



Contra
Costa
County

To: Board of Supervisors
From: LEGISLATION COMMITTEE
Date: August 2, 2016

Subject: Support position on AB 2121 (Gonzalez) Alcoholic Beverage Control: Beverage Service Training

RECOMMENDATION(S):

ADOPT a "Support" position on AB 2121 (Gonzalez) Alcoholic Beverage Control: Beverage Service Training, a bill that requires a person who sells or serves alcoholic beverages to complete an approved Responsible Interventions for Beverage Servers Training Course within 3 months of employment and every 3 years thereafter, as recommended by the Legislation Committee.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

At its July 11, 2016 meeting, the Legislation Committee considered the recommendation from the Alcohol and Other Drugs Advisory Board to recommend a position of "Support" to the Board of Supervisors on AB 2121. The Committee voted unanimously to support the recommendation.

Status: 06/28/2016 From SENATE Committee on GOVERNMENTAL ORGANIZATION: Do pass to Committee on APPROPRIATIONS. (13-0)

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **08/02/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 2, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: L. DeLaney,
925-335-1097

cc:

Bill Analysis - 06/27/2016

BACKGROUND: (CONT'D)

DIGEST: This bill establishes the Responsible Beverage Service (RBS) Training Program Act of 2016, beginning July 1, 2020, that requires an alcohol server, as defined, to successfully complete an RBS training course from an accredited training provider within three months of employment and every three years thereafter.

ANALYSIS:

Existing law:

1) Establishes the Department of ABC and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation and sale of alcoholic beverages in this state and the collection of license fees for this purpose.

2) Stipulates that no person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage shall be civilly liable to any injured person or the estate of such person for injuries inflicted on that person as a result of intoxication by the consumer of such alcoholic beverage.

3) Provides that every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any habitual or common drunkard or to any obviously intoxicated person is guilty of a misdemeanor.

4) States a cause of action may be brought by or on behalf of any person who has suffered injury or death against any person licensed, or required to be licensed, as specified, or any person authorized by the federal government to sell alcoholic beverages on a military base or other federal enclave, who sells, furnishes, gives or causes to be sold, furnished or given away any alcoholic beverage, and any other person who sells, or causes to be sold, any alcoholic beverage, to any obviously intoxicated minor where the furnishing, sale or giving of that beverage to the minor is the proximate cause of the personal injury or death sustained by that person.

5) Defines an "on-sale" license as authorizing the sale of all types of alcoholic beverages: namely, beer, wine and distilled spirits, for consumption on the premises (such as at a restaurant or bar). An "off-sale" license authorizes the sale of all types of alcoholic beverages for consumption off the premises in original, sealed containers.

6) Permits the Department of ABC to issue licenses and authorizations for the retail sale of beer, wine and distilled spirits on a temporary basis for special events. The most common are as follows:

a) Special Daily Beer and/or Wine License - Authorizes the sale of beer and/or wine for consumption on the premises where sold. (No off-sale privileges)

b) Daily On-Sale General License - Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. (No off-sale privileges)

c) Catering Authorization - Authorizes certain types of licensees (and catering businesses that qualify) to sell beer, wine and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events.

d) Event Authorization - Authorizes certain types of licensees to sell beer, wine and spirits for consumption on property adjacent to the licensed premises and owned or under the control of the licensee.

e) Wine Sales Event Permit - Authorizes wineries to sell bottled wine produced by the winegrower for consumption off the premises where sold and only at fairs, festivals or cultural events sponsored by designated nonprofit organizations.

This bill:

1) Establishes the Responsible Beverage Service (RBS) Training Program and beginning July 1, 2020, requires alcohol servers, as defined, to complete an RBS training course from an accredited training provider within three months of employment and every three years thereafter.

2) Defines "alcohol server" to mean a person who sells or serves alcoholic beverages directly to consumers, or a person who manages or supervises a person who sells or serves alcoholic beverages directly to consumers, including the onsite establishment owner of a licensed facility, for consumption on the premises of a licensed facility that includes, but is not limited to, one-day events, fairs, festivals, sporting events, and other special events.

3) Stipulates that the licensee must ensure that those persons required to successfully complete an RBS training course do so and

that a current certificate or card provided by any accredited training provider shall be sufficient documentation of successful completion and be accepted statewide.

4) Defines "accredited training provider" to mean either of the following: (a) A training provider accredited by the American National Standards Institute (ANSI) that meets ASTM International E2659-15 Standard Practice for Certificate Programs or (b) A training provider accredited by an accreditation agency other than ANSI, provided the accreditation agency is authorized by the department of ABC to accredit training providers offering RBS training courses.

5) Provides that a nonprofit organization that has obtained a temporary daily on-sale license or temporary daily off-sale license from the Department of ABC must designate a person or persons to receive RBS training before the event and that designated person or those designated persons must remain on site for the duration of the event.

6) Requires the Department of ABC, on or before January 1, 2020, to establish a list, published on its Internet Web site, of RBS training courses offered by accredited training providers that may be used to fulfill the requirements of this program.

7) Provides that an RBS training course shall consist of at least four hours of instruction and include certain information (e.g., social impact of alcohol; impact of alcohol on the body; state laws and regulations relating to alcoholic beverage control and driving under the influence; and, intervention techniques). Also, permits the Department of ABC to establish additional training standards and curricula to be included in an RBS training course.

8) Allows RBS training courses to be offered through a trainer-led class and assessment or self-training and assessment and specifies that participants must score 70% to successfully complete the course. Also, provides that the certificate or card shall be valid for three years from the date of issuance, regardless of whether the alcohol server changes employers during that period.

9) Provides that at least one RBS training course shall cost a participant no more than \$15, inclusive of the certificate or card provided upon successful completion of the training course. At least one RBS training course must be offered in Spanish. If no RBS training courses meet these requirements the RBS course requirements shall not apply.

10) Permits the Department of ABC to authorize an accreditation agency, in addition to ANSI, to accredit training providers to offer RBS training courses and to collect fees to cover reasonable costs associated with the review and approval of that accreditation agency.

11) Requires the Department of ABC, beginning January 1, 2019, to include information on the RBS training course requirement, including information on documentation requirements, on license applications and license renewal notices. Also, requires all licensees, beginning July 1, 2020, to maintain and provide upon request all records necessary to establish compliance with this bill.

12) Stipulates that, beginning July 1, 2020, an authorized licensee, or agent or employee of that licensee, who knowingly and intentionally employs an alcohol server that has not completed an RBS training course, shall only be subject to certain ABC Act civil and administrative penalties.

Background

Dram Shop Law. A dram shop law is a type of statute which holds any business establishment strictly liable for selling alcoholic beverages to a person who is obviously intoxicated. The purpose of dram shop laws is to increase the responsibility of those who make profits by tendering alcoholic beverages to guests. The word "dram" refers to a British unit of measurement for serving alcohol. Dram shop laws usually deal with prohibiting alcohol sales to intoxicated persons, but sometimes they may also cover the sale of alcohol to minors, as well as issues with licenses and identification. Most states have some form of these types of laws, but they vary widely between jurisdictions.

California's Dram Shop Law specifies that a vendor who provides alcohol to a person 21 years of age or older cannot be held liable for damages if the person then injures someone else, even if the person was obviously intoxicated at the time. The law states that the consumption of alcohol, not the furnishing of the beverages, is the proximate cause of injuries that an intoxicated person inflicts on another individual, a position that largely eliminates dram shop liability. Thus, the sale of alcohol by bars, liquor stores and restaurants in California is not considered to be the cause of an automobile accident.

RBS training programs. RBS training is not mandatory in California although some cities and counties do require RBS training in order to

sell or serve alcoholic beverages at licensed establishments within their jurisdictions.

Currently, the Department of ABC oversees the Licensee Education on Alcohol and Drugs Program (LEAD) - a free, voluntary prevention and education program for retail licensees, their employees and applicants. The mission of the LEAD program is to provide high quality, effective and educationally sound training on alcohol responsibility and the law to California retail licensees and their employees. The program was initiated in 1991 with a grant from the California Office of Traffic Safety. The training classes are offered at a variety of locations throughout the state and include instruction on checking various forms of identification, detecting and preventing illegal activity, reducing liability and much more. Each training class lasts four hours. At the conclusion of the class, there is an exam on the material that was covered and each person that fulfills all of the training requirements receives a certificate, via email, certifying that they successfully completed a LEAD training course.

Purpose of AB 2121. This bill will establish an RBS training program that will require alcohol servers, beginning July 1, 2020, to obtain certification that they have successfully completed an RBS training course from an accredited training provider within three months of employment and every three years thereafter. The Department of ABC will be required to develop a list, published on its Web site, of accredited RBS training courses. Also, both new and renewal applicants for on-sale licenses will be required to provide ABC with documentation that its employees have successfully completed an RBS accredited training course. Additionally, this bill requires nonprofit organizations that have obtained temporary daily off-sale or on-sale licenses to designate at least one person to receive RBS training prior to the event and that person must stay on site for the duration of the event. Furthermore, this bill provides that a licensee, or agent or employee of that licensee, who knowingly and intentionally employs an alcohol server that has not completed an RBS training course, shall only be subject to civil and administrative penalties.

According to the author's office, "The "National Highway Traffic Safety Administration claims that more than 10,000 people die on our streets every year - the equivalent of one fatality every 51 minutes due to drunk driving. While we can't entirely stop every individual from making bad decisions that put innocent people at risk, we do have a responsibility to intervene when we can. Unlike 18 other states and the District of Columbia, California does not require responsible beverage server training for those bartenders and restaurant servers

who are serving alcohol to customers and are in a unique position to assess and intervene if customers pose a potential threat. While law enforcement does its best with checkpoints and other enforcement, these approaches only help after someone has already made the choice to get behind the wheel when they shouldn't. That isn't good enough. This bill seeks to help individuals who serve alcohol meet their statutory requirement not to serve obviously intoxicated patrons and minors by requiring participation in an RBS training course from an accredited training provider within three months of employment and every three years thereafter. The ancillary benefit is a reduction in drunk driving."

SUPPORT:

Alcohol Justice

California Alcohol Policy Alliance

California Craft Brewers Association

California Medical Association (sponsor)

California Police Chiefs Association

California Society of Addiction Medicine

County Health Executives Association of California

Los Angeles Drug and Alcohol Policy Alliance

Mothers Against Drunk Driving (MADD)

Partnership for a Positive Pomona

SPIRITT Family Services

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: Proponents state that "this legislation establishes a reasonable training requirement. Eighteen other states and the District of Columbia already require this training. RBS training provides bartenders and servers with tools to effectively identify when

a patron has had too much to drink and how to safely intervene if the patron attempts to get into their car. Responsible beverage training has been found to increase appropriate server practices, increase refusal to serve obviously intoxicated patrons, and decrease the percentage of intoxicated patrons leaving an establishment. Three years after Oregon mandated responsible beverage service training, fatal single vehicle nighttime crashes decreased by an estimated 23%."

CONSEQUENCE OF NEGATIVE ACTION:

Contra Costa County would not have a position on the bill.

ATTACHMENTS

Attachment A: AB 2121 bill text

Attachment B: Alcohol and Other Drugs Advisory Board letter