

TITLE 4. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL PROPOSED REGULATIONS. ARTICLE 11. APPLICATIONS AND LICENSES

Text of proposed language for adoption. All of the final text submitted to the Office of Administrative Law for filing is being added to the California Code of Regulations.

Text added to the previously approved emergency rulemaking action is in *italics underline*.

§71 Administration of Music Venue Licenses.

- (a) For purposes of this section and Business and Professions Code sections 23550 and 23552, “live performance” means a bona fide performance by artists for entertainment that occurs upon the licensed premises. The electronic reception and projection of an event occurring away from the licensed premises does not constitute a live performance.
- (b) For purposes of this section and Business and Professions Code sections 23550 and 23552, “paid ticket or cover charge” must be a paid price of admission to the licensed premises for viewing a live performance. A paid ticket or cover charge may be exchanged by the consumer for or applied by the licensee towards sales of food, beverages (including alcoholic beverages), or merchandise to patrons. A paid ticket or cover charge may include but shall not require the purchase of alcoholic beverages by any patron. A paid ticket or cover charge for a minor shall not include, or be used or exchanged for, directly or indirectly, the purchase of alcoholic beverages.
- (c) The equipment required by Business and Professions Code section 23550, subdivision (c)(2) must be located on the licensed premises at all times during which license privileges are exercised and such equipment shall be maintained in working order. This does not prohibit the renting or use of additional equipment during a live performance.
- (d) An applicant for a music venue license shall clearly identify on the premises diagram submitted with the application areas of the licensed premises that are defined audience and performance spaces. A “defined performance space” shall be a separate and distinct physical area of the licensed premises that is reserved solely for the presentation of live entertainment as otherwise required by Business and Professions Code sections 23550 and 23552. Although a defined performance space is required, this shall not preclude the performance of live entertainment in other areas of the licensed premises.
- (e) Any music venue license holder must keep records upon the licensed premises to show compliance with the requirements of Business and Professions Code section 23550, subdivision (c)(3), (4), and (5), that cover the period of the preceding three years. Records kept in compliance with this section must be provided to the Department upon request pursuant to Business and Professions Code section 25753. Failure to keep required records or to provide them to the Department upon request shall be grounds for disciplinary action pursuant to Business and Professions Code section 25616.
- (f) For an application to exchange an existing license for a music venue license pursuant to Business and Professions Code section 23552, subdivision (f)(1), the Department shall conduct a thorough investigation to determine that the licensed premises satisfies all of the criteria of a music entertainment facility, as specified by Business and Professions Code section 23550, subdivision (c) and this section. Any license previously held by a licensee that is exchanged for a music venue license pursuant to Business and Professions

Code section 23552, subdivision (f)(1) shall be cancelled upon issuance of the music venue license and cannot be otherwise sold or transferred by the licensee.

(1) A music venue license that has been issued pursuant to an exchange shall retain the same expiration date as the license that has been exchanged and cancelled.

When a music venue license that has been issued pursuant to an exchange is sold, it cannot be sold for a purchase price or consideration in excess of the fee for an original music venue license in effect at the time the exchange was made.

Authority: Section 23552, Business and Professions Code.

Reference: Section 23550, 23552, 23958, 25616, and 25753, Business and Professions Code.