

**TITLE 4. BUSINESS REGULATIONS**  
**DIVISION 1. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**  
**ARTICLE 24. Department of Alcoholic Beverage Control – Conflict of Interest Code**  
**Section 150. General Provisions**

**NOTICE OF PROPOSED RULEMAKING**

The California Department of Alcoholic Beverage Control (ABC) proposes to amend its conflict of interest code pursuant to Government Code Sections 87306 as described below after considering all comments, objections, and recommendations regarding the proposed action.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

ABC proposes to amend Title 4, California Code of Regulations, Section 150 pursuant to Government Code Section 87306 and FPPC Regulation Title 2, California Code of Regulations, Section 18750. These laws require designated officials and employees to file statements of economic interests with their agencies. Section 150, along with an attached Appendix, sets forth designated officials and ABC employees required to file statements of economic interests. It also specifies disclosure categories for these employees.

The purpose of this proposed amendment is to remove two classifications from the list of designated employees that are no longer used by ABC, and to add a new classification of employee (General Counsel) to the list of designated employees that makes and participates in the making of decisions which may foreseeably have a material effect on economic interests and should therefore file a statement of economic interests. The purpose is also to reflect the Department of Personnel Administration and the State Personnel Board's consolidation of several department-specific Investigator classifications, including ABC's. The impact on ABC is the consolidation of the Investigator Trainee classification to Investigator Assistant and the consolidation of both the Investigator I and II classifications to a single Investigator classification. Although the job titles have changed, the duties/job descriptions of the Investigator classifications have not.

**PUBLIC HEARING**

ABC has not scheduled a public hearing on this proposed action. However, ABC 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**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to ABC. The written comment period closes at **5:00 p.m. on June 1, 2011**. ABC will consider only comments received at the ABC Headquarters Office by that time. Please submit comments to:

Susie Smith, Regulations Coordinator  
Department of Alcoholic Beverage Control  
3927 Lennane Drive, Suite 100  
Sacramento, California 95834  
E-mail: [Susie.smith@abc.ca.gov](mailto:Susie.smith@abc.ca.gov)  
Phone: (916) 928-6821  
FAX: (916) 419-2599

#### AUTHORITY AND REFERENCE

Authority for the proposed amendment is provided by Government Code Sections 81008, 87300, 87304, and 87306.

The proposed amendment implements, interprets, or makes specific the following reference: Government Code Section 87300, et seq.

#### DOCUMENTS INCORPORATED BY REFERENCE

No documents are being incorporated by reference.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

ABC has made the following initial determinations:

#### LOCAL MANDATE

This amendment does not impose a mandate on local agencies or school districts.

#### COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT THAT MUST BE REIMBURSED IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 17500-17630.

This amendment does not create costs to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 – 17630.

#### IMPACT ON PRIVATE PERSONS/BUSINESSES

ABC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### IMPACT ON BUSINESS

It is anticipated that the proposed amendment will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Adoption of the proposed amendment will not create or eliminate jobs within California, will not create new businesses or eliminate existing businesses within California, and will not affect the expansion of businesses currently doing business within California.

#### IMPACT ON SMALL BUSINESS

The proposed amendment will not have a significant impact on small businesses. The proposed amendment will delete two job classifications from the list of designated employees required to file statements of economic interests that are no longer used by ABC and add one classification for an employee who should file a statement of economic interests.

#### SIGNIFICANT EFFECT ON HOUSING COSTS

The proposed amendment will have no effect on housing costs.

#### COST OR SAVINGS TO ANY STATE AGENCY

The proposed amendment will not result in costs or savings to any State agency.

#### OTHER NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES

This proposed amendment will not result in other non-discretionary costs or savings to local agencies.

#### COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE

This proposed amendment will not result in costs or savings in federal funding to the state.

#### CONSIDERATION OF ALTERNATIVES

ABC has determined that no reasonable alternative considered by ABC, or that has otherwise been identified and brought to the attention of ABC, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

ABC invites interested persons to present statements or arguments with respect to alternatives to the proposed amendment during the written comment period.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

ABC has prepared a written explanation of the reasons for the changes which is included in the Initial Statement of Reasons, and has all of the information available on which this proposal is based. ABC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its Headquarters office located at 3927 Lennane Drive, Suite 100, Sacramento, California 95834. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, the Economic and Fiscal Impact Statement (Form STD. 399), ABC's current organizational chart, a duty statement for the newly designated General Counsel position and a copy of the Supreme Court decision (case number S133331) its creation complied with, and duty statements for the Investigator and Investigator Assistant classifications. Also included are Attachment 4 from the minutes of SPB's November 2, 2010 board meeting at which the board adopted the Investigator class consolidation, and DPA Pay Letter 10-24A which includes changes in the classification and compensation plan made at the November 2, 2010 SPB board meeting. Upon its completion, the Final Statement of Reasons will be available and copies may be requested from ABC's contact person or viewed on the website.

### CONTACT PERSONS

Copies may be obtained by accessing ABC's website at [www.abc.ca.gov](http://www.abc.ca.gov) or by contacting:

Susie Smith, Regulations Coordinator  
Department of Alcoholic Beverage Control  
3927 Lennane Drive, Suite 100  
Sacramento, California 95834  
E-mail: [Susie.smith@abc.ca.gov](mailto:Susie.smith@abc.ca.gov)  
Phone: (916) 928-6821  
FAX: (916) 419-2599

In the event the contact person is unavailable, inquiries regarding the proposed regulatory action should be directed to the following back-up contact person:

Matthew D. Botting, General Counsel  
Department of Alcoholic Beverage Control  
3927 Lennane Drive, Suite 100  
Sacramento, California 95834  
E-mail: [matthew.botting@abc.ca.gov](mailto:matthew.botting@abc.ca.gov)  
Phone: (916) 419-2500  
FAX: (916) 419-2599

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, ABC may adopt the proposed regulation amendment substantially as described in this notice. If ABC makes modifications which are

sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 calendar days before ABC adopts the regulations as revised. Requests for copies of any modified regulation should be sent to the ABC's contact person identified above at the address indicated, or may be viewed on ABC's website. ABC will accept written comments on the modified regulations for 15 calendar days after the date on which they are made available.