

## TITLE 4. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

February 18, 2022

### NOTICE OF PROPOSED RULEMAKING

The Department of Alcoholic Beverage Control (ABC) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

ABC has not scheduled a public hearing on this proposed action. However, the department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to ABC. The written comment period closes at **12:00pm on April 5, 2022**, ABC will consider only comments received at ABC Headquarters by that time. Submit comments to:

Law and Policy Unit  
Department of Alcoholic Beverage Control  
3927 Lennane Drive, Suite 100  
Sacramento, CA 95834

Comments may also be submitted by email to [RPU@abc.ca.gov](mailto:RPU@abc.ca.gov), please include “Priority Registration Drawings” in the subject line of your email.

#### AUTHORITY AND REFERENCE

Authority: Sections 23816, 23817, 23820, 23821, 23959, 23961, 23962, 24070, and 24079 Business and Professions Code.

Reference: Sections 494.5, 23394, 23396, 23396.1, 23396.2, 23396.3, 23691, 23816, 23817, 23818, 23820, 23821, 23826, 23826.5, 23826.7, 23826.9, 23826.10, 23826.11, 23826.12, 23826.13, 23826.14, 23827, 23950, 23951, 23952, 23953, 23954, 23954.6, 23956, 23957, 23958, 23958.4, 23959, 23961, 23962, and 24070 Business and Professions Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action is designed to clarify terms regularly used by the industry and to establish the processes and procedures for the Department of Alcoholic Beverage Control to conduct yearly priority drawings. This action also makes efforts to modernize the priority drawing process by eliminating the manual analog process and implementing a digital randomized process.

### **Summary of Existing Laws and Regulations**

Business and Professions Code section 23961 describes the situation that a priority drawing is necessary and the requirements to participate in such drawings.

### **Summary of Effect**

The broad objective of this regulation is to create a uniform process of selecting priority registrations for hopeful ABC license holders.

### **Comparable Federal Statute or Regulations**

ABC has determined that this proposed regulation does not have a comparable federal statute or regulation.

### **Policy Statement Overview**

The mission of the Department of Alcoholic Beverage Control is to provide the highest level of service and public safety to the people of the State through licensing, education, and enforcement. The Department values trust, innovation, and professionalism. This proposed regulation ensures a fair and uniform process for priority drawings.

### **Benefits Anticipated**

By establishing a process for priority drawings, ABC anticipates a fair and timely process for participating licensees. The anticipated benefit of this action will not only clarify commonly used terms but also ensure a fair and uniform process through all county priority drawings conducted by the Department.

### **Determination of Inconsistency/Incompatibility with Existing State Regulations**

ABC has determined that this proposed regulatory action is not inconsistent or incompatible with existing state regulations.

## **Effect upon Small Businesses in California**

Although licensees are often small business owners, this proposed regulation will have no regulatory effect on them. The intent of this proposed regulation is to clarify and modernize the longstanding practice of conducting annual priority drawings for applicants seeking available alcohol licenses. This will benefit small business owners as it allows for a more efficient and streamlined process.

## **Disclosures Regarding the proposed Action**

The ABC has made the following initial determinations:

1. Mandate on local agencies or school districts: None.
2. Costs or Savings to any state agency: Any additional cost will be absorbed into ABC's current budget.
3. Cost to any local agency or school district that is required to be reimbursed by the state: None.
4. Other nondiscretionary cost or savings imposed on local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Cost impacts on housing costs: None.

## **Determination of Statewide Adverse Economic Impact on Business**

The ABC has made an initial determination that the adoption of this regulation will have negligible economic impact on businesses. There is no foreseeable impact on businesses based on the process laid out in the proposed regulation.

## **Results of the Economic Impact Assessment:**

ABC concludes that it is (1) unlikely that the proposal will eliminate any jobs, (2) unlikely that the proposal will create an unknown number of jobs, (3) unlikely that the proposal will create an unknown number of new businesses, (4) unlikely that the proposal will eliminate any existing businesses, and (5) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state. It is unlikely that the proposed legislation will impact worker safety.

The proposed regulation will ensure that priority drawings will be fair and equitable for all priority applicants and ensure alcohol licenses are distributed in a fair and equitable manner throughout the state. In addition, the proposed regulations will facilitate a small cost savings as paper applications will be eliminated in favor of digital submissions. The modernization and centralization of the priority drawing process will over time provide benefits to the health and welfare of California residents by lowering travel, costs, and environmental impact of priority drawings throughout the state.

## **Description of All Economic Impacts That a Representative Private Person or Business Would Necessarily Incur in Reasonable Compliance with the Proposed Action**

The ABC has made an initial determination that the adoption of this regulation will have negligible economic impact on private persons or businesses. There is no foreseeable impact on private persons or businesses based on the process laid out in the proposed regulation.

Thus, ABC is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action.

## **The Need to Require Report from Businesses**

The proposed regulation does not require any reports from ABC licensees or any other business.

## **Consideration of alternatives**

ABC has determined that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to effected private persons, than the proposed action, or would be more cost-effective to effected private persons and equally effective in implementing the statutory policy or other provision of law. ABC invites interested persons to present statement or arguments with respect to alternatives to the proposed regulation during the written comment period.

## **Agency contact person**

Inquiries concerning the proposed regulatory action may be directed to the agency representative Robert de Ruyter, Assistant General Counsel, (916) 419-8958, (designated backup contact) Shelby Pender, Associate Governmental Program Analyst, Law and Policy Unit, (916) 285-8517 or via email at [RPU@abc.ca.gov](mailto:RPU@abc.ca.gov).

## **Availability of documents**

ABC prepared an Initial Statement of Reasons for the proposed action. Copies of the Initial Statement of Reasons, and the full text of the proposed regulations may be accessed on ABC's website listed below or may be obtained from the Law and Policy Unit, Department of Alcoholic Beverage Control, 3927 Lennane Drive, Suite 100, Sacramento, CA 95834, on or after February 18, 2022.

ABC staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

### **Change to the proposed full text of the regulation action**

If there is any change to the proposed full text of the regulation action in a substantial, or sufficiently related way, it will be made available for comment for at least 15 days prior to the date on which the department adopts the resulting regulation.

### **Final statement of reasons availability**

Upon its completion, the Final Statement of Reasons will be available, and copies may be requested, from the department contact persons in this notice or may be accessed on ABC's website listed below.

### **Internet Access**

This notice, the Initial Statement of Reasons, and all subsequent regulatory documents, including the Final Statement of Reasons, when completed, are available on ABC's website for this rulemaking at <https://www.abc.ca.gov/law-and-policy/regulations-rulemaking/>