

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# CITY OF OAKLAND

## BILL ANALYSIS



2009 MAY 20 PM 3:40  
Date: May 13, 2009

**Bill Number:** SB 415

**Bill Author:** Senator Oropreza

### DEPARTMENT INFORMATION

**Contact:** Alexander Nguyen  
**Department:** Office of the City Attorney  
**Telephone:** 510-238-6628 **FAX #** 510-235-6500 **E-mail:**  
anguyen@oaklandcityattorney.org

**RECOMMENDED POSITION:** (SUPPORT, SUPPORT IF AMENDED, NEUTRAL, WATCH, OPPOSE, NOT RELEVANT)

SUPPORT.

### Summary of the Bill

This bill makes two changes to the California Business and Professions Code governing the issuance or transfer of alcohol beverage sales licenses. Currently, the Department of Alcohol Beverage Control (ABC) is required to notify the appropriate sheriff, chief of police, district attorney, city or county planning agency, and legislative body of an application for the issuance or transfer of a liquor license. Once this notice is provided, ABC must wait 30 days before issuing or transferring the license. The 30 day period is the window of opportunity for objections, special conditions, or other information to be submitted to ABC. An additional 20 days may be requested. However, this extension can only be requested by a local law enforcement agency.

The two changes of this bill are: 1) In addition to local law enforcement officials, any entity or official who received the initial notice would be able to request the extension, and 2) the extension would be for an additional 30 days instead of the current 20.

### Positive Factors for Oakland

Passage of this bill would help minimize the possibilities of a liquor license application (for issuance or transfer) "falling through the cracks" of the city bureaucracy or community groups by 1) expanding the authority to request an extension period to include any entity or official notified of the application and 2) providing an additional 10 days to the current 20 for the extension period. This simply gives more opportunities for the extension request to be made if

Item: \_\_\_\_\_  
Rules & Legislation Comte. \_\_\_\_\_  
June 4, 2009

needed, and hence more time to gather pertinent information to provide ABC as relates to concerns such as operating conditions of a liquor store or bar.

**Negative Factors for Oakland**

NONE.

**PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

- Critical** (top priority for City lobbyist, city position required ASAP)
- Very Important** (priority for City lobbyist, city position necessary)
- Somewhat Important** (City position desirable if time and resources are available)
- Minimal or**  **None** (do not review with City Council, position not required)

**Known support:**

1. California Council on Alcohol Policy
2. Cities of Antioch, Costa Mesa, Hermosa Beach, Long Beach and Rancho Cordova
3. League of California Cities
4. The West County Alcohol Policy Working Group

**Known Opposition:**

1. California Grocers Association
2. Family Winemakers of California

**Attach bill text and state/federal legislative committee analysis, if available.**

**SENATE BILL No. 415**

**Introduced by Senator Oropeza**

February 26, 2009

An act to amend Section 23987 of the Business and Professions Code, relating to alcoholic beverages.  
legislative counsel's digest

SB 415, as introduced, Oropeza. Alcoholic beverages: licenses: local

Item: \_\_\_\_\_  
Rules & Legislation Comte. \_\_\_\_\_  
June 4, 2009

government review.

Existing law requires the Department of Alcoholic Beverage Control to notify the appropriate sheriff, chief of police, district attorney, city or county planning agency, and legislative body of an application for the issuance or transfer of a liquor license, and prohibits the Department of Alcoholic Beverage Control from issuing or transferring a license until at least 30 days after these notices are provided. Existing law authorizes the department to extend that 30-day period for a period not to exceed an additional 20 days if a proper written request is made by any local law enforcement agency.

This bill would authorize the department to extend the 30-day period for a period not to exceed an additional 30 days if a proper written request is made by any entity or official receiving the required notification.

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

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

SECTION 1. Section 23987 of the Business and Professions Code is amended to read:

23987. (a) Upon the receipt by the department of an original application for any license or an application for transfer of any license, written notice thereof, consisting of a copy of the application, shall immediately be mailed by the department to the sheriff, chief of police, and district attorney of the locality in which the premises are situated, to the city or county planning director, whoever has jurisdiction, the board of supervisors of the county in which the premises are situated, if within an unincorporated area, and to the city council or other governing body of the city in which the premises are situated, if within an incorporated area.

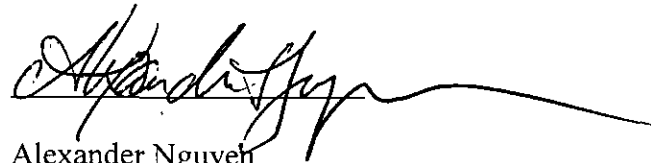
~~Except~~

(b) *Except* as specified in paragraph (2) of subdivision (e) of Section 23800, no license shall be issued or transferred by the department until at least 30 days after the mailing by the department of the notices required by this section. The department may extend the 30-day period specified in the preceding sentence for a period not to exceed an additional ~~20~~ 30 days, ~~upon the if~~ *any entity or official notified pursuant to subdivision (a) makes a written request of any local law enforcement agency that states*

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
June 4, 2009

proper grounds for extension. Proper grounds for extension are limited to the requesting agency or official being in the process of preparing either a protest or proposed conditions with respect to the issuance or transfer of a license.

Respectfully Submitted,



Alexander Nguyeh  
Director, Neighborhood Law Corps

Approved for Forwarding to  
Rules Committee



Office of City Administrator

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
June 4, 2009

THIRD READING

Bill No: SB 415  
Author: Oropeza (D)  
Amended: As introduced  
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE : 7-4, 4/28/09  
AYES: Wright, Calderon, Florez, Negrete McLeod, Oropeza,  
Padilla, Yee  
NOES: Harman, Benoit, Wiggins, Wyland  
NO VOTE RECORDED: Denham, Vacancy

SENATE APPROPRIATIONS COMMITTEE : Senate Rule 28.8

SUBJECT : Alcoholic beverages: licenses: local  
government review

SOURCE : Author

DIGEST : This bill expands the eligibility list of local government officials who may request an extension of time to review the issuance of transfer of an alcoholic beverage license and lengthens the existing extension period from 20 to 30 days.

ANALYSIS : Existing law establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the Alcoholic Beverage Control Act in accordance with the laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation and  
CONTINUED

sale of alcoholic beverages in this state and the collection of license fees or occupation taxes for this purpose.

Existing law authorizes ABC to impose reasonable conditions on the exercise of retail privileges under the Act. The ABC may impose conditions on certain license transfers at the request of a local governing body in whose jurisdiction the license is located.

Existing law specifies the grounds that constitute a basis for the suspension or revocation of an alcoholic beverage license, including a licensee's failure, within a reasonable time, after specified notice from a district attorney, city attorney, county counsel, or the ABC to take reasonable steps to correct conditions on the licensed premises, as specified.

Existing law requires the ABC to notify the appropriate sheriff, chief of police, district attorney, city or county planning agency, and legislative body of an application for the issuance or transfer of a liquor license, and prohibits the ABC from issuing or transferring a license until at least 30 days after these notices are provided. Existing law authorizes the ABC to extend that 30-day period for a period not to exceed 20 days if a proper written request is made by any local law enforcement agency.

This bill authorizes the ABC to extend the 30-day period for a period not to exceed an additional 30 days if a proper written request is made by any entity or official receiving the required notification.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes  
Local: No

SUPPORT : (Verified 5/12/09)

California Council on Alcohol Policy  
Cities of Antioch, Costa Mesa, Hermosa Beach, Long Beach  
and Rancho Cordova  
League of California Cities  
The West County Alcohol Policy Working Group

OPPOSITION : (Verified 5/12/09)

California Grocers Association  
Family Winemakers of California

ARGUMENTS IN SUPPORT : According to the author's office, this bill continues the effort to expand local government involvement in the ABC license process. Specifically, this bill seeks to clarify that local government agencies can request a 20-day extension for the review of a license; not just a law enforcement agency as specified under current law. Additionally, the author's office indicates that the current 20-day extension period does not provide adequate time for local governments which may only meet once a month to properly address possible concerns with a license. Thus, this bill asks for an additional 10 days of review to better accommodate local government meeting schedules.


Proponents state that they are supportive of methods that permit additional involvement by local entities in the application review process. Proponents believe that this bill will enable communities to review and manage any pertinent public safety and economic issues related to the sale of alcoholic beverages.

ARGUMENTS IN OPPOSITION : Opponents argue that this bill is unnecessary because existing law provides a sufficient 30-day initial review and comment period, plus an optional 20-day extension allowance. Thus, under current law, local law enforcement agencies have up to 50 days to review and

comment upon a license application. Additionally, opponents believe that expanding the range of entities that can formally request an extension for review could lead to overzealous individuals unnecessarily delaying the start-up of a new business venture. Opponents emphasize that jurisdiction over alcoholic beverage licensing has always been held by the state and not local government - this bill would result in an inappropriate expansion of local authority over retail licensing. \_

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Approved as to Form and Legality

  
Oakland City Attorney's Office

2009 MAY 20 PM 3:40

# OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER

**RESOLUTION TO SUPPORT SB 415 LEGISLATION EXPANDING POSSIBILITY FOR LOCAL OFFICIALS TO REQUEST EXTENSION OF REVIEW PERIOD FOR LIQUOR LICENSE APPLICATIONS (FOR TRANSFERS OR NEW LICENSES) AT STATE DEPARTMENT OF ALCOHOL BEVERAGE CONTROL (ABC)**

**WHEREAS**, the City of Oakland and the Oakland community can be negatively impacted by certain alcohol outlets and therefore need both knowledge of and time to respond to applications for new and transferring liquor licenses; and

**WHEREAS**, current law only allows for local law enforcement agencies to request an extension for 20 days in addition to the standard 30-day review period; and

**WHEREAS**, SB 415 (Oropreza) will expand the list of who may request authority to other local officials, including local legislative bodies, and expand the extension period from 20 to 30 days; now, therefore, be it

**RESOLVED**, The City of Oakland declares its support of SB 415 (Oropreza); and be it

**FURTHER RESOLVED**, the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for the above position in the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - DE LA FUENTE, KERNIGHAN, NADEL, QUAN, BROOKS, REID,  
KAPLAN, AND PRESIDENT BRUNNER

NOES -  
ABSENT -  
ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California