

North Bay Fires Information for ABC Licensees



This information is being provided by the Department of Alcoholic Beverage Control (ABC) to address some of the questions licensed businesses may have following the wildfires. ABC will continue to answer questions as the region strives to recover from this disaster. The Department is committed to being as flexible as possible with our licensees.

The information below is not the only assistance that may be available to licensees impacted by the North Bay fires. Licensees who may have questions can contact the ABC Santa Rosa District Office at (707) 576-2165. The office is prepared to respond promptly to licensure issues, and is located at 50 D Street, Room 130 in Santa Rosa.

Department representatives are planning a stakeholder meeting in the near future to provide outreach information and to assist licensees with questions and issues. The informational session will be held in the Santa Rosa area.

The information is being provided in a question-and-answer format to address the following:

- **Relocation of Business Operations**
- **Storage of Alcoholic Beverages**
- **Retail License Issues Related to Damaged Products**
- **Tied House Exceptions for Natural Disasters**
- **Waiver of Certain License Fees**
- **Closure of an ABC Licensed Premises**
- **Return of Inventory Back to a Supplier**
- **Sales or Returns by Insurers or Surrendered Licensees**
- **Selling Stock to Other Licensees**

Can I relocate business operations following a major fire disaster?

Yes, a licensee whose premises has been destroyed by fire is allowed to carry on business for a period up to 6 months at a location within 500 feet of their premises, while their premises is being repaired or rebuilt.

The Department will exercise discretion in waiving the 500 foot limitation and 180- day time period.

The license may be transferred to another location within the same county without payment.

An application will need to be filed with the local ABC district office.

Reference: 24081 B&P, 24082 B&P, Executive Order B-43-17

What about the storage of alcoholic beverages?

1. Tax-paid wine and beer may be stored anywhere in the state. ABC approval is not required.
2. Distilled spirits may only be stored on licensed premises, including Type-14 public warehouses. ABC approval is not required to transfer from one storage location to another.
3. If alcoholic beverages are stored in a Type-14 public warehouse, ABC approval is not required to transfer them to another Type-14 warehouse or to a private warehouse.
4. Distilled spirits may be stored in a private warehouse approved by the Department if within the limits of the county in which the licensee's premises are located.
5. If wine is stored in bond, ABC approval is not required to transfer it to another facility. However, approval of taxing authorities (BOE, TTB) may be required.

Reference: 23106 B&P

Can you tell me about retail license issues related to breakage?

Understanding there may be questions involving broken containers of alcoholic beverage at retail licensed business, we are advising there are no provisions in the ABC Act that permit suppliers (manufacturers and distributors) to replace loss due to breakage caused by natural disasters.

Retailers should file a claim with their insurer for the value of their product. Additionally if a retail premise closes for a period that exceeds 15 days, or closes permanently, the law requires them to surrender their license. When they have done so, ABC permits suppliers to pick up alcoholic beverages and credit the account of a retailer who has surrendered their license.

With respect to damaged products, please see below under “Can a retail licensee return its inventory to a supplier”.

Reference: Rule 65 CCR, Rule 79 CCR

Are there any tied house exceptions for natural disasters?

The ABC Act provides a tied-house exception for natural disasters. It provides that a manufacturer or wholesaler may give, rent, lend, or sell, any equipment, fixtures, or supplies, other than alcoholic beverages, to a retailer whose equipment, fixtures, or supplies were lost or damaged as a result of a natural disaster and whose premises are located in an area proclaimed to be in a state of disaster by the Governor.

The section does not apply to transactions that occur three months or more after the Governor proclaims an area to be in a state of disaster.

Reference: 25511 B&P

Will the Department waive any license fees for businesses impacted by the fires?

Yes, in an effort to assist business owners with recovery, the Department will waive certain fees for licensees in the impacted areas. This includes license certificate replacement fees and late penalty fees for annual renewal notices.

Further, any pending administrative disciplinary action will be held in suspense during this time of recovery.

What about closure of an ABC licensed premises?

If a premises closes for a period that exceeds 15 days, or closes permanently, the law requires the business to surrender their license. Licensees can use the ABC-231 form located on the ABC website to surrender their license <https://www.abc.ca.gov/FORMS/ABC231.pdf>

Once this is complete, suppliers may pick-up alcoholic beverages and credit the account of the retailer.

Reference: Rule 65 CCR, Rule 79 CCR

Can a retail licensee return its inventory to a supplier?

The ABC Act allows for the return of inventory damaged in fires provided they are returned in exchange for the identical quantity, brand, size of container and item.

It should be noted that suppliers are not required to accept the return of alcoholic beverages from retailers.

Reference: 23104.1 B&P, 23104.2 B&P, 23104.3 B&P

What about sales or returns by insurers or surrendered licensees?

The ABC Act permits a licensee who has surrendered or canceled their license to sell their stock of lawfully acquired alcoholic beverages to a licensee or licensees who are authorized to resell the alcoholic beverages.

The licensee can apply with the Department to sell their stock of alcoholic beverages to any licensee or licensees authorized to resell such alcoholic beverages.

An insurer may, after permission has been granted by the Department, take possession of alcoholic beverages, the containers of which have been damaged by fire, and sell them to licensees who are authorized to sell the alcoholic beverages.

Reference: 23100 B&P, 23104 B&P, Rule 79 (c) CCR, Rule 79 (e) CCR

What must someone who surrendered a license do prior to selling their stock of alcoholic beverages to another licensee?

Form ABC-273 must be completed and submitted to the local ABC office <https://www.abc.ca.gov/FORMS/ABC273.pdf>. This form is the application by a former licensee to sell their stock of alcoholic beverages. The form is needed to request permission to sell the stock of alcoholic beverages that remain in inventory once the ABC license is surrendered or canceled pursuant to Rule 65.

Reference: Rule 65 CCR