

ASSEMBLY BILL

No. 960

Introduced by Assembly Member Hancock

February 22, 2007

An act to amend Section 23790 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 960, as introduced, Hancock. Alcoholic beverages: licensing restrictions.

The Alcoholic Beverage Control Act imposes upon the Department of Alcoholic Beverage Control the responsibility to administer and enforce state laws with respect to alcoholic beverages, including the implementation of alcoholic beverage licensing. Among other things, the act prohibits the issuance of any retail license for the sale of alcoholic beverages for any premises that are located in any territory where the exercise of the rights and privileges conferred by the license is contrary to a valid zoning ordinance of any county or city. The act provides that premises which had been used in the exercise of those rights and privileges at a time prior to the effective date of the zoning ordinance may continue operation under specified conditions.

This bill would authorize a county or city to provide for a reasonable amortization period and termination of, or imposition of conditions on legal nonconforming uses pursuant to, a validly enacted zoning ordinance. These provisions would apply to premises that had been used in the exercise of rights and privileges conferred by the retail license at a time prior to the effective date of the zoning ordinance that are located in areas of undue concentration, as defined.

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 23790 of the Business and Professions
- 2 Code is amended to read:
- 3 23790. (a) No retail license shall be issued for any premises
- 4 which are located in any territory where the exercise of the rights
- 5 and privileges conferred by the license is contrary to a valid zoning
- 6 ordinance of any county or city.
- 7 (b) Premises *that are not located in areas of undue*
- 8 *concentration, as defined in Section 23958.4*, which had been used
- 9 in the exercise of those rights and privileges at a time prior to the
- 10 effective date of the zoning ordinance may continue operation
- 11 under the following conditions:
- 12 ~~(a)~~
- 13 (1) The premises retain the same type of retail liquor license
- 14 within a license classification.
- 15 ~~(b)~~
- 16 (2) The licensed premises are operated continuously without
- 17 substantial change in mode or character of operation.
- 18 (c) For purposes of this subdivision, a break in continuous
- 19 operation does not include:
- 20 (1) A closure for not more than 30 days for purposes of repair,
- 21 if that repair does not change the nature of the licensed premises
- 22 and does not increase the square footage of the business used for
- 23 the sale of alcoholic beverages.
- 24 (2) The closure for restoration of premises rendered totally or
- 25 partially inaccessible by an act of God or a toxic accident, if the
- 26 restoration does not increase the square footage of the business
- 27 used for the sale of alcoholic beverages.
- 28 (d) *Premises located in areas of undue concentration may be*
- 29 *subject to amortization and termination, or imposition of validly*
- 30 *enacted zoning requirements, if a city or county makes a public*
- 31 *determination that the following conditions exist:*
- 32 (1) *The premises are a nuisance, as defined by state or local*
- 33 *law.*
- 34 (2) *The premises are either:*

- 1 (A) Located in a crime reporting district that has a 20 percent
2 greater number of reported crimes, as defined in subdivision (c)
3 of Section 23958.4, than the average number of reported crimes
4 as determined from all crime reporting districts within the
5 jurisdiction of the local law enforcement agency.
- 6 (B) Located within 200 feet of a school.
- 7 (e) (1) Cities or counties electing to amortize premises pursuant
8 to subdivision (d) must provide an amortization period that is
9 reasonable based on, but not limited to, the following factors:
- 10 (A) The original cost of the premises.
- 11 (B) The depreciation value of the premises.
- 12 (C) The premises' remaining use life.
- 13 (D) The length and remaining term of any lease.
- 14 (E) The harm to the public if the premises' use remains beyond
15 the prescribed amortization period.
- 16 (2) The maximum amortization period shall be 10 years.
- 17 (3) In any amortization process the property owner will retain
18 ownership of the property that can be sold or reused for a use that
19 is consistent with a valid zoning ordinance of any city or county.