filed by one or more corporations, limited partnerships or limited liability companies if they are subsidiaries of the same parent corporation, limited partnership or limited liability company.

A person who is filing for a priority license as a sole owner, general partner, corporate officer, director, limited liability company officer or manager, or stockholder, limited partner, or LLC member **may not** be associated in any previously herein stated positions in any other entity that is filing for the same type license in the same county.

Only one priority application in each county will be accepted from any one applicant, or entity, for any one type of priority license. However, an applicant for an original general license may also file an application for the intercounty transfer of a general license in the same county if separate locations for each license are specified.

**Tenancy.** An applicant who applies for both an original general license and intercounty transfer of a general license of the same type must have control of separate and distinct premises for each license and, at the time of filing the priority application, must present proof in the form of a lease, deed, or escrow to purchase the property.

In lieu of proof of legal tenancy, the applicant may sign Form ABC-264, Statement of Legal Tenancy-Priority **for each premises**. This form precludes the applicant from seeking any change of location after the drawing if the applicant fails to produce proof of tenancy prior to the drawing.

**Premises.** No on-sale general license shall be issued or transferred for "public premises" unless the applicant can show that substantial public demand cannot otherwise be satisfied. Public premises means a business where no minors are allowed to enter and no food service is required.

An applicant may apply at a premises licensed with a license of the same type, provided that:

- (a) The applicant holds no ownership interest in the existing license; *and*
- (b) The existing license is surrendered under Rule 65 at, or before, time of filing the *formal application* and remains surrendered unless transferred to another premises.

No change in the location of the applied-for premises will be permitted except for causes beyond the control of the applicant and with approval of the ABC Director.

An applicant for an *on-sale* general license may not apply at premises for which an *off-sale* general license is issued, and an applicant for an *off-sale* general license may not apply at premises for which an *on-sale* general license is issued unless the off-sale business and the on-sale business are to be physically separated and operated independently of each other and the privileges granted are to be fully exercised in a bona fide manner.

**After Issuance of the License.** No original on-sale general license for a bona fide eating place and no special on-sale general license shall be exchanged for a public premises license for a period of two years following the date of license issuance, and no on-sale general license transferred intercounty shall be exchanged for a public premises license for a period of two years following the transfer. Original licenses cannot transfer for two years nor be sold for more than \$12,000 for two years following the date of issuance. Licenses transferred intercounty cannot transfer for two years and cannot be sold for more than \$6,000, if the license was originally issued within the past five years.

## **PRIORITY OF APPLICANTS**

**Priority.** If there are more applicants than licenses available, a public drawing will be held. Each applicant will be notified of the time, date, and place of any drawing on or after **October 2, 2008**. ABC will notify each applicant by mail of his/her priority position. If there are fewer applicants than, or the number of applicants is equal to, the number of licenses available, the applicants will be notified to complete a formal application for their specific premises within 90 days. However, **after September 19, 2008**, whether or not a priority drawing is required, no additional applications will be accepted.

**Expiration of Priority.** Priority Drawing lists automatically expire on June 30, 2009. If there are fewer applicants than, or the number of applicants is equal to, the number of licenses available, the applicants will be notified to complete a formal application for their specific premises within 90 days. Failure to do so will cause the application to be automatically withdrawn and their fees refunded less a service charge of \$100.00. (See Application Fees, page 1, for information about claims by California taxing agencies.)

**Successful Applicants.** A successful applicant is one whose priority position (number) is not higher than the number of licenses available. For example, in a county where ten licenses are authorized, the ten applicants whose priority numbers are one through ten are "successful" applicants, and they will be notified to file formal applications. ABC then conducts a thorough investigation to see if the applicant and the premises qualify for a license.

**Unsuccessful Applicants.** An unsuccessful applicant is one whose priority position (number) is higher than the number of licenses available. For example, in a county where ten licenses are authorized, any applicant whose priority number is higher than ten is an "unsuccessful" applicant.

**Automatic Refund to Unsuccessful Applicants.** The priority application fee, less a \$100 service charge, will be automatically refunded to each unsuccessful applicant. Refund checks will be mailed within 45 days of the priority drawing. (See Application Fees, page 1, for information about claims by California taxing agencies.)

Although the priority application fee, less service charge, will be automatically refunded to each unsuccessful applicant, that person will keep the priority position assigned at the priority drawing. In the event a successful applicant is disqualified or withdraws, the next applicant in order of priority will be advised that the person has 30 days to repay the appropriate priority application fee, less service charge, and has an additional 60 days in which to file the formal application.

To avoid losing that person's priority position through failure to repay the priority application fee within the 30-day period, an unsuccessful applicant should keep ABC advised of his/her whereabouts. Please notify the ABC Office where you filed your application of changes in mailing address or of forwarding addresses if you are going to be out of town.

**Withdrawal by Successful Applicants.** The priority application and formal application fees, less service charge, will be refunded to successful applicants who withdraw their applications. (See Application Fees, page 1, for information about claims by California taxing agencies.)

## **FORMAL APPLICATION FOR LICENSE**

Within 90 days of notification to file a formal application, the successful applicant must file a formal application for specific premises.

**Proof of Tenancy.** *At the time of filing the formal application,* the applicant must present proof of a two year lease agreement at the applied-for premises. Proof of tenancy may be a rental agreement, lease, deed, escrow papers, etc. We suggest that any financial agreements entered into be made contingent upon the issuance of the alcoholic beverage license as the

two year lease period starts when the license issues. You have no assurance that the license will be granted.

**Premises Under Construction.** If a new premises is to be constructed, the successful applicant must either be in business at the location specified or have construction substantially underway within six months of the date ABC approves the formal application. For existing premises, the applicant must be in business at the location specified within 12 months of the date ABC approves the formal application. If the time periods are not met, ABC may process an automatic withdrawal.

**Signature Requirements.** The applicant who qualifies to file a formal application must comply with the signature requirements of Section 23953 of the Business and Professions Code, which are:

- **Sole Owner** — An individual.
- **Partnerships** — The application must be signed by each of the partners (e.g., general partnerships, husband and wife, etc.).
- **Limited Partnerships** — The application must be signed by each of the general partners. Limited partners do not need to sign.
- **Corporations** — The application must be signed by two officers of the corporation, one from each of the following categories: (a) the chairperson of the board, the president, or a vice president; and (b) the secretary, assistant secretary, chief financial officer, or assistant treasurer.
- **Limited Liability Companies** — For a limited liability company that is managed by its members, the application must be signed by each member or by an officer authorized by the articles of organization or the operating agreement to bind the company. For a limited liability company that is managed by a manager or managers, the application must be signed by the manager, managers, or by an officer authorized by the articles of organization or the operating agreement to bind company.

**Automatic Withdrawal.** At the time of filing the priority application, each applicant signs Form ABC-213, Alcoholic Beverage License - Priority Application. In doing so, the applicant agrees to certain conditions. Failure to comply with the time periods specified on Form ABC-213 may result in automatic withdrawal of the application and cancellation of the applicant's priority position. The application fee, less service charge, will be refunded. (See Application Fees, page 1, for information about claims by California taxing agencies.)

## **DISQUALIFIED APPLICANT**

ABC may deny any application should the applicant fail to promptly submit any required evidence of qualification. Whenever a final decision of ABC denies an applicant because of disqualifying moral character or reasons pertaining to the premises, the applicant's priority position will be canceled and the fee refunded. (See Withdrawal by Successful Applicants, page 6.)

## ELIGIBLE COUNTIES

This year, due to population increases, the following counties will be eligible for additional on-sale general and off-sale general licenses:

County	Original (New) On-Sale	Original (New) Off-Sale	Intercounty On-Sale	Intercounty Off-Sale
Alameda	25	25	25	25
Butte	8	1	0	0
Contra Costa	25	25	25	25
El Dorado	1	0	0	0
Fresno	25	10	25	0
Glenn	1	0	0	0
Imperial	5	5	5	4
Kern	25	8	25	0
Kings	4	3	4	0
Los Angeles	25	25	25	25
Madera	4	1	4	0
Marin	1	0	0	0
Merced	7	2	7	0
Monterey	19	15	0	4
Napa	0	4	0	1
Orange	25	25	25	25
Placer	6	7	0	0
Riverside	25	25	25	25
Sacramento	25	25	25	25
San Benito	2	0	2	0
San Bernardino	25	25	25	25
San Diego	25	25	25	25
San Joaquin	23	22	23	22
San Luis Obispo	2	2	0	0
San Mateo	10	24	0	24
Santa Barbara	2	3	0	0
Santa Clara	25	25	25	25
Santa Cruz	6	9	0	4
Shasta	1	0	0	0
Solano	14	13	14	13
Sonoma	2	3	0	0
Stanislaus	18	2	18	0
Sutter	4	1	2	0
Tehama	2	0	0	0
Tulare	14	3	14	0
Ventura	25	25	25	8
Yolo	7	6	7	6
Yuba	3	0	2	0

## ABC OFFICES

You may file your application at the ABC office that handles the county where your proposed premises will be located; or at any ABC office that is more convenient for you:

<b>These counties:</b>	<b>Are handled by this ABC office:</b>	<b>These counties:</b>	<b>Are handled by this ABC office:</b>
Alameda, Contra Costa, Solano	<b>Oakland District Office</b> 1515 Clay Street, Suite 2208 Phone: (510) 622-4970	Monterey, San Benito, Santa Cruz	<b>Salinas District Office</b> 1137 Westridge Parkway Phone: (831) 755-1990
Sutter, Yuba	<b>Yuba City Branch Office</b> 950 Tharp Road, Suite 502 Phone: (530) 751-8570	Marin, Napa, Sonoma	<b>Santa Rosa District Office</b> 50 D Street, Room 130 Phone: (707) 576-2165
El Dorado, Placer, Yolo, Sacramento	<b>Sacramento District Office</b> 3321 Power Inn Road, Suite 230 Phone: (916) 227-2002	Orange	<b>Santa Ana District Office</b> 605 W. Santa Ana Blvd. Bldg. 28, Ste. 369 Phone: (714) 558-4101
Fresno, Kings, Madera, Tulare	<b>Fresno District Office</b> 3640 East Ashlan Avenue Phone: (559) 225-6334	Riverside, San Bernardino	<b>Rancho Mirage District Office</b> 42-700 Bob Hope Dr., Suite 317 Phone: (760) 568-0990 <b>and</b> <b>Riverside District Office</b> 3737 Main Street, Suite 900 Phone: (951) 782-4400
Imperial	<b>Rancho Mirage District Office</b> 42-700 Bob Hope Dr., Suite 317 Phone: (760) 568-0990	San Diego, Southern Area	<b>San Diego District Office</b> 1350 Front Street, Room 5056 Phone: (619) 525-4064
Kern	<b>Bakersfield District Office</b> 4800 Stockdale Hwy., Suite 213 Phone: (661) 395-2731	San Diego, Northern Area	<b>San Marcos District Office</b> 334 Via Vera Cruz, Suite 204 Phone: (760) 471-4237
Los Angeles, Northeastern Area	<b>Monrovia District Office</b> 222 East Huntington Drive, Suite 114 Phone: (626) 256-3241	Santa Barbara San Luis Obispo	<b>San Luis Obispo Branch Office</b> 3220 South Higuera, Suite 233 Phone: (805) 543-7183
Los Angeles, Central Area	<b>LA/Metro District Office</b> 3530 Wilshire Blvd., Suite 1110 Phone: (213) 736-2005	San Mateo	<b>San Francisco District Office</b> 71 Stevenson Street, Suite 1500 Phone: (415) 356-6500
Los Angeles, Southern and Western Area	<b>Inglewood District Office</b> One Manchester Boulevard, 6th Floor Phone: (310) 412-6311	Santa Barbara, Ventura	<b>Ventura District Office</b> 1000 South Hill Road, Suite 310 Phone: (805) 289-0100
Los Angeles, Southeastern Area	<b>Lakewood District Office</b> 3950 Paramount Boulevard, Suite 250 Phone: (562) 982-1337	Santa Clara	<b>San Jose District Office</b> 100 Paseo de San Antonio, Rm. 119 Phone: (408) 277-1200
Los Angeles, North and North- western Area	<b>Van Nuys District Office</b> 6150 Van Nuys Boulevard, Rm. 220 Phone: (818) 901-5017	Butte, Glenn, Shasta, Tehama	<b>Redding District Office</b> 1900 Churn Creek Rd., Suite 215 Phone: (530) 224-4830
Merced, San Joaquin, Stanislaus	<b>Stockton District Office</b> 31 E. Channel Street, Room 168 Phone: (209) 948-7739		