

AMENDED IN SENATE APRIL 6, 2016

**SENATE BILL**

**No. 1285**

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**Introduced by Senator Leno**

February 19, 2016

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An act to add Section 23826.13 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1285, as amended, Leno. Alcoholic beverages: licenses.

The Alcoholic Beverage Control Act, administered by the Department of Alcoholic Beverage Control, regulates the sale and distribution of alcoholic beverages and the granting of licenses for the manufacture, distribution, and sale of alcoholic beverages within the state. The act also provides for a limitation on the amount of on-sale general licenses that may be issued by the department based on the population of the county in which the licensed premises are located, as provided. *Existing law also provides for various annual fees for the issuance of alcoholic beverage licenses, depending on the type of license issued.*

This bill would, beginning January 1, 2017, provide an exception to ~~this~~ *the license* limitation for a county of the 6th class, as specified, for 28 new original *neighborhood-restricted* special on-sale general licenses for ~~bona fide eating places~~ for premises located within specified census tracts in that county, subject to specified requirements. *This bill would impose an original fee and annual renewal fee for the license, which would be deposited in the Alcohol Beverage Control Fund, and would require an applicant for this license to submit a specified application, submitted under the penalty of perjury, to the Department of Alcoholic Beverage Control. This bill would also require the applicant to submit a signed verification by the local government in which the licensed*

*premises would be located stating that the applicant has completed certain preapplication requirements.*

*By requiring an applicant to submit an application under penalty of perjury, thereby expanding the crime of perjury, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason and that no reimbursement shall be made pursuant to those statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.*

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 23826.13 is added to the Business and
- 2 Professions Code, to read:
- 3 23826.13. (a) Notwithstanding any other provision of this
- 4 chapter, in any county of the sixth class, the department may issue
- 5 no more than a total of 28 new original *neighborhood-restricted*
- 6 special on-sale general licenses ~~for bona fide eating places~~
- 7 beginning on January 1, 2017.
- 8 (b) To qualify for a license issued pursuant to this section, the
- 9 premises for which the license would apply shall be located within
- 10 one of the following United States Bureau of Census census tracts
- 11 located within the City and County of San Francisco, subject to
- 12 the following limitations:
- 13 (1) For United States Bureau of the Census census tracts 612000,
- 14 232000, 234000, 233000, and 230030, no more than a total of four
- 15 new ~~special~~ original *neighborhood-restricted special* on-sale
- 16 general licenses ~~for bona fide eating places~~ shall be issued to
- 17 premises located within all of these tracts.

1 (2) For United States Bureau of the Census census tracts 258000  
2 and 257020, no more than a total of four new ~~special~~ original  
3 *neighborhood-restricted special* on-sale general licenses ~~for bona~~  
4 ~~fide eating places~~ shall be issued to premises located within both  
5 of these tracts.

6 (3) For United States Bureau of the Census census tract 264030,  
7 no more than a total of four new ~~special~~ original  
8 *neighborhood-restricted special* on-sale general licenses ~~for bona~~  
9 ~~fide eating places~~ shall be issued to premises located within this  
10 tract.

11 (4) For United States Bureau of the Census census tracts 255000,  
12 256000, 260020, 260010, 260040, 261000, and 263010, no more  
13 than a total of four new ~~special~~ original *neighborhood-restricted*  
14 *special* on-sale general licenses ~~for bona fide eating places~~ shall  
15 be issued to premises located within all of these tracts.

16 (5) For United States Bureau of the Census census tracts 309000,  
17 310000, and 312010, no more than a total of four new ~~special~~  
18 original *neighborhood-restricted special* on-sale general licenses  
19 ~~for bona fide eating places~~ shall be issued to premises located  
20 within all of these tracts.

21 (6) For United States Bureau of the Census census tracts 330000,  
22 329010, 328010, 353000, and 354000, no more than a total of four  
23 new ~~special~~ original *neighborhood-restricted special* on-sale  
24 general licenses ~~for bona fide eating places~~ shall be issued to  
25 premises located within all of these tracts.

26 (7) For United States Bureau of the Census census tracts 328020,  
27 329020, 351000, and 352010, no more than a total of four new  
28 ~~special~~ original *neighborhood-restricted special* on-sale general  
29 licenses ~~for bona fide eating places~~ shall be issued to premises  
30 located within all of these tracts.

31 (c) In issuing the licenses pursuant to this section, the department  
32 shall follow the procedure set forth in Section 23961. A license  
33 shall not be issued pursuant to this section to an applicant until  
34 any existing on-sale licenses issued to the applicant *for the same*  
35 *premises* are canceled.

36 (d) (1) ~~An applicant~~ *A person* who currently holds ~~a valid an~~  
37 on-sale general license for a premises shall not apply for a license  
38 issued pursuant to this section for that licensed premises.

1 ~~(2) An applicant seeking a license pursuant to this section shall~~  
2 ~~comply with the notice requirements established in Section~~  
3 ~~23985.5.~~

4 *(2) In addition to the other requirements of this section, an*  
5 *application for a neighborhood-restricted on-sale general license*  
6 *shall be subject to all the requirements that apply to an on-sale*  
7 *general license for a bona fide eating place.*

8 (3) Prior to submitting an application for a license issued  
9 pursuant to this section, the applicant shall conduct a minimum of  
10 one preapplication meeting to discuss the application with  
11 neighbors and members of the community within the census tract  
12 in which the premises are located.

13 (A) The applicant shall hold the meeting either on the premises  
14 or at an alternate location within a one-mile radius of the premises.

15 (B) The applicant shall mail notification of the preapplication  
16 meeting to all of the following individuals and organizations at  
17 least 14 calendar days before the meeting:

18 (i) Each resident within a 500-foot radius of the premises for  
19 which the license is to be issued.

20 (ii) Any relevant neighborhood associations for the  
21 neighborhood in which the premises is located, as identified on a  
22 list maintained by the Planning Department of the City and County  
23 of San Francisco.

24 (iii) The Chief of Police for the San Francisco Police  
25 Department.

26 ~~(C) The department shall require the applicant to submit~~  
27 ~~documentation of the completed preapplication meeting as part of~~  
28 ~~an application for a license issued under this section.~~

29 *(C) Applicants for a neighborhood-restricted special on-sale*  
30 *general license shall submit, on a form provided by the department,*  
31 *signed verification by the local government body that states the*  
32 *applicant has completed the preapplication meeting pursuant to*  
33 *this section.*

34 (e) (1) A license issued pursuant to this section shall not be  
35 transferred between counties.

36 (2) A license issued pursuant to this section shall not be  
37 transferred to any premises other than the premises for which the  
38 license was originally issued. *other premises.* This provision shall  
39 not apply to any licensee whose premises have been destroyed as  
40 a result of fire or any act of God or other force beyond the control

1 of the licensee, for whom the provisions of Section 24081 shall  
2 apply.

3 (3) A license issued pursuant to this section shall not be  
4 transferred to any person, partnership, limited partnership, limited  
5 liability company, or corporation. This provision shall not apply  
6 to licenses transferred under Section 24071, 24071.1, or 24071.2.

7 (f) Upon the cancellation of any license issued pursuant to this  
8 section, the license shall be returned to the department for issuance  
9 to a new applicant following the procedure set forth in Section  
10 23961 and the provisions of this section.

11 (g) A person that holds a *neighborhood-restricted* special  
12 ~~original on-sale general license for a bona fide public eating place~~  
13 issued pursuant to this section shall not exchange his or her license  
14 for an on-sale license for public premises.

15 (h) *Except as specified herein, a neighborhood-restricted special*  
16 *on-sale general license may exercise all of the privileges, and is*  
17 *subject to all the restrictions, of an on-sale general license for a*  
18 *bona fide eating place.*

19 ~~(h)~~

20 (i) A *neighborhood-restricted* special on-sale general license  
21 ~~for a bona fide eating place~~ issued pursuant to this section shall  
22 not, with respect to beer and wine, authorize the exercise of the  
23 rights and privileges granted by an off-sale beer and wine license.

24 (j) (1) *The original and annual fees, and any additional fees*  
25 *and surcharges, shall be the same as those imposed upon an*  
26 *on-sale general license for a bona fide eating place.*

27 (2) *All moneys collected from the fees imposed pursuant to this*  
28 *section shall be deposited in the Alcohol Beverage Control Fund,*  
29 *pursuant to Section 25761.*

30 ~~(i)~~

31 (k) The department shall adopt rules and regulations to enforce  
32 the provisions of this section.

33 SEC. 2. The Legislature finds and declares that a special law  
34 is necessary and that a general law cannot be made applicable  
35 within the meaning of Section 16 of Article IV of the California  
36 Constitution because of the unique distribution and market  
37 conditions of liquor licenses in the City and County of San  
38 Francisco, that apply only to the City and County of San Francisco.

39 SEC. 3. *No reimbursement is required by this act pursuant to*  
40 *Section 6 of Article XIII B of the California Constitution because*

1 *the only costs that may be incurred by a local agency or school*  
2 *district will be incurred because this act creates a new crime or*  
3 *infraction, eliminates a crime or infraction, or changes the penalty*  
4 *for a crime or infraction, within the meaning of Section 17556 of*  
5 *the Government Code, or changes the definition of a crime within*  
6 *the meaning of Section 6 of Article XIII B of the California*  
7 *Constitution.*  
8 *No reimbursement shall be made pursuant to Part 7*  
9 *(commencing with Section 17500) of Division 4 of Title 2 of the*  
10 *Government Code for costs mandated by the state pursuant to this*  
11 *act. It is recognized, however, that a local agency or school district*  
12 *may pursue any remedies to obtain reimbursement available to it*  
13 *under Part 7 (commencing with Section 17500) and any other*  
14 *provisions of law.*

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