

**Department of
Alcoholic Beverage Control**

FINAL STATEMENT OF REASONS

**PROPOSED ADOPTION OF REGULATIONS FOR
RESPONSIBLE BEVERAGE SERVICE TRAINING PROGRAM**

PROPOSED ADOPTIONS TO TITLE 4, ARTICLE 25 SECTIONS 165.1, 165.2

JUSTIFICATION REQUIRED BY TITLE 1 CCR § 12(b)(1)

The proposed regulations outline requirements established by the Legislature in 2024 (AB 2402) for the Department of Alcoholic Beverage Control (ABC) to develop, implement, and administer a drink spiking prevention curriculum to be incorporated into the existing Responsible Beverage Service Training Program (RBSTP). The curriculum established by AB 2402 must include 1) best practices on how to prevent or protect a person from drink spiking and 2) best practices if the person believes they have, or someone they know has, been drugged because of drink spiking.

The additional curriculum establishes a minimum baseline for the topics designated by the Legislature to be taught by an accredited training provider for the prevention of drink spiking. The new section 165.1 will inform stakeholders of the additional requirements to be integrated into the RBSTP for preventing drink spiking. The new section 165.2 will inform stakeholders about how to respond to individuals who may have been affected by drink spiking.

LOCAL MANDATE DETERMINATION

The proposed regulation does not impose a mandate on local agencies or school districts.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE COMMENT PERIODS OF JUNE 13, 2025, THROUGH OCTOBER 6, 2025.

The proposal to add California Code of Regulations Title 4 Section 165.1 was originally noticed to the public on June 13, 2025. The proposed regulation included a 45-day comment period that ended at 12:00 pm on July 29, 2025.

The first public comment period began on June 13, 2025, and concluded on July 29, 2025. Two comments were received.

Modifications to the initial regulation text were made to incorporate suggestions from commenters during the first 45-day comment period. The change included the following:

- Changing references to “alcohol” and “alcoholic beverages” to “drinks”.

The updated regulation text was noticed on September 19, 2025, with the public comment period concluding on October 6, 2025. One comment was received during the second comment period, however, all suggestions in that comment were outside the scope of issues subject to review during the second comment period.

Below are summaries of, and responses to, all comments received during the public comment periods:

**Commenter #1: Gregg Hanour, Co-Founder and Managing Partner,
DrinkWiseAmerica.com**

Comment 1.1: (1) “Staff to observe patrons and report behavior indicating drink spiking to managers.”

This is unreasonable. Expecting staff to monitor all patrons would require a significant staffing increase, which is unrealistic.

Recommendation:

“Staff must be educated in the crime of drink spiking and report behavior indicating drink spiking to the manager on duty.

Response 1.1: The Department understands the commenter’s suggestion. However, the proposed recommendation restates what the original proposed regulation already requires. No changes to the proposed text are required by this comment.

Comment 1.2: (2) “Knowledge and enforcement of capacity limits and creation of a crowd control plan for the licensed premises.”

The phrase “crowd control plan” is too vague, even for experienced operators.

Recommended Revision:

“Create a crowd control plan that addresses, at a minimum:

- Enforcement of capacity limits
- Prevention of blocked exits and passageways
- Management of orderly entrance queues (as needed)
- Prevention of loitering and neighborhood disturbance upon exit.”

To enforce capacity:

- Maintain a headcount during busy hours.
- Use hand-held clickers (separate for entry/exit), a headcount app, or other tally methods.
- The tally must include all working staff.

Response 1.2: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. While the commenter's suggestions are understandable, this would be specific information that may be used in an accredited trainer's curriculum to enhance the minimum standard established by the regulation. No action will be taken as this would limit training providers from updating and honing their programs as standard methods of a crowd control plan may change over time.

Comment 1.3: (3) Establish policies or procedures to prevent drink spiking in alcohol served. (Why only alcoholic drinks?)

The phrase "prevent drink spiking" is unrealistic. Prevention would require full-time surveillance of every drink—impractical in any real-world setting. Even drink lids don't stop determined offenders.

Recommended Revision:

"Establish policies and procedures to deter drink spiking and sexual assault, and to respond appropriately to suspected incidents."

Response 1.3: The Department was tasked with establishing additional curriculum requirements for "preventing drink spiking" per AB 2402. The language used in the proposed regulation is established by the legislature. No action will be taken to add language to force full-time surveillance or disallow drink lids.

The Department agrees with the suggestion that not only alcoholic drinks may be spiked and has changed any reference of alcoholic drinks to beverages in the proposed regulation.

Comment 1.4: (C) "Develop policies and trainings for employees... on how to handle unattended drinks."

Staff cannot feasibly monitor all unattended drinks. Customers leave drinks to dance, use restrooms, or socialize.

Recommendation:

"Train staff to notice and respond when someone touches a drink that is not their own."

Response 1.4: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. While the commenter's suggestions are understandable, this would be specific information that may be used in an accredited trainer's curriculum to enhance the minimum standard established by the regulation. No action will be taken as this would limit training providers from updating and honing their programs as standard methods of monitoring drinks may change over time.

Comment 1.5: (b) Best practices on how to recognize drink spiking, which includes observation of the following by persons required to obtain an alcohol server certification

The current list of signs is speculative and may lead to incorrect assumptions. For example:

- Rapid intoxication may result from pre-drinking or drug use.
- Complaints about strong drinks often reflect industry-wide overpouring.
- Symptoms like nausea or dizziness may stem from illness, not spiking.

Recommendation:

Recommend best practices to broaden the focus beyond spiking to include general impairment risk and predator behavior. Suggestions:

- Post Safe Sip signage in restrooms and/or menus:
 - Contact management if you witness someone spiking a drink.
 - Never leave your drink unattended.
 - Immediately stop drinking if it tastes off, such as unexpectedly salty or bitter, or appears cloudy.
 - Sexual predators target the impaired—monitor your consumption.
 - Contact staff if you feel unsafe or suspect your drink was tampered with.
- Post signs about the legal consequences of spiking:

"Drink Spiking is a felony punishable by up to five years in prison."
- Install CCTV and keep footage for at least 30 days. The security cameras are accompanied with posted notices "These Premises Are Monitored By Security Cameras." The awareness of being videotaped can influence behavior. Document the steps to retrieve recorded information, enabling it to be accessed whenever needed.
- Train staff in the risks associated with drink spiking, including sexual assault and DUI.
- Train staff in situational awareness: monitoring customer behavior, interactions, and impairment. Situational awareness can improve customer service and safety. Has a customer become obviously intoxicated and needs to be cut off from alcohol service? Is there a stranger engaging your customer, and how is that interaction being received? Does a customer appear to be preying on an impaired customer? Does a stranger appear when drinks or purses are left unattended?

- Train staff in what to do if notified of spiking, including: How to document and preserve evidence, including saving drinks and gathering witness information.
- Develop a policy and procedure to engage customers whose impairment puts them in harm's way. Special focus should be on how to engage a significantly impaired customer who is exiting with a possible stranger. Consider:
 - Asking the significantly impaired customer how they're doing.
 - Asking the significantly impaired customer if they would like medical attention.
 - Asking the significantly impaired customer who they are leaving with and if they prefer using a taxi or ridesharing to get home.
 - If the person escorting the significantly impaired customer appears to be a stranger, ask the apparent stranger for their ID. Record the name, ID number, and DOB on the ID.
 - Taking a photo of the apparent stranger and of their vehicle, explaining the policy to do so when an impaired customer refuses the recommendation of ridesharing.
 - If deemed necessary, contact law enforcement if the significantly impaired customer appears in harm's way.
- Contact law enforcement as appropriate.
- When circumstances warrant and methods available, notify nearby licensees of facts concerning customers using text-based systems or apps.
- Clearly identify sexual predators in your internal log of banned individuals.

Response 1.5: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. While the commenter's suggestions are understandable, this would be specific information that may be used in an accredited trainer's curriculum to enhance the minimum standard established by the regulation. No action will be taken as this would limit training providers from updating and honing their programs as recommended policies and procedures may change over time.

Comment 1.6: (4) "Attempt to locate the alleged perpetrator and keep eyes on them.

Recommendation: Be more specific under this section and outline specific policies

Revise to:

(4) Attempt to locate the alleged perpetrator and keep eyes on them. Use the following methods when available:

- Speak with nearby staff and customers.
- Review CCTV footage (when available).
- Preserve any remaining drink for possible testing."

Response 1.6: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. While the commenter's suggestions are understandable, this would be specific information that may be used in an accredited trainer's curriculum to enhance the minimum standard established by the regulation. No action will be taken as this would limit training providers from updating and honing their programs as recommended policies may change over time.

Comment 1.7: (b) Establishing the policy to train employees of the licensee to identify common responses to trauma.

Recommendation: Please delete that sentence. Please take a look at the best practices above.

Response 1.7: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. No action will be taken.

Commenter #2: Elizabeth Dreeson, Program Director, The Night's Watch

Comment 2.1: Consider requiring that the training providers for AB2402 must have a background/qualifications in sexual violence prevention in addition to the background and expertise that is currently required.

Response 2.1: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. The commenter's suggestion is outside the scope of what the statute requires. No action will be taken.

Comment 2.2: Consider rephrasing to "preventing drink spiking in service of creating a safer environment" or striking all together. Creating a safe environment requires addressing & preventing additional predatory behaviors that fall along the spectrum of sexual violence, inclusive of & beyond drink spiking.

Response 2.2: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. The commenter's suggestion is outside the scope of what the statute requires. No action will be taken.

Comment 2.3: Consider including "maintain a list of local support resources for victims" as one of the steps alcohol servers should take if they receive a report that someone has been drugged as a result of drink spiking.

Response 2.3: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. While the commenter's suggestions are understandable, this would be specific information that may be used in an accredited trainer's curriculum to enhance the minimum standard established by the regulation. No action will be taken.

Comment 2.4: Consider acknowledging the technical limitations of the test kits & the liability limitations for establishments who carry test kits (as specified in AB1013).

Response 2.4: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. The commenter's suggestion is outside the scope of what the statute requires. No action will be taken.

Comment 2.5: Consider adding some sort of one-page checklist or cheat sheet to have behind the bar for how to respond when a server receives a report related to drink spiking.

Response 2.5: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. The commenter's suggestion is outside the scope of what the statute requires. No action will be taken.

Comment 2.6: Consider rephrasing "alcoholic beverages" to "drinks" throughout since any beverage can be spiked.

Response 2.6: The Department agrees with the suggestion that not only alcoholic drinks may be spiked and has changed any reference of alcoholic drinks to beverages in the proposed regulation and has allowed the public to comment for the required timeframe on the change of wording.

Comment 2.7: Reconsider conditions for calling emergency services that offer victims more choice as a way to give them power back if they are conscious and competent.

Response 2.7: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. The commenter's suggestion is outside the scope of what the statute requires. No action will be taken.

Commenter #3: Carson Benowitz-Fredericks, Research Director, Alcohol Justice

The following comments from Carson Benowitz-Fredericks were received during the second comment period in which the proposed regulations only allowed for comment on the changed wording from “alcohol” and “alcoholic beverages” to “drinks”.

Comment 3.1: The importance of believing victim testimony. Sec 165.1 (b) contains best practices for recognizing the physical indications of drink spiking. Nonetheless, this reliance on a symptomatic checklist risks having the checklist items become the sole criteria by which an incidence of drink spiking is identified. Servers should be taught the *first* rule of identifying drink spiking: the victim’s own assertions. The reluctance of servers—not to mention emergency personnel—to believe someone’s been the victim of unwanted drugging has empowered would-be predators for decades. Reversing that begins with the RBS curriculum.

Response 3.1: The Department’s responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. The commenter’s suggestion is outside the scope of what the statute requires. While the commenter’s suggestions are understandable, this would be specific information that may be used in an accredited trainer’s curriculum to enhance the minimum standard established by the regulation. This comment was also received during the second comment period and not relevant to the change made to the proposed curriculum on which comments were being solicited during that time. No action will be taken.

Comment 3.2: How to aid someone who is not capable of consent. While sexual predation is only one of the motivations for drink spiking, drugs is considered facilitators of sexual assault specifically because they render victims incapable of clear communication or comprehension. This poses a problem for licensee staff attempting to intervene, however. The confusion and fear that accompanies involuntary consumption of adulterants can also lead victims to reject the help offered by staff, friends, bystanders, or emergency personnel. This is a complicated, confusing, and upsetting circumstance for everyone involved, and deserves to be acknowledged sensitively, beyond just helping licensees avoid liability.

Response 3.2: The Department’s responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. The commenter’s suggestion is outside the scope of what the statute requires. While the commenter’s suggestions are understandable, this would be specific information that may be used in an accredited trainer’s curriculum to enhance the minimum standard

established by the regulation. This comment was also received during the second comment period and not relevant to the change made to the proposed curriculum on which comments were being solicited during that time. No action will be taken.

Comment 3.3: The emphasis on just two adulterants risks sending the wrong message about drink spiking. The current draft regulations identify ketamine and gamma-hydroxybutyric acid (GHB) as substances of special interest for stocking test kits in Sec. 165.1 (b) (ii). However, drink-spiking is defined by the unwantedness of the drug, not a set list of suspect compounds. Any number of benzodiazepines, opiates, hallucinogens—even stimulants—could and should be considered a potentially unwanted addition to an alcoholic drink. Although the law only mandates a limited set of drug testing paraphernalia, RBS should emphasize that other classes of drugs may be present, and that testing devices exist for them as well. The intent of this package, after all, is to prevent and ease the trauma from loss of physical autonomy, no matter what drug causes it.

Response 3.3: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. Teaching about ketamine and gamma-hydroxybutyric acid (GHB) in the context of drink spiking is essential for public safety, prevention, and victim support. Ketamine and GHB are among the substances most commonly associated with drink spiking because they are often colorless, odorless, and fast-acting making them difficult to detect once added to a beverage. Both substances can cause rapid sedation, confusion, memory loss, loss of consciousness, respiratory depression, and overdose. Teaching about these risks can prevent medical emergencies and fatalities by promoting early recognition and response.

The commenter's suggestion is outside the scope of what the statute requires. While the commenter's suggestions are understandable, their suggestions would be specific information that may be used in an accredited trainer's curriculum to enhance the minimum standard established by the regulation. This comment was also received during the second comment period and not relevant to the change made to the proposed curriculum on which comments were being solicited during that time. No action will be taken.

Comment 3.4: Flagging the environments in which drink spiking is likely to occur. Drink spiking is a crime of opportunity, and certain conditions create those opportunities. We appreciate the emphasis on capacity and crowd control, but perpetrators are also advantaged by victim isolation, staff disengagement (or lack of staff), and a sense of impunity. The last can include overservice and tolerance for other illegal behaviors. RBS

should include some recognition of servers' and licensees' powers to create a healthier environment, not just react to harm that has already occurred.

Response 3.4: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. The commenter's suggestion is outside the scope of what the statute requires. While the commenter's suggestions are understandable, this would be specific information that may be used in an accredited trainer's curriculum to enhance the minimum standard established by the regulation. This comment was also received during the second comment period and not relevant to the change made to the proposed curriculum on which comments were being solicited during that time. No action will be taken.

Comment 3.5: RBS trainers should be obligated to identify relevant victim resources for licensees' areas. Mental health services, hotlines, support websites, and advocacy groups can provide essential supports for victims, and supportive licensee staff are better situated than anyone to provide the first step to accessing them.

Response 3.5: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. The commenter's suggestion is outside the scope of what the statute requires. While the commenter's suggestions are understandable, this would be specific information that may be used in an accredited trainer's curriculum to enhance the minimum standard established by the regulation. This comment was also received during the second comment period and not relevant to the change made to the proposed curriculum on which comments were being solicited during that time. No action will be taken.

Comment 3.6: How to report a suspect without endangering staff, victim, or bystanders. The current RBS regulations under Sec. 165.2 (a) (4) include some guidance on how to "keep eyes" on the alleged perpetrator. This creates a strange and concerning dynamic, where staff are both potentially placing themselves in danger and creating the risk of false accusation. In addition, it implies that the perpetrator cannot be held accountable unless the servers take on an enforcement role themselves, which is not at all the case. This should be taught with caution and care. Staff need to know what identifying attributes are most helpful, how to ensure that closed-circuit surveillance properly captures potential drink-spiking attempts, and how to convey that information effectively to both in-house security and law enforcement. This is much more consequential to the cause of justice than trying to use workers themselves as surveillance.

Response 3.6: The Department's responsibility is to establish a minimum standard for accredited trainers to use when addressing drink spiking in the RBSTP curriculum. The commenter's suggestion is outside the scope of what the statute requires. While the commenter's suggestions are understandable, this would be specific information that

may be used in an accredited trainer's curriculum to enhance the minimum standard established by the regulation. This comment was also received during the second comment period and not relevant to the change made to the proposed curriculum on which comments were being solicited during that time. No action will be taken.

ALTERNATIVES DETERMINATION

ABC has determined that no reasonable alternative considered by ABC, or that has otherwise been identified and brought to the attention of ABC, would be more effective in carrying out the purpose for which the action is proposed, or 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.

ADDITIONAL DOCUMENTS OR INFORMATION IN THE RULEMAKING FILE

The article by Retail Insider in the Initial Statement of Reasons in the Documents Relied Upon entitled "How to Create a Safe and Responsible Bar Environment" was inadvertently listed and therefore not used because it did not contribute new or distinct information beyond what was already covered by the other listed sources. Its content substantially overlapped with findings, themes, and data presented in the other articles that were listed making it duplicative rather than additive.