
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

Senator Bill Dodd

Chair

2021 - 2022 Regular

Bill No:	AB 1589	Hearing Date:	7/6/2021
Author:	Committee on Governmental Organization		
Version:	6/16/2021 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Felipe Lopez		

SUBJECT: Alcoholic beverages: appeals: tied-house restrictions

DIGEST: This bill authorizes the electronic filing of appeals to the Alcoholic Beverage Control Appeals Board (Board) and electronic delivery of final orders by the Board. Additionally, the bill clarifies that a licensed retailer is not obligated to buy or sell the alcoholic beverage products of a distilled spirits wholesaler when selling marketing data to that wholesaler.

ANALYSIS:

Existing law:

- 1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation, and sale of alcoholic beverages and the collection of license fees for this purpose.
- 2) Provides, under the ABC Act, for the issuance of various alcoholic beverage licenses, including the imposition of fees, conditions, and restrictions in connection with the issuance of those licenses.
- 3) Establishes the Board to review the Department of ABC's decisions ordering penalty assessments and issuing, denying, transferring, suspending, or revoking a license, as specified.
- 4) Allows an aggrieved party to file an appeal with the Board, so long as the appeal is received in the principal office of the Board or, if mailed, registered by the United States Post Office on or before the 10th day after the last day on which reconsideration of the decision could be ordered.

- 5) Requires a final order by the Board to fix a time and place for argument if a party to an appeal requests the right to appear before the Board.
- 6) Provides an exception, from tied-house restrictions, that permits certain licensees, or any agents of those licensees, to conduct market research and, in connection with that research, to purchase specific data from off-sale licensed retailers, subject to the specified limitations, including that no licensed retailer shall be obligated to purchase or sell the alcoholic beverage products of the purchasing licensee.

This bill:

- 1) Authorizes the electronic filing of appeals to the Board and electronic delivery of final orders by the Board to a party and make other conforming changes.
- 2) Provides that the Board need only fix a date and time for oral argument if the party requests it.
- 3) Clarifies that a licensed retailer is not obligated to buy or sell the alcoholic beverage products of a distilled spirits wholesaler when selling marketing data to that wholesaler.

Background

Purpose of the bill. According to the author's office, "this proposal would permit appellants to file appeals electronically. It further allows the Board the option to issue its decisions electronically. The option of mail would still be permitted. An electronic option would make the appeals process more user-friendly and cost efficient for licensees and members of the public who want to exercise their right to appeal."

In addition, the author's office states that, "under existing law, certain alcoholic beverage licensees, such as alcohol manufacturers, winegrowers, rectifiers, and distillers, can conduct market research, which can involve buying data on sales and purchases of alcoholic beverage products from off-sale licensed retailers. However, there are limitations on these licensees buying such data from these retailers. One such limitation is that a retailer is not obligated to buy the alcohol of the buyer of the marketing data. A distilled spirits wholesaler is currently one of the licensees exempt from the general prohibition but is not one of the entities prohibited from obligating the licensed retailer to purchase or sell the products of the licensee conducting the market research. AB 1589 aims to fix this oversight in current law by including a distilled spirits wholesaler in the provision prohibiting a

licensed retailer from being obligated to purchase or sell alcoholic beverages of the licensee conducting the research.”

ABC Appeals Board. The Board provides quasi-judicial administrative review of decisions of the Department of ABC. The questions that may be considered by the Board are limited by the California Constitution and by statute. The Board determines appeals solely on the record of the Department of ABC and any briefs filed by the parties. No additional evidence may be received by the Board. However, the parties to appeal may present oral argument during the Board’s monthly hearings.

The Board issues written decisions with order affirming, reversing, and/or remanding the Department of ABC’s decisions. Judicial review of the Board may be obtained by filing a petition for writ of review with the California Supreme Court or the Court of Appeal.

The Board has utilized a paper and mail-based process since it was established over 60 years ago. Current law allows licensees 40 days from the date of the Department of ABC’s decision to file a written appeal by mail. An appeal is deemed filed on the day it is received in the Board’s office. Current law also requires the Board’s decisions to be mailed to all parties. Email of appeals and decisions does not satisfy the Board’s statutory requirements.

This bill authorizes the electronic filing of appeals to the Board and electronic delivery of final orders by the Board to a party and make other confirming changes.

Distilled spirits wholesaler license. A distilled spirits wholesaler license, or a Type 18 alcohol license is issued to those individuals who conduct wholesale distribution of distilled spirits only. The requirements to qualify for this type of license are outlined in the California Code of Regulations. Qualifications include, maintaining warehouse space either owned or leased by the licensee or dedicated to his or her use in a public warehouse. Such space is required to sufficient to store at one time either a stock of distilled spirits equal to 10% or more of his annual case volume of distilled spirits sales to retailers, or a stock of distilled spirits whose cost of acquisition is one hundred thousand dollars or more.

According to the Department of ABC’s Internet Web site, there are currently 925 distilled spirits wholesaler licenses in the State of California.

Prior/Related Legislation

AB 1429 (Governmental Organization, Chapter 567, Statutes of 2001) authorized, among other things, various licensed entities to conduct market research and, in connection with that research, to purchase from licensed on-sale retailers data, regarding purchases and sales of alcoholic beverage products, at the customary rates that those retailers sell similar data for nonalcoholic beverages products.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

None received

OPPOSITION:

None received