

TITLE 4. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

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NOTICE OF PROPOSED RULEMAKING

The Department of Alcoholic Beverage Control (“ABC”) proposes to adopt the proposed regulation amendments 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 ABC 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 amendments to ABC. Comments may also be submitted by email to RPU@abc.ca.gov. The written comment period closes at **12:00 p.m. on June 14, 2022**. ABC will only consider comments received at ABC Headquarters by that time. Submit comments to:

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

AUTHORITY AND REFERENCE

Business and Professions Code Section 25681 and 25685 authorizes ABC to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific sections 25680-25686 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations

The legislature adopted the Responsible Beverage Service Training Program Act of 2017 (RBSTPA), codified as Business and Professions Code §§ 25680-25686. The RBSTPA requires the Department of Alcoholic Beverage Control (ABC) to develop, implement, and administer a curriculum for a statewide RBS program and promulgate regulations specifically addressing the approval of training providers on or before January 1, 2020.¹ ABC is also granted general authority to adopt rules necessary for the administration of the RBSTPA.²

The RBSTPA regulations package was made effective on May 20, 2020, for Title 4 California Code of Regulations sections 160-173. Although the statewide RBS program was initially supposed to begin July 1, 2021, the passing of Assembly Bill 82, on June 29, 2020, extended the date for this requirement to July 1, 2022.

Since the passage of the initial regulations package, ABC has begun to approve training providers who are currently offering trainings to alcohol servers for certification prior to the institution of the legal mandate in July 2022. The proposed amendments are presented to address issues ABC, training providers, and alcohol servers have experienced in the implementation of the new program, and to correct grammatical and legal errors in the initial construction.

Summary of Effect

The proposed action will amend California Code of Regulations, Title 4, Division 1, Article 25 to correct grammatical errors, clarify specific training, training provider, and alcohol server requirements, and to address issues regarding payments by training providers and alcohol servers. The proposed amendments will ensure that training providers and alcohol servers in California have a better understanding of the requirements to meet the standards of responsible beverage service training to curb harms to the California community and economy caused by the overuse of alcohol.

Comparable Federal Statute or Regulations

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

Policy Statement Overview

This rulemaking action is needed to clarify, correct, and explain training provider and alcohol server requirements in order to comply with the RBSTPA.

¹ Business and Professions Code § 25681(b)(1)

² Business and Profession Code § 25685(b)

Benefits Anticipated

By clarifying and explaining responsible beverage service training requirements, the proposed amendments will establish a better understanding and more transparent process for both training providers and alcohol servers. The proposed amendments and additions will ensure the continued viability and success of the RBSTPA program that is set to be effective July 1, 2022.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The ABC has determined that this proposed regulatory action is not inconsistent or incompatible with existing state regulations. The proposed action will provide clarity and additional information needed for previous regulations that address the minimum standards for the implementation of an RBS training course curriculum, and training provider and alcohol server requirements.

Effect upon Small Businesses in California

Although training providers may be small business owners, this proposed regulation will have limited effect on them unless they sell or reorganize their business. This should be a nominal cost limited to fund ABC's actual costs for the investigation involved and should be a rare occurrence. The intent of this proposed regulation is to ensure the implementation of the RBSTPA is successful which will aid these small business owners find alcohol servers to train and expand their businesses.

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: None
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 the amendments will not have a significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states. However, the proposed amendments do directly affect a small percentage of responsible beverage service training providers who change ownership or officers by requiring a nominal fee to the ABC for investigative purposes to maintain the integrity of the quality of training providers.

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.

The proposed amendments will benefit the health and welfare of California residents by refining and fixing problems with the current implementation of the RBSTPA regulations previously made effective May 20, 2020. The results of these limited amendments should provide clarity to ABC licensees, alcohol servers, ABC staff, training providers, and the public. The only economic impact is the additional procedure and accompanying fee for an approved training provider to be sold or reorganized and keep its approval without duplicating the entire initial application process. This will be a cost savings for training providers who are sold or reorganize even though a new fee is created to recover ABC's cost of investigating to new owners or officers. There are no anticipated benefits to worker safety or the state's environment.

Description of all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ABC approved responsible beverage service training providers who choose to change ownership or corporate officers will need to submit a transfer fee of \$250. This fee is necessary for the ABC to recover the reasonable costs of investigation of the new owners or corporate officers pursuant to Title 4 of the California Code of Regulations section 168 (d).

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

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

Agency contact person

Inquiries concerning the proposed regulatory action prior to the open comment period may be directed to the agency representative Robert de Ruyter, Assistant General Counsel, (916) 419-8958, or Sarah Easter, Associate Government Program Analyst, (916) 928-7627. During the comment period, comments or questions should be addressed to RPU@abc.ca.gov.

Availability of documents

The ABC prepared an Initial Statement of Reasons for the proposed action, which includes a summary of the economic impacts of the proposal.

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- RBS Regulation Amendments, Department of Alcoholic Beverage Control, 3927 Lennane Drive, Suite 100, Sacramento, CA 95834, on or after April 22, 2022.

The 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 ABC 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 ABC 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/>