

INITIAL STATEMENT OF REASONS

SECTION 106. "ADVERTISING AND MERCHANDISING OF ALCOHOLIC BEVERAGES"

SPECIFIC PURPOSE OF AMENDMENTS (Section 106)

The proposed amendments to Section 106 will conform the regulation to new statutory authority enacted in 2008 and signed into law by Governor Schwarzenegger. Assembly Bill 1245 (Chapter 629) prohibits the Department from imposing a limit of greater than \$3.00 per unit original cost for consumer advertising specialties given away by beer manufacturers. Section 106 presently limits such promotional items to \$0.25. Senate Bill 1246 (Chapter 395) authorizes alcoholic beverages suppliers to sell exterior signs advertising beer at not less than the suppliers' cost for such signs, as defined in Business and Professions Code Section 17026. Section 106 requires such signs to be sold at "current market price", which would be greater than actual cost.

NECESSITY

(1) Business and Professions Code Section 25600 prohibits any licensee from giving any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, except as authorized by the ABC Act (Business and Professions Code Sections 23000, *et seq.*) or by regulations of the Department. With respect to brand identified items given to consumers in connection with the sale or distribution of beer, existing regulation authorizes licensees to only give items that are of inconsequential value, which is defined as costing the licensee giving them away no more than \$0.25 (Section 25600 and Rule 106).

Business and Professions Code Section 25600 has been amended to require that as to beer manufacturers, no rule of the Department shall impose a limit other than \$3.00. The proposed amendment to the regulation will establish this new limit and will clarify which licensees are authorized to give these higher-value items to consumers.

(2) Business and Professions Code Section 25611.1 presently authorizes exterior signs advertising alcoholic beverages only as permitted by the ABC Act (Business and Professions Code Sections 23000, *et seq.*) or regulations of the Department. Department regulation permits any wholesaler to sell or rent exterior signs to a licensed retailer at a price not less than current market price and no such sign is permitted to refer to the retailer's name or business.

Business and Professions Code Section 25611.3 has been added to authorize beer wholesalers to sell or rent exterior signs at no less than cost, as defined in Business and Professions Code Section 17026. The proposed amendment to the regulation will comport with the lower statutory limit.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES,
REPORTS, OR DOCUMENTS.

The Department did not rely on any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of these amendments.

REASONABLE ALTERNATIVES TO THE AMENDMENTS AND THE
DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES

No other reasonable alternatives were presented to or considered by the Department.