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TRANSCRIPTION OF RECORDED PUBLIC HEARING
ON
PROPOSED RULEMAKING ON
EXPANDED PREMISES

NOVEMBER 1, 2022
SACRAMENTO, CALIFORNIA

Host: Robert de Ruyter, Assistant General Counsel,
California Department of Alcoholic Beverage
Control

Transcribed by: Shelley Kelber,
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1 **Mr. de Ruyter:** If you want to make a comment today,
2 please send a message to Sarah Easter so
3 we can get everyone registered to make a
4 comment today. A quick reminder that if
5 you have made a written comment, we will
6 take those into account just the same as
7 these. We're glad for the robust
8 engagement in this regulation. As many of
9 you know, and if you spoke in the chat,
10 the initial statement of reasons and the
11 regulations things are there, can be
12 accessed. And this regulation is quite
13 important because right now all of the
14 noncontiguous premises expansions that are
15 out there due to COVID were set to expire
16 a year after the emergency for COVID is
17 declared over which has been stated that
18 it will be declared over in February of
19 next year. Meaning March 1 of 2024 all
20 those would have to be closed as of right
21 now. So this regulation was an attempt to
22 make these long-lasting and permanent. So
23 we are excited for the comments. We're
24 planning -- this is not the final version
25 of the regulations. We are planning on

1 changing them and coordinating through
2 these comments and comments that are
3 written to make them better for the public
4 while still being compliant with statutory
5 rules that are in place that create issues
6 with the, you know, and insuring that
7 there's no consumption of alcohol off the
8 licensed premises in those spaces between
9 the licensed areas. I don't know if we
10 have anybody that has requested to speak
11 yet. But, again, for those of you that
12 are just getting here, if you are going to
13 request to speak, please send a comment
14 request to Sarah Easter. We have no one
15 here in person today. So we're assuming
16 most comments are going to be down through
17 this virtual format. If anybody has any
18 other questions about the process feel
19 free to message Sarah or Shelby or I, as
20 well, through the chat function. We are
21 going to get started with our comments in
22 another two to three minutes. Those that
23 are requesting will be unmuted in order.
24 Thank you. We are about to take our first
25 comment from Michael Scippa. This is also

1 a reminder that this is for the public to
2 commune with the Department, this is not
3 an interactive public hearing. And like
4 the things on your screen say, all
5 comments will be responded to in writing
6 through the final statement of reasons.
7 We do anticipate another round of public
8 comment with changes to this regulation
9 that will be probably published shortly
10 after the first of the year to change and
11 modify these according to the comments
12 that we've already received and that we
13 receive today. So, Michael Scippa, you
14 are being -- I'm asking you to unmute now.

15 **Mr. Scippa:** Perfect. Good morning. Can you all hear
16 me?

17 **Mr. de Ruyter:** Yes, we can, thank you.

18 **Mr. Scippa:** Okay, great. Yeah, I'd like to actually
19 thank ABC and Eric Hirata and staff for
20 the opportunity to join this important
21 discussion today. I'd like to start with
22 a quote that was published recently in
23 Healthy Alcohol Marketplace by Ken
24 Ericson. I'm not sure if you're all
25 familiar with that resource, but it's a

1 terrific resource and I encourage you all
2 to look for it. And the quote is this --
3 "alcohol regulations were created for
4 public health reasons. I mean it's
5 dangerous to remove them for economic
6 reasons." So the subject today is
7 contiguous spaces, aka expanded
8 footprints, were never intended to be
9 permanent. They are almost without
10 exception in areas that have ad hoc
11 improvements that were intended to house
12 individuals. The criteria of control of
13 the attendees is essentially unenforceable
14 and may conflict with local legislation
15 that requires these spaces, often built on
16 public lands, to be available to the
17 public. This, of course, calls into
18 question for us anyway, the very project
19 of making permanent regulations. Our
20 central concern from a public safety
21 perspective is increased noise, litter,
22 and interactions between and among
23 inebriated individuals. With this in mind
24 we would expect, one, any liability for
25 individuals moving between nearby parklets

1 be shared by both licensees, aggressive
2 use of ABC of its powers under the 2018
3 law SB1503 to minimize additional noise
4 and disruption, efforts to make
5 obligations for licensees to reduce the
6 public safety impact by affirmatively
7 offering operating conditions and in
8 making those conditions public, and public
9 notification of these premise changes and
10 revised conditions as applicable be made
11 available to neighbors and neighboring
12 businesses with clear explanation of the
13 protest or complaint process. We have
14 some secondary concerns over expansions of
15 a huge number of alcohol licensees'
16 abilities to serve becoming part of a
17 larger mosaic of public health and public
18 safety issues. As such we would expect,
19 one, that ABC reserve the power to broadly
20 revoke expanded footprints from all
21 licensees in areas where undue alcohol
22 harm is occurring, as well as clearly
23 stated trigger criteria for when that
24 power would be used. Two, continued
25 enforcement on regulations around outdoor

1 advertising. Three, refusal to allow
2 outdoor alcohol services in areas with
3 heavy and evident youth foot traffic,
4 particularly but not exclusively near say
5 schools, libraries, community centers, bus
6 stops, playgrounds, fields, and other
7 youth sports facilities. Four, and again,
8 we believe these footprints are the
9 project of kind of a reckless conversion
10 of emergency assistance into a perceived
11 entitlement. The ramifications will
12 continue to be felt for the rest of the
13 decade and we expect that these impacts
14 would be mitigated and that the following
15 transparency and accountability measures
16 should be in place. One, after recording
17 and full public availability of operating
18 conditions for any licensee enjoying these
19 privileges. Two, efforts to identify
20 locally imposed operating conditions and
21 assure that ABC conditions are at least as
22 restrictive, if not more so. Three, lists
23 of conditions posted on the outside of
24 parklets. And four, records of assent or
25 agreement from neighbors and neighboring

1 businesses. That's the sum of my comments
2 today. We're also submitting a letter
3 that will reiterate these and I thank you
4 for the opportunity to participate.

5 **Mr. de Ruyter:** Thank you for your comments. For those of
6 you that have come in during -- we have
7 started taking public comment on the
8 noncontiguous license premises expansion
9 regulation. For those of you that have
10 not been able to read the documents
11 published by ABC, you can request those,
12 we have an initial statement of reasons as
13 well as the regulation's text that is
14 available. It's also available at our
15 website. But you can request that from
16 Sarah or Shelby to receive that. It also
17 might be in the chat; it was sent to
18 everyone at the beginning. But I'm not
19 sure if that continues to carry on if
20 you've come in late. We are taking
21 comments. Please limits your comments to
22 five minutes. There's a lot of people
23 here. You can also take another five
24 minutes if you want to sign up and you
25 haven't finished your five minutes, you

1 can sign up again and you'll be put in at
2 the end of line. Anybody that wishes to
3 comment, please send a message to Sarah
4 and she will get you on the list. Yes,
5 we'll have that document reposted right
6 now, thank you. The initial statement of
7 reasons and the regs text will post, keep
8 an eye on the chat. Then we will have our
9 next participant which is Ben Bleiman.
10 I'm going to ask him to unmute. All
11 right, thank you.

12 **Mr. Bleiman:** Everyone, my name is Ben Bleiman, and I am
13 a business owner in San Francisco. I'm
14 also the founder of a group of bar owners
15 in the city, we have 503 members who all
16 own bars in the City of San Francisco.
17 I'm also the chairman of the board of an
18 organization formerly known as CMAC which
19 is now being called California Nightlife
20 which a state-wide organization that
21 represents hundreds of nightlife
22 establishments and workers across the
23 state in the nightlife realm. First, I
24 want to thank the ABC for their
25 flexibility and their willingness to work

1 with license holders for the last three
2 years. I think, you know, the
3 relationship between license holders and
4 ABC has not always been one of a lot of
5 trust and I think there was a lot of trust
6 that was actually built up over the last
7 few years. And a lot of the credit goes
8 to Eric Herata and the governor's office
9 and everybody who's been working so hard
10 over there to help us weather the
11 pandemic. So I just want to thank
12 everybody for that. And I think this is
13 an opportunity to kind of build on the
14 trust that we've started to develop with
15 one another. The bar owners in San
16 Francisco and (inaudible) are actually
17 uniformly approving of most of these regs
18 in their proposed state. We don't think
19 all of them are necessarily necessary, but
20 we do understand the impetus behind them
21 and we're willing to accept them going
22 forward with one exception and this is
23 where we really want to express our
24 reservations and our concern. Literally,
25 the only reg here that seems really really

1 problematic to us is the requirement for a
2 server to walk between the very short
3 threshold between a doorway and in our
4 case a parklet or shared space in the City
5 of San Francisco. We believe this is a
6 solution in search of a problem. It's
7 very easy for people to just carry a drink
8 over the threshold. It's easy to license
9 that (audio malfunction) area (audio
10 malfunction) already licensed for -- or
11 have the ability to be licensed. But what
12 it would do is it would cut out literally
13 hundreds of businesses from being able to
14 participate because they don't have
15 servers and they have setups that don't
16 allow them to actually physically walk the
17 drink to somebody there. So we believe it
18 causes an undue amount of harm while
19 really not solving any issue. And if the
20 problem that we're trying to consider,
21 other than the licensed area, is that
22 somebody may take a beverage and walk off
23 with it into the sunset on the streets of
24 San Francisco. I would just push back on
25 this notion. I don't see any reason why

1 somebody would spend eight to ten dollars
2 on a beverage to walk away with it when
3 literally every corner store sells
4 beverages at a quarter of that price and
5 they're very easy to walk away with there.
6 So the idea that somebody's going to go
7 and spend four times as much to have an
8 open container, it just simply is not born
9 out by the facts. And I will also say
10 that, you know, I did hear the comments
11 previous to this and we are fortunate in
12 San Francisco where we don't have a kind
13 of a neo probe (inaudible) you just do
14 your thing. San Francisco lives, not just
15 our economy but our culture and our
16 communities live around our nightlife and
17 safe consumption of alcohol. And we're
18 very fortunate to have a large majority in
19 the City of San Francisco with us as was
20 evidenced by the passing of our shared
21 spaces legislation and the embrace of our
22 permit holders in the city by people from
23 all walks of life. And so, I just want to
24 say that voices like that do not speak for
25 San Francisco specifically and I don't

1 believe that people in San Francisco would
2 appreciate those voices being -- having
3 sway over how they live their lives. So,
4 again I want to thank everybody here for
5 the hard work here. I want to thank you
6 for the regs and just point out that
7 single issue that we have problems with.
8 Thank you very much and I will cede the
9 rest of my time.

10 **Mr. de Ruyter:** Thank you again for your comments. Again,
11 we can't respond today because the
12 responses need to be part of our public
13 written record. So they will -- our
14 responses will be available at the time of
15 the final statement of reasons. Just also
16 be on the way to look out that we are most
17 likely going to change some of these regs
18 going forward. As with all regulatory
19 processes we can't think of everything
20 that happens on the ground. So, we rely
21 on comments to make sure our regs can be
22 efficient and cost effective and good for
23 everyone and all voices throughout the
24 state. So, we anticipate changes to be
25 made. If you are not on our regulatory

1 list, please do so. You can do that by
2 going to the ABC.ca.gov website on the
3 contact us feature or the subscribe
4 feature. I apologize, the subscribe
5 feature is where you could do -- to sign
6 up for email alerts whenever regs are
7 changed and whenever regs packages that
8 affect alcohol are published. We are
9 doing that quite a lot these days. We've
10 done six of them this year and plan to
11 keep doing it at this pace over the next
12 little bit. Again, Sarah put that in the
13 chat to have the updates sent to you, so
14 you don't have to find them on our
15 website. We also post it to our website
16 for everyone to see but sometimes it's
17 easier just to be emailed so you're
18 reminded. Because we will have another
19 comment period based on the new changes
20 that we would ask again to let us know how
21 you feel about those changes as we keep
22 going forward. Also just a reminder, we
23 can't change current statutory changes.
24 There are some things that we're just
25 limited to do that we can't do under

1 regulatory power that would require a
2 statutory change. And if we determine or
3 OAL determines that's where it's at then
4 we, ABC, can't make those changes until
5 the law is changed. So we have to work
6 within the framework that we're given.
7 Especially something like this which is
8 stretching the law as far as we can to
9 continue these things that we've had
10 during the pandemic and make them
11 permanent under the statutory scheme that
12 we currently have. Do we have another
13 comment? Right now we have no one else
14 that has requested to make a comment
15 during this meeting. Feel free to either
16 raise your hand or contact Sarah Easter if
17 you'd like to make a comment. But as of
18 right now we are just waiting for another
19 person to request that. It looks like Mr.
20 Matt Sutton has raised his hand?

21 **Mr. Sutton:** Hi, thank you so much. I appreciate it.
22 I'm Matt Sutton with California Restaurant
23 Association. I just want to thank you and
24 the entire ABC team for all of the work
25 the last few years with regard to

1 regulatory relief. You know, in a sense a
2 lot of these proposals may have come out
3 of the pandemic but they in many ways are
4 just modernizing some of the alcohol laws
5 in the state as it relates to outdoor
6 dining. So we've found your work
7 sensible, we found it fair, and we
8 definitely find that it's had adequate
9 public safety protections. As a statewide
10 trade organization we're able to see how
11 these are playing out in every corner of
12 the state and not just looking at pockets
13 of the state. So as you can imagine, the
14 ability to expand a restaurant footprint
15 into these new and innovative and
16 temporary settings enables restaurants to
17 have more tables to offer service, more
18 guests to be served, more food to be
19 cooked, as a result of all this it was
20 more jobs that were able to be retained
21 throughout the pandemic and moving
22 forward. Not to mention these spaces also
23 had a huge impact on community and mental
24 health because what they do is they
25 further establish a sense of community in

1 these regions that already had a good
2 sense of community and in some cases, you
3 know, it brought a sense of community to
4 places where it didn't exist before. So
5 these are the issues that have been
6 driving this outdoor dining effort, as
7 opposed to some of the narrative that you
8 may hear from opponents. These policies
9 while put out by ABC initially in the
10 outset of the pandemic have since been
11 further reviewed by the legislature and
12 legislative committees, signed by the
13 governor with regards to AB61 and SB314
14 and other legislation. So I feel that you
15 really have a good grasp of the issues. I
16 think there's been a lot of public policy
17 review of these, and I think that the
18 appropriate safeguards for public safety
19 and proper service of alcohol are in place
20 and have been. And you've been quick to
21 respond to any areas where that was coming
22 up short and we appreciate that. So just
23 real quickly a couple of things. One was
24 mentioned by a gentleman previously, and
25 that gets to the issue about requiring a

1 restaurant server basically to transport
2 the alcoholic beverages. So we're talking
3 about these outdoor spaces that may or may
4 not be contiguous to restaurants, the
5 brick and mortar. In some cases it is
6 just a hop, skip, and a jump to that
7 exterior dining space. And in that
8 situation, you know, I think there's a
9 desire for maybe some flexibility so that
10 a patron could walk to that location. I
11 realize that for enforcement a one size
12 fits all approach probably makes sense.
13 But then again, these spaces are so
14 individualized in different areas of the
15 state, different cities, high-density,
16 low-density areas, that flexibility is
17 also really important. So that's the
18 sweet spot that we'd like to try to find
19 with you, but, you know, we would prefer
20 not to always have a restaurant server or
21 staff person have to accompany that drink
22 when it is just a hop, skip, and a jump
23 across the sidewalk or into an external
24 dining space. So we'd appreciate more
25 discussion on that issue. The next issue

1 gets to the monitoring obligation. We
2 absolutely think that these remote spaces
3 should be monitored. There is some
4 language that suggests that the external
5 dining spaces would need to be monitored
6 from inside the brick-and-mortar
7 restaurant and we would ask for some
8 flexibility for alternative monitoring
9 methods. There's a lot of ways that
10 restaurants monitor different areas of
11 their properties now and I think that can
12 be done. But the idea, especially in
13 really dense urban cores that you have to
14 see it from the brick-and-mortar
15 restaurant seems a bit limiting when you
16 could station a staff person out on these
17 exterior patios or dining spaces, or use
18 technology or other methods to monitor the
19 spaces. So we agree with you on
20 monitoring the spaces, we just think that
21 some flexibility for different
22 configurations would be helpful. The
23 other issue relates to the barriers. We
24 definitely understand the need to
25 delineate what areas are alcohol service

1 areas and what areas are not. There has
2 been some concern about the tendency to go
3 with the hard barrier and I fully
4 understand that the hard barrier makes
5 total sense in certain circumstances with
6 high vehicular traffic in the area. In
7 other cases where you may not be in that,
8 you know, sensitive dynamic, a non-hard
9 barrier seems completely appropriate. So
10 we would just reiterate the need for
11 flexibility there. And I know that the
12 language does provide for ABC to have
13 flexibility in that regard, but we just
14 kind of wanted to punctuate that the trend
15 of going with the hard barrier isn't
16 always the best situation logistically.
17 But to the extent it's protecting public
18 safety in areas where we need to be
19 incredibly careful with vehicular traffic
20 we get it, we're for it. Then the last
21 issue is just a technical one, I think,
22 that can be cleaned up with some
23 clarifying language. And that really gets
24 at what it means to be open and operating.
25 We are responsible for these outdoor

1 spaces when we're open and operating. We
2 want to make sure that we don't have
3 nuanced situations where the restaurant's
4 actually closed, and the outdoor space is
5 actually closed. But inside a lot of prep
6 work goes on from our great staff well
7 before the restaurant opens and well after
8 the restaurant closes. And so,
9 sensitivity to that and I think with some
10 fine tuning on the language we can get
11 there to meet the goal that you've stated
12 here and, you know, truly capturing when
13 we're actually open. So with that, I
14 leave it there, and thank you for your
15 great work and I thank you for all the
16 diligent look at detail here and
17 continuing to provide a public and safe
18 space for outdoor restaurant dining with
19 alcohol service. Thank you.

20 **Mr. de Ruyter:** Thank you again, for your comments. We
21 have some new people again. Just to let
22 you know this meeting is going until 2:00
23 today. We are accepting comments on the
24 noncontiguous licensed premises
25 regulations. We are attempting to make

1 permanent some of the things that have
2 been temporary. Even under the statutes
3 that have been mentioned they are
4 temporary and are set to be
5 decommissioned, for lack of a better word,
6 at the end of February of 2024. These
7 regulations would allow for premises
8 expansions under our normal system to be
9 sought to keep those expanded premises
10 permanent. And then rules that ABC will
11 go by to allow those to become permanent
12 established parts of the licensed premises
13 footprint under the licensed premises when
14 they're not contiguous to the main
15 licensed premises. Because if they're
16 contiguous it'll just be normally like
17 we've always done. But in the past, we
18 haven't -- we've been hesitant to do these
19 noncontiguous and, again, if you have any
20 questions about why we're doing this or
21 how it all works, the document, the
22 premises expansions initial statement of
23 reasons, or ISOR, is the best way to look
24 at this. This is our written comments
25 about why we're doing this, and it is in

1 the chat. If you haven't -- can't see
2 that, you can also request another one and
3 Shelby is posting those again for those
4 that have joined us recently. Our next
5 speaker is Mike Brewer; is that correct?
6 I will request for Mike to be unmuted, if
7 I can find it. I apologize, we're working
8 with this --
9 **Mr. Brewer:** It appears that I am.
10 **Mr. de Ruyter:** Great. There you are.
11 **Mr. Brewer:** Good morning. Thank you for the
12 opportunity to comment on the proposed
13 regulation. I'm Michael Brewer, I'm a
14 consultant in the field on alcohol
15 licensing and I'm an on sale and an off-
16 sale licensee. I wanted to take a moment
17 to applaud the Department for coming up
18 with a regulation to deal with
19 noncontiguous patio or noncontiguous
20 licensed areas. And I had submitted a
21 written comment, but I also wanted to
22 follow up with some oral comments as well.
23 I do agree with this area should be
24 regulated and, you know, and have some
25 thoughts. So generally I'm in favor of

1 the regulation as proposed with a few
2 caveats or potential amendments to the
3 proposed regulation. First, in area
4 D(1)(a) I again, would want to encourage
5 the Department to potentially come up with
6 two scenarios. One in which a
7 noncontiguous area is clearly visible from
8 the interior of the primary licensed
9 premises, and it would have a certain set
10 of restrictions imposed in that situation
11 as opposed to a patio that is not visible
12 from the interior should be able to still
13 be licensed but maybe have a more stricter
14 set of monitoring requirements. So that
15 way we're not excluding potential patio or
16 noncontiguous areas that would be in close
17 proximity to a particular licensed
18 premises but not necessarily be visible.
19 For example, sometimes you have basement
20 bars and yet up on the street they could
21 have an outdoor patio area. Or sometimes
22 the design of the building is such that
23 the noncontiguous area is not visible
24 because of the way -- there's no windows
25 in that particular wall or there's other

1 kinds of situations in which the
2 visibility is impacted but the proximity
3 to the licensed premises is still
4 relatively close. So I would ask the
5 Department to maybe consider designing the
6 regulation to address both situations and
7 maybe a stricter set of regulations for
8 the later. In addition to that, I do take
9 exception to provision D(8) in the
10 proposed regulation in which they don't
11 allow for any kind of a bar or service
12 point to be installed in the noncontiguous
13 area. In fact, I think that goes against
14 the desires of the Department in by
15 designing it that way because if you have
16 a service area on the patio, one, it
17 reduces the likelihood of alcohol being
18 transversed from the restaurant to the
19 patio. In addition to that it keeps an
20 employee or multiple employees on the
21 patio observing what's going on or the
22 noncontiguous area of what's going on. In
23 fact, I licensed a couple of places in the
24 state in which more or less would be
25 designed as a -- designated as a

1 noncontiguous patio and or area and that
2 was the primary service point, like the
3 bar for that particular restaurant. For
4 example, in a mall I had a restaurant
5 where in the center of the mall they had
6 their patio or their outdoor -- their
7 noncontiguous area and that was their
8 primary bar. And then you would go into
9 the main dining area which was across the
10 mall walkway of maybe 20 feet into the
11 main restaurant of the building. So the
12 noncontiguous area served as the primary
13 bar. It had a full bar installed, you
14 know, it all met health department, sinks,
15 the whole thing, and yet the restaurant
16 dining area was in the interior. So I
17 would recommend that you consider revising
18 the regulation D(8) to allow for
19 situations for licensees to have the
20 ability to serve alcoholic beverages on
21 the noncontiguous area. That way I think
22 it would be more consistent with the goal
23 of keeping strict supervision and the
24 alcohol combined with it in the
25 noncontiguous licensed area. For that I

1 also support the other previous comments
2 made by the California Restaurant
3 Association and the organization out of
4 San Francisco. I think they're both
5 quality associated groups and would echo
6 their concerns as well. Thank you for my
7 time.

8 **Mr. de Ruyter:** Thank you again for your comments, Mr.
9 Brewer. Like I said, we are anticipating
10 making adjustments to these regs based on
11 comments we've received. We understand
12 that at ABC we don't -- aren't on the
13 ground with all you all every day. And so
14 we'll try to fit these comments in and
15 adjust the regs to better meet various
16 needs that sometimes we didn't think about
17 here when we were creating this first reg.
18 This is why we have this public comment
19 period and why a public comment period is
20 so important for regulation, to make sure
21 that everyone's needs, and everyone's
22 voice is heard through this process. I
23 believe we do not have anyone else signed
24 up to comment currently. If you would
25 like to make a comment, feel free to raise

1 your hand or contact Sarah Easter. Also,
2 again, you should have access to the
3 premises expansion regulation language and
4 the premises expansion initial statement
5 of reasons in your chatbox. If you have
6 any questions about what we are doing,
7 there's also the initial notice that has
8 some other different things on our website
9 that talks about some of the economic
10 impact type things. There's not much for
11 this type of regulation. But this is an
12 important regulation. We understand that,
13 especially with the current temporary
14 nature of a lot of these licensed premises
15 that a lot of people put a lot of money
16 and time and effort into over the past few
17 years. So again, there's the link to our
18 regulations rulemaking page. We have
19 other regulations that are currently under
20 public comment so, again, feel free to
21 look at those as well. And, like I said,
22 we pretty much have a regulation open
23 almost at all times these days with how
24 much regulating we've been doing since
25 COVID and everything else. Has anybody?

1 We do have somebody who's request -- okay.
2 Looks like Sean Sullivan is up. Let me
3 see if I can unmute you or if you can
4 unmute yourself. It looks like you're
5 unmuted.

6 **Mr. Sullivan:** Great. Thank you. I just want to agree
7 with the last couple of speakers that it
8 is -- that it would be great for these
9 spaces to not have to have staff accompany
10 customers with drinks and that it makes it
11 costly for smaller bars and restaurants to
12 have to do so. And also, the point that
13 was just made about having outside bars,
14 that definitely would reduce the amount of
15 staff cost for smaller spaces. But I also
16 want to say that these outdoor spaces for
17 the last couple of years have really been
18 a great opportunity for the customers to
19 gather safely. I want to push back on the
20 notion that this was solely about
21 economics. And maybe that was done --
22 that was the thought that was done at the
23 time of these regulations. But this --
24 the opportunity for people to gather and
25 to do so safely and over alcohol was

1 paramount to preserving many people's
2 mental health after an intense period of
3 lockdown. I manage an LGBT space, award
4 winning space, in Oakland, California, and
5 I can tell you for LGBTQ queer people that
6 we learned that many were living with
7 roommates, we're living in an expensive
8 area, so many people have to take on
9 roommates and they were living -- what I
10 found out they were living with roommates
11 or family who were not supportive of them.
12 And the opportunity for them to gather
13 safely, once they could, when ABC made the
14 regulations around to go and then dining
15 out, this was a wonderful opportunity for
16 them to gather safely in outdoor spaces.
17 And I would also offer that exposure for
18 these LGBT oriented spaces to have that
19 visibility on the street, it's further
20 affirming to people and so, I really want
21 to thank ABC for that opportunity and the
22 opportunity to continue this safely. And
23 I yield the balance of my time.

24 **Mr. de Ruyter:** Again, thank you for your comments. We
25 appreciate everyone being here and hearing

1 from you'all, especially about how things
2 affected during COVID. We did have
3 somebody's hand raised, and the hand has
4 now gone down. If you want to interrupt
5 and unmute yourself, feel free to do so.
6 I'm asking you to unmute now.

7 **Unknown Female:** Hi, I am a small business owner in Menlo
8 Park. I did move my business outside to
9 parking spaces, taking over about three
10 parking spaces, with permission from the
11 city. And what it definitely did was
12 build a sense of continued community
13 during COVID. I'm in a position now with
14 the city that until we know for sure what
15 ABC is going to decide I may have to, of
16 course, go back inside until I can get
17 this permission from ABC to then go to the
18 city to get things permanent. I'm not
19 sure -- I haven't completely read through
20 the documents; I hope I'm not repeating or
21 asking a question that doesn't make sense.
22 But I do know that in order to get
23 permission from the city I do need to know
24 from ABC and, of course, I need to know
25 that soon so that I can start to plan to

1 make my space more permanent. So I
2 appreciate all of what you're doing, and I
3 hope you do know that with COVID we all
4 are kind of starting over and rebuilding
5 again, but the outside space has really
6 helped me keep a community going. So I'm
7 grateful to anything you guys can do to
8 make that happen. So thank you.

9 **Mr. de Ruyter:** Thank you again for your comment. Again,
10 this is one reason why we kind of rushed
11 these regs out this year even though they
12 aren't -- the temporary spaces aren't
13 going to be expiring until February of
14 2024, because we want to be able to have
15 these nailed down to allow everyone to act
16 on them and not waste money making things
17 permanent that won't work. And again,
18 these regs are not final, there will be
19 changes and we will notify everyone that
20 is on our mailing list and post to our
21 website when those changes are made, based
22 on these comments. Because we weren't
23 able to do a lot of public meetings about
24 this prior to the regulations being
25 published because we wanted to speed up

1 the process in order to make sure that
2 these can be final well in advance of the
3 temporary authorizations being revoked on
4 March 1 of 2024. So that everyone
5 including the cities, including you all,
6 and any stakeholders can make plans to
7 make your spaces permanent or not. I
8 don't believe we have any more comments or
9 commenters that have said anything. Feel
10 free to raise your hand if using the Zoom
11 application or contact Sarah Easter if
12 you'd like to make a comment. Otherwise
13 we are about 40 minutes in. If no one has
14 any other comments at this time I'm going
15 to mute myself and take myself off camera
16 in preparation and we will take a five-
17 minute break at this point to allow
18 everyone to take a break without public
19 comment being done. I'll announce when
20 we're going to be back on during those
21 five minutes. If you'd like to make a
22 comment afterwards, please let Sarah know
23 or raise your hand. Thank you.

24 **(Off the Record)**

25 **Mr. de Ruyter:** Good morning again everyone. Thanks for

1 letting us take a quick five-minute break.
2 It's nice for us that are going to be here
3 until 2:00. We continue to have no one
4 here in person and I believe we still have
5 no one that has requested to comment. You
6 can feel free to stay, feel free to go,
7 I'm going to stay off camera and mute it
8 until we have someone to give a comment.
9 We'll also be available through chat, so
10 if you do want to make a comment feel
11 free. But everyone who has been in the
12 Zoom room -- oh, wait, we just had someone
13 new. So we are having people pop in and
14 out of the Zoom meeting. Again the
15 etiquette rules are on the screen about
16 five minutes. The fact that this is
17 interactive, we're taking public comments
18 and we will respond in public, in writing,
19 as far as the final statement of reasons
20 we'll also -- when -- which most likely
21 are going to happen -- changes to these
22 regulations occur we will have another
23 comment period on just those changes that
24 are made that will go out. If you want to
25 be notified of that please sign up for the

1 subscribe button on the ABC webpage. If
2 anybody would like to speak, please notify
3 Sarah Easter or raise your hand in the
4 Zoom application. Most people have been
5 here since around 10:00 and so, we are
6 assuming that most people that are here
7 that want to speak have. If you are just
8 here listening like we are, we're going to
9 go -- I'm going to go off camera and on
10 mute and await someone else to have a
11 comment. And, again, we are still
12 available through chat, and we will be
13 here until 2:00 p.m. We're also accepting
14 written comments to the RPU@ABC.ca.gov
15 email address until 5 o'clock today.

16 **(Assistant General Counsel on mute**
17 **awaiting public comments.)**

18 **Mr. de Ruyter:** We did have someone just join the Zoom.
19 We are here for taking comments at the
20 noncontiguous licensed premises expansion
21 regulation that was put out this year in
22 response to allowing these noncontiguous
23 areas to be made permanent, passed the
24 temporary legislation has something until
25 -- it's scheduled as of now to expire on

1 March 1st of 2024. We've had some more
2 people come in. We are recording these
3 comments and there will be a transcript
4 posted to our webpage as well as responses
5 to all these comments in the final
6 statement of reasons. We also will
7 probably respond a little bit in some to
8 during a regulation modification
9 notification where we modify the regs and
10 take further public comment on those
11 modifications, probably towards the first
12 of the year, to allow people to comment
13 and not interrupt the holidays. If
14 there's anyone that wants to make a
15 comment, please notify Sarah Easter or
16 raise your hand. You can also email
17 comments. We are accepting email written
18 comments until 5:00 p.m. today to the
19 RPU@ABC.ca.gov email address that should
20 be in the chat. For those of you that are
21 just arrived, if you don't have any of
22 these in chat, please let us know, we can
23 follow up with you and give you all this
24 information that we've been passing out
25 throughout this hearing today. And as of

1 now it seems we don't have anybody that
2 wishes to make a public comment, so I'm
3 going to go back off camera and on mute.
4 Again, you can notify us through chat for
5 any questions that you have about this
6 process and submit written or oral
7 comments -- and oral comments will be in
8 this meeting until 2:00 and written
9 comments can be to our regulations and
10 policy email address until 5:00 p.m.
11 today. Thank you.

12 **(Assistant General Counsel on mute**
13 **awaiting public comments.)**

14 **Mr. de Ruyter:** Good afternoon, we had a few people join
15 us at the noon hour. My name is Robert de
16 Ruyter, I am the assistant general counsel
17 here at ABC. We're here doing a public
18 hearing on the noncontiguous licensed area
19 regulations that were published a couple
20 of months ago. The public comment period
21 ends today at 5:00 p.m. We are also here
22 to take verbal comments until 2:00. We
23 have no one currently that has requested
24 to do any comments, so we are here
25 patiently awaiting more comments. If you

1 have a comment that you would like to make
2 feel free to raise your hand or contact
3 Sarah Easter and we will get you unmuted
4 so you can give your comment. These
5 comments will be part of the public record
6 and they will be responded to in writing
7 by the Department in its final statement
8 of reasons. We also anticipate there
9 being changes to the regulations based on
10 the comments received both in written form
11 and received today. If you would like to
12 be notified of those changes and
13 participate in the next comment period on
14 those changes, please sign up and
15 subscribe to our mailing list at the link
16 that Sarah just posted in the chatbox.
17 Thank you again for being here and for
18 participating and for helping us to create
19 a good regulation for all the citizens of
20 California. With that I'm going to go
21 back off camera until we have someone that
22 would like to give a comment. Thank you.

23 **(Assistant General Counsel on mute**
24 **awaiting public comments.)**

25 **Mr. de Ruyter:** Good afternoon, everyone. We've had a

1 comment or a request. I think it's Myra,
2 can you unmute yourself?

3 **Ms. Jimenez:** Yes, can you hear me?

4 **Mr. de Ruyter:** Yes. Thank you. Please -- thank you for
5 commenting.

6 **Ms. Jimenez:** Sure, thank you. So my name is Myra
7 Jimenez. So I'm calling on behalf of the
8 California Alcohol Policy Alliance. And
9 I'm really calling to emphasize our
10 concern for public health and safety which
11 is the work of our many -- over 50 members
12 that ally with us to support protecting
13 the harmful practices of the alcohol
14 industry all year round. And so, I really
15 wanted to emphasize, you know, coming back
16 to ABC's mandate for at large public
17 health and safety around looking at the
18 measures that are most appropriate to try
19 and ensure the public safety is continuing
20 to be upheld as we hear, you know, from
21 small businesses and the business sector
22 in general that obviously is benefitting
23 financially from this type of
24 deregulation. We do want to kind of
25 encourage ABC to continue to center public

1 health and safety, public safety, as much
2 as possible throughout this process. We
3 do have serious concern for the lack of
4 capacity that the Department has to
5 implement these regulatory measures. We
6 understand that there is over 93,000
7 licenses across the State of California
8 and only about 211 sworn officers. We
9 have heard from folks from the industry,
10 business owners themselves, speak about
11 encouraging flexibility around the
12 regulatory measures. However, we want to
13 caution ABC to do this because we
14 obviously do not see, as public health
15 centered folks, we do not see that there
16 is capacity to ensure the implementation
17 of this and more standardized policy
18 measures we feel would be most appropriate
19 to protect the public as a whole at large.
20 We do not see that there -- we do see that
21 there is a challenge with, you know, in
22 general oversight over these areas already
23 since they are so specific in terms of the
24 expanded footprint. And the magnitude of
25 resources that will be necessary to

1 implement these types of regulatory
2 measures and the demand that is being
3 requested of the Department we want to,
4 you know, appreciate the work that the
5 Department has been doing in opening up
6 this type of forum and we do want to
7 stress that it is very important for us,
8 as folks that are looking at prevention
9 and looking at the impact on public health
10 at large, that the implementation is
11 beyond the capacity of the Department and
12 that we understand that there are already
13 a lot of challenges with enforcement and
14 we do want to lean on the side of caution
15 when it comes to implementing these
16 measures. We do want to highlight a few
17 data points because we do often hear the
18 business sector speak around the data and
19 what validates this type of expansion of
20 the consumption areas. And during COVID,
21 while of course we had the business sector
22 that was very impacted. We also saw
23 significant impact on public health when
24 it comes to drinking and also mental
25 health. And we want to highlight that

1 because it has been used as a
2 justification for why these types of
3 spaces are important while we do know that
4 the World Health Organization has
5 documented that during COVID-19 there was
6 a 25 percent increase in prevalence of
7 folks experiencing mental health
8 worldwide. This isn't just something that
9 is very localized. It's a huge issue
10 across the globe. We've also seen that
11 there was a 25.5 percent increase in
12 alcohol related deaths across the country
13 during the pandemic. So there was a lot
14 of harm and a lot of increase in
15 consumption and a lot of impact on
16 communities during this time. And while
17 of course the business sector suffered its
18 losses, there was a lot of human capital
19 that is being compromised in this
20 expansion and this further deregulation of
21 alcohol access in our neighborhoods and in
22 our communities. We already know that 18
23 percent of youth are still drinking more
24 than marijuana and any other drugs, and
25 this is according to alcoholic

1 epidemiology research. Forty plus years
2 of research on public health. The type of
3 environment that we're looking to promote
4 by continuing to allow for further
5 expansion of the alcohol consumption space
6 on public premises is something that is of
7 huge concern to us in our coalition. We
8 also have huge concern and want to bring
9 ABC to really recognize the red flags that
10 we see when we have for-profit businesses
11 promoting community and mental health
12 through alcohol sales and how that is not
13 something that is looking to promote the
14 overall wellbeing of the community at
15 large and it is very important to
16 recognize that. Alcohol is no ordinary
17 commodity. We know that marketing and
18 exposure is incredibly influential in
19 consumption when it comes to place and
20 promotion which is a huge piece of public
21 health research that has been at the
22 forefront of trying to protect communities
23 beyond just the consumer themselves.
24 There are folks that don't consume. We
25 have children and parents and families

1 that choose not to opt into these types of
2 environments. So we really do want to
3 encourage the Department to consider the
4 type of a built-in environment that we're
5 contributing to in the longterm. These
6 types of regulatory measures sure may seem
7 like a temporary support for
8 establishments but this something that
9 will impact generations when it comes to
10 the legalities and the makeup and the way
11 that governments are supporting the type
12 of alcohol promotion and consumption on
13 public premises. So we want to encourage
14 ABC to lean on the side of public health
15 and prevention as much as possible. We
16 understand that the for-profit sector, the
17 business sector, is heavily advocating for
18 their, you know, bottom line, but we do
19 also need to make sure that this is public
20 premises, this does impact folks that are
21 not just those patrons of these businesses
22 and establishments and that we continue to
23 encourage other consideration for the rest
24 of the public that will be impacted and
25 lean on the side of public health and

1 safety as much as possible because we do
2 know what the opposing end is promoting.
3 So I appreciate your time and thank you so
4 much for the opportunity.

5 **Mr. de Ruyter:** Thank you so much for your comments. We
6 again have no one waiting to comment at
7 this time. We are at close to 1 o'clock,
8 which means we have another hour where
9 this public meeting will be open to
10 receive comments. If anybody here would
11 like to receive comments, please either
12 raise your hand through the app or contact
13 Sarah Easter. We're again going to go off
14 camera and mute while we await another
15 commenter. Thank you.

16 **(Assistant General Counsel on mute**
17 **awaiting public comments.)**

18 **Mr. de Ruyter:** Hello, good afternoon, everyone still
19 here. It's now 1:51, I think, and this
20 meeting will close at 2:00, so we have
21 nine more minutes if anybody would like to
22 give a comment before we close. If not,
23 there's still the ability to send us a
24 written comment. Sarah's put that in the
25 chatbox. Otherwise we will close this

1 meeting at 2:00. Thank you very much for
2 being here and for participating in our
3 public comment and we hope to send out the
4 new adjusted regulations soon and follow
5 up with our final statement of reasons
6 response to all these comments at the
7 close of this regulatory period. Thank
8 you very much. Hopefully everyone has a
9 great day.

10 **(Assistant General Counsel on mute**

11 **awaiting public comments.)**

12 **Mr. de Ruyter:** The time is now 2 o'clock. Thank you for
13 those of you that sat through with us and
14 for the entire time. Again, this
15 transcript will be posted to the website
16 once it has been processed and we will do
17 our responses to all comments through our
18 final statement of reasons. Also be aware
19 of and subscribe for our update to the
20 regs once that occurs and additional
21 comment periods are done. Thank you, have
22 a great day. (Recording Ends)

23
24 --o0o--
25

1 TRANSCRIBER'S CERTIFICATE

2

3

4 STATE OF CALIFORNIA)

5) ss.

6 COUNTY OF SACRAMENTO)

7

8 This is to certify that I transcribed the
9 foregoing pages 1 to 46 to the best of my ability from an
10 audio recording provided to me by California Alcoholic
11 Beverage Control, Sarah Easter.

12 I have subscribed this certificate at Elk
13 Grove, California, this 5th day of January, 2023.

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Shelley Kelber
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