

Title 4. Business Regulations
Division 1. Department of Alcoholic Beverage Control
Article 11. Applications and Licenses
Section 61.3. Undue Concentration.

~~(a) For the purpose of section 23958 of the Alcoholic Beverage Control Act, undue concentration includes, but is not limited to, conditions set forth below:~~

~~The applicant premises for an original or premises-to-premises transfer of any retail license are located in a crime reporting district which has a 20% greater number of reported crimes, as defined below, than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency if the following conditions exist:~~

~~(1) 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.~~

~~(2) 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.~~

~~Notwithstanding the above, the department may issue a license if the applicant shows that public convenience or necessity would be served by such issuance.~~

~~(b) Definition of Terms and Data Sources. The following definitions and data sources shall govern the construction and application of this rule:~~

~~(1) "Reporting Districts" mean geographical areas within the boundaries of a single governmental entity (city or the unincorporated area of a county), which reporting districts are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.~~

~~(2) "Reported Crimes" are 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, motor vehicle theft, and such offenses shall be combined with all arrests for other crimes, felonies and misdemeanors, except traffic citations.~~

~~(3) "Population Within the Census Tract or Census Division" means the population as determined by the most recent United States decennial or special census. Such 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.~~

~~(4) "Population in the County" shall be determined by the annual population estimate for California counties published by the Population Research Unit, State Department of Finance.~~

~~(5) "Retail Licenses" shall include the following:~~

~~(A) Off-sale Retail Licenses: Types 20 (off-sale beer and wine) and 21 (off-sale general).~~

~~(B) On-sale Retail Licenses: All retail on-sale licenses except Types 43 (on-sale beer and wine for train), 44 (on-sale beer and wine for fishing party boat), 45 (on-sale beer and wine for boat), 46 (on-sale beer and wine for airplane), 53 (on-sale general for train and sleeping car), 54 (on-sale general for boat), 55 (on-sale general for airplane), 56 (on-sale general for vessel of more than 1,000 tons burden), and 62 (on-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons displacement).~~

~~(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.~~

~~This rule does not apply where the premises have been licensed and operated with the same type license within 90 days of the application.~~

~~Note: Authority cited: Section 25750, Business and Professions Code and Section 22 of Article XX, California Constitution. Reference: Section 23958, Business and Professions Code.~~