

INFORMATION CONCERNING INTERIM OPERATING PERMIT

The following is the text of Section 24044.5 of the Alcoholic Beverage Control Act, governing the qualifications for issuance of Interim Operating Permits; the fees; conditions under which holders of such permits may purchase types of alcoholic beverages; requirements which must be met by holders of such permits before the license applied for can be issued and the Department's powers and authority with respect to such permits. Note carefully that all other regulatory provisions of the Alcoholic Beverage Control Act must also be complied with by holders of Interim Operating Permits.

- 24044.5 (a) The department, in its discretion, may issue an interim operating permit to an applicant for any license to operate the premises during the period an application for a license at the premises is pending and when all of the following conditions exist:
- (1) The application has been protested pursuant to Article 3 (commencing with Section 24011).
 - (2) The department has made a determination based upon its investigation that the license should be issued.
 - (3) The applicant for the interim operating permit has filed with the department an application for issuance of a license at the premises to themselves.
 - (4) The application for the interim operating permit is accompanied by a non-refundable fee of one hundred forty-five dollars (\$145). This fee may be adjusted by the department pursuant to subdivisions (d) and (e) of Section 23320.
- (b) An interim operating permit issued by the department pursuant to this section shall be for a period not to exceed 120 days. An interim operating permit may be extended at the discretion of the department for additional 120-day periods as necessary upon payment of an additional fee of one hundred dollars (\$100) and upon compliance with all conditions required by this section. Any interim operating permit issued by the department shall be automatically canceled when a final determination made by the department regarding the protests becomes effective or when the application for the license is withdrawn, whichever occurs first. An interim operating permit is a conditional permit and authorizes the holder thereof to sell alcoholic beverages as would be permitted to be sold under the privileges of the license for which the application has been filed with the department. Any conditions for which the applicant has petitioned pursuant to Article 1.5 (commencing with Section 23800) shall apply to any interim operating permit issued by the department.
- (c) Purchase of beer and wine by the holder of an interim operating permit shall be made only upon payment before or at the time of delivery in currency or by check. Purchase of distilled spirits by the holder of an Interim Retail Permit interim operating permit shall be made only upon payment before or at the time of delivery in currency or by certified check. However, the holder of an interim operating permit, who also holds one or more retail licenses and is operating under the retail license or licenses in addition to the interim operating permit, and who is not delinquent under the provisions of Section 25509 as to any license under which they operate, may purchase alcoholic beverages on credit under the interim operating permit.
- (d) All checks received by a seller for beer or wine purchased by the holder of an interim operating permit shall be deposited not later than the second business day following the date the beer or wine is delivered. A check dishonored on presentation shall not be deemed payment. The receipt by the seller or their agent in good faith from a holder of a temporary permit of a check dishonored on presentation shall not be cause for disciplinary action against the seller.
- (e) Issuance of the license for which the holder of an interim operating permit has filed an application shall not be approved by the department until the holder of the interim operating permit has filed with the department a statement executed under penalty of perjury that all current obligations have been discharged, and that all outstanding checks issued by him or her in payment for alcoholic beverages will be honored on presentation.
- (f) It shall not be a violation of this section or grounds for disciplinary action for any licensee to extend credit to the holder of an interim operating permit or to receive payment from the permittee in a manner other than authorized herein unless the seller has knowledge of the fact that the purchaser was operating under an interim operating permit. Knowledge of the fact may be established by evidence, including, but not limited to, evidence that, at the time of receipt of payment or the extension of credit, the premises operated under an interim operating permit were posted with the notice required by Section 23985, or the holder of the interim operating permit has recorded notice as required by Section 24073, or the holder of the interim operating permit has published notice as required by Section 23986, or the holder of the interim operating permit has recorded and published notice pursuant to Division 6 (commencing with Section 6101) of the Commercial Code.
- (g) Refusal by the department to issue or extend an interim operating permit shall not entitle the applicant to petition for the permit pursuant to Section 24011, or to a hearing pursuant to Section 24012. Articles 2 (commencing with Section 23985) and 3 (commencing with Section 24011) shall not apply to interim operating permits.
- (h) Notwithstanding any other provision of law, the department may, in its discretion, cancel or suspend summarily at any time an interim operating permit if the department determines that good cause for the cancellation or suspension exists. Chapter 8 (commencing with Section 24300) shall not apply to interim operating permits.
- (i) Application for an interim operating permit shall be on any form the department shall prescribe. Fees received by the department for issuance of interim operating permits shall be deposited in the Alcoholic Beverage Control Fund as provided in Section 25761.

Note that if you obtain an Interim Operating Permit, you must sign a statement under penalty of perjury that all current obligations will be discharged and all outstanding checks issued in payment for alcoholic beverages will be honored on presentation.

After an application for an Interim Operating Permit has been made, no refund of the permit fee will be made.

STATE OF CALIFORNIA
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
DECLARATION AND REQUEST
FOR INTERIM OPERATING PERMIT

(As required by Section 24044.5 of the
Alcoholic Beverage Control Act)

Name and Address:

Type of License:

The above named, having made application for a permanent license at the above-designated premises, requests the issuance of an interim operating permit for the following reasons:

The above-named further declares that all obligations in connection with the purchase of alcoholic beverages under interim operating permits(s) at the above-designated premises will be discharged, and that all checks issued in payment for alcoholic beverages purchased while holding the interim operating permit(s) will be honored on presentation.

The above-named acknowledges that even though an interim operating permit may be granted, a permanent license may not be issued in the future.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at _____.

This _____, day of _____, 20_____.

Applicant Signature

For Departmental Use Only

Date application report approved by Division _____ District (is/is not) authorized to issue an interim operating permit.

Approval/Denial Director of Alcoholic Beverage Control

by _____