CALIFORNIA DEPARTMENT OF
Alcoholic Beverage Control

May 20, 2020

EN ESPAÑOL

Fifth Notice of Regulatory Relief

Pursuant to the Constitution of the State of California, Article XX, Section 22, and in furtherance of Governor Newsom's emergency declarations and orders regarding the spread of the COVID-19 virus, the Department of Alcoholic Beverage Control previously provided temporary relief measures which remain in place, and the Department now adds a new measure to this list.

The Department of Alcoholic Beverage Control previously suspended enforcement of the following legal prohibitions on a temporary basis:

1. Returns of Alcoholic Beverages
2. Retail-to-Retail Transactions

CORONAVIRUS (COVID-19) UPDATES

First Notice of

3. Extension of Credit
4. On-Sale Retailers Exercising Off-Sale Privileges
5. Sales of Alcoholic Beverages To-Go
6. Drive-Thru Windows for Off-Sale Transactions
7. Hours of Operations for Retail Sales
8. Deliveries to Consumers
9. Free Delivery
10. Delivery Hours Extended to Midnight
11. ~~Charitable Promotions and Sales~~ – Superseded by No. 18
12. Distilled Spirits Manufacturers Providing High-Proof Spirits for Disinfection Purposes
13. Virtual Wine Tastings
14. Expansion of Licensed Footprint
15. Extension of Regulatory Relief for Club Licenses: Type 50, 51 and 52

Unless otherwise noted, those temporary relief measures remain in place, and the Department now issues the following relief to enable licensees with on-sale privileges to reopen their businesses for on-site consumption that is consistent with the Governor's declarations and orders as well as other State and local health and safety guidelines:

16. On-Sale Licensees without Kitchen Facilities

In its First Notice of Regulatory Relief, the Department provided guidance for on-sale licensees selling and delivering prepared drinks and pre-mixed cocktails in to-go containers in conjunction with bona fide meals prepared on the licensed premises. Since then, the Department has received a number of requests to extend this to-go relief to on-sale licensees that do not operate kitchen facilities. Although no

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meals are required for on-premises consumption of alcoholic beverages (as detailed in the Industry Advisory), the meal requirement remains in place for to-go containers.

Consistent with the approach that to-go containers of alcoholic beverages are most appropriately sold in conjunction with meals, the Department will allow, on a temporary basis, licensees that do not operate kitchen facilities and do not prepare bona fide meals on the licensed premises to partner with businesses that do offer meals ("meal provider") to sell bona fide meals in conjunction with to-go containers of alcoholic beverages (consistent with the First Notice of Regulatory Relief and other guidance provided by the Department). Such to-go drinks and meal service will be authorized in accordance within the following parameters:

1. The meal provider must be regularly engaged in the business of preparing and offering bona fide meals for sale to the public. Such meal provider may be a traditional restaurant, a fast food restaurant, a food truck (or similar mobile meal provider), or similar business that prepares and serves bona fide meals. A meal provider may be another retail licensee but cannot be a non-retail licensee. The tied house laws will apply to the relationship with meal providers. The ABC licensee must notify the Department of the agreement and relationship created between them and the meal provider. Meal providers can be affiliated with multiple ABC licensees but must treat

Questions

CONTACT

Additional information may be obtained by contacting:

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Email us at headquarters@abc.ca.gov
Call (916) 419-2500

them equitably in their agreements with each of them.

2. All orders for food and alcoholic beverages must be made to or coordinated by the ABC licensee. Orders and payment from consumers for alcohol and food must be received by the ABC licensee. The ABC licensee may then pass on the food order and a portion of the payment to its meal provider.
3. For deliveries away from the licensed premises, the ABC licensee must receive the food order from its meal provider, and then deliver both the meal and the alcoholic beverages to the consumer in a single transaction originating from its licensed premises. This must be done even if using a third-party delivery service. That is, the alcoholic beverages may not be delivered to the consumer separately from a meal delivered by the food provider and cannot leave the licensed premises without being accompanied by the appropriate food order.

As with the prior measures in the First Notice, Second Notice, Third Notice, and Fourth Notice, this Notice of Regulatory Relief is designed to support the alcoholic beverage industry in its efforts to assist California in slowing the spread of the virus while assisting the industry in dealing with the economic challenges it is facing as a result. The Department has carefully considered

the public's health, safety, and welfare in providing this relief, and the Department has concluded that the decision to defer enforcement of these measures, exercised on a temporary basis, will not jeopardize the public's health, safety, or welfare. In lieu of individual requests for relief submitted to the Department, the temporary relief from the enforcement of the regulatory requirements set forth in this notice are applicable to all affected Department licensees and will continue until further notice.

Limitations on Relief

The relief provided by this and prior notices is temporary and may be withdrawn by the Department at any time. The Department intends to provide a 10-day notice of the termination of any such relief, although such relief may be withdrawn immediately should the needs of public safety dictate. In addition, licensees are directed to use the relief provided by this notice responsibly without compromising the public's health, safety, or welfare. Notwithstanding any other provision of law, if the Department determines that any licensee is found to be abusing the relief provided by this notice, or if the licensee's actions jeopardize public health, safety, or welfare, the Department may summarily rescind the relief as to that licensee at any time. Until the Department rescinds any of these temporary relief measures, whether as to all licensees or a particular licensee, any licensee adhering to the terms of this notice, and other applicable laws, may rely on this notice to utilize the privileges described without risk of enforcement by the Department against its license for actions taken up until the time of the rescission.

In addition, this notice does not exempt licensees from local ordinances, zoning restrictions, conditional use permits, and the like, over which the Department has no jurisdiction or control. That said, the Department will not consider any violation of such local controls to constitute a violation of the license issued by the Department.

We encourage all licensees to sign up with the Department for email notices regarding this and other issues. This is easily done by clicking Subscribe. If you have any questions, please contact the Department.