



*County of Lassen*  
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

March 5, 2018

**Maurice L. Anderson, Director**  
707 Nevada Street, Suite 5  
Susanville, CA 96130-3912  
Phone: 530 251-8269  
Fax: 530 251-8373  
email: landuse@co.lassen.ca.us  
website: www.co.lassen.ca.us

TO: Board of Supervisors  
Agenda Date: March 13, 2018

Zoning & Building  
Inspection Requests  
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director

*MLA  
For:*

SUBJECT:

Make determination of whether the ability to sell off sale beer and wine at the Dollar General in Westwood, CA (305 Birch Street, Westwood CA 96137) would serve a public convenience or necessity for purposes of an application for licensure before the department of Alcoholic Beverage Control.

ACTION REQUESTED:

1. Adopt resolution; and/or
2. Provide direction to staff

SUMMARY:

The intent of this Board letter and attached resolution is to allow the Board of Supervisors to determine if the "public convenience or necessity" would be served by the sale of beer and wine at the Dollar General in Westwood (305 Birch Street, Westwood CA 96137). An application has been submitted to the California Department of Alcoholic Beverages Control (ABC) for a license to sell beer and wine at this location. Before said license can be issued by the ABC, the Board must determine that "public convenience and necessity is served" by the issuance of the license.

MLA:km  
Attachment

# Dollar General Westwood vicinity map



RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE LASSEN COUNTY BOARD OF SUPERVISORS, STATE OF  
CALIFORNIA, APPROVING ABC APPLICATION FOR DOLLAR GENERAL  
LOCATED AT 305 BIRCH STREET, WESTWOOD CALIFORNIA (ASSESSOR'S  
PARCEL NUMBER 125-152-23-11)

WHEREAS, sale of liquor at convenience stores throughout California is a highly regulated affair administered by the California Department of Alcoholic Beverage Control (ABC); and

WHEREAS, prior to being legally able to sell beer and wine at a convenience store one must apply to and be approved for licensure by the ABC; and

WHEREAS, there are limitations imposed by law on how many licenses may be issued by the ABC dependent on population, crime statistics, ect; and

WHEREAS, application has been made to the ABC to open for an "off-sale" beer and wine license at the Dollar General in Westwood (305 Birch Street, Westwood CA 96137). (Assessor's Parcel Number 125-152-23-11); and

WHEREAS, the parcel on which the Dollar General in Westwood is located is zoned C-1 (Retail Business District) and;

WHEREAS, ABC has notified the applicant that licensure may not be granted unless the applicant complies with Business Professions Code section 23817.7(a); and

WHEREAS, Business Professions Code 23817.7(a)(3) requires that no such license may be granted unless "the local governing body of the area in which the applicant premises are located...determines that public convenience or necessity would be served by the issuance."

NOW, THEREFORE, IT BE RESOLVED THAT the Lassen County Board of Supervisors has considered the application of Westwood Dollar General and hereby determines that public convenience and necessity would be served by the sale of, among other things, beer and wine at the Westwood Dollar General.

Resolution\_\_\_\_\_

The foregoing resolution was adopted at a regular meeting of the Lassen County Board of Supervisors of the County of Lassen, State of California, held on the \_\_\_\_\_th day of \_\_\_\_\_ 20\_\_\_\_ by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
Chairman of the Board of Supervisors  
County of Lassen, State of California

ATTEST:  
JULIE BUSTAMANTE, Clerk of the Board

BY \_\_\_\_\_  
MICHELE J. YDERRAGA, Deputy Clerk of the Board

RESOLUTION NO. \_\_\_\_\_

I, MICHELE J. YDERRAGA, Deputy Clerk of the Board, of The Board of Supervisors, County of Lassen, do hereby certify that the foregoing resolution was adopted by the said Board of Supervisors at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Deputy Clerk of the County of Lassen  
Board of Supervisors





RECEIVED

JAN 31 2018

Lassen County Department of  
Planning and Building Services  
cc: orig Matt  
cc: MCA

January 26, 2018

Lassen County  
Planning Department  
707 Nevada St., Ste. 5  
Susanville, CA 96130

RE: Dollar General Store #17878 – 301 Birch Street, Westwood

Dear Sir/Madame:

Please accept this letter as a formal request for a determination of public convenience or necessity. Below is additional information that should help make an affirmative determination.

#### Overview and Project Description

Dollar General Stores will be operating an approximately 9,100 square foot grocery and consumer goods store at the above referenced location. It is our understanding that off-sale beer and wine in this zone is permitted for this type of store. The store will operate from 7:00 a.m. until 11:00 p.m. daily. Dollar General Stores operates over 11,000 stores across the US and has an excellent reputation for providing the products that customer's desire most at competitive prices. Beer and wine sales will represent an incidental purchase for its current customers much like other major grocery stores. Dollar General will dedicate less than 5% of the gross floor area for the display of beer and wine and have implemented internal training and controls for its employees to ensure responsible sales.

#### Public Convenience or Necessity

First, it is important to emphasize that Business & Professional Code § 23958.4 requires a positive finding of public convenience **"or"** necessity in order for an off-sale ABC application to be approved. Thus it is legally sufficient if Dollar General shows **either** public convenience **or** public necessity. It is **not** legally necessary to show both.

Second, it is only necessary to show public convenience or necessity where there is an “undue concentration” of licensees in the census tract. The term “undue concentration” (also referred to as “over concentration”) is specifically defined in Business and Professional Code § 23958.4 as simply a ratio of *the number of licenses in a census tract* compared to *the average number of licenses in a County*, as a whole. It does *not* mean that a particular census tract necessarily has too many licenses for the needs or convenience of residents in that tract.

“Over Concentration” also does not mean that the State, or anyone else, has previously looked at this census tract and determined that it has suffered any deleterious effects from the actual number of licenses existing; or that it will suffer if a new license is issued. It merely provides a guideline for making such a determination, in the form of determining whether in a particular situation, the ABC license would serve the “public convenience or necessity”.

It is also important to understand that Census Tract are “zoning blind”. Hence, many census tracts that contain a lot of commercially zoned property have an “over concentration” state while census tracts with mostly residentially zoned property do not have an “over concentration”.

Thus the fact that the census tract in which this store is located is statutorily “over concentrated” does not mean that selling a small amount of alcoholic beverages at a grocery/consumer goods store will have adverse impacts. Rather, it simply means that either public convenience or public necessity will be served by the sale of alcoholic beverages at this site.

### **Basis For Supporting Off-Site Alcoholic Beverage Sales As An Integral Part Of The Store**

#### **Company Overview**

Dollar General is one of the largest retailer of primarily name-brand grocery and consumer goods in the US. Enclosed is a informational packet about Dollar General and the beer and wine sales program.

#### **Security and Control:**

Dollar General is committed to taking all feasible steps to address law enforcement concerns about the site. In addition, Dollar General has an extensive employee-training program and is a very responsible retailer of alcoholic beverages with no violations in California ever. It certainly has the resources to be a responsible retailer of all types of goods and especially of alcoholic beverages. Moreover, the sale of alcoholic beverages is not the primary purpose.

Dollar General stores are designed to provide a safe environment for patrons and employees. Some of the design elements of the store that facilitate a safe and pleasurable shopping experience include adequate lighting levels both on the interior and exterior of the store,



employee supervision of the facility, closed circuit video monitoring system with cameras located strategically throughout the property, and careful window signage and landscaping placement to avoid obstruction of visibility into and out of the facility.

Dollar General understands the importance of maintaining the appearance of a store to both expand their customer base and prevent criminal activity and is committed to a store that allows for safe family oriented shopping. Dollar General recognizes the seriousness of loitering, delinquency, crime, and underage drinking. They have developed stringent operational standards and training programs for employees involved with selling of alcoholic beverages. Furthermore, Dollar General is open to operating conditions that the police department considers appropriate to ameliorate any concerns that do exist.

#### **Statement of Justification for Finding of Public Convenience or Necessity**

**1. That the use is essential or desirable to the public convenience and public welfare.**

The proposed availability of alcohol with the sale of staple groceries such as: fruits and vegetables, milk, juice, eggs, bread, cereal, coffee, soup, pasta, sodas as well as consumer products such as tooth paste, soap, detergent and paper towels allows customers to have readily available products in one location where they would otherwise be obliged to travel to other locations to further purchase their items; thus the establishment of off-site alcoholic beverage sale serves a public convenience.

**2. That the granting the permit will not be materially detrimental to the public welfare and to other property in vicinity.**

The proposed sale of alcohol would not be detrimental to the public health, safety or welfare because the store has been designed as safe family oriented shopping with all windows facing the street and parking lot allowing for motorists and patrons outside the store a direct view inside the store; cashiers are located near the entrance of the store; and security cameras are placed throughout the interior and exterior. Furthermore, the store is primarily for the sales of staple groceries and consumer products and the sale of alcohol is incidental and in conjunction with the sale of such items. Additionally, the convenience of a wide variety of groceries and consumer products in one location promotes the general welfare. Furthermore, this operation will have general conditions to limit nuisance behavior associated with sales of alcohol.

**3. That the use conforms to good zoning practices and development standards.**

The store is located within a commercial zone. Locating grocery stores in retail commercial zones on major thoroughfares is consistent with good community development practices and standards.

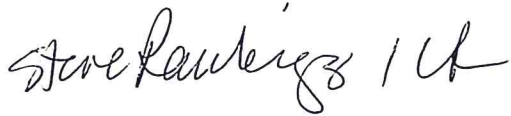
**4. That the use is not contrary to any of the objectives of any part of the adopted General Plan**

Alcohol sales for off-site consumption within a grocery store is consistent with the City's General Plan by providing a product that serves to provide the full spectrum of commercial needs for a community commercial retail center.

We respectfully request an approved finding of Public Convenience or Necessity for this store. If there is any additional information you need to process this request, please contact me.

Thank you for your time and consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Rawlings" followed by a stylized flourish or initials.

Steve Rawlings  
(951) 667-5152



## INFORMATION AND INSTRUCTIONS -

## SECTION 23958.4 B&amp;P

- Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.
- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
  - Part 2 is to be completed by the applicant, and returned to ABC.
  - Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to ABC.

## PART 1 - TO BE COMPLETED BY ABC

## 1. APPLICANT'S NAME

Dolgen California

## 2. PREMISES ADDRESS (Street number and name, city, zip code)

3rd &amp; Birch St. Westwood 90137

## 2. LICENSE TYPE

20

## 4. TYPE OF BUSINESS

- |   |  |  |  |
|---|--|--|--|
| <input type="checkbox"/> Full Service Restaurant                | <input type="checkbox"/> Hofbrau/Cafeteria | <input type="checkbox"/> Cocktail Lounge     | <input type="checkbox"/> Private Club      |
| <input type="checkbox"/> Deli or Specialty Restaurant           | <input type="checkbox"/> Comedy Club       | <input type="checkbox"/> Night Club          | <input type="checkbox"/> Veterans Club     |
| <input type="checkbox"/> Cafe/Coffee Shop                       | <input type="checkbox"/> Brew Pub          | <input type="checkbox"/> Tavern: Beer        | <input type="checkbox"/> Fraternal Club    |
| <input type="checkbox"/> Bed & Breakfast:                       | <input type="checkbox"/> Theater           | <input type="checkbox"/> Tavern: Beer & Wine | <input type="checkbox"/> Wine Tasting Room |
| <input type="checkbox"/> Wine only <input type="checkbox"/> All |  |  |  |

- |  |  |  |  |
|--|--|--|--|
| <input type="checkbox"/> Supermarket                   | <input type="checkbox"/> Membership Store  | <input type="checkbox"/> Service Station               | <input type="checkbox"/> Swap Meet/Flea Market |
| <input type="checkbox"/> Liquor Store                  | <input type="checkbox"/> Department Store  | <input type="checkbox"/> Convenience Market            | <input type="checkbox"/> Drive-in Dairy        |
| <input checked="" type="checkbox"/> Drug/Variety Store | <input type="checkbox"/> Florist/Gift Shop | <input type="checkbox"/> Convenience Market w/Gasoline |  |
| <input type="checkbox"/> Other - describe:             |  |  |  |

## 5. COUNTY POPULATION

## 6. TOTAL NUMBER OF LICENSES IN COUNTY

☐ On-Sale ☐ Off-Sale

## 7. RATIO OF LICENSES TO POPULATION IN COUNTY

☐ On-Sale ☐ Off-Sale

## 8. CENSUS TRACT NUMBER

402.0

## 9. NO. OF LICENSES ALLOWED IN CENSUS TRACT

3

☐ On-Sale ☒ Off-Sale

## 10. NO. OF LICENSES EXISTING IN CENSUS TRACT

7

☐ On-Sale ☒ Off-Sale

## 11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)

- ☒ Yes, the number of existing licenses exceeds the number allowed
- ☐ No, the number of existing licenses is lower than the number allowed

## 12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?

- ☐ Yes (Go to Item #13)
- ☒ No (Go to Item #20)

## 13. CRIME REPORTING DISTRICT NUMBER

## 14. TOTAL NUMBER OF REPORTING DISTRICTS

## 15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS

## 16. AVERAGE NO. OF OFFENSES PER DISTRICT

## 17. 120% OF AVERAGE NUMBER OF OFFENSES

## 18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT

## 19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency)

- ☐ Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17
- ☐ No, the total number of offenses in the reporting district is lower than the total number in item #17

## 20. CHECK THE BOX THAT APPLIES (check only one box)

- ☐ a. If "No" is checked in both item #11 and item #19, Section 23958.4 B&P does not apply to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.
- ☐ b. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjunction with a beer manufacturer's license, or winegrower's license, advise the applicant to complete Section 2 and bring the completed form to ABC when filing the application or as soon as possible thereafter.
- ☒ c. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3. The completed form will need to be provided to ABC in order to process the application.

Governing Body/Designated Subordinate Name:

## FOR DEPARTMENT USE ONLY

PREPARED BY (Name of Department Employee)

**PART 2 - TO BE COMPLETED BY THE APPLICANT (If box #20b is checked)**

21. Based on the information on the reverse, the Department may approve your application if you can show that public convenience or necessity would be served by the issuance of the license. Please describe below the reasons why issuance of another license is justified in this area. You may attach a separate sheet or additional documentation, if desired. Do not proceed to Part 3.

22. APPLICANT SIGNATURE

23. DATE SIGNED

**PART 3 - TO BE COMPLETED BY LOCAL OFFICIALS (If box #20c is checked)**

The applicant named on the reverse is applying for a license to sell alcoholic beverages at a premises where undue concentration exists (i.e., an over-concentration of licenses and/or a higher than average crime rate as defined in Section 23958.4 of the Business and Professions Code). Sections 23958 and 23958.4 of the Business and Professions Code requires the Department to deny the application unless the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. Please complete items #24 to #30 below and certify or affix an official seal, or attach a copy of the Council or Board resolution or a signed letter on official letterhead stating whether or not the issuance of the applied for license would serve as a public convenience or necessity.

24. WILL PUBLIC CONVENIENCE OR NECESSITY BE SERVED BY ISSUANCE OF THIS ALCOHOLIC BEVERAGE LICENSE?

☐

Yes

☐

No

☐

See Attached (i.e., letter, resolution, etc.)

25. ADDITIONAL COMMENTS, IF DESIRED (may include reasons for approval or denial of public convenience or necessity):

26. CITY/COUNTY OFFICIAL NAME

27. CITY/COUNTY OFFICIAL TITLE

28. CITY/COUNTY OFFICIAL PHONE NUMBER

29. CITY/COUNTY OFFICIAL SIGNATURE

30. DATE SIGNED





# California LEGISLATIVE INFORMATION

[Home](#) | [Bill Information](#) | [California Law](#) | [Publications](#) | [Other Resources](#) | [My Subscriptions](#) | [My Favorites](#)

Code:  Section:   ⓘ

[Up ^](#) [< Previous](#) [Next >>](#)

[cross-referenced chaptered bills](#)

[PDF](#)

[Add To My Favorites](#)



[Highlight](#)

## BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 9. ALCOHOLIC BEVERAGES [23000 - 25762] (*Division 9 added by Stats. 1953, Ch. 152.*)

CHAPTER 5. Restrictions on Issuance of Licenses [23770 - 23827] (*Chapter 5 added by Stats. 1953, Ch. 152.*)

ARTICLE 2. Limitation on Number of Licensed Premises [23815 - 23827] (*Article 2 added by Stats. 1953, Ch. 152.*)

23817.4. The Legislature finds and declares that the public welfare and morals require that there be a limitation on the number of premises licensed for the off sale of beer and wine.

(*Added by Stats. 1997, Ch. 564, Sec. 1. Effective January 1, 1998.*)





# California LEGISLATIVE INFORMATION

Home | Bill Information | California Law | Publications | Other Resources | My Subscriptions | My Favorites

Code:  Section:  Search

[Up](#) | [<< Previous](#) | [Next >>](#)

[cross-reference chartered bills](#)

[PDF](#)

[Add To My Favorites](#)



[Highlight](#)

## BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 9. ALCOHOLIC BEVERAGES [23000 - 25762] (*Division 9 added by Stats. 1953, Ch. 152.*)

CHAPTER 5. Restrictions on Issuance of Licenses [23770 - 23827] (*Chapter 5 added by Stats. 1953, Ch. 152.*)

### ARTICLE 2. Limitation on Number of Licensed Premises [23815 - 23827] (*Article 2 added by Stats. 1953, Ch. 152.*)

23817.5. (a) (1) The number of premises for which an off-sale beer and wine license is issued shall be limited to one for each 2,500, or fraction thereof, inhabitants of the city or county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city or county where the number of premises for which all off-sale beer and wine licenses are issued is more than one for each 2,500, or fraction thereof, inhabitants of the city or county.

(2) The number of premises for which an off-sale beer and wine license is issued in a city and county, in combination with the number of premises for which an off-sale general license is issued in a city and county, shall be limited to one for each 1,250, or fraction thereof, inhabitants of the city and county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city and county where the number of premises for which all off-sale beer and wine licenses in combination with off-sale general licenses are issued is more than one for each 1,250, or fraction thereof, inhabitants of the city and county.

(b) (1) Notwithstanding subdivision (a), a retail off-sale beer and wine replacement license may be issued at a premises that was operated under an existing off-sale beer and wine license no less than 90 days prior to the date of application for the replacement license, provided that the existing licensee is subject to a bankruptcy proceeding and the existing licensee has no right to operate at the premises, or has abandoned the premises of that license.

(2) A replacement license shall not be issued if the existing license has been, or is in the process of being, transferred, or if the existing license has been canceled by the licensee or surrendered by the licensee pursuant to department rule.

(3) An application for a replacement license shall be accompanied by a fee of one hundred dollars (\$100) and all conditions imposed upon the existing off-sale beer and wine license at the premises shall be imposed upon the replacement license.

(4) Upon issuance of the replacement license, the off-sale beer and wine license existing at the premises shall be canceled by operation of law. A replacement license shall not be transferred to another premises.

(*Amended by Stats. 2012, Ch. 327, Sec. 8. Effective January 1, 2013.*)



# California LEGISLATIVE INFORMATION

[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)
Code: Section: 

[Up ^](#) | [<< Previous](#) | [Next >>](#)
[cross-reference chaptered bills](#)
[PDF](#) | [Add To My Favorites](#)



## BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 9. ALCOHOLIC BEVERAGES [23000 - 25762] (*Division 9 added by Stats. 1953, Ch. 152.*)

CHAPTER 5. Restrictions on Issuance of Licenses [23770 - 23827] (*Chapter 5 added by Stats. 1953, Ch. 152.*)

ARTICLE 2. Limitation on Number of Licensed Premises [23815 - 23827] (*Article 2 added by Stats. 1953, Ch. 152.*)

23817.7. (a) Notwithstanding Section 23817.5, the department may approve an application for an off-sale beer and wine license in areas covered by Section 23817.5, if the applicant shows that public convenience or necessity would be served by the issuance, and where all of the following conditions are found to exist:

(1) The applicant premises are located in a crime reporting district that is below that specified pursuant to paragraph (1) of subdivision (a) of Section 23958.4. In considering an application, the department may take into account adjacent crime reporting districts, if the applicant premises are located within 100 feet of the boundaries of any adjacent district. The department shall use an average of reported crimes in the crime reporting district in which the premises are located and reported crimes in any adjacent crime reporting district, if the total of crimes reported in the adjacent district or districts is greater than the crime reporting district in which the premises are located.

(2) The applicant premises are located in an area that falls below the concentration level provided in paragraph (3) of subdivision (a) of Section 23958.4.

(3) The local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines that public convenience or necessity would be served by the issuance.

(b) The department may impose reasonable conditions on a licensee as may be needed in the interest of the public health, safety, and welfare regarding signing, training for responsible beverage sales and hours, and mode of sale.

(Amended by Stats. 2001, Ch. 931, Sec. 3. Effective January 1, 2002.)



# California LEGISLATIVE INFORMATION

Home | Bill Information | California Law | Publications | Other Resources | My Subscriptions | My Favorites

Code:  Section:   ⓘ

[Up^](#) | [<< Previous](#) | [Next >>](#)

[cross-reference chaptered bills](#)

[PDF](#)

[Add To My Favorites](#)



[Highlight](#)

## BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 9. ALCOHOLIC BEVERAGES [23000 - 25762] ( *Division 9 added by Stats. 1953, Ch. 152.* )

CHAPTER 6. Issuance and Transfer of Licenses [23950 - 24082] ( *Chapter 6 added by Stats. 1953, Ch. 152.* )

ARTICLE 1. Applications for Licenses [23950 - 23962] ( *Article 1 added by Stats. 1953, Ch. 152.* )

23958. Upon receipt of an application for a license or for a transfer of a license and the applicable fee, the department shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license and whether the provisions of this division have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The department shall deny an application for a license or for a transfer of a license if either the applicant or the premises for which a license is applied do not qualify for a license under this division.

The department further shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4.

(Amended by Stats. 1994, Ch. 630, Sec. 1. Effective January 1, 1995.)





# California LEGISLATIVE INFORMATION

Home

Bill Information

California Law

Publications

Other Resources

My Subscriptions

My Favorites

Code:  Section:  Search 

Up^ &lt;&lt; Previous Next &gt;&gt;

[cross-reference chaptered bills](#)[PDF](#)[Add To My Favorites](#)[Highlight](#)**BUSINESS AND PROFESSIONS CODE - BPC**DIVISION 9. ALCOHOLIC BEVERAGES [23000 - 25762] (*Division 9 added by Stats. 1953, Ch. 152.*)CHAPTER 6. Issuance and Transfer of Licenses [23950 - 24082] (*Chapter 6 added by Stats. 1953, Ch. 152.*)ARTICLE 1. Applications for Licenses [23950 - 23962] (*Article 1 added by Stats. 1953, Ch. 152.*)

23958.4. (a) For purposes of Section 23958, "undue concentration" means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

- (1) The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.
- (2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.
- (3) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

(b) Notwithstanding Section 23958, the department may issue a license as follows:

- (1) With respect to a nonretail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer's license, or a winegrower's license, if the applicant shows that public convenience or necessity would be served by the issuance.

(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.

If the local governing body, or its designated subordinate officer or body, does not make a determination within the 90-day period, then the department may issue a license if the applicant shows the department that public convenience or necessity would be served by the issuance. In making its determination, the department shall not attribute any weight to the failure of the local governing body, or its designated subordinate officer or body, to make a determination regarding public convenience or necessity within the 90-day period.

(c) For purposes of this section, the following definitions shall apply:

- (1) "Reporting districts" means geographical areas within the boundaries of a single governmental entity (city or the unincorporated area of a county) that are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.
- (2) "Reported crimes" means the most recent yearly compilation by the local law enforcement agency of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations.
- (3) "Population within the census tract or census division" means the population as determined by the most recent United States decennial or special census. The population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.
- (4) "Population in the county" shall be determined by the annual population estimate for California counties published by the Population Research Unit of the Department of Finance.

(5) "Retail licenses" shall include the following:

(A) Off-sale retail licenses: Type 20 (off-sale beer and wine) and Type 21 (off-sale general).

(B) On-sale retail licenses: All retail on-sale licenses, except Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer and wine for fishing party boat), Type 45 (on-sale beer and wine for boat), Type 46 (on-sale beer and wine for airplane), Type 53 (on-sale general for train and sleeping car), Type 54 (on-sale general for boat), Type 55 (on-sale general for airplane), Type 56 (on-sale general for vessels of more than 1,000 tons burden), and Type 62 (on-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons displacement).

(6) A "premises-to-premises transfer" refers to each license being separate and distinct, and transferable upon approval of the department.

(d) For purposes of this section, the number of retail licenses in the county shall be established by the department on an annual basis.

(e) The enactment of this section shall not affect any existing rights of any holder of a retail license issued before April 29, 1992, whose premises were destroyed or rendered unusable as a result of the civil disturbances occurring in Los Angeles from April 29 to May 2, 1992, to reopen and operate those licensed premises.

(f) This section shall not apply if the premises have been licensed and operated with the same type license within 90 days of the application.

*(Amended by Stats. 2013, Ch. 76, Sec. 6. Effective January 1, 2014.)*