

**Department of
Alcoholic Beverage Control**

INITIAL STATEMENT OF REASONS

**PROPOSED ADOPTION OF REGULATIONS FOR
ADMINISTRATIVE WITHDRAWALS**

PROPOSED ADOPTIONS TO TITLE 4 ARTICLE 11:

ADMINISTRATIVE WITHDRAWALS: SECTION 61

PROBLEM STATEMENT AND PURPOSE

The Department of Alcoholic Beverage Control (ABC) has identified recurring administrative challenges when applicants for alcoholic beverage licenses or permits fail to complete the application process or do not respond to departmental communications. This inaction impedes the timely processing of applications which causes inefficiencies in workload management and complicates the appropriate handling of refundable fees collected during the applications process. Additionally, refund checks are often left uncashed resulting in administrative burdens related to unclear financial accountability.

This package seeks to establish a standardized procedure for defining and managing abandoned applications for alcoholic beverage licenses or permits. It also outlines the process for administrative withdrawals of abandoned applications. Further, this regulation ensures proper notification and documentation between the Department and former applicants regarding refunds owed following an administrative withdrawal, while safeguarding public funds by setting reasonable limits on refund claims and reverting unclaimed funds to the ABC fund balance. By implementing these provisions, this regulation package promotes administrative efficiency, fiscal accountability, and clear communication and expectations for the Department with both applicants and former applicants.

BENEFITS

The proposed regulation is beneficial because it fits within ABC's mandate as an agency tasked with the protection of the safety, welfare, peace, and morals of the people of the state. By promoting administrative efficiency, financial accountability, and the responsible regulation of alcoholic beverage licensing the public will benefit from these regulations. Clear procedures for withdrawing abandoned applications and managing refundable fees ensure that only qualified and responsive applicants remain under consideration, thereby protecting the integrity of the

licensing process. Overall, the proposed regulation supports effective governance and public trust clarifying the orderly administration of the state’s alcoholic beverage control system.

AUTHORITY

Authority: Sections 23320, 23958, and 25750 Business and Professions Code; Section 22, Article XX, California Constitution.

Reference: Section 23054, 23320, 23958, 23959, 23961, 23985, 24044, 24045, 24045.5, 24048, 24070, 24072 and 25761 Business and Professions Code

NECESSITY

The specific purpose for each section is as follows:

Section 61

This section clarifies when an administrative withdrawal of an alcoholic beverage license or permit application may occur and explains the disbursement of refundable fees. This section is necessary to define the reason for an administrative withdrawal, when to request a refund, and the timeframe that both the public and ABC must abide by in order for an application to remain active or a refund to be requested after an administrative withdrawal.

Section 61(a)

This subsection of the proposed rule explains that if an applicant abandons their application for an alcoholic beverage license or permit, ABC may consider that application administratively withdrawn. This subsection is necessary to inform applicants of when the Department may deem an application as withdrawn administratively through its discretion and oversight of the licensing process.

Section 61(a)(1)

This subparagraph establishes the timeframe after which the Department may consider an application abandoned when an applicant fails to respond to a formal written request for contact by ABC. This subparagraph is necessary to inform applicants of the timeframe in which to respond to a written request by the Department for contact or risk an administrative withdrawal of an application for an alcoholic beverage license or permit.

Section 61(a)(1)(i)

This subparagraph establishes when a response by an applicant to a formal written request for contact from ABC is considered received by the Department. This subparagraph is necessary to clarify to the applicant the precise day that a response is required to the Department to avoid an administrative withdrawal of an application for a failure to respond.

Section 61(a)(2)

This subparagraph establishes that if an alcoholic beverage license is in the process of being transferred to a new applicant but the license is revoked or canceled, the application will be considered abandoned because there is no longer a valid license to transfer. This subparagraph is necessary to clarify the administrative withdrawal procedure if a license is revoked or canceled during the transfer to another applicant.

Section 61(b)

This subsection establishes that ABC will notify the former applicant in writing after an application is administratively withdrawn with information regarding the amount of fees that will be refunded, how to request a refund, and the timeline for requesting a refund. This subsection is needed to clarify how a former applicant will be notified when there is a refund due from an administratively withdrawn application. It also establishes the notice required to be sent to a former applicant by the Department to provide the former applicant with the opportunity to claim their funds.

Section 61(c)

This subsection establishes that if a requested refund check to a former applicant is not cashed after a full calendar year, the check will expire and be cancelled. ABC will again notify the former applicant in writing after the check is cancelled with information regarding the amount of fees that can be refunded, how to request a refund, and the timeline for requesting a refund. This subsection is needed to clarify how a former applicant will be notified when there is a refund due from an administratively withdrawn application if they have failed to cash a check in that amount by the Department previously. It also establishes the notice required to be sent to a former applicant by the Department to provide the former applicant with the opportunity to claim their funds.

Section 61(d)

This subsection establishes that if a former applicant does not request a refund of fees owed to them by ABC due to an administrative withdrawal per the timeframe given in subsection (b) or (c), the refund will be considered abandoned and revert back to the ABC fund balance. This subsection is needed to clarify what occurs when a refund for an administratively withdrawn application is not claimed.

Section 61(d)(1)

This subparagraph establishes when a response by a former applicant to a formal written request to provide a refund from ABC is considered received by the Department. This subparagraph is necessary to clarify to the former applicant the precise day that a response is required to the Department to avoid the abandonment of their funds.

Section 61(e)

This subsection establishes that a re-issued check that is issued to a former applicant pursuant to subsection (c) that again goes uncashed by the former applicant for a year causing the check to expire and be cancelled and the attached funds held by ABC will be considered abandoned and revert to the ABC fund balance. This subsection is necessary to ensure that former applicants have another chance to reclaim their funds, but that the cycle of issuing checks and former applicants failing to cash them does not remain in perpetuity. This also informs former applicants of the extent the Department will hold their funds for up to over two years, prior to them being considered abandoned.

Section 61(e)(1)

This subparagraph ensures that if a former applicant reaches out in an affirmative manner due to a lost or destroyed check for a refund, the Department may cancel and reissue them their funds again upon a legitimate request. This subsection is necessary to ensure that an active and engaged former applicant will be more likely to recover any refund they are entitled to.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS RELIED UPON

NOT APPLICABLE.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

ABC has made the determination that the adoption of these regulations will have no economic impact on current license holders or the public. This regulation only reflects applications for alcoholic beverage licenses that have been administratively withdrawn by ABC and establishes the procedures for requesting a refund of certain fees paid by the former applicant. None of these proposed sections add more costs to any business or applicant for an alcoholic beverage license.

Based on the above, ABC determined that the proposed regulatory action will not have a significant statewide adverse economic impact on businesses statewide including the ability of California businesses to compete with businesses in other states.

ALTERNATIVES CONSIDERED FOR THE IMPLEMENTATION OF EMERGENCY DECISIONS BY THE DEPARTMENT

No alternatives contemplated for refunding fees due to administrative withdrawals of applications for alcoholic beverage licenses or permits would have any effect upon the general public and no emergency decision is necessary.

REGULATORY MANDATES

This regulatory package creates no new duties or regulatory mandates for licensees, local governments, or ABC.