



about the Board's fee increase proposal. They stated that prior to the implementation of such an increase, which they fear will be an extreme hardship on licensees, an analysis of the Board's expenditures should be completed. The representatives stated that in their research they discovered that the

Board's expenditures had sharply increased this year without explanation. The Board thanked the representatives for their input but could not comment at that time.

**FUTURE MEETINGS:**  
May 10-11 in Sacramento.



## BUSINESS, TRANSPORTATION AND HOUSING AGENCY

### DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Director: Jay Stroh  
(916) 445-6811

The Department of Alcoholic Beverage Control (ABC) is a constitutionally-authorized state department established in 1955 (section 22 of Article XX, California Constitution). The Alcoholic Beverage Control Act, Business and Professions Code sections 23000 *et seq.*, vests the Department with the exclusive power to regulate the manufacture, sale, purchase, possession, and transportation of alcoholic beverages in California. In addition, the Act vests the Department with authority, subject to certain federal laws, to regulate the importation and exportation of alcoholic beverages across state lines. ABC also has the exclusive authority to issue, deny, suspend, and revoke alcoholic beverage licenses. ABC's regulations are codified in Chapter 1 and 1.1, Title 4 of the California Code of Regulations (CCR). ABC's decisions are appealable to the Alcoholic Beverage Control Appeals Board. Further, ABC has the power to investigate violations of the Business and Professions Code and other criminal acts which occur on premises where alcohol is sold. Many of the disciplinary actions taken by ABC, along with other information concerning the Department, are printed in liquor industry trade publications such as the *Beverage Bulletin*.

The Director of ABC is appointed by, and serves at the pleasure of, the Governor. ABC divides the state into two divisions (northern and southern) with assistant directors in charge of each division. The state is further subdivided into 21 districts, with two districts maintaining branch offices.

ABC dispenses various types of

licenses. "On-sale" refers to a license to sell alcoholic beverages which will be bought and consumed on the same premises. "Off-sale" means that the licensee sells alcoholic beverages which will not be consumed on the premises. Population-based quotas determine the number of general licenses issued each year per county.

### MAJOR PROJECTS:

*Voter Initiative to Increase Alcohol Tax.* Assemblymember Lloyd Connelly is behind an initiative called the Alcohol Tax Act of 1990, which—if passed by the voters—would amend the California Constitution and impose a five-cent excise tax on alcoholic beverages. This tax would be levied per each unit of alcohol sold by a liquor manufacturer, wine grower, or importer within California. A unit is defined as twelve ounces of beer, five ounces of non-fortified wines, three ounces of fortified wines, or one ounce of distilled spirits. Fortified wine is defined as wine containing at least 14% alcohol by volume, which is aged for at least two years, and which has wine spirits, brandy, or alcohol added during the production process.

The so-called "nickel-a-drink" initiative, if passed, would also create the Alcohol Surtax Fund. Revenue from the five-cent excise tax, which is expected to top \$800 million per year, would be placed into the newly created fund. Twenty-four percent of the money in the Fund would provide financial support for programs designed to prevent and treat alcohol- and other drug-related problems. Another 25% of the Fund's revenues would go to provide emergency and trauma care necessary due to alcohol or drug affliction. Additionally, 21% may be expended to ensure that laws prohibiting driving under the influence of alcohol or drugs are enforced.

Fifteen percent of the funding would assist women, children, and other victims of alcohol and other drug abuse. Another 15% would be used in community mental health programs.

The initiative has already been submitted to the Attorney General's Office, and is currently being circulated for signatures.

*Ongoing Investigations.* Usually in response to citizen complaints or law enforcement tips, ABC agents initiate undercover investigations. Typically, they investigate licensees who may be selling alcohol to obviously intoxicated people or minors. Also under investigation are ABC licensees—usually retail liquor stores—which illegally sell drug paraphernalia.

ABC is also presently undertaking a major investigation regarding possible violations of license transfer restrictions. These restrictions prohibit the resale of a general liquor license within five years of its issuance if the purchase price is higher than \$6,000 (which is the original purchase price). In addition, there is a general prohibition against reselling a license at all within the first two years of issuance. Although it is widely believed that these restrictions are frequently violated, proving the violation is difficult.

However, in Orange County, a business opportunity broker (one who brings potential license buyers and sellers together) and a prominent attorney were recently arraigned on felony counts for alleged license transfer violations. In one transaction, the buyer was told that the license would cost \$46,000. Disgruntled over the amount, the buyer contacted ABC, which investigated the case and exposed the broker and attorney. As a result of the Orange County case, ABC is now investigating on a wider scale license transfers conducted within the last three years.

### LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 9, No. 4 (Fall 1989) p. 87:

*AB 213 (Floyd)*, which would repeal certain provisions of the Penal Code regarding the sale of alcohol near certain institutions, is pending in the Senate Committee on Governmental Organization.

*AB 151 (Floyd)*, which would require applicants for an alcoholic beverage license to post a notice of intention to engage in the sale of alcoholic beverages at each entrance of the premises



and would specify the contents of that notice, is pending in the Senate Committee on Governmental Organization.

*AB 205 (Floyd)*, which would specify the contents of notices which license applicants are required to mail to property owners within a 500-foot radius of the premises for which the license is sought, is pending in the Assembly Ways and Means Committee.

*AB 261 (Floyd)*, which would have allowed a holder of an alcoholic beverage wholesaler's license to hold ownership in any on-sale alcoholic license only in counties with a population less than 25,000, died in committee.

*AB 1742 (Friedman)*, which would prohibit the issuance or renewal of any club license to a club, as defined, which makes any discrimination, distinction, or restriction for the purpose of membership against any person on account of the person's color, race, religion, ancestry, national origin, sex, or age, is pending in the Assembly Committee on Governmental Organization.

*AB 78 (Hansen)*, which would have required a fourth drunk driving offense within seven years to be prosecuted as a felony, died in committee.

*AB 767 (Eaves)*, which would have authorized licensed beer manufacturers or holders of out-of-state beer manufacturer's certificates to give away promotion items of nominal value, except for beer or nonalcoholic beverages, under specified conditions, died in committee.

*AB 346 (Nielsen)*, which would have authorized a licensed winegrower to hold, directly or indirectly, the ownership of any interest in an on-sale license under specified conditions, died in committee.

*AB 2066 (Killea)* would have provided for specified increases in excise taxes on beer, wine, and distilled spirits, and would have designated how that tax revenue would be used. This bill died in committee.

*SB 760 (Campbell)* would have required all state and local law enforcement agencies to notify ABC of any arrests they make for violations over which ABC has jurisdiction, and would have made it unlawful for any person over 21 years of age to purchase alcohol for a minor. This bill died in committee.

*SB 327 (Beverly)*, which would have authorized any person who holds any other ABC license and who has been in the restaurant business outside California to hold an on-sale general

license, provided specified conditions are met, died in committee.

## BANKING DEPARTMENT

*Superintendent: James E. Gilleran*  
(415) 557-3232  
*Toll-Free Complaint Number:*  
1-800-622-0620

Pursuant to Financial Code section 200 *et seq.*, the State Banking Department (SBD) administers all laws applicable to corporations engaging in the commercial banking or trust business, including the establishment of state banks and trust companies; the establishment, operation, relocation, and discontinuance of various types of offices of these entities; and the establishment, operation, relocation, and discontinuance of various types of offices of foreign banks. The Department is authorized to adopt regulations, which are codified in Chapter 1, Title 20 of the California Code of Regulations (CCR).

The superintendent, the chief officer of the Department, is appointed by and holds office at the pleasure of the Governor. The superintendent approves applications for authority to organize and establish a corporation to engage in the commercial banking or trust business. In acting upon the application, the superintendent must consider:

(1) the character, reputation, and financial standing of the organizers or incorporators and their motives in seeking to organize the proposed bank or trust company;

(2) the need for banking or trust facilities in the proposed community;

(3) the ability of the community to support the proposed bank or trust company, considering the competition offered by existing banks or trust companies; the previous banking history of the community; opportunities for profitable use of bank funds as indicated by the average demand for credit; the number of potential depositors; the volume of bank transactions; and the stability, diversity, and size of the businesses and industries of the community. For trust companies, the opportunities for profitable employment of fiduciary services are also considered;

(4) the character, financial responsibility, banking or trust experience, and business qualifications of the proposed officers; and

(5) the character, financial responsi-

bility, business experience and standing of the proposed stockholders and directors.

The superintendent may not approve any application unless he/she determines that the public convenience and advantage will be promoted by the establishment of the proposed bank or trust company; conditions in the locality of the proposed bank or trust company afford reasonable promise of successful operation; the bank is being formed for legitimate purposes; the proposed name does not so closely resemble as to cause confusion the name of any other bank or trust company transacting or which has previously transacted business in the state; and the applicant has complied with all applicable laws.

If the superintendent finds that the proposed bank or trust company has fulfilled all conditions precedent to commencing business, a certificate of authorization to transact business as a bank or trust company will be issued.

The superintendent must also approve all changes in the location of a head office, the establishment or relocation of branch offices and the establishment or relocation of other places of business. A foreign corporation must obtain a license from the superintendent to engage in the banking or trust business in this state. No one may receive money for transmission to foreign countries or issue travelers checks unless licensed. The superintendent also regulates the safe-deposit business.

The superintendent examines the condition of all licensees. However, as the result of the increasing number of banks and trust companies within the state and the reduced number of examiners following passage of Proposition 13, the superintendent now conducts examinations only when necessary, but at least once every two years. The Department is coordinating its examinations with the FDIC so that every other year each agency examines certain licensees. New and problem banks and trust companies are examined each year by both agencies.

The superintendent administers the Small Business Loan Program, designed to provide long-term capital to rapidly growing small businesses whose growth exceeds their ability to generate internal earnings. Under the traditional standards used by banks, these small businesses cannot provide adequate security to qualify for regular bank loans.

The superintendent licenses Business