

AMENDED IN SENATE APRIL 6, 2021

SENATE BILL

No. 389

Introduced by Senator Dodd
(Principal coauthor: Senator Wiener)
(Principal coauthor: Assembly Member Friedman)

February 11, 2021

An act to add Section 23401.5 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 389, as amended, Dodd. Alcoholic beverages: ~~bona fide public eating place:~~ *retail on-sale license:* off-sale privileges.

Existing law, the Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. Existing law authorizes the department to issue various types of licenses and prohibits a person from exercising the privilege which a licensee may exercise or performing under the authority of a license unless the person is authorized to do so by a license. Existing law authorizes a person holding an on-sale general license, with respect to beer and wine, and any on-sale license, with respect to the particular beverage or beverages mentioned in the license, to exercise the rights and privileges granted by an off-sale beer and wine license.

This bill would authorize ~~a bona fide public eating place holding an on-sale general license or a bona fide public eating place holding an on-sale license for beer and wine~~ *the holder of a retail on-sale license* to exercise additional off-sale rights and privileges, subject to specified requirements. In this regard, the bill would authorize the licensee to sell alcoholic beverages for off-sale consumption for which their license

permits on-sale consumption if the beverages are in manufacturer prepackaged containers. Additionally, the bill would authorize a licensee to sell the alcoholic beverages for off-sale consumption for which their license permits on-sale consumption when the beverages are not in manufacturer prepackaged containers if specified conditions are met, including that the beverages ~~be sold in conjunction with meals prepared for pickup or delivery, as specified,~~ and be packaged in a container with a secure lid or ~~cap~~: *cap sealed in a manner designed to prevent consumption without removal of the lid or cap by breaking the seal.*

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

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

- 1 SECTION 1. Section 23401.5 is added to the Business and
- 2 Professions Code, to read:
- 3 23401.5. Notwithstanding any other law to the contrary, ~~a bona~~
- 4 ~~fi~~ ~~de~~ ~~public~~ ~~eating~~ ~~place~~ ~~holding~~ ~~a~~ ~~on-sale~~ ~~general~~ ~~license~~ ~~or~~ ~~a~~ ~~bona~~
- 5 ~~fi~~ ~~de~~ ~~public~~ ~~eating~~ ~~place~~ ~~holding~~ ~~an~~ ~~on-sale~~ ~~license~~ ~~for~~ ~~beer~~ ~~and~~
- 6 ~~wine~~ ~~may~~ ~~the~~ ~~holder~~ ~~of~~ ~~a~~ ~~retail~~ ~~on-sale~~ ~~license~~ ~~may~~ ~~exercise~~ ~~the~~
- 7 following rights and privileges subject to the requirements of this
- 8 section:
- 9 (a) The licensee may sell the alcoholic beverages for off-sale
- 10 consumption for which their license permits on-sale consumption
- 11 provided the beverages are in manufacturer prepackaged containers.
- 12 (b) In addition to the privilege provided by subdivision (a), the
- 13 licensee may sell the alcoholic beverages for off-sale consumption
- 14 for which their license permits on-sale consumption when the
- 15 beverages are not in manufacturer prepackaged containers if ~~all~~
- 16 *both* of the following conditions are met:
- 17 ~~(1) The alcoholic beverages are sold in conjunction with meals~~
- 18 ~~prepared for pickup or delivery either by the licensee or by a meal~~
- 19 ~~provider.~~
- 20 ~~(2)~~
- 21 *(1)* The alcoholic beverages are packaged in a container with a
- 22 secure lid or cap *sealed* in a manner designed to prevent
- 23 consumption without removal of the lid or ~~cap~~: *cap by breaking*
- 24 *the seal.*
- 25 ~~(3)~~

1 (2) (A) The following warning sign is posted in a manner that
2 notifies consumers of restrictions regarding open container laws:

3
4 Alcoholic beverages that are packaged by this establishment are
5 open containers and shall not be transported in a motor vehicle
6 except in the vehicle's trunk or, if there is no trunk, the containers
7 shall be kept in some other area of the vehicle that is not normally
8 occupied by the driver or passengers. This does not include a utility
9 compartment or glove compartment (See Vehicle Code Section
10 23225). Additionally, these beverages shall not be consumed in
11 public or in any other area where open containers are prohibited
12 by law.

13
14 (B) For purposes of this paragraph, "post" means to prominently
15 display on the premises, post online, or present in whatever manner
16 is necessary to ensure that the consumer purchasing, or delivery
17 person transporting, the beverages to which this section applies is
18 given notice of this warning.