

TITLE 4, CALIFORNIA CODE OF REGULATIONS, AMEND RULE 144  
SUSPENSION AND REVOCATION OF LICENSES; DISCIPLINARY GUIDELINES

NOTICE OF PROPOSED RULEMAKING

The Department of Alcoholic Beverage Control (“Department”) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

**WRITTEN COMMENT PERIOD: February 26, 2016 through April 11, 2016**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. To be considered for summary and response, all written comments must be received no later than 5:00 p.m., **April 11, 2016**.

Written comments for the Department’s consideration should be directed to:

Devin Gray, Rulemaking Office, Department of Alcoholic Beverage Control  
3927 Lennane Drive, Suite 100 Sacramento, CA 95834  
E-mail: [LegislativeOffice@abc.ca.gov](mailto:LegislativeOffice@abc.ca.gov)  
Facsimile (FAX): (916) 419-2516

AUTHORITY AND REFERENCE

California Constitution, Article XX, Section 22 and Business and Professions Code Section 25750 authorize the Department to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Section 23001 of the Business and Professions Code and Section 11425.50 (e) of the Government Code, which are included as reference citations in the proposed regulation.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

This rulemaking action clarifies, balances, and updates the Department’s disciplinary guidelines relating to regulation of its licensees.

It is the policy of the Department to impose administrative, non-punitive discipline in a consistent and uniform manner with the goal of encouraging and reinforcing voluntary compliance with the law. The California Constitution authorizes the Department, in its discretion, to suspend or revoke any license to sell alcoholic beverages if it shall determine for good cause that the continuance of such license would be contrary to the public welfare or morals.

The regulations proposed in this rulemaking action would update and include within Rule 144, Title 4, of the California Code of Regulations the existing “Penalty Guidelines” currently incorporated by reference in Rule 144, Title 4, in the California Code of Regulations.

*Anticipated Benefits of the Proposed Regulation:*

The objective of this proposed regulation is to ensure that the Department is able to continue to impose administrative, non-punitive discipline in an adequate and fair manner which is up to date with current business practices.

The specific benefits anticipated by the regulation include the continued safety and welfare of the public as well as the continued fair regulation of business practices within the state.

By putting the “Disciplinary Guidelines” directly within Rule 144, Title 4, of the California Code of Regulations, instead of only incorporating it by reference, the Department hopes to clarify the guidelines that it uses when imposing administrative action upon its licensees.

*Determination of Inconsistency/Incompatibility with Existing State Regulations:*

The Department has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the disciplinary guidelines used by the Department in determining the extent of administrative action.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

*The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or business: This proposed regulatory action only updates existing administrative guidelines which apply to individuals who fail to comply with the law. Based on the above determination, the Department is not aware

of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Statewide adverse economic impact directly affecting businesses and individuals: The Department has determined that this regulation only affects those licensees found in violation of law and being disciplined. Thus, any impact on businesses, small businesses, or individuals would be after due process was provided. The Department concludes that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, will likely not be significant.

The Department has determined that the proposed regulations will not directly affect small businesses. This regulatory action updates and rebalances laws currently enforced by the Department. These laws only affect licensees who are found in violation of the law and who are in the process of being disciplined. Thus, any impact on small businesses would be after the law was violated and after due process was provided.

Significant effect on housing costs: None.

#### Results of the Economic Impact Analysis/Assessment

Assessment Regarding Creation or Elimination of Jobs in California: The Department has made an initial assessment and determined that the adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

Benefits of the Proposed Action: The proposed regulation will benefit residents of California by ensuring that business practices are upheld in an updated and fair manner consistent with the law.

Small Business Determination: The Department has determined that the proposed regulations will not directly affect small businesses. This regulatory action only affects those licensees found in violation of law and being disciplined. Thus, any impact on small businesses would be after the law was violated and after due process was provided.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed action should be directed to:

Devin Gray, Rulemaking Office, Department of Alcoholic Beverage Control  
3927 Lennane Drive, Suite 100 Sacramento, CA 95834  
E-mail: [LegislativeOffice@abc.ca.gov](mailto:LegislativeOffice@abc.ca.gov)  
Phone: (916) 928-7627

Requests for a copy of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other technical information upon which the rulemaking is based should be directed to the backup contact person:

Adriana Ruelas, Legislative Officer, Department of Alcoholic Beverage Control  
3927 Lennane Drive, Suite 100 Sacramento, CA 95834  
E-mail: [LegislativeOffice@abc.ca.gov](mailto:LegislativeOffice@abc.ca.gov)  
Phone: (916) 928-6821

#### AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. A copy may be obtained by contacting Devin Gray at the address or facsimile number listed above or accessing the Department website at <http://www.abc.ca.gov> (located under "Pending Changes: Regulations").

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from Mr. Gray or viewed on the website.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the comment period, the Department may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the Department adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Devin Gray at the address indicated above. The Department will accept written comments on the modified regulation for 15 days after the date on which it is made available.