

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 available year-round from the State if the applicant and the premises qualify. However, *general* licenses, which authorize the retail sale of beer, wine and distilled spirits, are restricted in number and are authorized to be issued originally and via inter-county transfer only once per year, based upon *population vs. existing license ratios* within each county.¹ Where there are more applicants than licenses available, public drawings are held and “priority” rankings are assigned. Licenses applied for and issued via the priority system are subject to unique requirements and restrictions. The only other way to obtain a general license is to purchase an existing license from someone who has one already within the same county.

PRIORITY FILING PERIOD:

During the period of **September 12 - 23, 2016**, ABC offices will accept applications for priority licenses in eligible counties (see page 7).

PRIORITY APPLICATION FEES:

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| • Original On-Sale General | \$13,800 |
| • Original Off-Sale General | \$13,800 |
| • Inter-county Transfer On-Sale General | \$6,000 |
| • Inter-county Transfer Off-Sale General | \$6,000 |

The priority application fee must be paid by certified check, cashier's check, or money order only. Additional fees (i.e.; fingerprint, annual fees, etc.) are to be collected at the time of filing the formal application.

Unsuccessful drawing participants, as well as applicants whose priority applications are withdrawn or denied, will receive a refund of the application fee, less a \$100 service charge. If an applicant owes money to California taxing agencies (Board of Equalization, Franchise Tax Board or Employment Development Department), 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 refund and remitted to the taxing agency.

NAME(S) ON PRIORITY APPLICATION:

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

¹Article XX, Section 22 of the State Constitution and Sections 23793, 23816, 23817, 23821, 23954.5, 23961, 23962, 24070, 24071, 24072, and 24079 of the ABC Act, and Rule 60.2 of Division 1, Title 4 of the California Code of Regulations
ABC-521 (7/16)

RESIDENCY:

To be eligible to participate in a priority drawing, an applicant must have been a resident of California for at least 90 days prior to the date of the drawing. If a drawing is necessary, an applicant for a priority license will be required to prove residency via submission of the below described documents:

- Individuals — Proof of residency can be established via documents such as a California Driver License, utility bills, voter registration, etc.
- Partnerships — Each partner must provide proof of residency; see information under “Individuals”, above.
- Corporations — The 90-day residence begins with the date its Articles of Incorporation are filed 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.

FILING THE PRIORITY APPLICATION:

Applications may be filed in person by going to one of the ABC offices listed on Page 8 or by mail. You may file your application at the local ABC office overseeing the county where your proposed premises will be located, or at any local ABC office that is more convenient for you. During the priority period, ABC offices will be open Monday through Friday from 8:00 a.m. until 5:00 p.m.

Deadline:

- In person: On **Friday, September 23, 2016**, only those applicants within the doors of the office by 5:00 p.m. may file priority applications.
- By mail: Your envelope containing Items (1) through (2) below must be **postmarked on or before Friday, September 23, 2016**.

The following items are required:

- (1) Fee - certified check, cashier's check or money order, payable to: Alcoholic Beverage Control.
- (2) Form ABC-521-1, Priority License Application— To be completed in full by all applicants, including previously qualified ‘**P-12**’ licensees. The application requires a single signature on behalf of the applicant entity. If not signed in the presence of an ABC employee, the application must be notarized. In signing Form ABC-521-1, the applicant agrees to comply with conditions and requirements unique to the established priority licensing process. Failure to comply with the conditions and requirements may result in automatic withdrawal of the application and cancellation of an applicant’s priority position.

An incomplete or inaccurate application will not be accepted and will likely make the applicant ineligible for a priority license.

CONDITIONS AND RESTRICTIONS:

Applicant:

No person or entity who files for a priority license may have an interest in any other priority application for the same type of license in the same county and drawing. However, an applicant for an original general license may also file an application for the inter-county transfer of a general license of the same type in the same county.

- Applicants may not pool funds to file more than one priority application for the same type of license and transaction.
- A married couple may file only one priority application for the same type of license and transaction.
- No corporation, limited partnership or limited liability company may file a priority application if it holds the interest in another entity that has filed for the same type of license and transaction in the same county.
- If more than one corporation, limited partnership or limited liability company is a subsidiary of the same parent, only one may file a priority application for the same type of license and transaction.
- A person or entity who holds ownership interest in a priority applicant entity, or who is a principal (officer, director, LLC manager, general partner, etc.) of an applicant entity, may not hold interest in or be a principal of another applicant entity for the same type of license and transaction in the same county.

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

- Partners
- General and limited partners of a Limited Partnership
- Corporate officers and directors
- Stockholders or prospective stockholders
- Limited liability company officers, managers, and members

Additional partners may not be added after the priority application period. Any changes in ownership or management that occur within an applicant entity between the time of filing a priority application and actual issuance of a priority license which results in the entity, via its principals or owners, having more than one opportunity in a single priority drawing, will be cause for disqualification.

PRIORITY OF APPLICANTS

If the number of applicants is equal to or less than the number of licenses available, all applicants will be notified that they have 90 days to complete a formal application for their specific premises.

If there are more applicants than licenses available, a public drawing will be held; the time, date, and place of any drawing will be posted on the ABC website (www.abc.ca.gov). After the drawing is held, the Department will notify each applicant by mail of their priority position.

Successful Drawing Participants:

- A successful drawing participant is one whose priority position (number) is not higher than the number of licenses available. These applicants will be notified that they have 90 days to complete a formal application for their specific premises.
- The priority application fee, less service charge, will be refunded to successful drawing participants who later withdraw their applications (See Application Fees [page 1] regarding claims by California taxing agencies).

Unsuccessful Drawing Participants:

- An unsuccessful drawing participant is one whose priority position (number) is higher than the number of licenses available.
- The priority application fee, less a \$100 service charge, will be automatically refunded to each unsuccessful drawing participant. Refund checks will be mailed within 90 days of the priority drawing (See Application Fees [page 1] regarding claims by California taxing agencies).
- Unsuccessful drawing participants will maintain the priority position assigned at the priority drawing. In the event a successful applicant is disqualified or withdraws, the next drawing participant in order of priority will be contacted and will have 30 days to repay the previously refunded priority application fee, and an additional 60 days to file a formal application.
- In order to maintain priority position, unsuccessful drawing participants are encouraged to notify ABC of any change in mailing address that occurs while the priority drawing lists are active.

Expiration of Priority: Priority drawing lists automatically expire the day before the following year's list is established.

FORMAL APPLICATION FOR PRIORITY LICENSE:

A priority applicant must file a formal application for specific premises within 90 days of notification from the Department of authorization to do so. Failure to file formal application within 90 days will result in loss of priority position and the opportunity to apply will be extended to the next applicant on the list. In addition to the below, all statutory requirements and Departmental procedures set forth for issuing other original retail licenses apply to formal applications for priority licenses.

Proof of Tenancy:

At the time of filing the formal application, a priority applicant must present proof of a two-year right of tenancy (rental agreement, lease, grant deed, etc.) at the applied-for premises. As the required two-year tenancy requirement starts when the license issues and there is no guarantee that a license will be granted, it is suggested that any financial agreements be contingent upon actual issuance of the priority license.

Premises:

At the time of filing formal application, an on-sale general priority applicant is to designate planned operation as one of the below:

- (1) A bona fide public eating place as defined by Business and Professions Code section 23038; or
- (2) A public premises as defined by Business and Professions Code section 23039, but only if the applicant is able to establish during the formal application process that substantial public demand for issuance of the license cannot otherwise be satisfied; or
- (3) A club as defined and authorized by Business and Professions Code sections 23037 and 23399.2.

Generally, an applicant for a priority license may only make formal application at a location not currently licensed with the same license type. Under certain circumstances, the department may allow formal application to be made at a location already licensed with the same license type if:

- (1) The applicant holds no ownership interest in the existing license and there is no conflicting business relationship or arrangement between the applicant and the existing license holder, and;
- (2) The existing license is surrendered under Rule 65 at or before filing of the formal application and remains surrendered throughout the application process (unless transferred to another premises).

Once formal application for a priority license has been made, no change in the location of the applied-for license will be permitted after the expiration of the 90-day period in which the priority application must be filed, except for causes beyond the control of the applicant and with approval of the ABC Director.

An on-sale license and an off-sale license may be located at the same location only if they are physically separated and operated independently of each other, and the privileges granted to each are to be exercised in a bona fide manner.

In any case involving the denial of a priority license application, the applicant's priority position will be canceled and the fee refunded.

For a Period of Two (2) Years After Issuance of the Priority License:

- The license shall not be transferable from the licensee to any other person except as provided in Section 24071, and only when the Department determines that the transfer is necessary to prevent undue hardship.
- The licensee shall not, directly or indirectly, enter into any negotiations or agreements respecting the sale or transfer of the license, unless the Department has determined that undue hardship exists.
- If an undue hardship transfer is authorized by the Department, an original priority license may not be sold for more than the original fee paid for the license.

- Certain changes in ownership and interest within an entity holding a priority license are allowed before the above-described time periods elapse. For instance, a corporation holding an original priority license may appoint new directors, elect new officers and transfer less than 50% of its outstanding stock within two years of license issuance. However, a change in ownership/interest in such a licensed entity *may not* result in a person who had ownership/interest in another priority application for the same type of license and transaction, within the same county and year, obtaining ownership/interest in the licensed entity. If this occurs, the license will be subject to administrative action which could result in its revocation.
- The license shall not be exchanged for a public premises license, unless the licensee can show that a substantial public demand cannot otherwise be satisfied.

Additional Restrictions on Inter-County Priority Licenses:

- Generally, an inter-county priority license cannot be sold for more than \$13,800 for a period of five years following issuance. In rare cases involving the inter-county transfer of a license *originally* issued within the past five years, such license cannot be sold for more than \$6,000 for a period of five years following *the transferring license's* original issuance date.

ELIGIBLE COUNTIES:

This year, the following counties will be eligible for additional on-sale general and off-sale general licenses, as follows:

County	Original (New) On-Sale	Original (New) Off-Sale	Intercounty On-Sale	Intercounty Off-Sale
Alameda	25	25	25	25
Alpine	4	0	0	0
Butte	9	1	0	0
Contra Costa	25	25	25	25
Fresno	25	6	25	0
Glenn	1	0	1	0
Imperial	6	7	6	0
Kern	25	5	25	0
Kings	4	0	4	0
Los Angeles	25	25	25	25
Madera	5	0	5	0
Marin	0	1	0	0
Merced	7	2	7	0
Monterey	18	7	0	0
Orange	25	25	25	25
Placer	14	4	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	25	9	25	0
San Luis Obispo	0	1	0	0
San Mateo	8	25	0	25
Santa Barbara	11	3	0	0
Santa Clara	25	25	25	25
Santa Cruz	4	10	0	0
Solano	15	16	15	0
Sonoma	0	2	0	0
Stanislaus	21	3	21	0
Sutter	4	0	1	0
Tehama	3	0	0	0
Tulare	15	2	15	0
Ventura	25	13	10	0
Yolo	9	3	9	0
Yuba	3	0	3	0

ABC OFFICES:

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

These counties:	Are handled by this ABC office:	These counties:	Are handled by this ABC office:
Alameda, Contra Costa, Solano	Oakland District Office 1515 Clay Street, Suite 2208 Phone: (510) 622-4970	Monterey, San Benito, Santa Cruz	Salinas District Office 1137 Westridge Parkway Phone: (831) 755-1990
Alpine, Placer, Yolo, Yuba, Sutter Sacramento	Sacramento District Office 2400 Del Paso Rd., Ste. 155 Phone: (916) 419-1319	Marin, Napa, Sonoma	Santa Rosa District Office 50 D Street, Room 130 Phone: (707) 576-2165
Fresno, Kings, Madera, Tulare	Fresno District Office 3640 East Ashlan Avenue Phone: (559) 225-6334	Orange	Santa Ana District Office 605 W. Santa Ana Blvd. Bldg. 28, Ste. 369 Phone: (714) 558-4101
Imperial	Palm Desert District Office 34-160 Gateway Dr., Suite 120 Phone: (760) 324-2027	Riverside, San Bernardino	Palm Desert District Office 34-160 Gateway Dr., Suite 120 Phone: (760) 324-2027 and Riverside District Office 3737 Main Street, Suite 900 Phone: (951) 782-4400
Kern	Bakersfield District Office 4800 Stockdale Hwy., Suite 213 Phone: (661) 395-2731	San Diego, Southern Area	San Diego District Office 1350 Front Street, Room 5056 Phone: (619) 525-4064
Los Angeles, Northeastern Area	Monrovia District Office 222 East Huntington Drive, Suite 114 Phone: (626) 256-3241	San Diego, Northern Area	San Marcos District Office 570 Rancheros Dr., Ste. 240 Phone: (760) 471-4237
Los Angeles, Central Area Southern and Western Area	LA/Metro District Office 888 South Figueroa Street, Suite 320 Phone: (213) 833-6043	San Luis Obispo & Santa Barbara, Northern Area	San Luis Obispo Branch Office 3220 South Higuera, Suite 233 Phone: (805) 543-7183
Los Angeles, Southeastern Area	Lakewood District Office 3950 Paramount Boulevard, Suite 250 Phone: (562) 982-1337	San Mateo	San Francisco District Office 33 New Montgomery St., Ste. 1230 Phone: (415) 356-6500
Los Angeles, North and North- western Area	Van Nuys District Office 6150 Van Nuys Boulevard, Rm. 220 Phone: (818) 901-5017	Ventura & Santa Barbara, Southern Area	Ventura District Office 1000 South Hill Road, Suite 310 Phone: (805) 289-0100
Merced, San Joaquin, Stanislaus	Stockton District Office 31 E. Channel Street, Room 168 Phone: (209) 948-7739	Santa Clara	San Jose District Office 100 Paseo de San Antonio, Rm. 119 Phone: (408) 277-1200
		Butte, Glenn, Shasta, Tehama	Redding District Office 1900 Churn Creek Rd., Suite 215 Phone: (530) 224-4830