

**QUICK SUMMARY OF SELECTED LAWS FOR  
RETAIL LICENSEES**



**Introduction**

This pamphlet explains, in simple terms, some State laws and rules that retail licensees must follow. There are other State and local laws not listed here. When in doubt, call your local ABC office. *ABC Penalties.* ABC decides penalties for licensees on a case-by-case basis. ABC gives consideration to the type of violation, the licensee's past record, and the facts of each case. ABC penalties may be probation, suspension of the ABC license, a fine of \$750-\$6,000, or revocation of the ABC license.

*Definitions.* "B&P" means the Business and Professions Code. "CCR" means the California Code of Regulations. "PC" means the Penal Code. "H&S" means the Health and Safety Code. The term "licensee" as used here, means licensees, their agents, and employees. "Alcohol" means an alcoholic beverage. "On-sale" means bars, restaurants, taverns, clubs, hotels, motels, etc. "Off-sale" means liquor stores, grocery stores, convenience stores, etc. "Minor" means person under age 21.

Subject	Possible Penalties
<p><b>1. After Hours</b> Licensees may not sell, give, or deliver alcohol (by the drink or by the package) between 2:00 a.m. and 6:00 a.m. of the same day. No person may knowingly purchase alcohol between 2:00 a.m. and 6:00 a.m. (Sec. 25631 B&amp;P) Licensees may not permit patrons or employees to consume alcohol between 2:00 a.m. and 6:00 a.m. of the same day (even if someone bought the drinks before 2:00 a.m.). (Sec. 25632 B&amp;P) Some ABC licenses have special conditions (restrictions) as to hours of sale that are stricter than the law. Those licenses are marked "Conditional." (23800-23805 B&amp;P)</p>	<p><i>Criminal:</i> For the licensee or employee who sells or permits consumption after hours and for the patron who knowingly purchases after hours, the penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>2. Attire and Conduct</b> On-sale licensees may not permit these acts: “(1) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals. (2) To employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph (1) above. (3) To encourage or permit any person on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person. (4) To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.” (Rule 143.2 CCR. Also violates Sec. 311.6 PC if conduct is “obscene;” e.g., intercourse, sodomy, masturbation, etc.)</p>	<p><i>Criminal:</i> Violation of Rule 143.2 CCR carries no criminal penalty. For violation of Sec. 311.6 PC, the penalty is a maximum six months in county jail and/or a maximum \$1,000 fine. (Sec. 19 PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>

<p><b>3. Authority of Peace Officers/Refusing Inspection</b>  Police officers, sheriffs' deputies, and ABC agents are sworn law enforcement officers (peace officers) with powers of arrest. Whether in plainclothes or uniform, peace officers have the legal right to visit and inspect any licensed premises at any time during business hours <i>without a search warrant or probable cause</i>. This includes inspecting the bar and back bar, store room, office, closed or locked cabinets, safes, kitchen, or any other area within the licensed premises. It is legal and reasonable for licensees to exclude the <i>public</i> from some areas of the premises. However, licensees <i>cannot and must not</i> deny entry to, resist, delay, obstruct, or assault a peace officer. (Secs. 25616, 25753, and 25755 B&amp;P; 148 and 241(b) PC)</p>	<p><i>Criminal:</i> For refusing to permit an inspection, the penalty is a \$100-\$1,000 fine and/or one to six months in county jail. (Sec. 25616 B&amp;P)  For resisting, delaying, or obstructing a peace officer, the penalty is a maximum \$1,000 fine and/or maximum one year in county jail. (Sec. 148(a) PC)  For assaulting a peace officer, the penalty is a maximum \$2,000 fine and/or a maximum one year in county jail. (Sec. 241(b) PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>4. Beer Keg Registration</b>  Licensees selling keg beer (six gallon capacity or larger): (a) Must tag all kegs and have the customer sign a receipt; (b) Must retain the receipts on the premises for six months and make them available to peace officers; (c) May not return any deposit upon the return of any keg that does not have an identification tag.  It is against the law for a customer to: (a) Possess a keg containing beer knowing that the keg does not have an identification tag; or (b) Provide false information to the licensee. (Section 25659.5 B&amp;P)</p>	<p><i>Criminal:</i> The penalty is a maximum \$1,000 fine and/or six months in county jail for (1) the licensee, (2) the person who possesses the unidentified keg; and (3) the customer who provides false information to the licensee. (Sec. 25617 B&amp;P).</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>5. Clerk's Affidavit; Posting of Sign</b>  Any person selling alcohol at an off-sale premises must sign a statement that he or she understands basic ABC laws and must disclose any ABC law convictions. The licensee must post signs in the store that warn customers. (See Form ABC-299 for wording.) (Sec. 25658.4 B&amp;P)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>6. Concurrent Sales of Alcohol and Gasoline</b>  Licensees who sell both gasoline and alcohol must abide by the following conditions:  1. No beer or wine within five feet of the cash register or front door (unless in a permanently affixed cooler since 1/1/88);  2. No alcohol advertisements at the fuel islands;  3. No alcohol sales from a drive-in window;  4. No alcohol sales from an ice tub;  5. No self-illuminated beer or wine advertisements on buildings or windows; and  6. Cashiers selling beer or wine between 10:00 p.m. and 2:00 a.m. must be at least age 21. (Section 23790.5(d) B&amp;P)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>7. Conditional Licenses</b>  Some ABC licenses have special restrictions (conditions) limiting the hours of alcohol sales, type of entertainment, etc. Licensees must keep a copy of any conditions on the premises, abide by them, and show them to any peace officer upon request. (Secs. 23800-23805 B&amp;P)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>8. Contaminated Beverages</b>  Licensees and their employees may not sell, furnish or give away alcoholic beverages containing any deleterious or poisonous substance. (Sec. 347(b) PC)  Licensees may not allow open bottles of alcoholic beverages to become contaminated with insects or other foreign matter. (Secs. 25620, 25623 and 25634 H&amp;S)</p>	<p><i>Criminal:</i> For the licensee or employee who violates the penal code, the penalty is a fine up to \$2,000 and/or up to one year in county jail. (Sec. 347(b) PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>

<p><b>9. Discrimination</b>  A licensee, other than certain exempt club licensees, who refuses to provide full and equal accommodations, facilities, privileges, or services in the licensed premises by reason of one's sex, color, race, religion, ancestry, etc., may be subject to disciplinary action. There may be no discrimination as to the price of drinks based on race, religion, sex, marital status, membership or non-membership in an organization, or on any other conditions which would result in discrimination against the general public. (Sec. 51 Civil Code and Sec. 125.6 B&amp;P)</p>	<p><i>Criminal:</i> None   <i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>10. Disorderly Conduct</b>  Licensees may not permit these acts in or about their licensed premises:  (a) Lewd conduct in public  (b) Prostitution  (c) Accosting others for the purpose of begging  (d) Loitering in or about public toilets for a lewd or lascivious purpose  (e) Loitering without apparent reason and refusing to identify oneself upon the request of any peace officer  (f) Being under the influence of alcohol and/or drugs in public and unable to exercise care for one's own safety or the safety of others. (647 PC)</p>	<p><i>Criminal:</i> For the person committing the illegal act, the penalty is a maximum six months in county jail and/or a maximum \$1,000 fine. (Sec. 19 PC)   <i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>11. Disorderly House</b>  Licensees may not permit their licensed premises to become a disorderly house. A disorderly house is a licensed outlet (on- or off-sale) that (a) disturbs neighbors with noise, loud music, loitering, littering, vandalism, urination or defecation, graffiti, etc., and/or (b) has many ongoing crimes inside such as drunks, fights, assaults, prostitution, narcotics, etc. The licensed premises includes the parking lot. (Sec. 25601 B&amp;P; 316 PC)</p>	<p><i>Criminal:</i> The penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&amp;P)   <i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>12. Drink Solicitation</b>  On-sale licensees may not:  (a) Employ hosts, hostesses, or entertainers who solicit others to buy them drinks, alcoholic or non-alcoholic  (b) Pay or agree to pay such an employee a percentage of the receipts from the sales of drinks solicited  (c) Permit any person, whether an employee or not, to loiter for the purpose of soliciting an alcoholic drink  (Seccs. 24200.5(b) and 25657(a)(b) B&amp;P; Rule 143 CCR; Sec. 303(a) PC)</p>	<p><i>Criminal:</i> For the licensee, the penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&amp;P)  For the drink solicitor, the penalty is a maximum \$1,000 fine and/or six months in county jail unless specific penalty. (Sec. 303(a) PC)   <i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>13. Drug Paraphernalia</b>  Licensees may not sell any product knowing, or under circumstances where one reasonably should know, that the customer intends to use the product for illegal drug purposes. This includes, but is not limited to, scales and balances, diluents and adulterants, balloons, envelopes, containers, pipes, screens, syringes, needles, scouring pads, blow torches, or cigarette papers.  (Seccs. 11014.5, 11364.5, and 11364.7(a) H&amp;S)  The law presumes that a licensee, or his/her agent(s), knows that an item is drug paraphernalia if ABC or any other state or local law enforcement agency notifies the licensee in writing that a thing (e.g., a glass vial, pipe screen, wiry sponge or scouring pad, roach clips, etc.) is commonly sold or marketed as drug paraphernalia. (See also Form ABC-546-A, Notice to Licensees Concerning Drug Paraphernalia Under Section 24200.6 Business and Professions Code) (Sec. 24200.6 B&amp;P)</p>	<p><i>Criminal:</i> The penalty is a maximum six months in county jail and/or a maximum \$1,000 fine. (Sec. 19 PC)   <i>ABC:</i> Decided on a case-by-case basis</p>

<p><b>14. Entertainers and Conduct</b></p> <p>On-sale licensees who offer entertainment must abide by the following rules:  “(1) No licensee shall permit any person to perform acts of or acts which simulate:  (a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.  (b) The touching, caressing or fondling on the breast, buttocks, anus or genitals.  (c) The displaying of the pubic hair, anus, vulva or genitals.  (2) Subject to the provisions of subdivision (1) hereof, entertainers whose breasts and/or buttocks are exposed to view shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron.  No licensee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.  No licensee shall permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.”  (Rule 143.3 CCR. Also violates Sec. 311.6 PC if conduct is “obscene;” e.g., intercourse, sodomy, masturbation, etc.)</p>	<p><i>Criminal:</i> Violation of Rule 143.3 CCR carries no criminal penalty. For a violation of Sec. 311.6 PC, the penalty is a maximum six months in county jail and/or a maximum \$1,000 fine. (Sec. 19 PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>15. False I.D. (Possession or Use of)</b></p> <p>Minors may not possess or use identification that is altered, borrowed, stolen, counterfeit, or fraudulently obtained using false birth documents. (Sec. 25661 B&amp;P)</p>	<p><i>Criminal:</i> For the minor, the penalty is a minimum \$250 fine and/or 24-32 hours of community service. Second offense is a maximum \$500 fine and/or 36-48 hours community service. (Sec. 25661 B&amp;P)</p> <p><i>ABC:</i> Not applicable</p>
<p><b>16. Food Requirements</b></p> <p>Type 41, 47, and 49 licensees must operate and maintain their licensed premises as a bona fide eating place. They must make actual and substantial sales of meals, during the normal meal hours that they are open, at least five days a week. Normal meal hours are: Breakfast 6:00 a.m. - 9:00 a.m. lunch 11:00 a.m. - 2:00 p.m.; and dinner 6:00 p.m. - 9:00 p.m. Premises that are not open five days a week must serve meals on the days they are open.</p> <p>The premises must be equipped and maintained in good faith. This means the premises must possess working refrigeration and cooking devices, pots, pans, utensils, table service, condiment dispensers, menus, posters, signs, and enough goods to make substantial meals. The premises must comply with all regulations of the local health department.</p> <p>Incidental, sporadic or infrequent sales of meals or a mere offering of meals without actual sales is not compliance. “Meals” means the usual assortment of food commonly ordered at various hours of the day. The service of only sandwiches or salads is not considered compliance. However, certain specialty entrees, such as pizza, fish or ribs, and an assortment of other foods, such as soups, salads or desserts, may be considered a meal.</p> <p>The Department will presume that a licensee is operating as a bona fide eating place if the gross sales of food prepared and sold to guests on the premises exceeds the gross sales of alcoholic beverages. “Prepared” means any processing preliminary to the final serving of food. (Note: Some licensees have a “conditional” license that requires food sales to be 50% or more of the total gross sales.) (Secs. 23038 and 23787 B&amp;P)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>

<p><b>17. Harmful Matter</b> Licensees may not rent, sell, give, or show harmful matter to persons under age 18. Harmful matter includes, but is not limited to, a book, magazine, newspaper, or video tape that “. . . depicts or describes in a patently offensive way sexual conduct and . . . lacks serious literary, artistic, political, or scientific value for minors.” If licensees sell harmful matter, they must use reasonable care in ascertaining the true age of a minor.</p> <p>If licensees sell or rent videos of harmful matter, they must create an area within their licensed premises for the placement of the videos and advertising material and label it, “Adults Only.” Minors must not be able to readily access the videos or view the video box covers.</p> <p>If licensees sell books or magazines of harmful matter, they should contact their local police or sheriff’s department about any local ordinances that may apply. Some cities and counties require licensees to place “blinder racks” in front of such material so that the lower two-thirds of the material is not exposed to view. (Secs. 313 and 313.1 PC and Sec. 25612.5(c)(9) B&amp;P)</p>	<p><i>Criminal:</i> The penalty for a first offense of selling, giving, or showing harmful matter to a juvenile is a maximum \$2,000 fine and/or one year in county jail. The penalty for a second offense is State prison. Failure to create and label the “adults only” area is an infraction punishable by a maximum \$100 fine. (Sec. 313.4 PC and Sec. 25612.5(c)(9) B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>18. Law Enforcement Problem</b> Licensees may not permit their licensed premises to be a problem for the local law enforcement agency by needing an undue number of calls for service. The licensed premises includes the parking lot. (Sec. 24200(a) B&amp;P)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>19. Minors (Attempt to Purchase by)</b> Minors may not even try to buy alcohol. (Sec. 25658.5 B&amp;P)</p>	<p><i>Criminal:</i> For the minor, the penalty is a maximum \$100 fine and/or 24-32 hours community service. For the second offense, the penalty for the minor is a maximum \$250 fine and/or 36-48 hours of community service. (Sec. 25658.5 B&amp;P)</p> <p><i>ABC:</i> Not applicable</p>
<p><b>20. Minors (Employment of)</b> <b>On-Sale Licensed Premises.</b> Licensees may not employ minors on the portion of any premises which is primarily designed and used for the sale and service of alcohol for consumption on the premises. (Secs. 25663(a) and 25667 B&amp;P) <i>Exception:</i> Minor musicians (see #14) <i>Restaurants:</i> In a bona fide public eating place, persons age 18 or older may serve alcohol in an area primarily designed and used for the sale and service of food for consumption on the premises as an incidental part of their overall duties. Bartenders and cocktail waitresses must be 21. <i>Concession Stands:</i> A person who is at least 18 but not yet 21 may serve alcohol, as an incidental part of his or her duties, at a fixed concession stand that sells food products, soft drinks, and alcohol. <i>Pizza Parlors:</i> A person under age 21 may not serve alcohol while working behind a fixed counter where only soft drinks, alcohol, and other beverages are dispensed and food items are served at another counter within the premises.</p> <p><b>Off-Sale Licensed Premises.</b> Persons age 18 and older may sell alcohol unsupervised. Persons age 17 and younger may sell alcohol if under the continuous supervision of a person age 21 or older. (Sec. 25663(b) B&amp;P)</p>	<p><i>Criminal:</i> For the licensee, the penalty is a maximum \$1,000 fine and/or six months in county jail. No penalty for the minor employee. (Sec. 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>

<p><b>21. Minors (Entering and Remaining in Bars/Taverns)</b>  Licensees may not permit minors to enter and remain in any bar or tavern (license Types 42, 48, and 61), even during hours when the premises is closed. Both the licensee and the minor may be cited. <i>Exception:</i> Minors may enter and remain at any time for lawful business. For example, delivery and repair persons. (Sec. 25665 B&amp;P)</p>	<p><i>Criminal:</i> For the minor, the penalty is a minimum \$200 fine; a maximum \$1,000 and/or six months in county jail. For the licensee, the penalty is a maximum \$1,000 fine and/or six months in county jail. (Secs. 25665 and 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>22. Minors (Possession of Alcohol by)</b>  Minors may not possess alcohol in public. <i>Exceptions:</i> A minor may possess alcohol in public if (a) the minor is making a delivery for his licensed employer, or (b) a parent, guardian, or adult relative has given alcohol to a minor and asked the minor to deliver it to some other adult. A licensee may not give alcohol to a minor on the telephoned or written order of a parent. (Sec. 25662(a) B&amp;P)</p>	<p><i>Criminal:</i> For the minor, the penalty for a first offense is a \$250 fine or 24-32 hours community service. For a second offense, the penalty is a maximum \$500 fine and/or 36-48 hours community service. (Section 25662(a) B&amp;P)</p> <p><i>ABC:</i> Not applicable</p>
<p><b>23. Minors (Purchase or Consumption by)</b>  Minors may not purchase alcohol. Minors may not consume alcohol in an on-sale licensed premises. (Sec. 25658(b) B&amp;P)</p>	<p><i>Criminal:</i> For the minor, the penalty is a \$250 fine and/or 24-32 hours of community service. For a second or subsequent offense the penalty is a maximum \$500 fine and/or 36-48 hours community service. (Sec. 25658(e)(1) B&amp;P)</p> <p><i>ABC:</i> For a first offense, the penalty is a \$750-\$3,000 fine, license suspension, or probation. For a second offense within three years, the penalty is a mandatory license suspension. For a third offense within three years, the license may be revoked. (Sec. 25658.1 B&amp;P)</p>
<p><b>24. Minors (Sales/Furnishing to)</b>  No person may sell, furnish, or give alcohol to a minor. No person may cause or permit this to occur. This includes sales to minor “decoys” used by local law enforcement agencies. (Sec. 25658(a) B&amp;P)</p>	<p><i>Criminal:</i> For the seller, the penalty is a \$250 fine and/or 24-32 hours of community service. For a second or subsequent offense the penalty is a maximum \$500 fine and/or 36-48 hours community service. (Sec. 25658(e)(1) B&amp;P)</p> <p>For the furnisher, the penalty is a \$1,000 fine and a minimum 24 hours community service. (Sec. 25658(e)(2) B&amp;P)</p> <p>If the minor consumes the beverage and thereafter causes great bodily injury or death to the minor or any other person, the person who purchases and furnishes to the minor faces 6-12 months in county jail and/or a maximum \$1,000 fine. (Sec. 25658(e)(3) B&amp;P)</p> <p><i>ABC:</i> For a first offense, the penalty is a \$750-\$3,000 fine, license suspension, or probation. For a second offense within three years, the penalty is a mandatory license suspension. For a third offense within three years, the license may be revoked.</p>

<p><b>25. Musicians (Minors)</b> Musicians who are at least age 18 but not yet 21 can be employed in all types of on-sale premises, only if the following conditions exist: (a) There is no topless or nude entertainment, either live or on film; (b) The area of employment is restricted for the exclusive use of musicians and entertainers; (c) No alcohol is sold, served, or consumed in the restricted entertainment area; (d) The restricted area is readily identifiable. It must be a room, a stage, or an area bounded by partitions or other barriers at least 30 inches high; (e) While performing, the musician must remain in the restricted area.</p> <p>At a bar or tavern (license Type 42, 48, or 61) the minor musician must remain in the restricted area at all times, except when: (a) Entering or leaving the premises, (b) Setting up equipment, (c) Visiting restrooms, (d) Resting or changing clothing in a room which is not used for sale, service, or consumption of alcohol by the public, (e) Auditioning when the place is not open for business. An entertainer is a musician if the bulk of his or her performance involves making music with an instrument or his or her voice. (Sec. 25663.5 B&amp;P)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>26. Narcotics and Dangerous Drugs</b> Licensees may not knowingly permit illegal sales, negotiations, or use of narcotics or dangerous drugs on the licensed premises. (Secs. 24200.5(a) and 24200(a) B&amp;P; various H&amp;S)</p>	<p><i>Criminal:</i> Most drug offenses are felonies, punishable by imprisonment in State prison</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>27. Objectionable Conditions (Failure to Correct)</b> Upon notice, licensees must take reasonable steps to correct objectionable, nuisance conditions on or about the licensed premises and on abutting public sidewalks up to 20 feet from the premises, within a reasonable period of time. The conditions include disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking, or excessive loud noise. <i>Exception:</i> Restaurants (license Types 41 and 47), hotels, motels, wineries, and beer manufacturers are not responsible for correcting nuisance conditions on abutting public sidewalks. (Sec. 24200[e][f][g] B&amp;P).</p>	<p><i>Criminal:</i> The penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>28. Obviously Intoxicated Persons and Habitual Drunkards</b> No person may sell or give alcohol to anyone who is obviously intoxicated. No person may cause or permit this to occur. A person is obviously intoxicated when the average person can plainly see that the person is intoxicated. In other words, the person looks or acts drunk. This includes regular customers who “always act that way.” It does not matter that the person is not driving. For there to be a violation of law, the prosecutor must prove that the server either saw or had the chance to see the signs of intoxication before the service. Some of the signs of intoxication are: being overly friendly, using foul language, argumentative, belligerent, slurred speech, slow, deliberate movements, swaying, drowsy, stumbling, red, watery eyes, or alcoholic breath.</p> <p>No person may sell or give alcohol to anyone who is a habitual drunkard (a person who has lost control over his or her drinking). No person may cause or permit this to occur. A server may discover a habitual drunkard in one of two ways: (a) A family member tells you the person has a drinking problem and asks you not to serve, or (b) the patron is a regular and unable to handle drinking on a regular basis. A licensee or server who has been warned and still serves a habitual drunkard faces possible ABC disciplinary action and criminal prosecution. (Secs. 25602(a) and 23001 B&amp;P; 397 PC)</p>	<p><i>Criminal:</i> The penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&amp;P)</p> <p><i>ABC:</i> The first offense is decided on a case-by-case basis. For a second offense within three years, the penalty is a mandatory license suspension.</p> <p><i>Civil:</i> Lawsuit (for service to an underage, obviously intoxicated person) (Sec. 25602.1 B&amp;P). Civil penalties are money judgments or settlements, usually against everyone (seller or server, licensee, licensee's insurer, etc.). They are determined by the court or jury during a civil lawsuit.</p>

<p><b>29. Off-Sale Beer and Wine License Privileges</b>  Type 20 licensees cannot sell more than 52 gallons of wine at one time or sell alcohol for resale. (Sec. 23393 B&amp;P)</p>	<p><i>Criminal:</i> The penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>30. Off-Sale General License Privileges</b>  Type 21 licensees cannot (a) sell more than 52 gallons of wine at one time, or (b) sell alcohol for resale. <i>Exception:</i> Licensees may sell alcohol for resale to the holder of a Daily On-Sale General license. (Secs. 23393 and 23394 B&amp;P)</p>	<p><i>Criminal:</i> For the violator, the penalty is a maximum \$1,000 fine and/or six months in county jail. (Secs. 25351 and 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>31. Operating Standards, Retail</b>  The following requirements apply to stores (license Type 20 and 21), bars and taverns (license Types 40, 42, 48, and 61). These requirements do not apply to restaurants (license Types 41 and 47), convention centers, exhibit halls, auditoriums, ballparks, stadiums, coliseums, hotels, motels, a certain marine park, wineries, or beer manufacturers.</p> <ol style="list-style-type: none"> <li>1. Post “No Loitering” signs upon written notice from the ABC;</li> <li>2. Post “No Open Container” signs upon written notice from the ABC;</li> <li>3. No alcohol consumption inside a store or outside a bar or tavern;</li> <li>4. Illuminate the exterior of the premises, including adjacent public sidewalks and parking lots under the licensee's control, during all hours of darkness when open for business;</li> <li>5. Remove litter daily from the premises, adjacent sidewalks and parking lots under licensee's control and sweep/clean these areas weekly;</li> <li>6. Remove graffiti from premises and parking lot within 72 hours (3 days) of application;</li> <li>7. Have no more than 33% of windows covered with advertising or signs;</li> <li>8. Have incoming calls blocked at pay phones upon request of local law enforcement or ABC; and</li> <li>9. Create a separate area for any video recordings of harmful matter (as defined in Penal Code Section 313). The area must be labeled “Adults Only.” Minors may not be able to readily access the videos or view the video box covers.</li> <li>10. Have a copy of the operating standards available during normal business hours for viewing by the general public. (Section 25612.5(c) B&amp;P)</li> </ol>	<p><i>Criminal:</i> The licensee only (not employees) may be cited for each violation of the operating standards. For the licensee, the penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>32. Removal of Opened Wine Bottle</b>  Restaurants (license Type 41 and 47) may allow patrons to remove a partly-consumed bottle of wine from the premises upon departure. (Customers should place any open bottles in the trunk area of their vehicle to avoid violating the Vehicle Code.) (Sec. 23396.5 B&amp;P)</p>	<p>Not applicable. This is a permissive section of law.</p>
<p><b>33. Retail Delivery Orders</b>  Employees cannot deliver alcohol without a delivery order. It must state the quantity, brand, proof, price, name and address of the customer, and name and address of the store. The licensee must keep the order on file for two years after delivery. (Rule 17(e) CCR)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-base basis</p>
<p><b>34. Retail Store Qualifications</b>  Licensees may sell alcohol only in the original package for consumption off the premises. Licensees must conveniently display all alcohol. Licensees must make any alcohol deliveries from the licensed premises. Licensees may only take telephone orders for alcohol when the store is open to the general public. (Rule 27 CCR)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>



<p><b>35. Retail-to-Retail Sales</b></p> <p>Retail licensees may not purchase alcohol for resale from another retail licensee. Licensees must purchase alcohol for resale from a non-retail licensee only. Warehouse-type discount stores are licensed retailers, and they cannot sell alcohol for resale to other retailers. For example, a retail licensed store may not sell to the bar down the street who has run out of a certain brand of liquor. It would be illegal for both the store and the bar to do so. The borrowing of alcohol between retail licensees is an illegal, retail-to-retail sale. <i>Exception:</i> A licensee who has three or more outlets licensed exactly the same may transfer products between that licensee's stores. Also, type 21 licensees may sell distilled spirits for resale to the holder of a Daily On-Sale General license. (Sec. 23402 B&amp;P)</p>	<p><i>Criminal:</i> The penalty is a maximum \$1,000 fine and/or six months in county jail. (Secs. 25351 and 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>36. Returns by Consumers to Retailers</b></p> <p>Returns of all types of alcoholic beverages by consumers to sellers were once ruled to be illegal under both State and federal law. In 1961, the Federal Government approved the return by consumers of alcoholic beverages which were spoiled, deteriorated, contaminated, or otherwise unfit for human consumption. This approval was made on the condition that there would be a bottle-for-bottle exchange or cash refund for the unsatisfactory merchandise. It was necessary for a consumer to bring back a partially emptied bottle or a bottle which clearly showed deterioration of the product, such as sediment, to qualify for the refund. The Department adopted the federal policy that same year. Later, the Department modified its approval to the extent that other types of alcoholic beverages could be exchanged for those which were unfit for human consumption.</p> <p>A consumer may also make an exchange or receive a refund on an item purchased in error if the unopened container is returned to the seller. The advertising of "money-back guarantees" is specifically disapproved, however.</p> <p>A consumer cannot overbuy for a party and then return any of the unused alcoholic beverages. Neither can the recipient of a gift exchange it for other merchandise or be given a credit, because the recipient is not returning alcoholic beverages; if the retailer gave anything of value for the beverages, the retailer would be buying from other than a wholesaler. Sales to consumers are final except as previously set forth. The Department and federal law agree in this respect. (Sec. 25600(a)(2))</p>	<p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>37. Right to Refuse Service to Minors</b></p> <p>Licensees and their employees have the legal right to refuse service to anyone who cannot show adequate written evidence of age. A licensee or employee may seize any identification presented by a person that shows the person to be under the age of 21 years or that is false, so long as a receipt is given to the person from whom the identification is seized and the seized identification is given within 24 hours of seizure to the local law enforcement agency that has jurisdiction over the licensed premises. A licensee, his or her agent or employee's decision to not seize a license shall not create any civil or criminal liability. (Sec. 25659 B&amp;P)</p>	<p>Not applicable. This is a permissive section of law.</p>

<p><b>38. Signs</b>  Bars and taverns (License Types 42, 48, and 61) must post signs reading, “No Person Under 21 Allowed.” Licensees must post one at or near each public entrance, visible from the exterior, and one inside in a prominent place. The signs must be at least 7” x 11” and have lettering at least 1” in height. (Rule 107 CCR)<sup>1</sup></p> <p>No more than 33% of the square footage of the windows and clear doors of an off-sale premises may have advertising or signs of any sort. (Sec. 25612.5(c)(7) B&amp;P)<sup>2</sup></p> <p>Stores (license Types 20 and 21) must post one or more customer warning signs in the store (see form ABC-299 for wording). (Sec. 25658.4 B&amp;P)<sup>2</sup></p> <p>Upon written notice from the ABC, licensees must post “No Loitering” and “No Open Container” signs. <i>Exception:</i> This law does not apply to restaurants (license Types 41 and 47), convention centers, exhibit halls, auditoriums, ballparks, stadiums, coliseums, hotels, motels, a certain marine park, wineries, or beer manufacturers. (Sec. 25612.5(c)(1)(2) B&amp;P)<sup>2</sup></p> <p>Signs may not be obnoxious, gaudy, blatant, or offensive, and must not obstruct the view of the interior of the premises from the street. (Sec. 25612 B&amp;P)<sup>2</sup></p> <p>All on- and off-sale licensees must post warning signs reading, “Warning: Drinking spirits, beer, coolers, wine, and other alcoholic beverages may increase cancer risk and, during pregnancy, can cause birth defects.” (Sec. 12601(b)(1)(D)(1) and 12601(b)(4)(E) CCR)<sup>3</sup></p>	<p><sup>1</sup><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p> <p><sup>2</sup><i>Criminal:</i> The penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p> <p><sup>3</sup><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p> <p><i>Civil:</i> A civil lawsuit may be brought against an alcohol manufacturer or distributor by the Attorney General, a district attorney, or a private citizen. Judgments are a maximum of \$2,500 per day per violation, with 25% of the sum going to the plaintiff. Civil penalties <u>do not</u> apply to the retail licensee. (Sec. 12601 CCR)</p>
<p><b>39. Substitution of Brands</b>  No person may substitute types or brands of alcohol without first informing the purchaser. (Sec. 25609 B&amp;P)</p>	<p><i>Criminal:</i> For the licensee or employee, the penalty is a maximum \$1,000 and/or six months in county jail. (Sec. 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>40. Undisclosed Ownership; Changes in Ownership</b>  The ABC license must reflect the true ownership of the licensed business. There can be no hidden owners or silent partners. Licensees must report any and all ownership changes to the ABC. (Secs. 23300 and 23355 B&amp;P; Rule 68.5 CCR)</p>	<p><i>Criminal:</i> The penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>41. Unlawful Possession on Licensed Premises</b>  Licensees may not allow any alcohol on the premises other than what they are licensed to sell. <i>Exception:</i> Type 41 licensees may possess brandy, rum, or liqueurs for cooking purposes. (Section 25607(a)(b) B&amp;P)</p>	<p><i>Criminal:</i> For the licensee, employee or patron, the penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&amp;P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p><b>42. Weapons</b>  Licensees may not possess or sell certain firearms and/or weapons, including but not limited to, undetectable firearms, nunchakus, short-barreled shotguns, short-barreled rifles, metal knuckles, billy clubs, dirks, and daggers. (Sec. 12020 PC)</p>	<p><i>Criminal:</i> The penalty is imprisonment in the county jail not exceeding one year or in a State prison. (Sec. 12020(a) PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>