



Department of Alcoholic Beverage Control

COVID-19 Regulatory Relief

**Outdoor guidelines for premises that sell and serve alcoholic
beverages as of July 22, 2020**

Presented by:

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Types of licenses mostly affected

Restaurants

- ▶ Type 41 - On-sale beer and wine public eating place
- ▶ Type 47 - On-sale general (all types of alcohol) public eating place
- ▶ Type 75 - Brew-pub restaurant
- ▶ Type 40 - On-sale beer (tavern) - minimal service of food.

Bars (no minors or no one under 21 is allowed)

- ▶ Type Type 42 - On-sale beer and wine public premises
- ▶ Type 48 - On-sale general public premises

Clubs (members and guests only) Examples are Yacht Clubs, Veteran's Clubs, Elks Lodge, etc:

Types 50, 51, 52 and 57

Other licenses that serve alcoholic beverages on-site:

- ▶ Type 01 - Beer manufacturer
- ▶ Type 23 - Craft beer manufacturer
- ▶ Type 02 - Winegrower (wineries)
- ▶ Type 04 - Distilled Spirits manufacturer
- ▶ Type 74 - Craft distiller
- ▶ Type 75 - Brew-pubs

Public Health Orders Regarding Licensed Premises Closures (July 13, 2020)

All ABC-licensed businesses whose licenses permit on-premises consumption of alcoholic beverages must immediately discontinue **all indoor** operations. This includes all wineries (Type 02), breweries (Types 01 and 23), distilleries (Types 04 and 74), bars (Types 40, 42, and 48), restaurants (Types 41 and 47; and all restaurants operated at wineries, breweries, and distilleries), brewpub-restaurants (Type 75), and clubs (Types 50, 51, and 52).

All breweries (Types 01 and 23), distilleries (Types 04 and 74), bars (Types 40, 42, and 48), and clubs (Types 50, 51, and 52) must discontinue **all outdoor** operations, **unless** they operate a restaurant on the licensed premises (either by way of a bona fide eating place on the premises or through the use of a bona fide meal provider pursuant to prior Relief issued by the Department).

If a licensee operates outdoors pursuant to this directive, the area in which alcoholic beverages are served or consumed must be licensed under either the permanent license issued for the premises or under a COVID-19 Temporary Catering Authorization. Consistent with the directives issued, alcoholic beverages may only be served in conjunction with meals, except for winery tasting rooms.

Frequently asked questions:

1. What activities that are currently allowed by ABC, both indoors and outdoors?

As of today, only outdoor activities are permitted to restaurants, bars, breweries, clubs and manufacturers as long as they serve alcoholic beverages with meals. Wineries, if they don't have a restaurant on the premises, are the only ones exempted to the meals requirement.

2. How food and alcohol need to be sold together, i.e. they need to be rung up on the same transaction, other requirements.

Licensed premises that don't normally serve meals (mostly bars, manufacturers and clubs) are required to serve meals if they want to sell and serve alcoholic beverages outdoors. Those that have kitchens are only required to start serving meals with alcoholic beverages as long as they comply with their local health department. The rest need to have a food contract with food trucks, fast food restaurants, restaurants with or without ABC license, etc.

All orders for food and alcoholic beverages must be made to or coordinated by the ABC licensee (the one who needs a food contract). Orders and payment from consumers for alcohol and food must be received by the ABC licensee. The ABC licensee may then pass on the food order and a portion of the payment to its meal provider.

3. Are barriers required for proposed expansion areas under COVID-19 Temporary Catering Authorization?

- ▶ Physical barriers are not required. However, a description of how the area will be delineated is required on the COVID-19 Temporary Catering Authorization Application (Form ABC-218 CV19) to establish a licensee's area of control for an expanded licensed premises under this temporary permit. The licensee remains responsible to control the area. Barriers are recommended by the Department to ensure the licensee can control its expanded licensed premises and not face an unsuspected violation due to a lack of control of their expanded footprint.
- ▶ **4. Are COVID-19 Catering Authorization expansions required to be contiguous to the premises?**

Although the expansion of the premises is not required to be contiguous to the licensee's normal licensed premises, it must be within close proximity to the licensed premises, be immediately accessible to the licensee, and be secured by and under the control of the licensee, at the discretion of the Department.

5. What does a contract between a licensee and a meal provider need to include?

- ▶ Consistent with the approach that to-go containers of alcoholic beverages are most appropriately sold in conjunction with meals, the Department will allow, on a temporary basis, licensees that do not operate kitchen facilities and do not prepare bona fide meals on the licensed premises to partner with businesses that do offer meals (“meal provider”) to sell bona fide meals in conjunction with to-go containers of alcoholic beverages (consistent with the First Notice of Regulatory Relief and other guidance provided by the Department). Such to-go drinks and meal service will be authorized in accordance within the following parameters:
 1. The meal provider must be regularly engaged in the business of preparing and offering bona fide meals for sale to the public. Such meal provider may be a traditional restaurant, a fast food restaurant, a food truck (or similar mobile meal provider), or similar business that prepares and serves bona fide meals. A meal provider may be another retail licensee but cannot be a non-retail licensee. The tied house laws will apply to the relationship with meal providers. The ABC licensee must notify the Department of the agreement and relationship created between them and the meal provider. Meal providers can be affiliated with multiple ABC licensees but must treat them equitably in their agreements with each of them.
 2. All orders for food and alcoholic beverages must be made to or coordinated by the ABC licensee. Orders and payment from consumers for alcohol and food must be received by the ABC licensee. The ABC licensee may then pass on the food order and a portion of the payment to its meal provider.
 3. For deliveries away from the licensed premises, the ABC licensee must receive the food order from its meal provider, and then deliver both the meal and the alcoholic beverages to the consumer in a single transaction originating from its licensed premises. This must be done even if using a third-party delivery service. That is, the alcoholic beverages may not be delivered to the consumer separately from a meal delivered by the food provider and cannot leave the licensed premises without being accompanied by the appropriate food order.

ABC Contact Information:

- ▶ Oakland District Office:
 - ▶ Address: Department of Alcoholic Beverage Control
 - ▶ 1515 Clay Street, Ste. 2208, Oakland, CA 94612
 - ▶ Telephone #: 510-622-4970
 - ▶ Email address: ABCOakland@abc.ca.gov
 - ▶ Please visit our website at www.abc.ca.gov for more information.
 - ▶ Link to FAQ from ABC website:
<https://www.abc.ca.gov/law-and-policy/coronavirus19/frequently-asked-questions/>

Thank you and stay
safe!