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ABC DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

TRANSCRIPTION OF RECORDED PUBLIC MEETING

DECEMBER 2, 2020

HELD VIA ZOOM

Present: MATTHEW BOTTING, General Counsel  
ROBERT DE RUYTER, Assistant General  
Counsel  
SARAH EASTER, Associate Governmental  
Program Analyst

Transcribed by: Colin Richilano,  
eScribers, LLC  
Phoenix, Arizona



1 later on. And in addition, this public hearing -- the  
2 purpose of it is to receive comments. It is not a forum  
3 to discuss the rulemaking or to ask questions of the  
4 Department for immediate response during this proceeding.  
5 It is to record the public comments, either in support,  
6 opposition, or just generally about the pending  
7 regulation; any suggestions or corrections that you feel  
8 may need to be made. So please tailor your comments  
9 accordingly to that.

10 The Department, as part of the final rulemaking  
11 package, is required to and will respond to the comments  
12 made today and those received in writing. The comment  
13 period concludes at noon on December 9th, 2020. So  
14 written comments can be submitted prior to that time, in  
15 addition to any comments that are made today.

16 If you have already submitted written comments,  
17 there is no need to restate your comments in this public  
18 hearing today. If you wish to add to them or comment on  
19 different matters, then please feel free to do so, but if  
20 you have already submitted written comments, they will be  
21 considered and responded to in accordance with the  
22 requirements of the rulemaking process.

23 And as indicated on the slide, you can see that  
24 written comments may be submitted via email to the email  
25 address rpu -- as in Regulation and Policy Unit --

1 @abc.ca.gov, or you can mail them to the Department at  
2 our headquarters address, 3927 Lennane Drive, Sacramento  
3 95834.

4 So without further ado, we will commence with the  
5 hearing. And let me just check with my associates as to  
6 if there's anything else we need to add.

7 Robert, do we -- is there anything else we should  
8 discuss at this point?

9 **MR. DE RUYTER:** I'm putting a [link to the](#)  
10 [regulations package](#), just so people can see it.

11 **MR. BOTTING:** Okay. Robert de Ruyter just indicated  
12 that he is putting a link in the chat box to the  
13 regulation package, so if anyone wishes to review it  
14 during the course of this, you may do so. It is  
15 available on the Department's website, as you will see,  
16 and along with all the written comments that have been  
17 received to date on this rulemaking package. You'll  
18 notice that items have been updated through the course of  
19 the rulemaking proceedings, and will continue to be do --  
20 will continue to be done as the Department continues to  
21 proceed with this.

22 Just for reference, as well, Administrative  
23 Emergency Decisions -- an emergency regulation was  
24 approved by the Office of Administrative Law earlier this  
25 year, in June, and that has been in effect since that

1 time. This is the certificate of compliance process,  
2 which is the full rulemaking procedure. The  
3 Administrative Emergency Decision regulation under  
4 consideration today is broader than the emergency  
5 regulation that was approved and encompasses more bases  
6 for Administrative Emergency Decisions, so --

7 **MR. DE RUYTER:** I just put a link up.

8 **MR. BOTTING:** And Robert just advised me he put a  
9 link to all of that in the chat box.

10 So with that, Sarah, do we have our first commenter?

11 (Pause)

12 **MS. EASTER:** Let's go ahead and try this.

13 **MR. BOTTING:** Okay. We're just working through some  
14 technical difficulties. It appears Gina Bosio is our  
15 first commenter, but it's showing that you are muted.  
16 Are you able to unmute yourself?

17 Perhaps we could come back to her, and try someone  
18 else.

19 **MS. EASTER:** Nobody else.

20 **MR. BOTTING:** Nobody else wants to comment?

21 While we are just waiting at this point, also this  
22 public hearing is scheduled to go from 10 a.m. until 4  
23 p.m. this afternoon. Obviously, we're not expecting  
24 people to comment for the duration, but we do have to  
25 make ourselves available for any comments that are made,

1 so it's up to you if you want to stick around when the --  
2 when there are no comments, but the hearing will be  
3 available for comments during that period of time.

4 Gina Bosio, I don't know if you are able to hear,  
5 but you are registered to make a comment, but we are  
6 showing you as muted. Perhaps you could send a chat to  
7 indicate if you are available, or are having some issues  
8 on your end.

9 If anyone else would like to comment at this point,  
10 please raise your hand, and Sarah can connect you.

11 **MS. SHIMATSU:** Hello. My name's Jeanne Shimatsu. I  
12 would like to go ahead and start with the comments, and  
13 thank you for the opportunity for letting us share.

14 Oh, I'm sorry; let me turn my video on.

15 Good morning. My name is Jeanne Shimatsu. I am the  
16 prevention coordinator from The Asian-American Drug Abuse  
17 Program, or ADAP, located in Los Angeles County, where we  
18 provide treatment through prevention services. I am also  
19 a member of several community coalitions that address  
20 alcohol and other drug prevention. This included the  
21 South Bay Communities Creating Change, or SBC3, and  
22 the -- and the California Alcohol Policy Alliance, or  
23 CAPA.

24 I am in support of the Administrative Emergency  
25 Decisions Regulatory Action to suspend liquor licenses

1 immediately that are willfully remaining open past  
2 curfew, with indoor service, overcapacity, and without  
3 proper -- without proper public safety precautions.  
4 Because in the communities we serve, alcohol availability  
5 and access is an ongoing issue effecting our low-income  
6 families, particularly that of our youth of color.  
7 Closing this loophole with this regulatory action will  
8 protect the public health, safety, and welfare without  
9 waiting for a lengthy litigation process. This  
10 regulatory action will provide clarity to law -- to law  
11 enforcement officers, the ABC licensees, and public --  
12 and the public of the regulatory procedure to implement  
13 Administrative Emergency Decisions to stop bad actors.

14 In addition, we demand ABC take public health and  
15 safety precautions and regulate third-party delivery.  
16 Your own investigations have shown that over -- there's a  
17 over seventy percent failure of compliance of third-party  
18 delivery. Under COVID conditions, youth are able to  
19 access alcohol, and this has increased as a serious  
20 problem with subsequent health dangers of underage  
21 alcohol use.

22 We have witnessed food deliveries that include  
23 alcohol simply dropped off at the doorstep, without any  
24 interaction with the customer, and this clearly shows a  
25 failure to properly check for IDs that comply with legal

1 age limit.

2 This problem with third-party alcohol delivery --  
3 excuse me -- and youth access is pervasive. ABC must  
4 hold -- excuse me -- ABC must hold the delivery app  
5 businesses accountable during this time of weakened  
6 alcohol laws. There needs to be policy-driven protocol  
7 used by all delivery apps that formalizes a Responsible  
8 Beverage Service training for third-party delivery  
9 providers and a system that verifies the legal age upon  
10 delivery; upon delivery of alcohol drinks and products,  
11 particular to the -- particularly to the home. Actions  
12 to prevent third-party delivery alcohol access and use by  
13 our youth must be made a priority.

14 We are in a global pandemic, and while supporting  
15 economic is -- interest is a part of our society,  
16 handling of alcohol sales in all capacities needs to be  
17 held in the same standard of regulation. Businesses  
18 cannot be saved at the expense of innocent lives,  
19 especially by that of our youth.

20 So that's my comment, and I thank you for that  
21 opportunity.

22 **MR. BOTTING:** Thank you, Ms. Shimatsu. Greatly  
23 appreciate your input and comments. Thank you for your  
24 time.

25 I would just like to remind everyone, however, that



1 the purpose of this public hearing is the Administrative  
2 Emergency Decision, and encourage comments to be confined  
3 to that. The Department is not considering other actions  
4 at this time.

5 So thank you. I greatly appreciate your comments.

6 Do we have another commenter, Sarah?

7 Okay. No one is on deck at this point, so if anyone  
8 would like to make a comment, please feel free to raise  
9 your hand, and we can dial you into the -- or unmute you.

10 (Pause)

11 **MR. BOTTING:** Okay. It appears Ryan Friesen is  
12 seeking to make a comment, so --

13 **MR. FRIESEN:** Yes, sir.

14 **MR. BOTTING:** So Ryan, the floor is yours. Thank  
15 you very much.

16 **MR. FRIESEN:** Good morning, Mr. Botting and others.  
17 My name is Ryan Friesen. I'm with the California  
18 Artisanal Distillers Guild. Simply just wanted to say  
19 thank you for taking public comment today. We don't have  
20 an official comment to make; just wanted to say thank  
21 you.

22 **MR. BOTTING:** Thank you, Mr. Friesen. Appreciate  
23 that.

24 For those of you who are unfamiliar with Zoom at  
25 all -- like I was until yesterday, and I'm still learning

1 as I go along -- the raise your hand button is -- if you  
2 click on the -- at the bottom of the screen, for most  
3 people, at least on the computer, it's the "participants"  
4 button will open the list of everyone who is currently  
5 participating. And then, at the bottom of that, there is  
6 a button for "Raise Hand", and that is how we will  
7 identify you for purposes of comment. So thank you very  
8 much.

9 I see Gilbert Mora has raised his hand.  
10 Was there anyone before him, Sarah? No?

11 Mr. Mora, the floor is yours. Thank you.

12 **MR. MORA:** Good morning. Thank you for having this  
13 forum/whatever you -- comment period.

14 My name is Gilbert Mora. I am the cochair of the  
15 California Alcohol Policy Alliance and also the  
16 prevention coordinator for Behavioral Health Services in  
17 Hollywood.

18 I am in support of Administrative Emergency  
19 Decisions Regulatory Action to suspend liquor license  
20 immediately that will willfully open past curfew, with  
21 indoor service, overcapacity, and without proper public  
22 safety precautions because, as previously stated, I work  
23 in Hollywood; known for its nightlife and high density of  
24 alcohol retailers. And as you may know, we have bad  
25 actors as alcohol retailers, who abuse the privilege of

1 the license given them.

2 Much of our law enforcement and emergency services  
3 resources go to mitigating these issues of such high  
4 density of establishments, at the expense of the rest of  
5 the community. In order to hold these bad actors to  
6 account, it takes a process of at least three years and  
7 much litigation. Revoking a license is much harder than  
8 acquiring one in Los Angeles, and currently -- sorry.

9 Current -- current law has a large loophole that  
10 allows ABC licensees to continue to cause immediate  
11 danger by continuing -- allowing them to continue to  
12 operate.

13 Hold on. I'm starting -- this is starting to --  
14 okay, here we go; sorry about that.

15 And they -- they -- they continue to put the public  
16 health, safety, and welfare at risk. Especially in the  
17 middle of a global pandemic, where the lives are on the  
18 line, licensees must be held accountable for compromising  
19 quality of the communities they reside in.

20 Being essential is a privilege, not a right. ABC  
21 has the administrative power to regulate the bad  
22 operators and hold them accountable when they violate the  
23 agreements of the license and should be more proactive in  
24 their use of this power. ABC's mission is not to  
25 prote -- is to protect the public health, safety, and

1 welfare through licensing alcohol businesses and forcing  
2 legislative standards. It's not to promote alcohol and  
3 make alcohol a viable business.

4 In addition, I would like to ask ABC to take a  
5 public safety and health precaution and regulate  
6 third-party delivery. This is a very important issue,  
7 and there's a lack of oversight of third-party delivery.

8 ABC has conducted many sting operations that have  
9 shown that seventy percent failure rate of compliance of  
10 third-party delivery. Youth are being compromised at the  
11 expense of the lack of the regulation and oversight.

12 There is no formal or streamlines around the Responsible  
13 Beverage Service training for third-party delivery  
14 providers, and this loophole in the regulation is likely  
15 to lead to higher rates of contracting COVID.

16 This lack of reg -- regulation cause -- creates more  
17 hazards for social distancing compliance issues, with  
18 stricter at-home order delivery is deemed as an essential  
19 service, but is not regulated. This lack of regulation  
20 is further compromising youth and families of color, who  
21 lack the information to comply appropriately. This is  
22 likely to lead to enforcement that negatively impacts low  
23 income communities of color -- black/brown folks already  
24 suffering from over policing -- higher rates of COVID,  
25 unemployment, and overall for their compromised quality

1 of life.

2 ABC needs to take an equity-based approach and  
3 consider how those most impacted by sting operations for  
4 lack of compliance are the -- the least informed and  
5 already have police, as opposed to creating regulations  
6 to address the lack of procedure.

7 We are in a global pandemic. And while supporting  
8 economic interest is a part of our society, all handling  
9 alcohol sales in all capacities need to be held to the  
10 same standard of regulations. Business just can't be  
11 saved at the expense of innocent lives. People are more  
12 important than profit during a pandemic, and we would  
13 like ABC to be a little more proactive in its regulation  
14 of alcohol licenses, and not just leave it up to local  
15 municipalities to do so.

16 Thank you.

17 **MR. BOTTING:** Thank you, Mr. Mora; appreciate your  
18 comments.

19 All right. Next up, it appears Richard Bis -- I  
20 hope I'm pronouncing that correctly; I apologize if I'm  
21 not. But Mr. --

22 **MR. BIS:** Yes, you are. Thank you, sir.

23 So good morning, everyone, and also thank you to all  
24 of the California Department of Alcoholic Beverage  
25 Control officials, members, and workers that are here

1 right now to listen to all of us.

2 My name is Richard Bis, and I am a member of the  
3 Carson Initiative for Substance Abuse Awareness and  
4 Prevention, CISAAP Prevention Community Coalition.

5 I am in support of the Administrative Emergency  
6 Decision Regulatory Action to suspend any liquor --  
7 liquor store licenses immediately who are not doing their  
8 jobs correctly. There's a lot of regulations, and it's  
9 set. I think all liquor stores or alcoholic beverage  
10 should do what's the regulation and what are -- the rules  
11 are, especially now.

12 Now, this is very important in the City of Carson  
13 because of this, okay? We have done three years of  
14 alcohol off sale store environmental scan, store merchant  
15 assessment surveys, and merchant committed programs. We  
16 simply found out we had stores with merchants and staff  
17 who did not have or get the RBS training or the LEAD  
18 training. Now, we're talking about third-party  
19 deliveries who did not get these training. So we're  
20 looking at the current stores and third-party deliverers  
21 without any training whatsoever that are selling out to  
22 the youth, getting this alcohol to the youth. It's a  
23 major issue in Carson.

24 You know, we have dealt with many alcohol  
25 regulations, but when it comes to off sale outlet liquor

1 stores, department stores, it's a major issue. So I'm  
2 totally in support of anything to remove their licenses,  
3 or something to regulate their licenses. And I think,  
4 also, that it makes total sense. All alcoholic beverages  
5 need -- are in regulation and need training. Why are all  
6 of these deliverers not being trained? That doesn't make  
7 any sense to me at all, okay?

8       So they need to get their training. Not just  
9 because of access, but public safety, public safety and  
10 health. Now that there's COVID-19, the pandemic, right,  
11 do they know what they're doing? Are they doing it  
12 properly? On top of that, when it comes to public  
13 safety, where are they delivering it and how are they  
14 delivering it, you know what I mean? So these are all  
15 major questions that ABC should really think about and  
16 should really, you know, enforce some kind of regulations  
17 on the third-party delivery.

18       So for fourteen years, our coalitions work for  
19 prevention on alcohol access and availability to the  
20 youth, alcohol abuse, and alcoholism, when it comes to  
21 public health prevention and public safety. You know,  
22 drunk driving, impaired driving; that's all connected to  
23 this issue, sir.

24       So I really hope that, you know, we take the proper  
25 procedure to get all of these regulations and all of this

1 emergency stuff acted, especially now, were it not in  
2 decline, when it comes to the pandemic. You know, we  
3 don't need more alcohol out there, especially for the  
4 youth.

5 So that's my comment. Thank you. Again, my name's  
6 Richard Bis, from ADAP and also the Carson CISAAP  
7 Community Prevention Coalition. Thank you.

8 **MR. BOTTING:** Thank you very much, Mr. Bis;  
9 appreciate your comments.

10 We have a hand up from Monica Martin.

11 Ms. Martin, the floor is yours for comment. Thank  
12 you.

13 **MS. MARTIN:** Can you hear me?

14 **MR. BOTTING:** Yes, we can hear you. Thank you.

15 **MS. MARTIN:** Oh, okay. I'll start over.

16 Hi, my name is Monica Martin and I'm with FLB  
17 Entertainment Center. I want to thank you for having  
18 licensee's opinions heard today. I think that it's great  
19 that the Department has committed -- okay. I think it is  
20 great that the Department has committed to continue to  
21 work with the licensees, but we have some concerns about  
22 the proposed regulations.

23 In section two, at the end, it states a law  
24 enforcement problem. The definition given is vague. We  
25 would like to know what is considered devoting more



1 resources to the licensed premises as well as what is  
2 considered the average alcoholic beverage license; is it  
3 five more visits than the average? Is it ten more  
4 visits? Does this take into account the occupancy of the  
5 licensee's premises? It seems as if businesses who can  
6 accommodate more of the public and are destination --  
7 destination businesses will, in turn, have the potential  
8 for more calls. Are liquor stores where people go in to  
9 buy something and leave viewed as equal to business that  
10 can have hundreds of customers spending longer periods of  
11 time at their location?

12 In section six, the Governor has been proven guilty  
13 of implementing orders that are out of his constitutional  
14 right. To change the regulations, to give to ABC the  
15 authority, without due process, to suspend a license  
16 based on a licensee that acts in a manner in conflict  
17 with an order at this time seems unconstitutional.  
18 Constitutionally speaking, due process should be  
19 mandatory in regards to a mandate, before suspending or  
20 revoking a licensee.

21 Our license should not be threatened due to a  
22 governor's order that may not even be legal. We request  
23 that this section be removed from the proposed  
24 regulations. We believe that the ABC needs to show the  
25 threat of increased cases is directly coming from

1 restaurants, bars, or licensees, and furthermore, that  
2 these added regulations would reduce these alleged cases.

3 We believe that the current governor's order is a  
4 violation of our constitutional rights, and it would be  
5 unlawful for the ABC to implement stricter regulations  
6 with penalties tied to them without due process. The  
7 governor's order is based on us being a -- in a state of  
8 emergency, and the fact of whether we are in a state of  
9 emergency is still undecided and in the hands of the  
10 court.

11 The Governor has gone overboard with his tears, with  
12 no end in place for this pandemic. The Governor has  
13 already been struck down by a judge for his overreach of  
14 power, so we hope that you take these recommendations  
15 seriously, for the sake of our small businesses. We have  
16 already lost so many businesses, and we'll -- we feel  
17 that these regulations have potential to shut down so  
18 many more businesses without due process. Thank you for  
19 the time.

20 **MR. BOTTING:** Thank you, Ms. Martin, for your  
21 comments. Greatly appreciate your time.

22 I see no hands raised for additional comments right  
23 now. Again, the hand may be raised to be added or to  
24 submit your comments by clicking on the "Raise Hand"  
25 link, under the "participants" button.

1 I see Gilbert Mora has raised his hand.

2 So Mr. Mora, the floor is yours.

3 **MR. MORA:** Yes, I appreciate the comments from the  
4 alcohol industry advocates, and I just want to say one  
5 thing. Alcohol is being deemed an essential -- whatever,  
6 business. And you know, that seems a little odd,  
7 considering that we -- we do have a lot of public  
8 health/mental health issues related or tied to alcohol  
9 use and abuse.

10 To save small businesses, they don't need to be  
11 open. What we need to do is prop up these businesses  
12 through economic means. You know, giving them money so  
13 that they can maintain their business, rather than having  
14 them open and then endanger lives.

15 So you know, the fact that these small businesses  
16 are dying is not because of what the Governor has  
17 ordered. What he is ordering is basically, you know,  
18 let's stay safe. Let's -- you know, keep the proper  
19 distances, let's keep the public health in mind, and not  
20 encourage people to, you know, not social distance, not  
21 use the -- their masks, not use -- you know, proper  
22 etiquette when it comes to spreading this deadly disease.  
23 So to say that they need to be open is -- is not  
24 conducive to what we're trying to do.

25 And to say that we don't know this is an emergency,

1 it's plain to see. You see the people dying. You see  
2 the statistics overall. And we can trace it back to  
3 public gatherings, and what better place to publicly  
4 gather than a place that serves alcohol.

5 So to say those kind of things is kind of  
6 disingenuous, I think. If they really want to be staying  
7 open, we need more support for small businesses, not just  
8 alcohol establishments and bars, as far as economic  
9 support. We need to kick -- sorry, I was just about to  
10 use a -- a profanity. We need to "make" our lawmakers do  
11 what they're supposed to do and authorize those  
12 stimuluses that kept us going through the first couple of  
13 months of this pandemic, to ensure that we can actually  
14 survive this pandemic.

15 And to put it on alcohol -- being -- having to serve  
16 alcohol is -- is just a -- just a -- just disingenuous to  
17 me. I think that we need to get the lawmakers to  
18 actually pony up the money. I mean, if they can pony up  
19 the money for weird stuff, like tax breaks and things  
20 like that, you could pony up the money to help support  
21 these small businesses that need to survive during these  
22 times, these lean times. Make sure that these people  
23 can, you know, support their staff, keep them employed,  
24 and -- and pay them -- and what they need to survive, and  
25 just, you know, in general make it easier for small

1 businesses to weather this storm, rather than allowing  
2 them to operate in a manner that may hurt the public  
3 health and public safety by exposing people to a deadly  
4 virus.

5 That's it. Sorry.

6 **MR. BOTTING:** Thank you, Mr. Mora. Appreciate that,  
7 those comments.

8 I would just like, again, to remind everyone that we  
9 are here to talk about the emergency -- administrative  
10 emergency regulation. We understand these are very  
11 unusual and difficult times and that there are very  
12 strong opinions about, you know, the handling of pandemic  
13 response by politicians at the state and federal levels,  
14 but this is not a forum to debate those issues. So I  
15 would ask that comments be confined to the emergency  
16 decision, proposed regulation. Thank you very much.

17 I see that John Hinman has a hand raised.

18 Mr. Hinman, the floor is yours for comment. Thank  
19 you.

20 **MR. HINMAN:** Can you hear me?

21 **MR. BOTTING:** Yes, we can hear you. Thanks.

22 **MR. HINMAN:** Thank you, Mr. Botting. We appreciate  
23 the Department holding a public hearing on this  
24 particular permanent emergency regulation proposal.

25 First off, I would like to point out that the right

1 to appeal is not a loophole. It's a fundamental,  
2 constitutional right. And to characterize the right to  
3 appeal as being a loophole is -- is basically improper  
4 and -- so the entire predicate to the permanent emergency  
5 regulation is unnecessary.

6 Second, this is a due process issue. The permanent  
7 emergency regulation has punishment first and then the  
8 potential right to appeal later. That turns the system  
9 on its head, our system of constitutional laws.

10 Third, the ABC has the power right now to apply for  
11 an injunction with the superior court, at which the  
12 licensee may defend itself and appeal, if necessary, from  
13 an injunction that's issued by a superior court, upon  
14 the -- upon the production of evidence by the Department  
15 that the injunction is warranted.

16 The injunction would be for all the various things  
17 that are put forth in the emergency regulation. If a --  
18 if a licensee is acting improperly, if he's acting beyond  
19 the scope of his license, if he's creating a law  
20 enforcement problem that can't be remedied any other way,  
21 the superior court remedy is available right now. You  
22 don't need the permit emergency regulation.

23 And that superior court remedy is constitutional  
24 because of -- it would -- puts the burden of proof on the  
25 Department in the first instance to get the injunction,

1 and provides the licensee with the right to defend, and  
2 that's what we're talking about here.

3       The permanent emergency regulation proposal also  
4 creates the opportunity for mischief. And unfair and  
5 prejudicial treatment by neighbors, for example, of  
6 production facilities or night clubs or bars or  
7 restaurants or any licensed facility at all, if there's a  
8 neighbor that's angry, they can go to the Department and  
9 claim that there's all these problems there that can't be  
10 resolved. And the Department could simply suspend the  
11 license right now, before there's a hearing, an  
12 investigation, or a report. This empowers those with an  
13 agenda against licensees.

14       And it's quite clear that there's many areas in this  
15 state where there is a lot of neighbor issues, between  
16 premises. Whether it's a bar, an entertainment venue --  
17 like we heard from a few minutes ago -- whether it's a  
18 winery having -- having weddings, whether it's a  
19 distillery hosting social events. This is -- this is a  
20 common issue among the -- the thousands of licensees in  
21 the state of California, and -- and having the right to  
22 shut them down before evidence is presented, at which  
23 they can defend themselves, with the burden of proof on  
24 the accuser, is simply improper.

25       This is not related to a need that the Department

1 currently has. Department of Emergency Regulations --  
2 the Department has the power right now, under the  
3 temporary emergency regulations, to deal with  
4 COVID-related issues. This is not a COVID-related  
5 situation. This is permanent. And we would argue that  
6 this regulation is not necessary, it's unconstitutional,  
7 and if the Department passes it, it's going to create a  
8 ton of litigation that the Department's going to have a  
9 very difficult time dealing with. Thank you.

10 **MR. BOTTING:** Thank you, Mr. Hinman. Appreciate  
11 your comments, and thank you for your time. It's good to  
12 see you again.

13 Okay. Seeing no hands up for comment right now.  
14 Again, if anyone does wish to make a comment in this  
15 public hearing, please click the "Raise Hand" button, and  
16 we will call upon you.

17 Not seeing anyone at this time. It is currently  
18 10:39.

19 Oh, I stand corrected. Mr. Mora has raised his hand  
20 and has a comment.

21 So Mr. Mora, the floor is yours. One second, Mr.  
22 Mora. You are -- you are muted.

23 **MR. MORA:** Is that better?

24 **MR. BOTTING:** There we go, yes, thank you.

25 **MR. MORA:** Yes, I understand due process. I



1 understand that, you know, everybody should have their  
2 day in court and be able to defend themselves. But when  
3 due process is dragged out over years and the alcohol  
4 industry has all the resources to fight this, but the  
5 communities that are being negatively affected don't have  
6 those rights, of course we're going to try to say, hey,  
7 let's bring this back into balance. Where it's, like, we  
8 know these people are bad actors. We know they've been  
9 doing bad things for a while. We do have the stuff. Why  
10 should we let them continue to do business when we know  
11 they've -- they -- they've been doing bad business for a  
12 long time?

13       So you know, this -- this whole idea that, you know,  
14 you're not getting your due process and that the  
15 community is going to destroy all these -- these  
16 businesses, we are oversaturated with alcohol businesses  
17 as it is. We have more businesses than needed, and with  
18 the resources we have now for law enforcement and  
19 emergency services, they're put -- stretched to their  
20 limits to try to mitigate all these issues that happen  
21 with these businesses.

22       So okay. So if a few businesses fall out of the way  
23 and they're not able to -- to operate in a -- a  
24 meaningful and good faith manner, so be it. But to -- to  
25 say that it's going to destroy the alcohol economy and

1 all these businesses are going to -- no. They're -- no  
2 sooner does one leave, ten more come up to replace them.

3 So it's not an issue of due proc -- it's an issue of  
4 due process, yes. But we're trying to tip the balance  
5 back in the -- the community public health favor so that  
6 we can actually have a voice and be able to say when we  
7 feel this bad actor is really negatively affecting our  
8 community because right now, we don't. No matter how  
9 hard we try.

10 And you know what? We got lives. We have to be  
11 going to work, taking care of our children, doing  
12 whatever we do. We don't have time to go to all these  
13 damn -- excuse my language -- hearings and whatever. And  
14 when you can -- when the alcohol industry can send a  
15 lobbyist, who gets paid fulltime to do that, and he can  
16 be there whenever he wants, that's unfair. We don't have  
17 the -- the voice. Most of these alcohol regulations err  
18 on the side of the business, allowing them to continue  
19 working while the community continues to try to fight for  
20 their fair voice in this whole process.

21 And this is just one thing that will allow us to be  
22 a little more fair, in these sense that, hey, they did  
23 something really wrong. We've already got the evidence  
24 that they already did it. We're going to shut them down  
25 for a while, then we'll do the appeal and see if they can

1 remedy it, and -- and you know, stop them from doing  
2 whatever is endangering the public safety, whatever's  
3 endangering the public health at this moment.

4 You don't tell someone, hey, I'm not going to --  
5 you're shooting up this place. I'm going to wait until  
6 you have your fair share in court and let you continue  
7 using your guns and shooting up places, until -- no. You  
8 take their guns away from them for a while, figure out  
9 the situation, then decide whether or not it's fair.

10 **MR. BOTTING:** Thank you. Thank you, Mr. Mora;  
11 appreciate your additional comments.

12 I see a hand up from Fred Jones.

13 Mr. Jones, the floor is yours for comment. Thank  
14 you.

15 **MR. JONES:** Hi, Matt.

16 Hello, everyone. Fred Jones, California Counsel on  
17 Alcohol Problems. First, we support the regulation  
18 pending today. I do believe it is replete with due  
19 process rights, including temporary suspensions, the  
20 right and requirement for an administrative hearing  
21 before a decision can be finally rendered.

22 If you look at the regulation and read it, it's only  
23 a page. It appears that ABC is bending over backwards  
24 for the appellant, even allowing electronic hearing,  
25 evening hearing, and other means of setting times that is

1 most convenient to the appellant. So I certainly believe  
2 there is ample due process rights to the licensee.

3 Furthermore, the reasons are specifically  
4 articulated for such a temporary suspension revocation in  
5 a way that the current regulation isn't. So there is  
6 more specificity and clarity for the grounds for such  
7 suspensions of licenses. So in terms of both the  
8 substance of the regulation and the due process rights  
9 afforded the licensee appellant, I think it's  
10 appropriate.

11 I will say -- I know it's not related to today's  
12 hearing, but all of this is limited to actions on site of  
13 the licensee. But as you've heard from others this  
14 morning, and I associate myself with those comments, we  
15 are concerned about offsite delivery of alcohol through  
16 third-party deliverers, and some of the emergency  
17 regulations that were adopted authorizing those. And by  
18 the department's own findings, you know, and we certainly  
19 know anecdotally, that there are huge problems with the  
20 delivery of alcohol to youth through those third-party  
21 deliverers. So we would strongly encourage ABC to also  
22 consider tightening up those emergency regulations to  
23 protect youth as well.

24 Thank you for your time.

25 **MR. BOTTING:** Thank you, Mr. Jones. Appreciate your

1 time and comments, and good to see you, also, by video.

2 Not seeing any hands at this time. Again, if anyone  
3 wishes to make a comment in this public hearing, please  
4 click the raise your hand button.

5 Not seeing any comments at this point. It is  
6 currently 10:46. While the public hearing will remain  
7 open, just for purposes of the transcription and the  
8 record, we'll go off the record until -- unless and until  
9 someone raises a hand for comment. So I am going to mute  
10 my -- my microphone and video, and we'll reconvene if  
11 someone raises their hand. Thank you.

12 (Whereupon, a recess was held from 10:46 a.m.  
13 until 10:51 a.m.)

14 **MR. BOTTING:** All right. It is 10:51. Back on the  
15 record. We have a hand raised from Maurina Cintron.

16 Ms. Cintron, the floor is yours for comment. Thank  
17 you.

18 **MS. CINTRON:** Can you hear me?

19 **MR. BOTTING:** Yes, we can hear you. Thank you.

20 **MS. CINTRON:** Okay, great. Thank you.

21 Hello. My name is Maurina Cintron, and I'm a member  
22 of the California Alcohol Policy Alliance, also known as  
23 CAPA. I want to thank you for today's hearing, and I  
24 wanted to voice my support for the Administrative  
25 Emergency Decisions Regulation Action to suspend the

1 liquor license immediately that are unwilling to -- that  
2 are willfully, I apologize, willfully remaining open past  
3 curfew, with indoor service, overcapacity, and without  
4 probab -- proper public safety precautions because, in  
5 the middle of a global pandemic where lives are on the  
6 line, licensees must be held accountable for compromising  
7 quality of life further. In the same way that servers  
8 are held accountable for noncompliance, licensees must be  
9 held to the same standard of immediately (sic)  
10 accountability, especially during the time with an end --  
11 with no sight -- no end in sight; I apologize.

12 ABC must close the loopholes with this regulatory  
13 action to protect the public health, safety, and welfare,  
14 without waiting for a lengthy legislative process. This  
15 is a public health measure that is not negotiable; not  
16 anymore. Opposing these regulatory actions is complicit  
17 of illegal operations, and those that feel threatened by  
18 any of these regulatory actions needs to consider the  
19 communities that they want to serve it. Protecting  
20 community is protecting their business. We ask that ABC  
21 stand by their mission to protect public health, safety,  
22 and welfare through enforcing legislative standards.

23 Again, I want to thank you. I believe this is a  
24 great beginning in addressing public health, safety,  
25 welfare; also protecting the licensees further. Even

1 though the licensees may not see it that way now, as a  
2 public health provider I know, based on my experience,  
3 that when there are proper businesses, alcohol outlets,  
4 in communities, their communities thrive more, their  
5 businesses thrive more. For those -- the bad actors --  
6 as other people have made comment, I'm using bad  
7 actors -- in the community, the communities face more  
8 negative impacts. Businesses end up closing because  
9 there are no one -- there -- there's nobody in their  
10 community that will go to their business if they don't  
11 feel safe.

12 In this time where small businesses are closing, it  
13 would -- it saddens me and still saddens me that alcohol  
14 was deemed essential in a global pandemic, such as we are  
15 living in, and yet alcohol businesses still see their  
16 overprivilege in stating that -- you know, what ABC is --  
17 is standing up to the plate and really trying to put  
18 community first, and finally, is how I see it, a  
19 public -- you know, public health needs to always be  
20 number one if we want our communities to thrive, from  
21 businesses to everything else.

22 So again, thank you so much. My name is Maurina  
23 Cintron. I am a member of CAPA, and I bid you good day.

24 **MR. BOTTING:** Thank you, Ms. Cintron. Appreciate  
25 your comments and appreciate your time. In fact,

1 appreciate everyone's time for tuning into this Zoom  
2 public hearing and participating.

3 As we've seen, there may well be a lot of down time  
4 through the course of the day, since we are required to  
5 schedule this for the duration, 10 a.m. to 4 p.m. So we  
6 will again be going on and off the record as hands appear  
7 for making comment. So it is up to each of you to decide  
8 whether or not you want to stick around for the duration,  
9 but we will be here.

10 So the time currently is 10:56. Seeing no hands  
11 raised presently --

12 **MR. DE RUYTER:** Wait.

13 **MR. BOTTING:** Oh, excuse me.

14 **MR. DE RUYTER:** It looks like somebody did it in the  
15 chat. KC Branch.

16 **MR. BOTTING:** Oh. KC Branch has indicated in the  
17 chat that he is raising his hand. Again, to assist  
18 everyone not familiar with the use of Zoom, if you click  
19 on the "participants" tab, it will open the list of  
20 participants and there are various buttons that may be  
21 pressed or clicked on. "Raise Hand" is one of them, and  
22 that is how we will identify you, but you know, I'm glad  
23 we caught Mr. Branch on the chat box.

24 And I see your hand is now raised, Mr. Branch, so  
25 the floor is yours, please, for comment. Thank you.



1           **MR. BRANCH:** Good morning, Matt and the entire ABC  
2 and everybody else. Just wanted to say thank you for all  
3 your involvement during this pandemic, good, bad, or  
4 indifferent. Your time is appreciated, number one.

5           Number two, on this particular issue, I'm wondering  
6 whether anything in between the people who are very  
7 concerned about not shutting down bad actors for years  
8 and years, versus those who have -- those who wish that  
9 we have to give the Department all of its totalitarian  
10 power to shut you down, and you're guilty until proven  
11 innocent. And is -- was there anything in between that  
12 was considered that wouldn't be quite so dramatic and  
13 totalitarian that would allow for the Department to take  
14 care of the bad actors in a short -- in -- in a much  
15 shorter time, or things along those lines?

16           **MR. BOTTING:** Thank you, Mr. Branch, for your  
17 comment. As -- as indicated in the slide and at the  
18 outset, we will not be responding directly to comments or  
19 questions during this public hearing, but the comment is  
20 part of the record and will be responded to in the final  
21 rulemaking package submitted to the Office of  
22 Administrative Laws.

23           A hand is raised by Jill Orr.

24           I hope I'm pronouncing that correct, Ms. Orr. The  
25 floor is yours. Thank you.

1           **MS. ORR:** Okay. Can you hear me? I have not done  
2 this before.

3           **MR. BOTTING:** Yes, we can hear you just fine, thank  
4 you.

5           **MS. ORR:** Okay, great. I am a fairly new owner of a  
6 restaurant and bar in Dixon, and it's on the corner of  
7 the downtown, and we have been complying for the orders  
8 that were put out by the Governor, but I can say there is  
9 probably a lot of people that aren't. And it does  
10 concern me because, you know, we are doing the very best  
11 we can, and it is really hurting our business. We are  
12 losing money, a couple thousand dollars a day, by what  
13 we're, you know, having to, you know, do to keep our  
14 public safe. But yes, I would like to see something put  
15 into place.

16           So my concern is that if we don't regulate things  
17 quickly that this is only going to become worse, and it's  
18 going to keep us down longer because so many people are  
19 going to get sick. And it was a time where I didn't know  
20 people that were close to me in my org that had it, and  
21 in the last two weeks, I cannot even imagine right now  
22 seeing how many people that I know personally who have  
23 it. And this is the first time in my area that I've seen  
24 it so bad, and I was born and raised in this town.

25           So I'm not quite sure what to do. I want my fellow

1 people that have restaurants and bars to go -- please  
2 denote here, do what we need to do to get through this so  
3 we can all get better. And especially -- I know the  
4 vaccine's going to be coming soon, and that is going to  
5 really, I think, help us all. But I do -- I am concerned  
6 because I live in a -- a town that has the highest COVID  
7 of all of the cities in our county, so that is a great  
8 concern to me right now.

9       But I -- it is concerning because it's hard for us.  
10 We don't have any money right now. We're losing -- we do  
11 need, you know, some assistance, I know that's not part  
12 of what we're talking about now, but as somebody who's a  
13 personal owner and has put everything I own into this  
14 business and a lot of hard work, I'm very proud of it,  
15 and it is -- this is something that I -- I could never  
16 have foreseen.

17       And you know, I have a hard liquor license and I  
18 certainly do not want to lose it. So just my opinion,  
19 that this is really starting to concern me, how many  
20 people I know that are getting sick. So I don't know how  
21 else you can regulate it, but gatherings have happened,  
22 and you know, I guess we just need to do something about  
23 it. But yet, I don't want to see more things piled upon  
24 us that we just don't have time to do. We -- I think as  
25 owners that are small business owners, we employ probably

1 about twenty people. We do -- or we're doing so many  
2 things on our own to save money and costs that we never  
3 did before, but we have to because we don't want to lose  
4 our investment.

5 But as an owner that is directly impacted by this  
6 discussion and this coming up emergency order -- I mean,  
7 I just happened to come across this today because I was  
8 trying to get a hold of ABC for another issue, and I had  
9 no idea about this meeting, so I just came on this by  
10 accident. I haven't really had any time to read the  
11 codes or -- I've just been listening to the conversation.  
12 But yeah, I'm -- I'm somebody that's really personally  
13 going to be impacted by this decision. So all I know is  
14 that I would like to get through this pandemic as quickly  
15 as possible, so we can get back to business.

16 Thank you very much for your time.

17 **MR. BOTTING:** Thank you, Ms. Orr; appreciate your  
18 comments and your input, and wish you all the best with  
19 your business during this difficult time; very  
20 challenging.

21 And also, since you did indicate you just stumbled  
22 across -- across us today, when you have had an  
23 opportunity to review the regulation, the rulemaking  
24 package, if you do have additional comments -- and this  
25 is also for everyone else on this Zoom public hearing --

1 if you do wish to submit written comments, they will be  
2 accepted by the Department until 12 noon on December 9th,  
3 2020, so that's next Wednesday. They may be emailed to  
4 the Department at rpu@abc.ca.gov, or they can be snail  
5 mailed to the Department at 3927 Lennane Drive, Suite  
6 100, Sacramento 95834.

7 However, if you do snail mail them, they must be  
8 received by the Department by noon on December 9th. So I  
9 thank you again for your comments.

10 I see, Ms. Orr, you've raised your hand again, so if  
11 you have additional comments, please feel free to make  
12 them.

13 **MS. ORR:** Yes, I just wanted to find out, how would  
14 I have found out about this, since I do have a liquor  
15 license in California? Was there a notice or anything I  
16 should look to be aware of in the future for future  
17 decisions that may be coming down the pike that might  
18 affect my business?

19 **MR. BOTTING:** Yes, thank you very much. I'm going  
20 to ask Mr. de Ruyter to respond to that; he can provide  
21 some information to you.

22 **MR. DE RUYTER:** Hello? Is that me that's ringing?  
23 Okay.

24 I just wanted to let everyone know that the way to  
25 do this is to go to the abc.ca.gov website. If you go to

1 that abc.ca.gov website, in the upper, righthand corner  
2 there's a contact us and a subscribe button right next to  
3 each other.

4 Let's see if that's -- if that is me. I'm going  
5 to -- hold on one second.

6 **MR. BOTTING:** Yeah, sorry; we're getting -- sorry.  
7 If no one else can hear it, we're getting an alarm going  
8 off, so not sure exactly what's going on.

9 But just to reiterate and conclude what Robert was  
10 just saying there is that on the Department's website,  
11 which is www.abc.ca.gov, there is -- first of all, there  
12 is a link under the law and regulation -- the law and  
13 policy tab to pending rulemaking, so all of the  
14 information relative to this is available there. It's  
15 also -- Robert put a link on the chat, in the chat box.

16 In addition, if you wish to receive information from  
17 ABC, there is, on the Department's homepage, a subscribe  
18 button that can be pushed, and you can input your email  
19 address. And there are a variety of different topics  
20 available to select from, if you want specific  
21 information on -- you know, that the Department may push  
22 out, or you can subscribe to all of those options, and  
23 then the Department does push information out, using  
24 Mailchimp. In addition, information is available through  
25 ABC's Twitter feed and Facebook page. So there are a

1 variety of options, if you wish to receive information  
2 from the Department on an ongoing basis.

3 I see Ms. Orr has raised her hand again, so if you  
4 have additional comments, please feel free to make them.  
5 Thank you.

6 **MS. ORR:** That's amazing. I just want to let you  
7 know, I -- I just signed up; I'm all good to go, and I  
8 appreciate that. I am going to stay on top of  
9 everything.

10 And I'm actually going to -- I'm on the Chamber  
11 board of directors in our community, and also I'm going  
12 to go to the City of Dixon and tell them we need to be on  
13 top of that, as our economic development director.

14 So thank you very much. I appreciate everything.

15 **MR. BOTTING:** Thank you, Ms. Orr. Appreciate your  
16 comments and appreciate your time and interest in this  
17 public hearing.

18 Not seeing any hands up at this moment. The time is  
19 11:08. So for purposes of the continuity of the record,  
20 we will go off the record at this point, and I'm going to  
21 mute myself, audio and video, and we'll come back on if  
22 anyone raises their hand for comment. Thank you.

23 (Whereupon, a recess was held from 11:08 a.m.  
24 until 11:18 a.m.)

25 **MR. BOTTING:** Okay. The time is 11:18, and we are

1 back on the record in the public hearing on the  
2 Administrative Emergency Decision Pending Regulation. We  
3 have a raised hand from Heather Longridge.

4 Ms. Longridge, the floor is yours for public  
5 comment. Thank you.

6 **MS. LONGRIDGE:** Thank you, Mr. Botting.

7 Hello, everyone. Again, my name is Heather  
8 Longridge. I'm a teen drug and alcohol prevention  
9 provider in Los Angeles County. I work for Behavioral  
10 Health Services. I want to thank you for having this  
11 forum for us to share, and I want to thank everyone that  
12 has spoken before I got on here. I think there's been a  
13 lot of great comments to consider from alcohol prevention  
14 providers and responsible alcohol retailers. So I back  
15 up statements that have been made about, you know, how to  
16 handle alcohol retailers that are not following through  
17 on the laws.

18 And I want to just say that -- I wanted to make  
19 comment in regard to Responsible -- Responsible Beverage  
20 Service training, and I want to thank you for putting the  
21 links in the chat box to review. And I was checking on  
22 AB 1221; that would be the law that requires Responsible  
23 Beverage Service trainings to persons and restaurants,  
24 bars, fast casual dining, tasting rooms, hotel, and  
25 stadiums to receive a Responsible Beverage Service



1 training, I believe by -- it's -- the date is July of  
2 2022.

3 And so for the purposes of AB's -- ABC's response,  
4 with comments, as part of the package submitted to the  
5 Office of Administrative Law, I would ask them to  
6 consider how -- how we could close the gap on the issues  
7 with the third-party delivery services, which have had up  
8 to thirty-five percent failure rates in checking IDs  
9 during delivery. I think I saw those numbers for August  
10 of 2020.

11 I think there's a lot of the alcohol retailers that  
12 are acting responsibly. I think they, ABC, local law  
13 enforcement and prevention providers, many of us want to  
14 make sure that we're all on the same page with public  
15 safety, and the risk -- and reduce the risk of deliveries  
16 to underage youth.

17 And finally, I would add -- of course, for the --  
18 the many reasons of public safety, and I would also add  
19 that, as studies show, teens that consume alcohol are  
20 many times more likely to become addicted to the  
21 substance at some point during their lives, maybe well  
22 into their adult years. But it is a -- a risk for teens  
23 to consume alcohol, and I thank you for considering my  
24 comments today. Thank you.

25 **MR. BOTTING:** Thank you, Ms. Longridge. Appreciate

1 your time and your comments.

2 A reminder. If anyone wishes to make a public  
3 comment relative to the Administrative Emergency Decision  
4 pending regulation, please raise your hand in the  
5 "participants" box in the Zoom meeting, and we can call  
6 upon you.

7 Not seeing any hands at this time, it is now 11:22,  
8 and we will go off the record at this time, so I will  
9 once again be muting my audio and video, but if anyone  
10 does wish to make a comment, please just click that  
11 "Raise Hand" button and we will open the record again.  
12 Thank you.

13 (Whereupon, a recess was held from 11:22 a.m.  
14 until 11:28 a.m.)

15 **MR. DE RUYTER:** All right. I apologize; had to step  
16 from the meeting for a moment, but we do have a raised  
17 hand, so we'll be going on the record. It is now 11:28.

18 So I believe Mr. Livingston raised his hand, and the  
19 floor is yours.

20 **MR. LIVINGSTON:** You broke --

21 **MR. DE RUYTER:** Bruce, are you there?

22 **MR. LIVINGSTON:** That's me? Okay.

23 **MR. DE RUYTER:** Yes.

24 **MR. LIVINGSTON:** Can you hear me? Okay.

25 My name is Bruce Livingston. I'm the executive

1 director of Alcohol Justice, the alcohol industry  
2 watchdog. I am in support of the regulations for  
3 emergency decision procedures for administrative actions  
4 against alcohol licenses. This regulation will allow ABC  
5 to suspend liquor licenses immediately that are willfully  
6 remaining open past curfew, with indoor service,  
7 overcapacity, or without proper public safety  
8 precautions. Especially in the middle of the global  
9 COVID-19 pandemic, where lives are on the line, licensees  
10 must be held accountable for business practices that  
11 threaten health and safety.

12 ABC's mission is to protect public health, safety,  
13 and welfare through licensing alcohol businesses and  
14 enforcing legislative standards. We vigorously applaud  
15 ABC taking this action. Alcohol sales are a privilege.  
16 Operating legally is not difficult. Licensees that  
17 consistently won't follow the rules should, indeed, be  
18 shut down, and alcohol sales will continue at other  
19 establishments that do follow the law.

20 Let me speak to the question of due process.  
21 Section 147, parts (a) through (f), constitute numerous  
22 administrative procedures and processes. Section 147  
23 part (c), in particular, requires an administrative  
24 hearing to determine if alleged violation -- if an  
25 alleged violation constitutes an immediate threat to

1 health, safety, or welfare. Due process is embedded in  
2 this regulation and can withstand any threats of legal  
3 challenges that have already been made in testimony  
4 earlier this morning.

5       Additionally, I would maintain that third-party  
6 delivery licensee -- licensing is directly re -- relevant  
7 to this emergency regulation. Numerous studies and news  
8 reports have shown a significant increase in third-party  
9 delivery during the COVID-19 pandemic. ABC's own surveys  
10 consistently show that delivery persons are not  
11 conducting age card checks, nor are they trained to  
12 conduct card checks through Responsible Beverage Service  
13 trainings.

14       Third-party delivery services should be licensed,  
15 and we believe that ABC has the authority to require such  
16 licenses. If third-party deliver is licensed, the  
17 delivery services could be subject to this Administrative  
18 Emergency Decision regulatory action. Section 147(b)(5)  
19 states the applicability. "Licensee or employee or agent  
20 of the licensee knowingly permits on a consistent basis,  
21 violations of law that constitute grounds for suspension  
22 or revocation of the license". So that section states  
23 the applicability of third-party delivery, which is that  
24 the licensee is allowing -- that would be the onsite  
25 licensee -- is allowing the third-party delivery service

1 to violate the law because they know that that  
2 third-party delivery service is not following the law.

3 It is patently clear that giving alcohol from a  
4 licensee to a delivery service on a premise constitutes  
5 an on-premise activity. If that delivery service does  
6 not train its workers or require age checks at the door,  
7 that is an on-premise violation, as the delivery service  
8 is the equivalent of a server who deliveries -- delivers  
9 alcohol actually on the site.

10 This would be better controlled if ABC actually  
11 licensed the third-party delivery service and included  
12 that activity as part of this emergency order. But I  
13 would maintain that it's -- the third-party delivery  
14 applicability is already embedded in part 147(b) (5).

15 We are in a global pandemic. And while supporting  
16 economic interests is a part of our society, all handling  
17 of alcohol sales in all capacities need to be held to the  
18 same standard of regulation. Businesses cannot be saved  
19 at the expense of innocent lives. People are more  
20 important than profit during a pandemic.

21 I ask that you seriously consider all comments  
22 related to third-party delivery as part of this hearing  
23 because of that section 147(b) (5).

24 Thank you for holding this. I appreciate the work  
25 that Bob de Ruyter is doing and Matthew Botting on this,

1 and thank you for a very open, public process that is  
2 considering these regulations. My comments are complete.

3 **MR. DE RUYTER:** All right. Thank you for your  
4 comments, Mr. Livingston. Appreciate them and your time,  
5 as well as everybody else who has been sticking with us  
6 through this hearing.

7 Seeing no other hands, just want to remind anyone  
8 who is new or who has come into this meeting since we  
9 have started that in the "participants" button on the  
10 bottom of your screen, there are buttons at the bottom of  
11 the window that opens. The "Raise Hand" button is on the  
12 left hand side. If you would like to speak and share  
13 your comments with us here at ABC about the  
14 Administrative Emergency Decisions, please raise your  
15 hand and you will be given five minutes, and everyone can  
16 sign up for multiple five-minute periods, as long as the  
17 public hearing is going forward. We will be here until 4  
18 p.m.

19 Seeing no hands, we will go off the record. The  
20 time is now 11:35, and we will be off the record until we  
21 have someone who wishes to come in. Thank you.

22 (Whereupon, a recess was held from 11:35 a.m.  
23 until 11:58 a.m.)

24 **MR. BOTTING:** All right. The time is 11:58. We are  
25 back on the record. We have a hand up from Veronica De

1 Lara.

2 Ms. De Lara, the floor is yours for comment. Thank  
3 you.

4 **MS. DE LARA:** Thank you. Can you hear me?

5 **MR. BOTTING:** Yes. We can hear you just fine, thank  
6 you.

7 **MS. DE LARA:** Great.

8 **MR. BOTTING:** Please go ahead.

9 **MS. DE LARA:** Hi, everyone. My name is Veronica De  
10 Lara. I am the cochair of the California Alcohol Policy  
11 Alliance. We're an alliance that focuses on protecting  
12 the health and safety of our communities in the State of  
13 California, and we do that by addressing alcohol-related  
14 harms. I want to thank ABC for creating this avenue, for  
15 people to speak and make their voices heard.

16 I am here in support of the Administrative  
17 Decision -- Emergency Decision regulatory action to  
18 suspend liquor licenses immediately that are not  
19 following proper guideline.

20 I would like to remind everyone that we are in a  
21 global pandemic, and this won't end unless we start to  
22 take extreme measures to regulate businesses that are not  
23 following the law. ABC must close the loophole with this  
24 administrative regulatory action, in an effort to protect  
25 our public health in the State of California.

1 I will also add that we need to address the issue of  
2 the third-party delivery licensing. As this is a  
3 relevant issue to the -- this emergency regulation. We  
4 have seen an increase of third-party delivery during this  
5 global pandemic. These third-party deliveries are not  
6 being regulated nor trained. ABC needs to regulate them  
7 by requiring them to have license. We need to protect  
8 our children, our parents, our families, and our  
9 communities. People's lives are at risk. We need to  
10 address this public health crisis, and we will do that by  
11 holding alcohol licenses accountable.

12 And let's not pretend that they aren't bad operators  
13 and that they're not contributing to the spread of the  
14 virus. Some alcohol businesses are allowing the  
15 gathering of people and are willfully remaining open past  
16 curfew hours, with indoor service, and allowing  
17 overcapacity, and not following proper public safety  
18 precautions. I'm hoping that we can put an end to this  
19 global pandemic and ABC can be instrumental on how we can  
20 accomplish that.

21 Thank you to ABC for providing this platform. Thank  
22 you.

23 **MR. BOTTING:** Thank you, Ms. De Lara, for your  
24 comments and your time to participate in this public  
25 hearing on the Administrative Emergency Decisions Pending



1 Regulation.

2       Again, for anyone who may have just joined us, if  
3 you do wish to make a comment with respect to the pending  
4 regulation, on emergency -- Administrative Emergency  
5 Decisions, please go to the "participants" tab in the  
6 Zoom meeting and click on the "Raise Hand". We will be  
7 going off the record and then on again when we see hands  
8 raises.

9       So at this time, seeing no hands, it is now 12:01,  
10 and we will go off the record again. And if anyone does  
11 wish to comment and raises their hand, we will return and  
12 come back on the record. So thank you very much. I will  
13 now be muting my audio and -- (audio ends midsentence)

14               (Whereupon, a recess was held from 12:01 p.m.  
15               until 12:11 p.m.)

16       **MR. BOTTING:** Hello, everybody. The time is 12:11.  
17 We're back on the record in the public hearing on  
18 Administrative Emergency Decision. Apparently, through  
19 the chat function, Maribel Briseno has indicated that she  
20 wishes to speak.

21       So Ms. Briseno, the floor is yours. Thank you.

22       **MS. BRISENO:** All right. Thank you so much. Good  
23 afternoon, everyone.

24       Yes, my name is Maribel Briseno, and I am here today  
25 speaking -- wearing two hats. My first hat is one of --

1 as a prevention and community advocate here, in the  
2 Antelope Valley. And for those of you that don't know  
3 where the Antelope Valley is, we are located in the  
4 service provider area one of Los Angeles County and  
5 Southern California.

6 My second hat is as a resident and a high propensity  
7 voter for the State of California, and specifically  
8 living in the city of Palmdale.

9 I am here to request that the Administrative  
10 Emergency Decision Regulatory Action be looked at as a  
11 public health measure that is not, I repeat, that is not  
12 negotiable, and that ABC closes the loophole with this  
13 regulatory action to protect the public health, safety,  
14 and welfare, without -- without waiting for a lengthy  
15 litigation process.

16 Also, I would like to request that the third-party  
17 delivery be looked at and regulated because we cannot  
18 continue to lose lives in trying to save businesses.  
19 Again, as a high propensity voter and resident of the  
20 Southern California Palmdale city, I ask that all of  
21 today's hearing's comments and statements are taken into  
22 account as a serious account. A lot of us are very, very  
23 passionate in trying to work diligently with our  
24 community to make sure that, one, our businesses succeed,  
25 but also our public health is foremost and the -- and the

1 lives that we can save are -- are most important to all  
2 of us.

3 I thank you for your time today, and that is my  
4 public statement. Thank you.

5 **MR. BOTTING:** Thank you, Ms. Briseno. I appreciate  
6 your -- sorry about that. I got accidentally muted,  
7 inadvertently.

8 Thank you, Ms. Briseno, for your time and effort in  
9 attending today's Zoom public hearing. Again, while  
10 we're still on the record, just a reminder to everyone  
11 that if you do wish to make a public comment relative to  
12 the pending regulation from Administrative Emergency  
13 Decisions, please raise your hand in the "participants"  
14 button, and we will return back onto the record to take  
15 your comment.

16 Additionally, if you do wish to submit a written  
17 comment, the comment period remains open until 12 noon,  
18 next Wednesday, December 9th, 2020. Written comments  
19 must be received by then. There's an email address on  
20 your screens, [rpu@abc.ca.gov](mailto:rpu@abc.ca.gov). That link is also in the  
21 documents on the Department's website at [abc.ca.gov](http://abc.ca.gov),  
22 relative to this rulemaking package, and the Department  
23 will respond to all timely submitted comments, in  
24 addition to the verbal comments submitted today in this  
25 public hearing. The responses will be part of the final

1 rulemaking package that will be submitted to the Office  
2 of Administrative Law at some point after December 9th.  
3 So thank you very much.

4 And again, if you wish to review any of the  
5 documents relative to this rulemaking package, they are  
6 available on the Department's website at abc.ca.gov.  
7 Thank you very much. The time is now 12:16. Seeing no  
8 hands raised, we will again go off the record and I will  
9 mute my audio.

10 (Whereupon, a recess was held from 12:16 p.m.  
11 until 12:34 p.m.)

12 **MR. BOTTING:** Hello, again, everyone. The time is  
13 12:20 -- I'm sorry, 12:34. We will go back on the  
14 record.

15 Oh, did I not start my video? I apologize. Okay,  
16 sorry.

17 The time is 12:34 p.m. We're going back on the  
18 record for the public hearing in the emergency --  
19 Administrative Emergency Decision pending regulation. We  
20 have a raised hand from Jaime Rich to make a public  
21 comment.

22 So Mr. (sic) Rich, the floor is yours. Thank you.

23 **MS. RICH:** Hello. I'm here representing Northern  
24 California, Bay Area, Pittsburg, Bay Point Community  
25 Coalition, and I would like to especially support

1 regulation of third-party deliveries.

2       Especially in my work with young people, which I  
3 work a lot, I have mentioned this issue to them in the  
4 many meetings, and whether you may think they would be  
5 all for, no, don't regulate it so I can get, you know,  
6 booze, they're not for that. They see it as really  
7 taking advantage of them, and they want to see more  
8 regulations put into place. They don't like that it's so  
9 easy for their fellow young people to access alcohol, and  
10 I expect that we will be hearing directly from some of  
11 these groups, too, because they are that empowered. So  
12 that is the main thing that I wanted to say. So thank  
13 you.

14       **MR. BOTTING:** Thank you, Ms. Rich. And I apologize;  
15 I referred to you as Mr. Rich earlier, so I do apologize.

16       **MS. RICH:** It --

17       **MR. BOTTING:** It was before the video showed up.

18       **MS. RICH:** -- it's -- it's happened to me -- it's  
19 happened to me in my life quite a few times, so don't  
20 worry about it.

21       **MR. BOTTING:** So thank you for your comment.  
22 Greatly appreciated, and appreciate your time and  
23 participating in this public hearing.

24       And just a reminder to anyone who has recently  
25 logged onto this public hearing, again, it is to take

1 comments regarding the pending regulation on  
2 Administrative Emergency Decisions. The comment period  
3 is open until 12 noon, next Wednesday, December 9th,  
4 2020, and written comments can be submitted until that  
5 time. They cannot be considered if they are received  
6 after that time. So if you do wish to submit written  
7 comments, as opposed to making a public comment on this  
8 Zoom hearing, then feel free to do so.

9 And with that being said, if you do wish to make a  
10 comment here, please click the "Raise Hand" button under  
11 the "participants" tab on your Zoom screen, and we will  
12 take your public comment.

13 Seeing no hands currently, the time is now 12:37, we  
14 will again go off the record and I will mute my audio and  
15 stop my video until such a time as we see a raised hand,  
16 if any. So thank you very much.

17 (Whereupon, a recess was held from 12:37 p.m.  
18 until 12:40 p.m.)

19 **MR. BOTTING:** The time is 12:40 and we are back on  
20 the record in the public hearing for Administrative  
21 Emergency Decision regulation. A hand is being raised by  
22 Charles Porter.

23 Mr. Porter, the floor is yours for public comment.

24 **MR. PORTER:** Thank you. Charles Porter. I work in  
25 Los Angeles, California with United Coalition Youth

1 Prevention Program -- Prevention Project (ph.). It's a  
2 program of social model recovery systems. And we work in  
3 the Skid Row area of Los Angeles. And I'm speaking on  
4 behalf of our concerned coalition members and also in  
5 solidarity with the prevention advocates.

6 I'm speaking on the record to express support for  
7 Administrative Emergency Decisions Regulatory Action to  
8 suspend licenses that are in violation of existing rules  
9 and remain open past curfew, allow indoor service, that  
10 are overcapacity, or don't have the proper public safety  
11 precautions.

12 We have many concerns in our neighborhood. Skid Row  
13 is a -- historically known as a -- a community of  
14 recovery as well. Not just people suffering with -- with  
15 addiction, mental illness, the ills of poverty, and other  
16 social determinants of health, but we also have great  
17 concerns during the current pandemic about the increased  
18 drinking rates across the board, you know, in all  
19 communities. And we also have strong concerns about the  
20 need to regulate third-party delivery, and how on-site  
21 locations are able to sell offsite.

22 We already struggle in Skid Row, trying to have a  
23 diversity of land use that is not focused on  
24 alcohol-driven entertainment, gentrification. There's  
25 existing population of low-income individuals that need

1 the amenities that many neighborhoods don't have. And  
2 what we've seen downtown, is a lot of the uses are  
3 alcohol-focused and driven.

4 And in the past, the onsite locations, such as  
5 restaurants, have been viewed as benign uses because  
6 people -- you know, they feel where there's food being  
7 served and they're not taking alcohol to go, it's not  
8 being delivered, but all that has changed now, with --  
9 with onsite locations being able to sell offsite, and  
10 that has really thwarted a lot of community efforts to  
11 really try to address public health issues through local  
12 zoning; this has really throwing a monkey wrench in that  
13 process.

14 And we have strong concerns because there has  
15 been -- there have been documented increased drinking  
16 rates, and we know that alcohol is -- is a threat to  
17 public health and wellness, and -- and it can only  
18 exacerbate the current health crisis we're dealing with  
19 now. So I just want to put that on the record that we  
20 are concerned about that, particularly with no end in  
21 sight. So we struggle with local regulations and they're  
22 trying to make it easier for restaurants to open and sell  
23 alcohol, but the -- their vision is it will only be  
24 onsite, but currently, all restaurants can sell offsite.  
25 And so that -- that creates a huge problem on the local



1 level.

2       So if -- if there can be some kind of clear sunset  
3 period, if there can be some kind of temporary suspension  
4 of -- of license being issued until there is a -- a  
5 really equitable system created because we don't know if  
6 these restaurants are -- are legit restaurants now, you  
7 know, because of the demand for alcohol. They could be  
8 selling mostly alcohol. We have no way to -- to -- to  
9 monitor that, and we -- and the third-party delivery  
10 folks, we've heard concerns that -- them not checking for  
11 ID, and not really having a regulatory process to monitor  
12 any of this, and so I -- I ask that you take these things  
13 into consideration, and again, we're in support of the  
14 Administrative Emergency Decisions Regulatory Action, and  
15 also expressing concerns about the need to regulate  
16 third-party delivery. Let me check my notes to make sure  
17 I covered everything.

18       And just to highlight that, in regards to the  
19 overconcentration of alcohol licenses in -- in our -- in  
20 our community, many of -- of what we're struggling now is  
21 that many of the -- the census tracts are hundreds of  
22 times in excess of what ABC has -- has given as  
23 guidelines. And so that is a -- that is a whole other  
24 problematic challenge that we face, is that there --  
25 there are existing guidelines that are being completely

1 ignored. And as I mentioned now, we have additional  
2 threats of, just, availability being a priority and  
3 access to alcohol being a priority, and we don't feel  
4 that that supports community health and wellness.

5 So as much as possible, if you could support in  
6 helping communities and community advocates to have more  
7 protections, to hold stores accountable, but also to have  
8 protections to limit access, particularly by -- by  
9 minors, and to prevent overconsumption of alcohol. Thank  
10 you.

11 **MR. BOTTING:** Thank you very much, Mr. Porter.  
12 Your -- your time and making comments in this public  
13 hearing are greatly appreciated. Thank you very much.

14 See a raised hand from Albert Melena. I hope I  
15 didn't butcher that name too badly.

16 **MR. MELENA:** No, no. Actually perfect.

17 **MR. BOTTING:** Mr. Melena, the floor is yours. Thank  
18 you.

19 **MR. MELENA:** Good afternoon. My name is Albert  
20 Melena. I'm the executive director of the San Fernando  
21 Valley Partnership in San Fernando Valley of Los Angeles  
22 County. I am also here in solidarity with our prevention  
23 partners and other community members who support the  
24 Administrative Emergency Decision action.

25 Specifically with offsite sales and the delivery, we

1 really are seeing a dramatic increase in -- in incidents  
2 with young people. We are actually having people  
3 desperately physically coming to our office with their  
4 young people, who they're just not -- they're not  
5 understanding how kids are getting their hands on  
6 alcohol.

7       And I think during this whole COVID situation, we  
8 all support businesses and -- and really keeping them  
9 afloat. Unfortunately, the alcohol sales are unregulated  
10 alcohol sales, or a lack of oversight; really is  
11 impacting public health, public safety, in creating this  
12 unimaginable circumstances for parents, but we are -- are  
13 witnessing the impact of these sales, and with little  
14 oversight or regulation, this problem is only going to  
15 continue to get worse. With young people confined and  
16 stressed and all of the problems that are coming with  
17 this whole COVID, alcohol is really adding fuel to that  
18 fire.

19       So we strongly support -- and again, I'm here in  
20 solidarity with our prevention community to support the  
21 Administrative Emergency Decision, so thank you so much.

22       **MR. BOTTING:** Thank you, Mr. Melena, for your time  
23 and comments. Greatly appreciated, and do appreciate  
24 everyone's participation in this public hearing.

25       Once again, I know you're probably going to get sick

1 of me, you know, repeating this, but for anyone new, just  
2 joining us, you are participating in the public hearing  
3 on the Department of Alcoholic Beverage Control's pending  
4 regulation for an Administrative Emergency Decisions. If  
5 you do wish to make a comment relative to that pending  
6 regulation, please click the "Raise Hand" button, which  
7 is under the "participants" tab in your Zoom homepage,  
8 and we will call upon you.

9 If you wish to submit written comments, you may do  
10 so via email, to the email address that you should be  
11 seeing on your screen, which is rpu@abc.ca.gov, or you  
12 can mail them in. If you do mail them in, they must be  
13 received by noon, next Wednesday, December 9th, 2020, so  
14 plan accordingly. Similarly, if you do submit by email,  
15 they have to be received by that time as well. That is  
16 when the public comment period closes on this pending  
17 regulation.

18 And all comments, both written and verbal, made  
19 today, will be responded to by the Department as part of  
20 the rulemaking package that will be submitted to the  
21 Office of Administrative Law.

22 And with that, seeing no hands raised at this time,  
23 it is now 12:50 p.m. This public hearing will remain  
24 open until 4 p.m. today, and but at this time, we will  
25 just go off the record and I will be muting my audio

1 and -- I muted it too soon. I didn't say thank you after  
2 I muted it.

3 (Whereupon, a recess was held from 12:50 p.m.  
4 until 12:56 p.m.)

5 **MR. BOTTING:** All right. The time is 12:56 p.m. We  
6 are back on the record for the public hearing and  
7 Administrative Emergency Decision. We have a raise had  
8 from Friedner Wittman.

9 Mr. Wittman, the floor is yours, and it's very good  
10 to see you.

11 **MR. WITTMAN:** (Audio interference) --

12 **MR. BOTTING:** Sorry to interrupt, Fried (ph.).  
13 Fried, I'm sorry; there appears to be some problem with  
14 the audio on your end. It sounds like you've been  
15 sucking on a helium balloon. We can't actually make out  
16 what you're saying.

17 No, we cannot -- cannot hear you; I'm sorry.

18 **MR. WITTMAN:** (Audio interference)?

19 **MR. BOTTING:** No, it's -- unfortunately, it sounds  
20 like Alvin & the Chipmunks.

21 **MR. WITTMAN:** (Audio interference) --

22 **MR. BOTTING:** No, I cannot hear you or understand  
23 you at all, and none of us here can, so I'm thinking it  
24 may be the audio on your end. I can see your lips  
25 moving, but I cannot hear you.

1           **MR. WITTMAN:** (Audio interference).

2           **MR. BOTTING:** No, I'm sorry; it's completely  
3 garbled, Mr. Wittman. Sounds like you may have some  
4 audio issues with your mic. If you're not able to, you  
5 know, get some other microphone to participate, please  
6 feel free to submit your comments in writing. They will  
7 be considered.

8           Oh, actually in the -- I'm sorry, hold on a second.

9           Is it in the invitation? Okay.

10          In the Zoom call invitation there is a -- you know,  
11 there are some phone numbers where you can call in and  
12 speak on the phone to participate. That may be a better  
13 option at this point. Just turn your microphone off when  
14 you do that for your -- and you will still be seen on  
15 video.

16          If you're having difficulty finding the phone  
17 number, wave and we will put a number in the chat box for  
18 you.

19          Okay. Give me just a moment. They will put a  
20 number in the chat box.

21          Okay. A phone number is being put into the chat box  
22 right now, so take a look at that in just a moment and  
23 call in and -- fingers crossed -- that will resolve this  
24 issue.

25                   (Pause)

1           **MR. BOTTING:** All right. We did put a phone number  
2 in the chat box for everyone. Mr. Wittman has advised us  
3 via chat that he's having issues and will submit his  
4 comments in writing, so --

5           Is someone there? Okay. I'm sorry.

6           Yeah, so at this time, seeing no other hands raised,  
7 we will go off the record again. It is 1:02 p.m.

8           **MR. WITTMAN:** (Audio interference).

9           **MR. BOTTING:** Yeah. It sounded like, Mr. Wittman,  
10 you were trying to speak again, but we were having the  
11 same problem, with garbled audio. So if you do get that  
12 remedied, or if you want to try calling in using the 888  
13 number, please raise your hand again and we will come  
14 back on the record, but at this time we'll just -- we'll  
15 go off the record at 1:03 p.m. Thank you.

16                       (Whereupon, a recess was held from 1:03 p.m.  
17                       until 1:05 p.m.)

18           **MR. BOTTING:** All right. The time is 1:05. We're  
19 going back on the record. Mr. Wittman has called in to  
20 make the comments.

21           Fried, if you could do me a favor -- or actually, I  
22 think we can do it -- mute the computer, so -- because I  
23 was -- yep, there we go.

24           **MR. WITTMAN:** Yes --

25           **MR. BOTTING:** All right. Mr. Wittman --

1           **MR. WITTMAN:** -- that is correct.

2           **MR. BOTTING:** -- the floor is yours thank you very  
3 much for calling in --

4           **MR. WITTMAN:** All right.

5           **MR. BOTTING:** -- and commenting.

6           **MR. WITTMAN:** And thank you for accommodating me.

7           I want to speak in support of the regulations. AS a  
8 researcher and as a community planner working with local  
9 control, with the use of local planning and zoning  
10 regulations to manage retail alcohol outlets. In  
11 supporting the emergency regulations, I want to ask that  
12 the ABC look very carefully in its regulations at  
13 recognizing ac -- actions by local jurisdictions to take  
14 actions against problematic outlets in violation of their  
15 local use permits and local codes, and develop a way that  
16 the state ABC can suspend licenses on an emergency basis  
17 when there are repeated examples of violations -- with  
18 good evidence by complaints and by police statements and  
19 so on -- that the operator is -- is -- is not following  
20 the ABC regulations, so that the cities will be able to  
21 step in and take action appropriately and get the  
22 attention of their operators.

23           Regarding third-party regulations, I -- I think it's  
24 very important that however these regulations are  
25 written, the maintain very strict levels of oversight



1 that the ABC is famous for, in ensuring that the  
2 transaction of sales, of the retail sale, of movement of  
3 the product from the retailer to the consumer in exchange  
4 for payment, is done in such a way that there is a very  
5 high standard of -- of oversight to make sure there's no  
6 violation of the ABC sales, particularly regarding sales  
7 to minors, sales to obviously intoxicated people, and  
8 sales in situations that create dangers to the -- to the  
9 person or to other people in the area.

10       And that -- that will take quite a bit of effort, I  
11 think, to work out an electronic monitoring system that  
12 will provide that level of security, and that monitoring  
13 system needs to be maintained and reviewed, both by the  
14 state, by the ABC, and also by the local jurisdiction, so  
15 it's -- it's a very tall order to ensure that you've got  
16 high fidelity in maintaining ABC regulations in these  
17 third-party regulations.

18       And it's -- I agree with the earlier comments about  
19 the widespread problems with diligence and following  
20 regulations for delivery.

21       So those are my comments; thank you. And I'll put  
22 them in writing as well.

23       **MR. BOTTING:** Thank you, Mr. Wittman. Appreciate  
24 your time and interest in participating in this public  
25 hearing. Thank you for your comments.

1 A reminder, again, if anyone does wish to make  
2 comments in this hearing, please raise your hand in the  
3 Zoom "participants" box.

4 And I see someone took me up on that invitation very  
5 quickly, Cynthia Finnigan, and you have indicated you  
6 wish to make a public comment, so Ms. Finnigan, the floor  
7 is yours.

8 **MS. FINNIGAN:** All right. Thank you so much.

9 Hi, everyone. My name is Cynthia Finnigan, and I'm  
10 a member of the California Alcohol Policy Alliance, CAPA.  
11 As a resident of Santa Clarita, and as someone who works  
12 in LA cities, specifically the Hollywood area, I am in  
13 support of the Administrative Emergency Decisions  
14 Regulatory Action to suspend liquor licenses immediately  
15 that are willfully remaining open past curfew, with  
16 indoor service, overcapacity, and/or without the proper  
17 public safety precautions because ABC's mission is to  
18 protect public health, safety, and welfare through  
19 licensing alcohol businesses and enforcing -- and  
20 enforcing legislative standards.

21 However, the current law, though it does have a  
22 large loophole that will allow licensees to continue to  
23 cause immediate danger to public health, safety, and its  
24 welfare. Not addressing this loophole is complicit with  
25 higher rates of contracting COVID-19 and ultimately

1 death. This regulatory action is about holding bad  
2 actors accountable, and this is pro public health and pro  
3 community interest.

4 In addition, we demand ABC takes public health and  
5 safety precautions and regulates the third-party  
6 delivery. It's important because there's a lack of  
7 oversight from those third-party deliveries. ABC has  
8 conducted sting operations that have shown over 70  
9 percent failure of compliance. This lack of regulation  
10 is further compromising youth and families of color, who  
11 lack the information to comply appropriately. Thank you.

12 **MR. BOTTING:** Thank you very much for your time and  
13 comments; greatly appreciated.

14 Again, if anyone wishes to make a comment, please  
15 click the "Raise Hand" button, and we will call upon you.

16 Seeing no one at this time, we will go off the  
17 record until someone indicates they wish to make a -- a  
18 comment on the record.

19 The time is now 1:11 p.m., and I will be muting my  
20 audio and stopping the video.

21 (Whereupon, a recess was held from 1:11 p.m.  
22 until 1:31 p.m.)

23 **MR. BOTTING:** All right. The time is 1:31 p.m. We  
24 are back on the record in the public hearing for an  
25 Administrative Emergency Decision regulation pending, and

1 Mayra Jimenez has raised her hand to be heard.

2 So Ms. Jimenez, the floor is yours. Thank you.

3 **MS. JIMENEZ:** Thank you. And thank you, ABC, for  
4 hosting this public hearing.

5 My name is Mayra Jimenez, and I'm the advocacy  
6 manager at Alcohol Justice. I am a lifelong resident of  
7 the city of Los Angeles, specifically the neighborhood of  
8 Highland Park, and I do organizing around advocating for  
9 community and public health issues, as they pertain to  
10 alcohol regulation in Southern California and across the  
11 state.

12 I'm here to support the Administrative Emergency  
13 Decision regulation. This is a really important thing  
14 for us to consider today, and I just want to emphasize  
15 that this is a life -- sorry, a longstanding issue of  
16 lack of compliance. This isn't something that is new to  
17 the pandemic, but this is something that we're discussing  
18 now, and we've seen be further exacerbated during the  
19 pandemic. And we have an opportunity to really, truly  
20 recognize those establishments that care about quality of  
21 life, public health and safety, and be able to address  
22 those that are bad actors and have historically not been  
23 complying with the law.

24 So I want to really emphasize that the fact that  
25 we're here today is not to condemn licensees. This is

1 specifically for those that are not complying with the  
2 law and are bad operators. I personally have worked in  
3 the communities of Pico Union, Koreatown, and Westlake in  
4 Los Angeles, more closely around addressing the issue  
5 with noncompliant businesses there, where you have a  
6 two-mile radius and over 300 licenses in that area.

7 And so it's important to -- to -- to highlight here  
8 that community members -- and it is well-known that it --  
9 it is very difficult to shut down an establishment, and  
10 it's not an accessible process for community members at  
11 all. In communities like this, it is very well known  
12 that it takes ten years or more to be able to get an  
13 establishment to be shut down, and this is a problem.

14 And so this is why we're here today. We have folks  
15 that have spoken around the issues in their communities.  
16 This is a prevention issue. This is a public health  
17 issue. This hearing today is about being proactive and  
18 not reactive, which is what we continue to see as a part  
19 of the challenge with alcohol licensees. So this is an  
20 opportunity for transparency and accountability.

21 And as we heard from a previous licensee, those that  
22 truly want to operate in accordance with the law will be  
23 doing so, and those that will not, this will be an  
24 opportunity to clear the path. We are in the middle of a  
25 global pandemic, with a lot more that is being

1 compromised. And for far too long these businesses that  
2 have not been operating or have been operating unlawfully  
3 have benefited from this long litigation process. And so  
4 those opposed to this clearly support bad operators and  
5 compromising this quality of life.

6 And I really want to emphasize the life component  
7 because the time that we're in right now really offers us  
8 an opportunity to improve this -- how severely we have  
9 contributed to the detriment of lives over time, and  
10 specifically, now, during this pandemic. So opposing to  
11 this regulation really puts into question the morals of  
12 those that are still choosing to stand up and speak out  
13 on behalf of profits over people, where we truly are just  
14 trying to get folks to abide by the law and be operators  
15 that have good faith, and our businesses that are working  
16 to support community and be establishments of good  
17 intention.

18 And I want to emphasize what was mentioned early --  
19 earlier that not addressing this loophole is very clearly  
20 complicit with contributing to higher rates of  
21 contracting COVID-19 and ultimately death. And so this  
22 is very critical that ABC takes a strong stance on this.  
23 Something that historically has, perhaps, been a  
24 challenge for the Department. The pandemic offered this  
25 opportunity to have that leadership, to be able to

1 address these issues in the community, and garner a lot  
2 more support. As you've seen, folks are speaking out on  
3 this. There is a lot of concern. And this is a very  
4 important issue that we are here, speaking out again --  
5 out, in support of.

6 And in addition, I want to elevate the demands of  
7 the other folks that have spoken on this, to emphasize  
8 the importance of taking these public health and safety  
9 precautions that have been central to us being here for  
10 this hearing today, to also consider the key role that  
11 regulating third-party delivery plays in this process.

12 And I really want to emphasize this, because we do  
13 not want any of those comments that were made in relation  
14 to third-party delivery to be dismissed because this is  
15 very much a part of how are we hol -- holding alcohol  
16 licensees accountable, and the disbursement of alcohol in  
17 our community we know is legally something that is  
18 intended to be licensed and regulated, and as explained  
19 prev -- previously by other folks that commented, it is  
20 very clear that there is a gap here, and today we're  
21 here, talking about a loophole that exists.

22 Third-party delivery is another opportunity that  
23 needs to be integrated into this dialogue, and none of  
24 these comments should be thrown out because there should  
25 be a license type for third-party delivery, without

1 question. The question of regulating third-party  
2 delivery should not even be slightly a negotiation. ABC  
3 is the state department regulating alcohol licensee --  
4 licensing, and this is about ABC using their power to do  
5 the right thing and promote positi -- positive quality of  
6 life to protect -- protect those most negatively  
7 impacted: black, brown, and low-income families.

8 ABC really is in a place to take a more equity-based  
9 approach and consider how those most impacted by things  
10 like sting operations or lack of compliance are those  
11 least informed and already heavily policed, as opposed to  
12 creating regulations to address this lack of procedure  
13 that exists for third-party delivery.

14 So advocates today have spoken on looking for ABC's  
15 leadership to address this crisis of alcohol availability  
16 through these third-party providers, and we need to act  
17 now. This is about kids. My kids, your kids, those  
18 suffering from social isolation, mental health, or  
19 dealing with recovery issues. This is about my family  
20 members and neighbors. Those who work for these  
21 third-party delivery companies, trying to make a living  
22 during a pandemic and maybe not having the right  
23 information, and possibly compromising their livelihood  
24 even further by not having the appropriate regulation to  
25 instate training for themselves, to have training



1 instated for themselves, to be able to provide the  
2 delivery of alcohol in accordance with the law.

3       And so we can't continue to not regulate. This lack  
4 of regulation -- or pretend that this isn't something  
5 that's not happening. And we can't continue to remain  
6 stagnant or reactionary on alcohol compliance anymore.  
7 The pandemic is really encouraging and pushing a lot of  
8 our departments to be more proactive and step up to the  
9 occasion, because we are losing lives. We are  
10 compromising a lot in our communities, especially those  
11 black, brown, and low-income folks.

12       And it's clear that this is an opportunity to put  
13 low-income, brown, black children and families first, and  
14 the Department has the opportunity to do that. Because  
15 all -- all handling of alcohol sales in all capacity  
16 needs to be held to the same standard of regulation, and  
17 people are clearly more important than profit during this  
18 pending -- pandemic, so we really encourage ABC to take a  
19 critical look at both of these two pieces, and how do we  
20 make sure that we're holding licensees accountable and  
21 creating the appropriate processes to not further  
22 compromise the equity issues that we already have in our  
23 communities.

24       Thank you for your time.

25       **MR. BOTTING:** Thank you, Ms. Jimenez, for your time

1 and comments. Greatly appreciated.

2 No hands are presently raised for additional  
3 comments, so we will go off the record momentarily.  
4 However, just again, a reminder, that if you do not wish  
5 to make verbal comments in the course of this hearing,  
6 but wish to submit comments, you may do so in writing to  
7 the Department at the email address you should be seeing  
8 on your screen, or all of the information is also on the  
9 Department's website, abc.ca.gov, under the law and  
10 policy tab and pending regulations. You may access all  
11 of the documentation relative to this particular  
12 regulation.

13 The comment period does close at 12 noon next  
14 Wednesday, December 9th, 2020. All comments must be  
15 received by the Department at that time. Any late  
16 comments cannot be considered.

17 So we will go off the record here again at 1:41 p.m.  
18 And if anyone does wish to make a comment, please raise  
19 your hand in the Zoom screen, that "participants" tab,  
20 and we will go back on the record to hear your comments.  
21 Thank you very much.

22 (Whereupon, a recess was held)

23 **MR. DE RUYTER:** Hello, everybody. This is Robert de  
24 Ruyter for ABC. I'm trying to get on video here. Just a  
25 second. There we are.

1           Matthew Botting had to step out of the room for a  
2 moment, so I'm here. It looks like we have two hands.  
3 The first to go up was Isaac Hong.

4           You will have five minutes to speak and have the  
5 floor. After that, I will put a message out if the five  
6 minutes is done, and we'll move on to Jessica Abaya. If  
7 there's more, Mr. Hong, that you have to say, you can  
8 sign up for a second five-minute increment if -- if you  
9 desire.

10          With that, Isaac Hong, the floor is yours.

11          **MR. HONG:** Oh, thank you. Thanks, first of all,  
12 I -- I would like to thank ABC to have this public  
13 hearing for us.

14          My name is Isaac, and I am a member of Coalition for  
15 Prevention and Awareness in LA Metro area. I am in  
16 support of the Administrative Emergency Decision  
17 regulation to suspend li -- liquor licenses immediately  
18 that are willfully remaining open past curfew, with  
19 indoor service, overcapacity, and are without proper  
20 public safety precautions because being essential is a  
21 privilege, not a right.

22          ABC has the administrative power to regulate,  
23 especially for -- operate business in a not right way.  
24 And also, this will provide clarity to law enforcement  
25 officers, ABC licensees, and the public of the regulatory

1 procedure to implement Administrative Emergency Decisions  
2 to stop, also, people who operate le -- operate their  
3 business not right way.

4 And also, I would like to ask for ABC to take public  
5 health and safety precaution and regulate third-party  
6 delivery. This is really important because there is no  
7 formal or streamlined Responsible Beverage Service  
8 training especially for the third-party delivery  
9 providers. We get that for the drivers if they get more  
10 delivery they get more money, more -- we get that, but I  
11 would like them to, like, follow the law and be  
12 responsible with their delivery. However, it seems that  
13 we don't really have straight, or like, proper regulation  
14 to that delivery platform, so I wish that ABC could work  
15 for that specific area, as well.

16 And that's it; thank you.

17 **MR. DE RUYTER:** Thank you. We'll now have -- hear  
18 from Ms. Jessica Abaya.

19 The floor is yours.

20 **MS. ABAYA:** Hello. Thank you.

21 My name is Jessica Abaya, and I am a member of CAPA,  
22 California Alcohol Policy Alliance, and AADAP,  
23 Asian-American Drug Abuse Program. I am in support of  
24 Administrative Emergency Decisions Regulatory Action to  
25 suspend liquor licenses immediately that are willfully

1 remaining open past curfew, with indoor service,  
2 overcapacity, and/or without proper public safety  
3 precautions because, well, at some point during the  
4 summer months, during the safer at home, and when the  
5 curfew orders were placed, a popular app, Uber Eats, sent  
6 a notification message that stated: Uber Eats now serves  
7 alcohol. I was shocked because I learned this  
8 information from my niece, who is 20 years old, via a  
9 text message screenshot. Of course, with young adults  
10 comes curiosity, and to see if alcohol can really be  
11 delivered to the home. And with just one click, the  
12 barbecue place that she ordered from delivered the  
13 beverage to her home.

14 My concern is not only placed on my niece, who now  
15 had access to alcohol products, but it is also placed on  
16 the idea of the multiplier factor; how many other  
17 underage young adults, eighteen to twenty years old,  
18 received this notification on their phone, stating that  
19 Uber Eats now serves alcohol, and how many fell victim to  
20 this message notification.

21 One drink may seem harmless to some, but it's one  
22 drink that could lead to many more. Alcohol beverages  
23 need to be carefully monitored, especially before it  
24 leaves the restaurant through a third-party delivery app  
25 and into the wrong hands.

1           In addition, I demand ABC take public health and  
2 safety precaution and regulate third-party delivery.  
3 This is important because while everyone is interested in  
4 profits made, especially during the pandemic, we should  
5 also understand how to monitor alcohol transactions from  
6 the point of origin, i.e. the restaurant, and all the way  
7 into the consumer's hands, which is the endpoint.

8           I wouldn't want to see alcohol in the hands of my  
9 niece again, or any under -- underage young adult, for  
10 that matter. We are in a global pandemic, and while  
11 supporting economic interest is part of our society, all  
12 handling alcohol sales in all capacities needs to be held  
13 in the same standard of regulations. Businesses cannot  
14 be saved at the expense of innocent lives; especially my  
15 niece. Thank you.

16           **MR. DE RUYTER:** Want to thank you, everyone, for  
17 their comments. I believe we have another hand up.

18           And I apologize, I'm going to butcher this last  
19 name, but Antwon Cloird.

20           **MR. CLOIRD:** Yes, how you doing? My name is Antwon  
21 Cloird. I am the AOD District 1 (ph.) supervisor for  
22 West County. In my region, there is too many liquor  
23 stores in the black neighborhoods, black and brown  
24 neighborhoods. They're, like, stacked on top of each  
25 other. And so it's hard to monitor those youngsters that

1 are getting access to cigarettes and alcohol because it's  
2 just -- there's profit; you know what I'm saying?

3 And so as I'm hearing the other responders talk  
4 about, you know, after hours opening and taking licenses,  
5 it should have been going on anyway. It's just --

6 And with the hotels, having delivery to these  
7 hotels, I'm also -- I'm -- I'm working on these hotels  
8 and I look at the clients and their substance abuse use.  
9 And it's, like, we have rules here, but you know, they go  
10 off premises and do what they do and come back totally  
11 discombobulated, you know? And

12 It's just a lot, man, that we really have to sit  
13 down and discuss and come to a medium, bottom line, of  
14 how we're going to serve this population in a healthy  
15 manner. Excuse me.

16 So that's all I have to say. Thank you.

17 **MR. DE RUYTER:** Like to thank everybody for their  
18 comments and for being able to participate in this public  
19 hearing. I don't see any more hands, but for -- sorry to  
20 be a broken record, like Matt, but if you are wanting to  
21 speak at this public hearing, we'll be here until 4.  
22 Please raise your hand using the "participants" button  
23 and the "Raise Hand" button at the bottom left hand  
24 corner of the window that comes up, so we can know that  
25 you would like to speak.

1 We'd like to thank everybody for being here and  
2 taking time out of their day to provide feedback for the  
3 regulatory package on Administrative Emergency Decisions  
4 and we will now go off the record. It is 2 o'clock p.m.,  
5 and we'll return if we have another commenter. Thank  
6 you.

7 (Whereupon, a recess was held from 2:00 p.m.  
8 until 2:33 p.m.)

9 **MR. BOTTING:** Hello again, everyone. It is 2:33.  
10 We are going back on the record with the public hearing  
11 for the Administrative Emergency Decision regulation that  
12 is pending with the Department of Alcoholic Beverage  
13 Control. Appreciate those of you hardcore attendees who  
14 are managing to stick around through all of the down  
15 time. We have been advised through the chat function  
16 that Brenda Villanueva -- sorry for butchering that --  
17 would like to speak.

18 So Ms. Villanueva, please go ahead with your  
19 comment. Thank you.

20 **MS. VILLANUEVA:** Hi. Thank you for the opportunity.

21 My name is Brenda Villanueva, and I am a member of  
22 the California Alcohol Policy Alliance, and I'm cochair  
23 of the Los Angeles Drug and Alcohol Policy Alliance. I  
24 am in support of Administrative Emergency Decisions,  
25 regulatory action to suspend liquor licenses immediately



1 that are willfully remaining open past curfew, with  
2 indoor service, overcapacity, and/or without proper  
3 public safety precautions because this loophole allows  
4 for lengthy lite -- litigation that can defer action for  
5 months and years, meanwhile continue to harm the public  
6 at the expense of business interests.

7       Being essential is a privilege, not a right. ABC  
8 has the administrative power to regulate bad operators.  
9 This regulatory action is about holding bad actors  
10 accountable, and this is pro public health and pro  
11 community interests. ABC's mission is to protect public  
12 health, safety, and welfare through licensing alcohol  
13 businesses and enforcing legislative standards, and not  
14 addressing this loophole is complicit with higher rates  
15 of contracting COVID-19 and ultimately death.

16       In addition, we demand ABC take public health and  
17 safety precaution and regulate third-party delivery.  
18 This is important because there is a lack of oversight of  
19 third-party delivery, and with stricter stay-at-home  
20 orders, delivery is deemed an essesh -- essential  
21 service, but it is not regulated. ABC has conducted  
22 sting operations that have shown over seventy percent  
23 failure of compliance of third-party delivery with youth,  
24 being compromised at the expense of this lack of  
25 regulation and oversight.

1           This lack of regulation is further compromising  
2 youth and families of color, who lack the information to  
3 comply appropriate -- appropriately. This is likely to  
4 lead to enforcement that negatively impacts low-income  
5 communities of color; black and brown folks already  
6 suffering from higher rates of COVID, unemployment, and  
7 overall further compromised quality of life. ABC needs  
8 to take an equity-based approach and consider how those  
9 most impacted by sting operations for lack of compliance  
10 are those least informed and already heavily policed, as  
11 opposed to creating regulation to address the lack of  
12 procedure.

13           We're all dealing with this pandemic and we are all  
14 pro-business and moving the society forward, but it  
15 shouldn't be at the expense of public health or public  
16 safety and at the expense of those most -- most  
17 vulnerable. Businesses cannot be ex -- saved at the  
18 expense of innocent lives. People are way more important  
19 than profit during a pandemic. Thank you.

20           **MR. BOTTING:** Thank you very much for your comments  
21 and your time in participating in this public hearing.  
22 Again, to those of you who had -- who are maybe new to  
23 this -- this public hearing, the Zoom hearing, we are  
24 taking public comments on the Department's published,  
25 proposed regulation for Administrative Emergency

1 Decisions. If you do not wish to participate in this  
2 portion of the comment period, that is fine. You may  
3 still submit comments in writing to the Department.

4 They must be received by the Department by noon, 12  
5 noon next Wednesday, December 9th, 2020. They can be  
6 sent to the email address on your screen, rpu@abc.ca.gov,  
7 or they can be snail mailed, as long as they are actually  
8 received by the Department by noon next Wednesday. If we  
9 do not have them in hand by then, they cannot be  
10 considered as part of this rulemaking package.

11 All comments, both written and verbal, will be  
12 responded to as part of the final rulemaking package that  
13 will be submitted to the Office of Administrative Law.  
14 And again, we really do appreciate the engagement of you  
15 all in this process. It was very important to the  
16 Department and it does aid us in finalizing this  
17 regulatory package.

18 So with that, again, if you do want to make  
19 comments, the "Raise Hand" button under the  
20 "participants" tab in the Zoom menu will indicate to us  
21 that you wish to be heard on the record. This is being  
22 recorded and a written transcript of the comments today  
23 will also be prepared and will be made available as part  
24 of the final rulemaking package.

25 So seeing no hands being raised presently, we will

1 go off the record again. It is 2:39 p.m. This hearing  
2 does remain open until 4 p.m., so at 3 -- if no one  
3 raises their hand to be heard, at 3:30 I will go back on  
4 the record and we'll leave it open for any last-minute  
5 comments that people may have, with the intention of  
6 actually closing the record at 4 p.m.

7 So at this stage, I will mute myself again. It is  
8 now 2:39, and we will go off the record.

9 (Whereupon, a recess was held from 2:39 p.m.  
10 until 3:23 p.m.)

11 **MR. BOTTING:** Hello again, everyone. It is 3:23  
12 p.m. We're back on the record with the Administrative  
13 Emergency Decision public hearing. Thank you again to  
14 those of you who are sticking around to the bitter end.

15 We've been advised through the chat function that  
16 Xavier Flores wishes to speak.

17 Mr. Flores, please make your comments. Thank you.

18 **MR. FLORES:** All right. Well, thank you very much  
19 for -- for this opportunity.

20 I work in the area of the Antelope Valley, Los  
21 Angeles County. And present in this hearing right now  
22 are three other staff, Rosie Mainella, Aurora Hernandez,  
23 and Victor Ramirez. We're all here to express our strong  
24 support for the re -- regulatory relief that gives ABC,  
25 Alcohol Beverage Control, the authority to close down

1 licenses when they don't abide by the rules that are  
2 being put in place right now, the regulatory relief  
3 rules. We're very much in favor of ABC having authority  
4 to close those establishments down.

5       And I would like to add that we were kind -- to  
6 taken aback when we saw some of ABC's documents, claiming  
7 that the reason they were allowing for delivery of  
8 alcohol beverages to different households was, in fact --  
9 well, it seemed to us that the emphasis was on  
10 benefitting the business and making sure they don't go  
11 under, giving them an opportunity to stay afloat, and we  
12 get that. But somewhere along the line, we read that it  
13 might even benefit those individuals who are experiencing  
14 a great deal of stress, as a result of all the  
15 Coronavirus fallout: lack of employment, losing jobs,  
16 losing their small businesses, et cetera. I believe that  
17 ABC has no place making those kinds of statements. They  
18 shouldn't. I hope we don't see them ever again.

19       You know, coming from the health field and looking  
20 at this issue from a completely different perspective,  
21 it's our opinion that alcohol would do nothing but  
22 exacerbate the problem. Not relieve stress, but actually  
23 cause more, and cause more problems, too. We know it's  
24 related to spousal abuse, child abuse, aggravated  
25 assaults, a lot of violence. And that's the last thing

1 we need to see right now.

2 So again, we support the regulations that gives  
3 authority to ABC to clamp down on businesses that are not  
4 abiding by the rules. At the same time, we hope ABC  
5 takes another position on the issue of alcohol  
6 availability to those being impacted by Coronavirus, and  
7 reverses the position that it's -- actually could be a  
8 benefit to them. It -- we -- we doubt that very much.

9 All right. Thank you.

10 **MR. BOTTING:** Thank you, Mr. Flores, for your  
11 comments. They will be considered in the context of the  
12 pending regulatory action for Administrative Emergency  
13 Decision.

14 At this point -- it is almost 3:30. This public  
15 hearing is scheduled to go until 4 o'clock. So rather  
16 than going off the record again, at this time I'm just  
17 going to stay on. I will mute myself, so you don't hear  
18 me coughing, but we'll just sort of keep the video on,  
19 stay on and available. But if anyone does wish to make  
20 any comments, please click on the "Raise Hand" feature  
21 under the "participants" tab in the Zoom call, so that we  
22 can then recognize you and call upon you for the -- for  
23 submitting public comments.

24 Once again, however, if you do not wish to make a  
25 statement here or a public comment in this hearing, you

1 may still submit written comments to the Department that  
2 we'll -- that must be received by ABC on or before 12  
3 noon, on December 9th, 2020. They can be submitted by  
4 email or regular mail, as long as they are received by  
5 that time. And all comments, including comments made  
6 here, during this hearing, will be responded to in  
7 writing as part of the submission of the Department to  
8 the Office of Administrative Law for consideration in  
9 this regulation package.

10 I see that Carson Benowitz-Fredericks has raised his  
11 hand to be -- to make a comment.

12 So Mr. Benowitz-Fredericks, please submit your  
13 comment. Thank you.

14 **MR. BENOWITZ-FREDERICKS:** Great, thank you. Thank  
15 you, Matthew, and thank you for the opportunity to speak.

16 My name is Carson Benowitz-Fredericks. I am from  
17 Alcohol Justice in San Rafael, California, and resident  
18 of El Cerrito, California. I am speaking in support of  
19 ABC's decision to use emergency powers to suspend  
20 licenses prior to appeal when there are clear and present  
21 threats to public health. This is a -- a power that is  
22 within not just the scope of ABC's po -- ABC's  
23 responsibilities, but it is necessary for ABC to be able  
24 to continue their mandate of keeping alcohol sales legal  
25 and simultaneously, safe.

1           As many have said before, this is doubly so --  
2 doubly necessary now because we do have a pandemic. A  
3 pandemic spreads for -- among people, whether or not  
4 they've made the decision to go into a bar, so that,  
5 again, one person say -- nobody can say my decision to go  
6 have a drink tonight is solely my own risk; they are  
7 putting the risk of people who had no intention of  
8 engaging that exposure -- putting their -- making it --  
9 putting them at risk of potential fatal complications  
10 from COVID-19.

11           More broadly, I want to emphasize that alcohol harm  
12 and alcohol overconsumption is not a moral issue. It is  
13 not a -- it is not the sort of creeping decay issue. It  
14 has the potential to lead to grievous injury and death in  
15 the short term. So with that in mind, ABC absolutely  
16 needs to be able to suspend licenses in -- in context  
17 where somebody -- where there is a clear risks of  
18 violence in the area, clear risks of driving under the  
19 influence, clear risks of service to underage patrons, or  
20 service to already intoxicate patrons.

21           To loop back to underage patrons, you know,  
22 alcohol-related causes are the leading cause of -- the  
23 leading preventable cause of death in this age group. So  
24 again, while -- when we act -- when -- when we allow this  
25 to draw out for six months, for nine months while the --



1 while appeals are heard and responded to, we are not  
2 just, you know, making it more complicated, we are  
3 actually making it so that these outlets can contribute  
4 to immediate death. This -- this is something that,  
5 again, ABC was founded -- it is central to their mission  
6 to prevent and control this, and we support their  
7 continued abilities to do so.

8 I do want to also speak to defend some of my  
9 colleagues who have been raising the issue of, in  
10 particular, third-party delivery in this -- in this  
11 context. I do want to try -- make the -- the effort to  
12 connect this back to emergency powers. Essentially, we  
13 are -- with third-party and a number of the regulatory  
14 relief measures, we are entering a unexplored area of  
15 deregulation, in terms of alcohol service, and that leads  
16 to the possibility that people will act not understanding  
17 what these new -- new rules are, or ultimately could be  
18 an outright bad actor using these rules to, essentially,  
19 give themselves plausible deniability of what their  
20 actual responsibilities are.

21 With that in mind, you know, we -- we -- we believe  
22 that quick action to stop sales that are, again, at risk  
23 of causing us immediate harms, this immediate injuries,  
24 immediate death, that is the purview of AB -- ABC. And  
25 therefore, as ABC is using emergency powers to suspend

1 the licenses that it has, it needs to be able to create  
2 new categories of licenses and new categories of  
3 oversight for these other actors that are engaged in  
4 alcohol sales, that are benefitting from alcohol sales,  
5 but have absolutely no accountability for the harm that  
6 it may cause. And the easiest way to do that, obviously,  
7 is to license them and then use the emergency powers to  
8 suspend that license if there is -- if they are acting to  
9 the detriment of public health and safety.

10       So with that in mind, again, I -- I ask that ABC's  
11 use of these emergency powers be protected, that it be  
12 continued after this COVID emergency is over. I -- this  
13 is -- again, these powers are necessary whether or not  
14 there is a short-term crisis.

15       These actions do, again, reward. Not -- they don't  
16 just punish people who are in violation. They basically  
17 make it so that there is not unfair competition for  
18 licensees that remain in compliance with public health  
19 and safety guidelines.

20       And again, we are a little bit into the unknown, and  
21 we should be bringing -- bringing businesses that are  
22 operating in these sort of gray space into the oversight  
23 of ABC, and we should be able to use emergency powers to  
24 suspend their ability to operate if they are not doing so  
25 in good faith.

1 Thank you for your time.

2 **MR. BOTTING:** Thank you very much for your comments.

3 We have a raised hand from Rosie Mainella.

4 Ms. Mainella, the floor is yours for your comments.

5 Thank you.

6 **MS. MAINELLA:** Good afternoon to everyone. Do you  
7 want me to take -- what is it? The hostess asked you  
8 start your video. Oh. No, I didn't brush my hair today.  
9 Hello. So I did brush my hair, I'm just -- you know, not  
10 my best today.

11 But I just wanted you guys to know that I -- we've  
12 been reading about -- I'm -- well, my name is Maria  
13 Mainella and I'm with the Pueblo y Salud in the Antelope  
14 Valley Palmdale/Lancaster area, and we've been having a  
15 huge rise in our COVID cases, and we don't believe that  
16 alcohol is a necessity in this particular time. And it  
17 also weakens the immune system, putting people more  
18 susceptible at catching the Coronavirus.

19 But also, we're concerned about the delivery  
20 services of alcohol, just because they're not very well  
21 regulated. So if we can find ways to do a better job of  
22 that, it would be greatly appreciated. And I agree with  
23 the statements that were just made a few minutes ago by  
24 Carson Benowitz and Xavier Flores in regards to you  
25 having the power to make a difference in those businesses

1 that are not complying to the -- to the laws and rules  
2 and regulations. So I'm just for that.

3 And thank you. I don't have much more to say.  
4 We're just wanting to keep our communities safe,  
5 especially the young people that are not supposed to be  
6 drinking at this moment, and for some reason, they're  
7 able to get their alcohol on, no matter what.

8 And it's -- it's very detrimental, especially now,  
9 because a lot of the kids are using marijuana in  
10 conjunction with the alcohol. And I don't know if you  
11 know, but if you use marijuana, which is an antiemetic,  
12 it helps you not to throw up. And one of our very own  
13 systems in our body, whenever we have too much alcohol in  
14 our system, we're -- we throw it up, right? So that way  
15 we don't get alcohol poisoning. But now, since they're  
16 mixing the two together, it has become a lot more  
17 dangerous. So we need to be more cautious, and -- and do  
18 more -- more education, which we are doing, as Pueblo y  
19 Salud, in our community, but it needs to go out to  
20 everyone and let them know that this is going on. And  
21 that's all I have to say.

22 Thank you very much for your time, and thank you.

23 **MR. BOTTING:** Thank you very much. We greatly  
24 appreciate your time and your comments. They will be  
25 included as part of the record in this rulemaking

1 proceeding.

2       It is 3:37 currently, so we've just got a little bit  
3 more than twenty minutes before the hearing will close  
4 out, so if anyone remaining still has any comments they  
5 wish to make on the record, then please feel free to  
6 raise your hand in the participant box, and we will call  
7 upon you. Alternatively, as I've indicated previously,  
8 you can submit comments in writing. They can be emailed  
9 or mailed to the Department.

10       If you have not yet reviewed the rulemaking package  
11 in its current form, you know, we do encourage you to do  
12 so. It's all -- all of the documentation is available on  
13 the Department's website at [abc.ca.gov](http://abc.ca.gov), and you can  
14 access it through the law and policy tab on the homepage,  
15 and the rulemaking activities. The current language, the  
16 statement of reasons, and written comments received to  
17 date are all available through that -- through those  
18 links. So I do encourage you to review everything, and  
19 again, written comments must be received by the  
20 Department no later than noon next Wednesday, December  
21 9th, 2020. The Department cannot consider any written --  
22 or any comments received after that time.

23       Thank you very much. We're just going to -- I'm  
24 going to mute myself, but we'll stay on video and leave  
25 this open until 4 o'clock, at which point I will close

1 the hearing. So if you do wish to make comments at this  
2 point, please do raise the hand. Thank you.

3 All right. We have a raised hand from Raul Verdugo.

4 And Mr. Verdugo, please make your comments. Thank  
5 you.

6 I'm sorry, Mr. Verdugo; if you are speaking, we  
7 cannot hear you.

8 **MR. VERDUGO:** Thank you.

9 **MR. BOTTING:** Oh, there we go. Right.

10 **MR. VERDUGO:** Thank you.

11 **MR. BOTTING:** Okay.

12 **MR. VERDUGO:** I appreciate that. Thank you.

13 All right. As a member of the Los Angeles Drug -- I  
14 support the Administrative Emergency Decisions Regulatory  
15 Action to immediately suspend the liquor licenses of  
16 those who are willfully remaining open past curfew, with  
17 indoor service, overcapacity, and/or are operating  
18 without public safety precautions.

19 The ability to operate any business within our state  
20 is not an entitlement. It's a privilege that is  
21 accompanied by laws and regulations. No merchant should  
22 have the ability to undermine the public health of the  
23 community for which it is meant to serve, nor the  
24 recommended guidelines put in place by our government  
25 agencies and/or public health officials. Consequential

1 measures should be set in place to preserve public health  
2 and penalize those who offend it.

3 I also support those who have made the demand that  
4 ABC act upon public health and safety precautions to  
5 regulate third-party delivery. Handling of alcohol sales  
6 in all capacities needs to be held to the same standards  
7 of regulation. Businesses cannot profit at -- at the  
8 expense of innocent lives, least of all now, during the  
9 pandemic. Thank you.

10 **MR. BOTTING:** Thank you very much for your comments;  
11 they will be out of the record. Greatly appreciated.

12 So we will remain on the record for the next  
13 nineteen minutes. If anyone else wishes to make  
14 comments, please raise your hand in the "participants"  
15 tab. Thank you.

16 (Pause)

17 **MR. BOTTING:** Looks like we have Ruben Rodriguez  
18 raising his hand in the old-fashioned way of actually  
19 raising his hand on video, rather than clicking on the  
20 button.

21 So I presume that means you wish to make a comment,  
22 so please feel free to do so. Thank you.

23 **MR. RODRIGUEZ:** Yes, I -- I just want to -- also to  
24 add my -- my -- my comment about the --

25 First of all, Ruben Rodriguez; I'm -- I'm with --

1 executive director of Pueblo y Salud, and I'm also a  
2 member of Los Angeles Drug and Alcohol Polica -- Policy  
3 Alliance and by extension, member of California Alcohol  
4 Policy Alliance, and I just want to, you know, also put  
5 on the record that, you know, I -- I am, or we are, in  
6 support of the Administrative Emergency Decision,  
7 regulatory action to suspend liquor licenses immediately  
8 that are willfully remaining, you know, open past curfew,  
9 with indoor services, overcapacity, and/or without proper  
10 public safety precautions.

11       You know, for the same reasons that -- that we do  
12 with every other establishment, you know, that by and  
13 large is problematic and they violate rules and  
14 regulations and -- and laws, and -- and you know, it  
15 takes forever to deal with any type of problem outlet.  
16 So you know, I want it on -- put on the record that I  
17 think ABC should be able to -- you know, with -- with all  
18 fairness, if someone's violating or not following the law  
19 or procedures that their license should either be  
20 suspended immediately or -- or revoked because -- you  
21 know -- you know, there's -- they saw these loopholes and  
22 ways of getting around these problems that are caused by  
23 people that don't play by the rules. So I just wanted to  
24 do that.

25       And -- and then, obviously the other one of -- of



1 you know, that -- you know, ABC regulate these  
2 third-party delivery services that, you know, are not  
3 trained. Probably will be young people that -- that, you  
4 know, will not be checking IDS or even if they see  
5 somebody that's already maybe intoxicated, that you know,  
6 they're just going to deliver the liquor -- the liquor  
7 anyways. And the same argument, you know? We -- we  
8 always have had a -- I guess the unofficial third  
9 parties, when -- you know, the shoulder taps when young  
10 people ask an older person to buy liquor for them. You  
11 know, I could just see this -- this third-party delivery  
12 service, you know, doing the same thing.

13 So I just want to be on the record. We're -- we're  
14 sa -- we're saying ABC should be -- should figure out a  
15 way to regulate that and -- and do it quickly. Because  
16 I'm hoping this pandemic passes soon, but -- and we  
17 understand. You know, the economics, people need to  
18 conduct their business, but you know, the way I look at  
19 it, if you're running a restaurant or a food  
20 establishment, then your success should be determined by  
21 good food, or good quality food or good service, and not  
22 have to resort to a -- to you know, selling liquor. I  
23 mean, that's almost like saying, you know -- you know, if  
24 you were selling liquor --

25 I mean, I'm going to an extreme here, you could also

1 be selling drugs on the side, or you know, and some of  
2 the -- I'm not going to say the -- the ethnic group, but  
3 there was restaurants in certain areas of San Francisco,  
4 LA, where you could go, you know, be served food, and  
5 there would be, you know, prostitution going on on the  
6 side, you know, or a -- I don't know what you would call  
7 that, you know. Or gambling, for that matter.

8       So you know, a restaurant is a restaurant. It does  
9 not have to depend on -- on liquor to survive, so you  
10 know, anything we can do to slow the -- that  
11 accessibility of -- of liquor, especially to the younger  
12 people, I think ABC needs to do that.

13       And that's it. Thank you.

14       **MR. BOTTING:** Thank you, Mr. Rodriguez. Your  
15 comments will be part of the rulemaking package.

16       Again, if anyone wishes to make a comment, you can  
17 click on the "Raise Hand" button or do as Mr. Rodriguez  
18 did, the old-fashioned way and wave your hand to get our  
19 attention, but if you do that, make sure your camera is  
20 on, otherwise we won't see you and you'll just be waiving  
21 to yourself.

22       So thank you very much. We have about twelve  
23 minutes before the hearing closes, so if anyone has any  
24 comments, please make yourself known at this stage.

25       (End of recording)

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