

January 9, 2009

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M. Mathew D. Botting, General Counsel  
Department Of Alcoholic Beverage Control  
4927 Lennane Drive, Suite 100  
Sacramento, Ca 95834

JAN 19 2009

Dept of Alcoholic Beverage Control  
Director's Office

Dear Mr. Botting:

This letter is in response to the Department's proposal to Amend Section 106 of Title 4, Article 16 of the California Code of Regulations, concerning the advertising and merchandising of Alcoholic Beverages in retail premises.

From April 1958 to July 1996 I was associated with the California Beverage Bulletin, a Southern California business newspaper serving all on and off premise general licensees from Santa Barbara to San Diego. My work included reporting, editing, marketing, merchandising, advertising, market research, public relations and publishing. My knowledge of ABC laws, rules and regulations is extensive. I had the privilege and pleasure to communicate with every level of the alcohol beverage industry, federal and state enforcement agencies, retail trade associations and community groups. Since 1978 I have been, and am today, a reserve police officer with the Los Angeles Police Department.

Our focus as a publication was to serve every level of the industry and community. My involvement included the period when minimum price laws were mandatory and when spirits and wine laws were repealed. At the same time there was a major movement to create an atmosphere for greater consumer temperance, and stricter controls by ABC related to the sale and dispensing of alcohol beverages by retailers to consumers.

With reference to the proposals presented in Rule 106, I believe ABC, should review its position based on two key issues:

1. TIED HOUSE LAWS    2. MANDATE TO PROMOTE TEMPERANCE

As a journalist, it is my job to report the facts. Cost has little to do with this revision as a major concern. Over the years, retail liquor stores have changed little in their physical appearance. Most serve small neighborhood areas and are patronized by local residents, transients, children and vagrants. In most retail stores, the largest sign is the word LIQUOR...which in itself sends the wrong message to our youth, and the public. Most stores are actually mini-markets which provide needed services to the local community.

To permit licensees to purchase or rent external alcohol advertising promotional signs work against the community and ABC in its mandate to promote temperance.

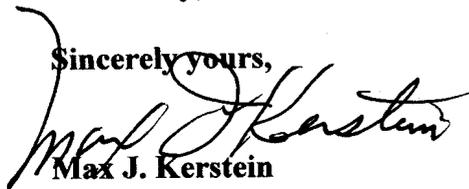
**Tied House laws are intended to keep the three tier system intact and prevent marketing companies, importers, liquor, beer and wine wholesalers from pressuring retail store operators from doing business with competitors. It would appear on the surface, no significant fiscal hardship would occur. This is not what would happen. In a non fair trade environment, companies will manipulate promotional product practices by fiscally rewarding those retailers who use their signage to the detriment of others.**

**This is just the tip of the iceberg. Once this passes, see what happens inside these premises. Within a year or two, the three tier system in California will be a distant memory.**

**Please understand I have no personal vendetta or intent to injure or harm. As a citizen of California, my intent is to remind ABC of why it was created...to serve and protect the public interest, and to promote temperance.**

**Personally, I do not feel the changes proposed are in the public interest.**

**Sincerely yours,**

A handwritten signature in black ink, appearing to read "Max J. Kerstein". The signature is written in a cursive style with a large, looping initial "M".

**Max J. Kerstein**

**P.O. Box 64398**

**Los Angeles, CA 90064**