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DEPARTMENT OF
POLICE

CITY OF SACRAMENTO
CALIFORNIA

May 9, 1994

HALL OF JUSTICE
813 SIXTH STREET
SACRAMENTO, CA
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Law and Legislation Committee
City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Assembly Bill 2897 - Alcoholic beverages: retail licenses; undue concentration

LOCATION AND COUNCIL DISTRICT: Citywide

RECOMMENDATION: Support legislation and request amendment which will strengthen the law.

CONTACT PERSON: Claudia Evans, Administrative Services Officer, 264-7346

FOR COMMITTEE MEETING OF: May 17, 1994

SUMMARY

Assembly Bill 2897 changes current law to require the Department of Alcohol Beverage Control (ABC) to deny an application for a new license if the issuance of that license would tend to create a law enforcement problem or would result in or add to an undue concentration of licenses in an area. The bill further defines undue concentration. It is recommended the committee support A.B. 2897 and request an amendment which would strengthen the law.

BACKGROUND INFORMATION

Assembly Bill 2897 makes several beneficial changes to current laws regarding applications for liquor licenses. Specifically the bill:

- Requires ABC to deny an application for a liquor license if the issuance would tend to create a law enforcement problem or if it would result in or add to an undue concentration of licenses.

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- Defines undue concentration as (1) the premises is located in a reporting district that has 20% more reported crimes than the average of the remainder of the jurisdiction, or (2) the ratio of licenses to population in the census tract exceeds the ratio of licenses to the population in the county.
- Allows for an exemption if the local governing body determines the premises serves the public convenience or necessity.

Section 23958 of the Business and Professions Code allows an application for a liquor license to be rejected if it will cause an undue concentration; however, no definition of undue concentration was established. The City Planning and Police Departments have been in the process of determining a format to define concentration since the adoption of the Special Use Permit ordinance modification last year. A.B. 2897 would allow us to use the police department's electronic data processing (EDP) geographical boundaries to establish the first portion of the of the definition of undue concentration that deals with 20% greater crime. The police department would need the assistance of the Department of Information/Communications to create a geographic information system (GIS) file based on census tracts to make use of the second half of the undue concentration definition that deals with the ratio of licenses to population in census tracts.

It is recommended that the bill be amended to require ABC to also deny the application for a premises to premises transfer that would also tend to create a law enforcement problem or would result in or add to an undue concentration of licenses.

The passage of A.B. 2897 would assist the city in controlling the number of liquor establishments that are in our neighborhoods as well as provide us with the means of denying licenses in those areas where an over abundance of licenses already exist.

FINANCIAL CONSIDERATIONS

Support of this bill would have no immediate financial costs for the city. However, in order to take advantage of the second part of the undue concentration definition, the Department of Information/Communications would have to create a GIS file based on census tracts. It is unknown at this time what it would cost to create such a file.

POLICY CONSIDERATIONS

Support of A.B. 2897 is consistent with the City's desire to regulate the number of liquor outlets within our jurisdiction as well as the Council's policy of requiring liquor outlets to obtain special use permits. A.B. 2897 only strengthens the City's ability to convince ABC to reject liquor license applications.

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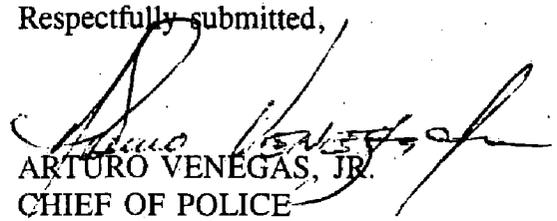
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MBE/WBE: Not Applicable

Respectfully submitted,



ARTURO VENEGAS, JR.
CHIEF OF POLICE

RECOMMENDATION APPROVED:



DAVID MARTINEZ
DEPUTY CITY MANAGER

AV:cre

Ref: 5-49

In bill text, brackets have special meaning:

[A> <A] contains added text, and
[D> <D] contains deleted text.

California 1993-94 Regular Session
Amended

AMENDED IN ASSEMBLY APRIL 4, 1994

ASSEMBLY BILL

No. 2897

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Introduced by Assembly Member Caldera

February 17, 1994

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An act to [D> add Sections 23007.5 and 25241 to <D] [A> amend Section 23958 of, and to add Section 23958.4 to, <A] the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2897, as amended, Caldera. Alcoholic beverages [A> : retail licenses: undue concentration <A] .

[A> Existing law provides that the Department of Alcoholic Beverage Control may deny an application for a license if the issuance would, among other things, result in or add to an undue concentration of licenses, and the applicant fails to show that public convenience or necessity would be served by the issuance. Existing regulatory law defines 'undue concentration' with regard to applications for on-sale and off-sale retail licenses. <A]

[A> This bill would instead require the Department of Alcoholic Beverage Control to deny an application if issuance would tend to create a law enforcement problem, or would result in or add to an undue concentration of licenses. The bill would change the definition of undue concentration, and would provide that, notwithstanding the requirement that the department deny an application that would result in or add to an undue concentration of licenses, a license may be issued if 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. <A]

[D> Existing law defines wine for purposes of the Alcoholic Beverage Control Act. <D]

[D> This bill would require any wine that is a fortified wine, as defined, to be so labeled. <D]

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

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

[D> SECTION 1. Section 23007.5 is added to the Business <D]

[A> SECTION 1. Section 23958 of the Business and Professions Code is amended to read: <A]

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 [D> may <D] [A> shall <A] deny an application for a license if issuance of [D> such <D] [A> that <A] license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses [D> and the applicant fails to show that public convenience or necessity would be served by such issuance <D] .

This section shall take effect January 1, 1984.

[A> SEC. 2. Section 23958.4 is added to the Business and Professions Code, to read: <A]

[A> 23958.4. (a) For purposes of Section 23958, "undue concentration" means 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: <A]

[A > (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. <A]

[A > (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. <A]

[A > (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. <A]

[A > (b) Notwithstanding Section 23958, the department may issue a license if 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. <A]

[A > (c) For purposes of this section, the following definitions shall apply: <A]

[A > (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. <A]

[A > (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. <A]

[A > (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. <A]

[A> (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. <A]

[A> (5) "Retail licenses" shall include the following: <A]

[A> (A) Off-sale retail licenses: Type 20 (off-sale beer and wine) and type 21 (off-sale general). <A]

[A> (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). <A]

[A> (6) The number of retail licenses in the county shall be determined by the most recent yearly retail license count published by the department in its Procedure Manual. <A]

[A> This section shall not apply where the premises have been licensed and operated with the same type license within 90 days of the application. <A]

[D> and Professions Code, to read: <D]

[D> 23007.5. "Fortified wine" means wine for which all of the following apply: <D]

[D> (a) The wine contains alcohol equal to or greater than 14 percent by volume. <D]

[D> (b) The wine is not aged for more than two years. <D]

[D> (c) The wine does not contain alcohol equal to or greater than 14 percent solely as the result of a natural fermentation process. <D]

[D> (d) The wine has been produced with the addition of wine spirits, brandy, or alcohol. <D]

[D> SEC. 2. Section 25241 is added to the Business and Professions Code, to read: <D]

[D> 25241. Any wine that is a fortified wine shall be labeled with the words "fortified wine." <D]