

May 2020 Response to Comments
2020-0518-04E Proposed Emergency Regulations

There is an administrative process in place for ABC to hold licensees accountable and there is no need to change it.

Comments: 1, 2, 3, 4, 6, 7, 10, 11, 13, 14, 25, 26, 27, 28, 30, 35, 38, 40, 42, 46, 47, 58, 61, 65, 67, 74

Comments Summary:

The longstanding normal license disciplinary process already holds licensees accountable and should not be changed to allow for administrative emergency decisions, even though that administrative process can be lengthy.

CA Dept of Alcoholic Beverage Control Response:

The Department has a long history of holding licensees accountable through its normal administrative process. As outlined in the Department's May 11, 2020 notice, the usual process can take months or years to have any effect due to the often-lengthy period for administrative hearings, appeals to the Alcoholic Beverage Control Appeals Board (with an automatic stay of any penalty), and further appeals to the courts of appeal, with or without stays imposed. The changes proposed in this regulation do not change this system, but merely provide a new step at the beginning of this process as authorized by the Legislature in Government Code sections 11460.10 – 11460.80 for all agencies issuing administrative decisions under the Administrative Procedure Act (APA). Prior to the COVID pandemic, the Department had been preparing to implement this statutorily authorized power. However, given the state of emergency currently facing the state, the Department felt it was necessary to employ this statutorily authorized power as an emergency regulation to ensure drastic immediate harm to the public health, safety, and welfare was not left unregulated in the current crisis.

The regulatory package removes due process for licensees

Comments: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 27, 29, 30, 31, 33, 35, 36, 38, 40, 42, 45, 46, 47, 48, 51, 57, 58, 61, 63, 65, 67, 68, 70, 72, 74

Comments Summary:

Commenters claim that the Department is removing due process rights of licensees through this emergency regulation package in its proposed process and procedure for the administrative emergency decision hearings.

CA Dept of Alcoholic Beverage Control Response:

The Department is not removing due process rights from licensees through this emergency regulation. The Department is establishing a new procedure prior to the normal administrative process to ensure that immediate harms to the public health, safety, and welfare are curbed while the normal administrative process is completed. The procedure outlined within the regulatory package mirrors due process standards set by the Legislature in Government Code sections 11460.10 – 11460.80. The procedures being established by this regulation ensure the opposite of commenters' assertion, and ensure the Department does not impose any administrative emergency decisions without providing due process for licensees.

The Department is required to hold an emergency hearing to determine if an administrative emergency decision is needed, and the Department must provide notice to the licensee, if practicable. In all cases notice will be attempted, however if the licensee is unavailable or non-responsive the hearing can still move forward. In order to comply with this requirement, if the licensee is not present or unavailable for administrative emergency decision hearing, the Department will need to prove that notice to the licensee was not practicable by preponderance of the evidence. This language mirrors the legislative statutory authority outlined in Government Code section 11460.40. The regulatory package also requires the Department to "give the licensee an opportunity to present evidence related to the alleged immediate threat to the public health, safety, or welfare that requires immediate action and to request what the licensee believes to be an appropriate action, if any, to be taken under an emergency decision." (Subsection (g) of the proposed text.) In addition, the Department shall only issue an emergency administrative decision "[i]f the department finds by a preponderance of the evidence that there exists a factual basis that the alleged violation occurred and that the alleged violation is an immediate threat to the public health, safety, or welfare that requires immediate action." (Subsection (h) of the proposed text.) Further, for an administrative emergency decision to remain in effect after being issued, the Department must commence its normal administrative process within ten days of issuing the emergency order. This ensures there is no delay in the Department's normal administrative process caused by the addition of administrative emergency decisions. This proposed process again mirrors the legislative statutory authority outlined in Government Code section 11460.60. Licensees will also have the right of review of all administrative emergency decisions issued by the Department. With

the change to Business and Professions Code section 23090.5 by Senate Bill 788 in 2019, the Superior Court of California is specifically authorized to review the Department's administrative emergency decisions to protect the due process rights of licensees. The Superior Court rulings can then be reviewed through the appropriate Court of Appeal.

The Department is not removing due process from licensees with this emergency regulation, it is ensuring that due process is provided in the very manner outlined by the Legislature in the Administrative Procedure Act for these types of administrative emergency decisions.

This regulatory package conflicts with the Administrative Procedure Act and other state laws.

Comments: 2, 3, 4, 6, 10, 11, 13, 14, 22, 27, 30, 33, 35, 36, 38, 40, 45, 46, 47, 61, 65, 67

Comments Summary:

Commenters suggest the regulatory package conflicts with the Administrative Procedure Act, the California Constitution, and other state laws. (*See e.g.*, Cal. Civ. Proc. Code § 1094.5; Cal. Government Code §§ 11435.05, 11425.10, 11425.30, 11425.40, 11425.50, 11425.60.)

CA Dept of Alcoholic Beverage Control Response:

This regulatory package concerns administrative emergency decisions. These types of administrative hearings have a different set of rules established by the Legislature within the Administrative Procedure Act in Government Code sections 11460.10 – 11460.80. The Department followed the statutory authority outlined in these sections and where appropriate mirrored legislative language to adopt statutory authority granted within the Administrative Procedure Act.

The proposed regulatory package does not conflict with the Administrative Procedure Act, the California Constitution, or any other similar state laws.

The emergencies listed in the regulatory package that constitute immediate harm to the public health, safety, and welfare are defined in over broad terms allowing the Department to issue administrative emergency decisions in situations that do not constitute emergencies.

Comments: 2, 3, 4, 6, 7, 9, 10, 11, 13, 14, 27, 30, 35, 38, 40, 42, 46, 47, 48, 58, 61, 65, 67, 69, 70, 72, 73, 74

Comments Summary:

Commenters claim that the emergency situations described in subsection (b) are not immediate threats to public health, safety, and welfare or are overly broad for implementation by the Department.

CA Dept of Alcoholic Beverage Control Response:

The proposed subsection (b) lists specific illegal actions of licensees that may prompt the Department to make an administrative emergency decision through an administrative emergency decision hearing. This language is required by the Administrative Procedure Act to establish specific grounds upon which the Department may act under those sections. The proposed language is necessary for due process to be fulfilled and to set procedural limitations upon which types of behavior the Department has deemed an immediate threat to public safety thus requiring immediate action through an emergency administrative decision.

Subdivision (b) requires that all emergencies that constitute an immediate threat to the public health, safety, and welfare outlined in the subparagraphs below it must occur on the licensed premises, an adjoining property controlled by the licensee, or through actions reasonably connected to the operation of the licensed business. Commenter's assertion that this would extend to acts made by an employee unconnected to the licensee while away from the licensed premises is unreasonable. There is no normal reasonable way for those acts to be connected to the operation of the licensed business and therefore the Department would not be able to act against the licensee for the enumerated employee actions, nor would the Department seek to. However, if an ABC licensed premises is affiliated with any of the conduct outlined in subparagraphs (b)(1) through (b)(9), an administrative emergency decision to limit immediate harm to the public health, safety, and welfare would be appropriate whether by temporary suspension, modification of conditions for licensure, or suspension of specific licensed privileges pending the completion of the Department's normal administrative process

Subparagraph (b)(1) establishes that a licensee, their employee or contractor, who is selling or negotiating a sale of controlled substances or dangerous drugs on a licensed premises, any adjoining property rented or leased by a licensee, or through actions reasonably connected to the operation of a licensed business constitutes an immediate threat to the public health, safety, or welfare that requires immediate action. The use of an ABC license to make illegal drug sales is prohibited and often leads to dangerous outcomes for the public health, safety, and welfare such as violence and overdose.

Subparagraph (b)(2) establishes that a licensee, their employee or contractor, who is permitting the sale or negotiations for the sale of controlled substances or dangerous drugs on a licensed premises, any adjoining property rented or leased by a licensee, or through actions reasonably connected to the operation of a licensed business constitutes an immediate threat to the public health, safety, or welfare that requires immediate action. The use of an ABC license to make illegal drug sales is prohibited and often leads to dangerous outcomes for the public health, safety, and welfare such as violence and overdose.

Subparagraph (b)(3) establishes that a licensee, their employee or contractor, who is permitting conditions to exist that create an immediate risk of violence against an employee, visitor, guest, or customer of the licensed premises on a licensed premises, any adjoining property rented or leased by a licensee, or through actions reasonably connected to the operation of a licensed business constitutes an immediate threat to the public health, safety, or welfare that requires immediate action. An ABC licensed premises if uncontrolled can create an environment that creates violent situations that harm the public as a result of many people consuming alcohol in an enclosed space. This type of licensed premises is often referred to as a disorderly house within the ABC Act. It is the duty of an ABC licensee to control and protect persons on their licensed premises from alcohol related violence. When licensees do not, the Department must require them to do so.

Subparagraph (b)(4) establishes that a licensee, their employee or contractor, who engages or permits activities that directly relate to human trafficking on a licensed premises, any adjoining property rented or leased by a licensee, or through actions reasonably connected to the operation of a licensed business constitutes an immediate threat to the public health, safety, or welfare that requires immediate action. Alcohol sales often lead to solicitation of drinks, prostitution, and other similar crimes. If ABC licensees are permitting activities such as these and there is evidence that the persons involved are being held against their will, being coerced, or manipulated by the ABC licensee, their employee or contractor, there is evidence of activities directly related to human trafficking. Human trafficking constitutes an immediate threat to the public health, safety, and welfare and should not be associated with any ABC licensed premises.

Subparagraph (b)(5) establishes that a licensee who is convicted of, or pleads guilty to, a crime that reasonably shows the licensee is a danger or immediate threat to employees, visitors, guests, or customers of the licensed premises constitutes an immediate threat to the public health, safety, or welfare that requires immediate action. Although the Department is obligated to take actions for any crime of moral turpitude committed by a licensee, this subparagraph is only for those licensees whose crimes reasonably show the licensee is an immediate danger or threat to employees, visitors, guests, or customers. ABC licensees are granted the rights to provide alcohol to the public. When alcohol is served to a patron, this can easily leave them impaired at the licensed premises even with just one drink. If an ABC licensee is shown by conviction of a crime to have predatory tendencies towards employees, visitors, guests, or customers of the licensed premises, the Department should immediately act to protect members of the public through an administrative emergency decision.

Subparagraph (b)(6) establishes that a licensee who bribes, or attempts to bribe, a Department employee or other public official on a licensed premises, any adjoining property rented or leased by a licensee, or through actions reasonably connected to the operation of a licensed business constitutes an immediate threat to the public health, safety, or welfare that requires immediate action. Bribery is often the result of other dangerous or threatening criminal activity occurring at a licensed premises. An ABC licensed premises is regulated by many varying officials. Bribery can be used to coerce officials to ignore problematic and harmful environments within an ABC licensed premises. Bribery is a strong indicator of immediate threats of harm to the public health, safety, and welfare existing at the licensed premises that requires immediate action by the Department.

Subparagraph (b)(7) establishes that while a license is under suspension, or while an accusation for a violation is pending against a license, a subsequent violation of the ABC Act occurring based on conduct similar to the basis of the suspension, or pending accusation, and is likely to continue or reoccur constitutes an immediate threat to the public health, safety, or welfare that requires immediate action. Some ABC licensees after receiving a suspension or a notice of accusation do not take steps to correct the issues, but rather ignore the issues knowing they will not be able to hold their license for much longer. In these cases, violations can escalate in frequency and severity at an ABC licensed premises. This escalation leads to immediate harm to the public health, safety, and welfare and it is the responsibility of the Department to ensure the harm created in these situations is limited immediately.

Subparagraph (b)(8) establishes that a licensee, their employee or contractor, who engages or permits activities that directly conflict with orders issued by a federal, state, or local official to protect the public health, safety, and welfare during a public emergency, may constitute an immediate threat to the public health, safety, or welfare that requires immediate action. This subparagraph is necessary because the Department needs the immediate authority provided by emergency decisions to suspend licensed privileges when a licensee is acting contrary to a state of emergency order from a federal, state, or local official to protect the public health, safety, and welfare. States of emergency can compound harms to the public health, safety, and welfare very quickly. The Department's normal adjudicative process would be too slow to have any impact on immediate harms to the public health, safety, and welfare caused by a licensee's illegal action during a state of emergency because they take months or years to be finalized.

Subparagraph (b)(9) establishes that any other conduct that has similar effects to the conduct of the above subparagraphs constitutes an immediate threat to the public health, safety, or welfare that requires immediate action. This subparagraph is necessary because the Department cannot list all conduct that would possibly require immediate action. However, any conduct not on the foregoing list must be proven to have a similar immediate threat to the public health, safety, or welfare as the foregoing list by preponderance of the evidence in an administrative emergency decision hearing in order to be proven that it requires immediate action by the Department. This subparagraph will ensure that an ABC licensee's actions not on the foregoing list will only become subject to an emergency order if they create similar effects on the public. This subparagraph puts ABC licensees on notice that their actions that constitute a threat to the public can be subject to emergency orders in similar ways to the above list even if not specifically enumerated.

The Department has diligently sought to only include necessary immediate harms to public health, safety, and welfare, in the proposed regulation. The immediate threats to public health, safety, and welfare enumerated in the regulatory package are clear and specific to the immediate harms the Department will seek to curb through the proposed administrative emergency decisions.

The Department Overstepped its Statutory Authority by Removing ABC Appeals Board Review of Administrative Emergency Decisions

Comments: 2, 3, 4, 6, 9, 11, 13, 14, 23, 27, 30, 38, 40, 42, 46, 47, 48, 57, 61, 62, 64, 65, 67, 68, 70, 74

Comments Summary:

Commenters claim that the Department violated the constitutional authority of the ABC Appeals Board under Article 20 Section 22.

CA Dept of Alcoholic Beverage Control Response:

The Department respectfully disagrees with commenters' assertion that the proposed regulations constitute a violation of the constitutional authority of the ABC Appeals Board. The Legislature has already acted in this matter in 2019 under Senate Bill 788. Senate Bill 788 amended Business and Professions Code sections 23080 and 23090.5 to allow the Department to carry out meaningful immediate action, when deemed necessary to protect the public interest of the state without having the disciplinary action automatically stayed as a result of an appeals process. This statutory change excluded all administrative emergency decisions under the proposed regulatory package from the requirements of Article 20 Section 22. In addition, the organization of the ABC Appeals Board precludes timely and meaningful review of an emergency decision issued by the Department. The ABC Appeals Board is a part-time board that currently meets once a month to review final decisions of the Department. It is not sufficiently nimble nor staffed to conduct immediate review of emergency decisions.

It is worth noting that the Department's administrative emergency decisions do have the ability to be appealed keeping licensee's due process rights of review intact. However, instead of an automatic stay while going through the appeals process which allows the alleged violator to keep their business doors open and continue to potentially put the public in harm's way, these reviews are overseen by the Superior Court of California. This allows licensees the due process of review without the ability to continue to harm the public through purposefully delaying the administrative process.

Further, while emergency decisions are not subject to ABC Appeals Board review, the ultimate administrative decision following the full and usual administrative process remains subject to ABC Appeals Board review in the same manner as currently provided.

The Department Has Not Shown an Emergency Need for the Proposed Regulation

Comments: 2, 3, 4, 5, 6, 7, 10, 11, 13, 14, 22, 23, 26, 27, 28, 30, 31, 35, 36, 38, 40, 42, 46, 47, 57, 58, 61, 62, 64, 65, 67, 69, 72, 73, 74

Comments Summary:

Commenters claim that the Department has not provided specific facts demonstrating by substantial evidence that the proposed emergency regulation can be reasonably expected to prevent or significantly alleviate serious harm.

CA Dept of Alcoholic Beverage Control Response:

The Department has sought an emergency regulatory package to enact the proposed administrative emergency decisions due to the current state of emergency effecting all areas of life. We have seen that ABC licensees have been affected deeply both personally and economically by the current crisis, and the Department has worked hard to provide emergency relief to its licensees and ensure their survival. However, the same economic and social pressures that are facing the entire state has led otherwise law-abiding licensees to act in ways that disregard both long standing laws and regulations, and the new temporary relief and emergency orders enacted in response to the crisis in their operation of a licensed premises.

It is the Department's constitutional responsibility to ensure that the public health, safety, and welfare is not harmed by the actions of its licensees. It is the foundation upon which all the Department's licensing requirements and rules are based. The Legislature has granted the Department authority to use administrative emergency decisions in 2019 through SB 788 that amended Business and Professions Code sections 23080 and 23090.5. As explained in its May 11, 2020 notice, the Department was seeking to implement this legislative grant of authority through the normal rulemaking process this year prior to the COVID pandemic. However, the Department is seeking to use the emergency regulatory process to ensure that its licensees do not succumb to economic and social pressures and endanger the public during the current pandemic in any of the types of immediate harms listed within the proposed regulatory text. The Department takes this action upon the request of multiple local and state agencies who will rely upon the Department's administrative emergency decisions to stop ABC licensees who harm the public health, safety, and welfare during the pandemic. Without access to the power of the administrative emergency decisions in this time of crisis, the Department will have no type of immediate recourse to limit the immediate harm during this pandemic when that harm will be exacerbated, leading to licensees being able to remain open and harm the public for months or years while the normal administrative process proceeds.

The Regulatory Package Will Lead to Favoritism and Corruption.

Comments: 2, 3, 4, 6, 7, 9, 11, 13, 14, 27, 29, 30, 38, 40, 42, 46, 47, 48, 61, 65, 67

Comments Summary:

Commenters claim that “[t]he ‘emergency regulations’ are an open invitation to favoritism and corruption in the enforcement of the ABC Act.” Some commenters cite the incidents involving the Board of Equalization in 1954 leading to the creation of the Department of Alcoholic Beverage as evidence that the current regulatory package would lead to corruption in the Department currently. In addition, some commenters cite the indictment of an ABC Agent and a former ABC Agent from 2018 as evidence that rogue agents could use the proposed administrative emergency decisions in illegal corrupt actions.

CA Dept of Alcoholic Beverage Control Response:

The Department respectfully disagrees with this implication. The regulatory package is upholding due process and allows for outside review of every emergency decision by Superior Courts that are unaffiliated with the Department. Further, the decisions based in this regulatory package are by their very nature temporary and can only be made permanent through the normal departmental administrative process already in place. In addition, this regulatory framework used by the Department to ensure there is no favoritism or corruption is statutorily sanctioned by the Legislature within the Administrative Procedure Act.

Commenters’ use of corruption by the Board of Equalization, the Department’s predecessor, in 1954, and a recent indictment of two individuals, one an ABC employee at the time, where the Department helped the Federal Bureau of Investigation to root out corruption within its ranks that was occurring without any knowledge of the Department is a sensational use of uncommon facts that are irrelevant to the proposed emergency regulatory package. The Department is committed to stopping and punishing those who are corrupt within its ranks, as evidenced by the Department’s participation and aid it gave to Federal Prosecutors in the 2018 indictment. In addition, a rogue agent cannot use the emergency administrative decision process alone. Commenters’ suggestion that the entire Department will use this legislatively authorized power in a corrupt manner is unfounded and without evidence.

Extension of Time to Review and Comment or Delay the Implementation

Comments: 12, 15, 16, 17, 18, 20, 31, 44

Comments Summary:

Commenters request additional time to review and comment on the proposed emergency regulations package or delay the implementation of the proposed regulation indefinitely.

CA Dept of Alcoholic Beverage Control Response:

The Department understands that the statutory timelines for the emergency regulatory process are very short, but they are set by statute and the Department does not have the authority to change them. The Department cannot delay indefinitely this regulatory package because doing so would be a dereliction of the Department's duty to protect the public. In addition, the Department believes strongly that the current crisis warrants an emergency regulatory filing for temporary implementation for 180 days to ensure the Department can stop licensees from harming the public health, safety, and welfare during the current crisis. As stated in the Department's May 11, 2020 notice, shortly after the temporary implementation of the regulatory package, the Department will begin the certification of compliance procedures and allow more input from the industry and stakeholders prior to these regulations becoming permanent.

In Support of the Department's Emergency Regulatory Package to Limit Harm on the Public During the Current Crisis

Comments: 21, 32, 43, 50, 55, 56, 57, 59, 60, 65, 71

Comments Summary:

Commenters show support for the Department's finding of emergency and implementation of the emergency regulatory package in order to limit harms on the public during the COVID-19 pandemic and associated states of emergency throughout the state.

CA Dept of Alcoholic Beverage Control Response:

The Department thanks commenters for their support for the Department's actions in this time of crisis.

Outside the scope

Comments: 24, 37, 39, 44, 49, 52, 53

Comments Summary:

These comments are unrelated to the emergency regulatory package on the Department's use of administrative emergency decisions.

CA Dept of Alcoholic Beverage Control Response:

These comments are outside the scope of the Emergency Regulatory Action presented.

ABC should not venture into law enforcement

Comments: 34, 41

Comments Summary:

Commenters suggest that the Department should not venture into law enforcement and to leave these areas of enforcement to local enforcement agencies.

CA Dept of Alcoholic Beverage Control Response:

The Department has been acting as an active law enforcement agency for the entirety of its sixty-five-year existence. Although the Department does work with local law enforcement to aid in monitoring 93,000 alcohol licensees, all administrative actions and penalties imposed on ABC licenses for violations of the ABC Act come exclusively from the Department's enforcement mechanisms. In addition, the Department is the only entity with the legislative authorization to make administrative emergency decisions over ABC licensees. The Department has long had experts and funding for this exact type of law enforcement and administrative decisions. The Department will continue to perform that function as directed by the Legislature.

There is no Emergency because the Department has the power to seek injunctive relief from Superior Courts in the County where the Licensed Premises is located.

Comment: 36

Comments Summary:

Commenter suggests that the Department is currently able to exercise a form of injunctive relief against bad actor licensees by petitioning in the Superior Court of the County where the licensed premises is located. This power is given to the Director of the Department by Business and Professions Code section 23053.1.

CA Dept of Alcoholic Beverage Control Response:

Business and Professions Code section 23053.1 (providing that the Department may seek injunctive relief) clarifies that the lack of superior court jurisdiction over the Department (Business and Professions Code section 23090.5) does not preclude the Department invoking superior court jurisdiction to prevent a violation of the ABC Act. Notwithstanding this, there is nothing in either the ABC Act or the Government Code that precludes the Department from adopting regulations implementing the emergency decision authority found in Government Code section 11460.10, et seq.

The Department was given the statutory authority to bring civil injunctive actions against licensees in the superior court of the County where the licensed premises is in 1984. This authority is rarely used, and only in the most extreme cases due to complex logistical and filing requirements. However, this authority is not exclusive and does not bar the Department from adopting the current regulation to enforce administrative emergency decisions. Utilizing administrative emergency decision authority is more consistent with the administrative nature of ABC disciplinary proceedings and with the goal of achieving compliance through a timely procedure that protects due process. In addition, the Department has the experience and expertise to address violations of the ABC Act in the first instance through emergency decisions, which the superior court lacks since it has no jurisdiction over Department actions and decisions.

During the current pandemic crisis, the Department's ability to seek the use of its civil injunctive power is further curtailed due to the court closures throughout the state. This demonstrates why the current state of emergency requires that the Department implement its legislative delegated authority of administrative emergency decisions through this emergency regulation to ensure licensees do not immediately harm the public health, safety, and welfare.

The proposed emergency regulation creates a new burden upon ABC licensees

Comment: 54

Comments Summary:

Commenter suggests that the new proposed regulation would create new requirements, additional expenditures, and additional burdens upon ABC licensees

CA Dept of Alcoholic Beverage Control Response:

The Department has determined that since this change does not affect any ABC licensee unless they are in violation of the ABC Act or other valid law, there should be no additional expenditures or burdens upon ABC licensees by the implementation of the proposed emergency regulations. In addition, all the emergency basis enumerated in the Department's filing as incidents that cause harm to the public health, safety, and welfare have been long held requirements for ABC licensees' operation of their licensed premises. The proposed regulation has no new requirements imposed upon ABC licensees.

The Department has Not Fully Vetted the Economic Impact of the Emergency Regulation Package

Comment: 74

Comments Summary:

Commenter suggests that the new proposed regulation would create a far greater economic impact due to the “vast amount” of enforcement the Department will take under this new authority.

CA Dept of Alcoholic Beverage Control Response:

The Department respectfully disagrees with the commenter because the Department does not anticipate the vast changes in enforcement actions the commenter seems to imply. This comment presumes that the Department will pursue emergency decisions in a large number of its disciplinary cases. This is not realistic and is not based upon any assessment of the types of cases the Department pursues through its regular disciplinary processes. The reality is that the vast majority of licensees comply with their statutory and regulatory obligations. Even amongst those that do violate the law, few involve the types of conduct that are identified and that would rise to the level of harm to the public health and safety that would warrant the need to pursue emergency action. The Department believes most of its licensees will follow the law and not require an administrative emergency decision to compel them to do so. The administrative emergency decisions will only be used in severe situations that pose an immediate threat to the public health, safety, and welfare. The Department will incur extra costs in appeals to the Superior Court due to the need to pay a Deputy Attorney General to represent it. The ABC licensee, if it chooses to appeal an administrative emergency decision, will have similar costs of litigation as the normal administrative process. Although there are more steps and more costs that can be incurred by a licensee out of compliance with the law, the economic impact to an ABC licensee who is complying with the law remains zero. The costs of enforcement and procedure of these regulations will be the same or similar to the costs of litigation already present in the administrative process laid out by the department for all parties, including ABC licensees, and only for licensees who are already out of compliance.