

1-1-1936

## Liquor Control

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File: 1936-L-1

**INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS**

The Attorney General has summarized the proposed measure as follows:

**LIQUOR CONTROL.**

**Initiative. Amends Constitution Article XX, Section 22, relating to liquor. Creates Alcoholic Beverage Commission (three appointive members, six-year terms, salaries same as railroad commissioners) to succeed to liquor regulatory and licensing powers of State Board of Equalization. Authorizes commission to employ twenty-five non-civil service employees. Requires seventy-five per cent license fees be returned to respective political subdivisions where collected for local enforcement of state liquor laws and rules of commission. Authorizes commission to enact fair trade practice and price-posting regulations. Provides for hearings by commission on license issuance, suspension, or revocation when requested by local governing bodies.**

STATE OF CALIFORNIA,  
 COUNTY (or City and County) of **SAN FRANCISCO** } ss.

TO THE HONORABLE SECRETARY OF STATE OF THE STATE OF CALIFORNIA:

We, the undersigned, registered and qualified electors of the State of California, residents of the County (or City and County) of... **SAN FRANCISCO**... present to the Secretary of State this petition and hereby propose an amendment to the Constitution of the State of California by amending Section 22 of Article XX thereof, to read as hereinafter set forth in full, and petition that the same be submitted to the electors of the State of California for their adoption or rejection, at the next succeeding general election or as provided by law. The proposed constitutional amendment reads as follows:

Section 22 of Article XX of said Constitution, as amended in 1934 through initiative procedure, is hereby renumbered 23, and amended to read as follows:

Section 23 (a) The State of California, subject to the Constitution of the United States and laws passed in pursuance thereof, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession, transportation within the State, importation into the State and exportation from the State, of alcoholic beverages. Alcoholic beverages, other than beers, shall not be consumed, bought, sold, or otherwise disposed of for consumption on the premises, in any public saloon, public bar or public barroom within the State; provided, however, that subject to the aforesaid restriction, all alcoholic beverages may be kept and may be bought, sold, served (in package or in bulk), consumed, and otherwise disposed of in any bona fide hotel, restaurant, cafe, cafeteria, railroad dining or club car, passenger ship, or other public eating place, or in any bona fide club after such club has been lawfully operated for not less than one year. Subject to reasonable statutory restrictions, alcoholic beverages may also be sold in packages at retail and wholesale when such beverages are not to be consumed on the premises where sold.

(b) There is hereby created a Commission to be known as the Alcoholic Beverage Commission of the State of California. Said Commission shall have the exclusive power to license the manufacture, importation and sale of alcoholic beverages in this State, and shall consist of three Commissioners who shall be appointed as follows:

The Governor, the Lieutenant Governor, and the Attorney General shall each appoint one Commissioner for a term expiring January 31, 1939. Thereafter, the Governor shall appoint one Commissioner for a term of 2 years, one Commissioner for a term of 4 years, and one Commissioner for a term of 6 years, and thereafter the term of each Commissioner shall be 6 years, to be appointed by the Governor. All appointments shall be subject to confirmation by a two-thirds vote of the Senate, which shall be done at the next ensuing regular session of the Legislature, but said appointees shall act until said appointments are so confirmed. Should the Senate fail to confirm any appointment, then the appointing power hereinbefore designated shall forthwith appoint another and different Commissioner.

Whenever a vacancy in the office of Commissioner shall occur, before the expiration of a term, the vacancy shall be filled by the Governor for the remainder of the term, subject to confirmation of the Senate as hereinbefore set forth. Each Commissioner must continue to discharge the duties of his office, although his term has expired, until his successor has qualified.

(c) All of the Commissioners shall be qualified electors of this State and must have been such electors for not less than five years prior to their appointment; and no person in the employ of, or holding any official relation to any person, firm or corporation subject to regulation by said Commission shall be appointed to, or hold the office of Alcoholic Beverage Commissioner or be appointed or be employed by the Alcoholic Beverage Commission. The Legislature shall have the power, by a two-thirds vote of all the members elected to each house, to remove any one or more of said Commissioners from office.

(d) The act of a majority of the Commission when in session as a Commission shall be deemed to be the act of the Commission; but any investigation, inquiry or hearing which the Commission has power to undertake or to hold may be undertaken or held by or before any Commissioner or representative, designated for the purpose by the Commission, and every order made by a Commissioner or representative, so designated pursuant to such

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inquiry, investigation or hearing, when approved or confirmed by the Commission, shall be deemed to be the order of the Commission.

(e) Except as otherwise provided herein, the Alcoholic Beverage Commission of the State of California shall succeed to all powers hereinbefore vested in and conferred upon the State Board of Equalization, with respect to the licensing of the manufacture, importation, disposition, and sale of alcoholic beverages, and no alcoholic beverages shall be manufactured, imported or sold in California except by a person holding a license from the State of California. The Commission shall have power to grant, refuse, suspend or revoke licenses and permits for the manufacture, purchase and sale of alcoholic beverages and to allow, in its discretion, the transfer of such licenses. The Commission further shall have power to investigate and aid in the prosecution of violations of this amendment, the statutes adopted pursuant thereto, and of the regulations established hereunder, make seizure of alcohol or alcoholic beverages manufactured, sold, kept, imported or transported in contravention of law and to aid in the prosecution of offenders before any Court of competent jurisdiction. The Commission shall further have the power to promulgate rules and regulations governing the carrying out of this amendment and the statutes adopted pursuant thereto. The Commission may refuse a retail alcoholic beverage license if, in its opinion, the premises on which the applicant proposes to conduct his business do not meet the requirements of the law, or if, in its opinion, the character of the applicant, or its officers, partners, members or directors is such that violations of the law would be likely to result if a license were granted, or if, in its opinion, such licenses already granted for the particular locality are adequate for the reasonable needs of the community. Upon written demand by an applicant who has been refused a license, the Commission shall furnish to the applicant a statement in writing of its reasons for such refusal. All license fees and occupational taxes on the manufacture, importation, purchase, possession, transportation, sale and serving of alcoholic beverages in this state shall be exclusively levied or imposed by the State and collected by or through the Alcoholic Beverage Commission, provided that, subject to the power of the Legislature to otherwise direct, nothing herein contained shall be construed as withdrawing from the State Board of Equalization its power and duty to assess and collect any and all excise taxes, other than license fees, imposed by the laws of this State with respect to the manufacture, disposition or sale of alcoholic beverages. Until a majority of the members of the Alcoholic Beverage Commission have been appointed and taken their oaths of office, the State Board of Equalization shall be ex-officio the Alcoholic Beverage Commission without increase of salary. The Alcoholic Beverage Commissioners shall each receive the same salary as fixed by law for a member of the Railroad Commission of the State of California, unless otherwise provided by the Legislature.

(f) The Alcoholic Beverage Commission of the State of California shall have the power to appoint, exempt from the provisions of Article XXIV of this Constitution, executive officers and confidential employees, not to exceed twenty-five in number, who shall serve at the pleasure of the Commission for such compensation and under such conditions as the Commission may prescribe.

(g) The Alcoholic Beverage Commission of the State of California shall have the power, in its discretion, to deny or revoke any specific alcoholic beverage license if the Commission shall determine, after public hearing of evidence, that the granting or continuance of such license would be contrary to public welfare or morals. In pursuance of this power, the Commission may suspend summarily any retail alcoholic beverage license, but must forthwith notify the licensee in writing stating the reasons for such suspension and, upon demand or request made in writing shall hold a public hearing within ten days after such demand, in the county in which the license has been effective; provided that no summary suspension may continue for a longer period than twenty days.

(h) Subject to the provisions hereof, Chapter 330 of the California Statutes of 1935, and all other laws relating to the manufacture, importation, processing, disposition or sale of alcoholic beverages within this State are hereby continued in force insofar as not in conflict herewith, provided that all retail licenses to take effect on or after January 1, 1937, for the sale of alcoholic beverages for consumption on the premises where sold, issued prior to January 16, 1937, shall expire at midnight on March 31, 1937, and shall be issued for one-fourth of the annual fee otherwise prescribed. The people or the Legislature may amend or repeal all such laws or enact new laws, not in conflict herewith, regulating but not prohibiting the manufacture, importation, exportation, processing, possession, disposition, purchase or sale of alcoholic beverages within this State. Until otherwise provided by law, the Alcoholic Beverage Commission shall fix the fees for licenses authorizing the sale for consumption on the premises where sold of alcoholic beverages other than beers and wines. The Commission shall not issue any retail alcoholic beverage license, except renewal licenses, for any specific location until notice of the application therefor, has been published in a newspaper of general circulation in the county, city and county, or city wherein the applicant proposes to engage in such business, such publication shall be made in conformity with statute or with the rules of the Commission in the absence of statute.

(i) The Alcoholic Beverage Commission shall not issue a retail license until 20 days after an application therefor is filed. A copy of each application for such license shall be furnished by the Commission to the legislative body of the city or city and county in which the premises in question are located, or if said premises are in unincorporated territory, then to the Board of Supervisors of said county. In the event a protest against the issuance of such license is filed within said 20 days by said legislative body, the said Commission shall not grant said license unless and until it has held a public hearing upon said application in the county in which the premises in question are located. In the event such protest is against a renewal of a license, the said Commission may issue a

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temporary permit to the applicant pending such hearing. Upon a request in writing from the applicant, such public hearing must be held within 20 days thereafter and upon at least 5 days' notice to applicant and the said legislative body.

Said legislative body or board of supervisors shall have power to file a complaint with the Alcoholic Beverage Commission requesting the suspension or revocation of any retail license. Upon the filing thereof, the Alcoholic Beverage Commission must provide for a public hearing thereon within the county in which said premises are located and determine whether or not such license should be revoked, suspended or restored. Whenever the local legislative body shall certify that the public safety, health or welfare require an immediate hearing of such complaint, said public hearing shall be held within 5 days after the filing of said complaint with the Commission.

Seventy-five per cent of all moneys collected as alcoholic beverage license fees in cities, cities and counties and unincorporated areas in counties, shall be returned semi-annually to the respective cities, cities and counties, and counties, where collected. From the moneys so returned, the local legislative bodies shall budget, set aside or appropriate a sufficient amount to provide for adequate enforcement of all laws pertaining to the manufacture, sale or serving of alcoholic beverages.

(j) It shall be the duty of local law enforcement officers to enforce all penal laws, rules and regulations pertaining to alcoholic beverages.

(k) The judge of any Court before whom any licensee shall be convicted of any violation of the alcoholic beverage laws regulating the business in which such licensee may be engaged, may recommend the revocation of such license and such recommendation shall justify the Alcoholic Beverage Commission in revoking such license.

(l) Beverages containing not more than 3.2 per cent of alcohol by weight shall be considered and classed as non-intoxicating, but such beverages, excepting those containing less than one-half of 1 per cent of alcohol by weight shall be subject for all purposes to the provisions of this section and of laws adopted pursuant hereto.

(m) The Alcoholic Beverage Commission shall have power to adopt and enforce fair trade practice regulations and price posting provisions controlling the wholesale or retail sale of alcoholic beverages.

(n) As herein used, the word "person" means every natural person, firm, co-partnership, joint adventure, corporation, business trust, receiver, estate, syndicate or other group or combination acting as a unit, exclusive of municipal corporations, political sub-divisions, the State, all public corporations and publicly constituted monopolies.

Nothing herein contained shall be construed to repeal, amend, modify, limit or affect any laws now or hereafter to be enacted relative to the imposition, levying, assessment and collection of any and all State taxes, other than fees for licenses or occupational taxes over which the Alcoholic Beverage Commission of the State of California shall have jurisdiction by reason of this section and statutes enacted pursuant thereto. All provisions of this section shall be self-executing.

NAME	RESIDENCE		Date of Signing 1936	Precinct
	Street and Number	City or Town		
1.....	.....	.....	.....	.....
2.....	.....	.....	.....	.....
3.....	.....	.....	.....	.....
4.....	.....	.....	.....	.....
5.....	.....	.....	.....	.....
6.....	.....	.....	.....	.....
7.....	.....	.....	.....	.....
8.....	.....	.....	.....	.....