

12-18-1987

Alcoholic Beverages. "Tied House" Laws.

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Office of the Secretary of State
March Fong Eu

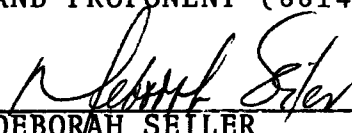
1230 J Street
Sacramento, California 95814

0427
ELECTIONS DIVISION
(916) 445-0820
For Hearing and Speech Impaired
Only:
(800) 833-8683

May 26, 1988

TO: ALL REGISTRARS OF VOTERS AND COUNTY CLERKS
AND PROPONENT (88149)

FROM:


DEBORAH SEILER
Assistant to the Secretary of State
Elections and Political Reform

Pursuant to Elections Code 3520, subd. (b) you are hereby notified that the total number of signatures to the hereinafter named proposed INITIATIVE STATUTE filed with all county clerks is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has failed.

TITLE: ALCOHOLIC BEVERAGES. "TIED HOUSE" LAWS.
INITIATIVE STATUTE.

SUMMARY DATE: December 18, 1987

PROPONENT: Jeremiah F. Hallisey

DS/1/gw

F.INIT



Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

Elections Division
(916) 445-0820
TDD: (800) 833-8683

December 18, 1987

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT (87118)

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

ALCOHOLIC BEVERAGES. "TIED HOUSE" LAWS.
INITIATIVE STATUTE.

Circulating and Filing Schedule

- 1. Minimum number of signatures required.....372,178
Cal. Const., Art. II, Sec. 8(b).
- 2. Official Summary Date.....Friday, 12/18/87
Elec. C., Sec. 3513.
- 3. Petition Sections:
 - a. First day Proponent can circulate Sections for
signatures.....Friday, 12/18/87
Elec. C., Sec. 3513.
 - b. Last day Proponent can circulate and file with
the county. All Sections are to be filed at
the same time within each
county.....Monday, 5/16/88+
Elec. C., Secs. 3513, 3520(a).
 - c. Last day for county to determine total number
of signatures affixed to petition and to
transmit total to the Secretary of State.....Monday, 05/23/88

(If the Proponents file the petition with the county on a date prior to 05/16/88, the county has five working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

+ PLEASE NOTE: To the Proponent who may wish to qualify for the November 8, 1988 General Election. The law allows approximately 85 days for county election officials to check and report petition signatures and transmit results. The law also requires that this process be completed 131 days before the election in which the people will vote on the initiative. It is possible that the county may not need precisely 85 days. But if you want to be sure that this initiative qualifies for the November 8, 1988 General Election, you should file this petition with the county before April 6, 1988.

ALCOHOLIC BEVERAGES. "TIED HOUSE" LAWS.
INITIATIVE STATUTE.

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December 18, 1987

d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties.....Wednesday, 06/01/88**

e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State.....Thursday, 06/16/88

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 05/23/88 the last day is not later than the fifteenth day after the county's receipt of notification.)
Elec. C., Sec. 3520(d), (e).

f. If the signature count is more than 409,395 or less than 353,569, then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 353,569 and 409,395 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures.....Sunday, 06/26/88**

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State.....Monday, 08/08/88

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 06/16/88, the last day is not later than the thirtieth working day after county's receipt of notification.)
Elec. C., Sec. 3521(b), (c).

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient.....Thursday, 08/11/88

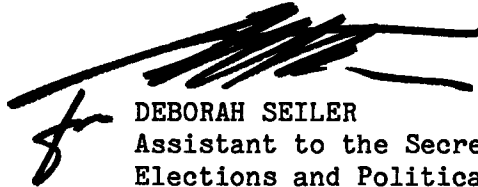
**Date varies based on receipt of county certification.

ALCOHOLIC BEVERAGES. "TIED HOUSE" LAWS.
INITIATIVE STATUTE.
Page 3
December 18, 1987

4. The Proponent of the above named measure is:

Jeremiah F. Hallisey
Hallisey and Johnson
One California Street
San Francisco, California 94111
(415) 433-5300

Sincerely,

A handwritten signature in black ink, appearing to read 'D Seiler', is written over a series of horizontal lines that have been struck through with multiple diagonal strokes, effectively redacting the signature area.

DEBORAH SEILER
Assistant to the Secretary of State
Elections and Political Reform

NOTE TO PROPONENT: Your attention is directed to Elections Code Sections 41, 44, 3501, 3507, 3508, 3516, 3517, and 3519 for appropriate format and type considerations in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Your attention is further directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code Section 81000 et seq.

Attachment: POLITICAL REFORM ACT OF 1974 REQUIREMENTS

12/18/87

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



December 18, 1987

1515 K STREET, SUITE 511
P.O. BOX 944255
SACRAMENTO 94244-2550
(916) 445-9555
(916) 324-5468

0427

Honorable March Fong Eu
Secretary of State
1230 J Street
Sacramento, California 95814

FILED
In the office of the Secretary of State
of the State of California

DEC 18 1987

Dear Mrs. Eu:

MARCH FONG EU, Secretary of State

Initiative Title and Summary.
Subject: ALCOHOLIC BEVERAGES. "TIED
HOUSE" LAWS. INITIATIVE STATUTE
Our File No.: SA 87 RF 0035

By  Deputy

Pursuant to the provisions of sections 3503 and 3513 of the Elections Code, you are hereby notified that on this day we mailed to the proponents(s) of the above identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent(s), a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name(s) and address(es) of the proponent(s) is as stated on the declaration of mailing.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General



PAUL H. DOBSON, Supervising
Deputy Attorney General

PHD:kca

Enclosures

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



December 18, 1987

1515 K STREET, SUITE 511
P.O. BOX 944255
SACRAMENTO 94244-2550
(916) 445-9555

(916) 324-5468

Jeremiah F. Hallisey
Hallisey and Johnson
One California Street
San Francisco, CA 94111

Initiative Title and Summary.
Subject: ALCOHOLIC BEVERAGES. "TIED
HOUSE" LAWS. INITIATIVE STATUTE
Our File No.: SA 87 RF 0035

Pursuant to your request, we have prepared the attached title and summary of the chief purposes and points of the above identified proposed initiative. A copy of our letter to the Secretary of State, as required by Elections Code sections 3503 and 3513, our declaration of mailing, and the text of your proposal that was considered is attached.

The Secretary of State will be sending you shortly a copy of the circulating and filing schedule for your proposal that will be issued by that office.

Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General


PAUL H. DOBSON, Supervising
Deputy Attorney General

PHD:kca

Enclosures



DECLARATION OF MAILING

The undersigned Declarant states as follows:

I am over the age of 18 years and not a proponent of the within matter; my place of employment and business address is 1515 K Street, Suite 511, Sacramento, California 95814.

On the date shown below, I mailed a copy or copies of the attached letter to the proponents, by placing a true copy thereof in an envelope addressed to the proponents named below at the addresses indicated, and by sealing and depositing said envelope or envelopes in the United States mail at Sacramento, California, with postage prepaid. There is delivery service by United States mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed.

Date of Mailing: December 18, 1987

Subject: ALCOHOLIC BEVERAGES. "TIED
HOUSE" LAWS. INITIATIVE STATUTE

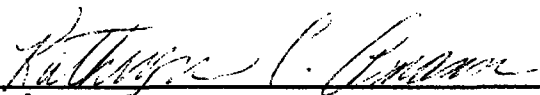
Our File No.: SA 87 RF 0035

Name of Proponent(s) and Address(es):

Jeremiah F. Hallisey
Hallisey and Johnson
One California Street
San Francisco, CA 94111

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Sacramento, California, on:
December 18, 1987.



Kathryn C. Amann
Declarant

SA 87 RF 0035
December 18, 1987

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

ALCOHOLIC BEVERAGES. "TIED HOUSE" LAWS. INITIATIVE STATUTE.

The State regulates the manufacture, importation and sale of alcoholic beverages. Current State law generally prohibits manufacturers, wine growers, wholesalers, importers, distillers, bottlers, rectifiers and their agents and officers from having interests in liquor retailers' businesses as specified and subject to exceptions ("Tied House" laws). This measure repeals these provisions and also eliminates: 1) the prohibition on wholesalers owning retailer's "on-sale" license; 2) restrictions on group purchasing by the same type of liquor retailers; and 3) the prohibition on distilled spirits manufacturers soliciting customers through a specific retailer. Includes other provisions. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Proposal would have minimal, if any, net fiscal effect on the enforcement costs of the Department of Alcoholic Beverage Control and on excise and sales tax revenues.

0427

INITIATIVE MEASURE TO BE SUBMITTED
TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purposes and points of the proposed measure:

To the Honorable Secretary of State

We, the undersigned, registered, qualified voters of California, residents of _____ County, hereby propose amendments to the California Business and Professions Code and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or any special statewide election held prior to the general election or otherwise provided by law. The proposed amendments to the California Business and Professions Code read as follows:

Section 1. Short Title. These amendments shall be known and may be cited as the "Alcoholic Beverage Distribution Reform Act of 1988".

PREAMBLE

Section 2. The People of California find and declare that:

The People of the State of California find that it is in the best interest of the State to encourage free and fair competition in the sale and distribution of alcoholic beverages in this State by eliminating the "Tied House" provisions of the Alcoholic Beverage Control Act and to permit the sale and distribution of alcoholic beverages to be governed by those laws generally applicable to all business competition in this State.

The purpose of these amendments is to permit the Department of Alcoholic Beverage Control to concentrate its efforts on unlicensed and unlawful manufacture, sale and disposition of alcoholic beverages and to promote temperance in the use and consumption of alcoholic beverages.

Section 3. That Section 23366.1 of the California Business and Professions Code is repealed.

Section 4. That Section 23776 of the California Business and Professions Code is repealed.

Section 5. That Section 24400 of the California Business and Professions Code is amended to read:

Notwithstanding any other provision of law, two or more retail licensees of the same type may agree to group purchase distilled spirits and wine from a licensed wine grower, distilled spirits manufacturer, rectifier, brandy manufacturer or wholesaler through a designated agent, subject only to the following restriction:

(a) The designated agent shall hold a retail license of the same type as the purchasing group.

Section 6. That Section 23402 of the California Business and Professions Code is amended to read:

No retail on- or off-sale licensee, except a daily on-sale general licensee holding a license issued pursuant to Section 24045.1, shall purchase alcoholic beverages for resale from any person except a person holding a beer manufacturer's, wine grower's, distilled spirits manufacturer's, rectifier's, brandy manufacturer's, or wholesaler's license.

Section 7. Chapter 15, Sections 25500 through 25512 of the California Business and Professions Code is repealed.

Section 8. The Director of the Department of Alcoholic Beverage Control is directed to amend, repeal or enact any regulations of Title 4 of the California Administrative Code necessary to ensure the implementation of this Initiative.

Section 9. Severability. If any provision of this measure, or any application of any such provision to any person or circumstance, shall be adjudged, declared or held invalid, the remaining provisions and applications shall not be affected thereby, and are therefore severable.

132, Stats 1941 ch 1044 § 1 p 2702, Stats 1945 ch 1401 § 4 p 2621, Stats 1947 ch 839 § 1 p 2003, Stats 1949 ch 1348 § 2 p 2351, Stats 1951 ch 1257 § 3 p 3119.
 (b) Stats 1933 ch 178 § 19 p 633.

Amendments:

1969 Amendment: Added the proviso at the end of the first sentence.

§ 23402. Retailers to purchase from licensees only

No retail on- or off-sale licensee, except a daily on-sale general licensee holding a license issued pursuant to Section 24045.1, shall purchase alcoholic beverages for resale from any person except a person holding a ~~beer~~ manufacturer's, wine grower's, rectifier's, brandy manufacturer's, or wholesaler's license.

*Adds
 distilled
 spirits
 manufacturer*

Added Stats 1953 ch 152 § 1; Amended Stats 1957 ch 148 § 1; Stats 1969 ch 1123 § 6.

Prior Law: Stats 1935 ch 330 § 6.6, as added by Stats 1937 ch 758 § 8½ p 2136, amended by Stats 1945 ch 1401 § 7.1 p 2628.

Amendments:

1957 Amendment: Added "brandy manufacturer's".

1969 Amendment: Added "' except a daily on-sale general licensee holding a license issued pursuant to Section 24045.1,".

Cross References:

Beverages subject to seizure notwithstanding provisions of this Section; limitation: § 25350.

NOTES OF DECISIONS

The finding by the Department of Alcoholic Beverage Control that a bar owner purchased beer for resale from an unlicensed vendor (Bus & Prof Code, § 23402) was supported by the evidence, where it was shown that the bar owner-respondent purchased five cases of beer from his part-time bartender, who had no resale license, and the evidence included the written admission signed by the bar owner-respondent to the effect that he had purchased such beer for resale in his business. Mumford v Department of Alcoholic Beverage Control (1968) 258 CA2d 49, 65 Cal Rptr 495.

In a proceeding for the suspension of a bar owner's on-sale to sell alcoholic beverages, the introduction in evidence of the bar owner's written admission that he had purchased a quantity of beer from an unlicensed vendor for resale in his business did not deprive the bar owner of due process of a law, such license to sell intoxicants is not a proprietary right within the meaning of due process. Mumford v Department of Alcoholic Beverage Control (1968) 258 CA2d 49, 65 Cal Rptr 495.

§ 23403. Possession of certain undenatured alcohol by retailers forbidden: Penalty

No retail licensee, except a pharmacy or drug store registered with the California State Board of Pharmacy, shall sell or possess on his licensed premises any undenatured alcohol of any proof or compound thereof which is an alcoholic beverage as defined in Section 23004 containing more than 60 percent of alcohol by volume. Undenatured alcohol shall be sold at retail only upon the prescription or order of the holder of a physician's and surgeon's certificate or a dentist's or

D

(b) A party in a case on appeal to the Appeals Board who, in 1983 or 1984, has paid that portion of the transcript fee in excess of the fee specified in Section 69950 of the Government Code shall be refunded that excess by payment from the Alcoholic Beverage Control Appeals Fund, providing the Appeals Board has not issued a dismissal or other final decision in the case on appeal.

Added Stats 1984 ch 273 § 3, effective July 3, 1984.

Former Section: Former § 24310, similar to the present section, was added by Stats 1983 ch 323 § 2.9, effective July 21, 1983, and repealed by Stats 1984 ch 273 § 2, effective July 3, 1984.

Note—Stats 1984 ch 273 provides:

SEC. 4. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

§§ 24400–24620 [Repealed].

Note—The heading of Chapter 9 of Division 9 and the headings of Articles 1–8 of that chapter were repealed by Stats 1979 ch 373 §§ 432–440.]

§ 24400. Group purchase of distilled spirits and wine

Notwithstanding any other provision of law, two or more retail licensees of the same type may agree to group purchase distilled spirits and wine from a licensed wholesaler or rectifier through a designated agent, subject to the following restrictions:

(a) The designated agent shall hold a retail license of the same type operating a premises in the same county or counties as the purchasing group.

(b) No retailer shall have more than one designated agent nor shall an agent make purchases for more than one group.

(c) The merchandise purchased for each group shall be delivered to and stored in either a single licensed premises or a single warehouse located in the same county as the premises of the purchasing group and such delivery shall be a single delivery within two consecutive business days at the discount in effect on the day the delivery was commenced. Saturday, Sunday, and holidays shall not be deemed business days.

(d) A record of purchase shall be made by the agent on a master purchase order. Each purchasing retailer shall furnish the designated agent with a signed order setting forth such licensee's purchase, to be attached to and become a part of the master order. Master and individual orders shall be maintained in compliance with Section 25752 and fiscal liability shall extend in so far as the amount of the purchase designated and delivered for each individual retailer of the purchasing group is subject to the provisions of Section 25509.

(e) The merchandise shall be deemed to have been received by each retailer member of the purchasing group when delivered to the designated premises.

(f) When a group buying member has not made payment in full by the expiration of the 30th day from date of delivery or has not paid the one percent charge at the expiration of the 30th day from the date the charge became due, such group buying member shall be expelled from the buying group and prohibited from rejoining that group or joining any other such group until such time that all payments have been received for the merchandise sold and delivered to such retailer more than 30 days previously.

Adds wine growers, distilled spirits manufacturers, brand, manufacturer

eliminates operating a premises in the same county or counties

eliminates (b)(c)(d)(e)(f)

B

32

A Professional Corporation

Law Offices

HALLISEY AND JOHNSON

415-433-5300

One California Street
San Francisco, California 94111

SA87RF0035

October 28, 1987

427

Eugene Hill
Deputy Attorney General
Office of the Attorney General
1515 K Street
Sacramento, California 95814

Re: Initiative Intended for the November, 1988
General Election

Dear Mr. Hill:

Please find enclosed:

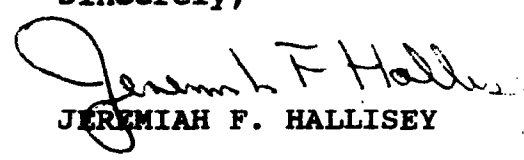
- 1. A check in the amount of \$200.00 made payable to the State of California.
- 2. A draft of the proposed initiative. Pages B reflect the old code sections.

Please prepare a title and summary of the measure. Please notify me when the official summary is complete.

Please list me as the proponent of this measure. I am a California registered voter and California resident.

Please call me with any questions that you may have. I will be happy to meet with you in Sacramento to clarify any questions.

Sincerely,


JEREMIAH F. HALLISEY

JFH/br
Enclosures

RECEIVED
ELECTORAL DIVISION
NOV 11 1987

NOV 3 1987

RECEIVED

INITIATIVE CALENDAR CHECK LIST

Page two

11. do 11/21/87 4:00

OSSI distributes copies of initiative calendar same day AG prepares Title and Summary to:

- Tony
- Caren
- Jerry
- Deborah
- Barbara

12. do 11/21/87 5:00

OSSI distributes copies of initiative calendar to:

- All CC/ROV
- Political Reform (3 copies)
- Elections Staff
- LA Office via LA Pouch - J.R. Schultz (12 copies)
- Initiative mailing list
- Extra copies for public distribution
- Master copy

13. do 11/21/87 5:00

OSSI advises Assistant Chief of completion of above distribution.

14. do 11/21/87 10:00

OSSI makes copies of log and distributes as follows:

1. Initiative canvass binder
2. Vi Daniels - FTB
3. Archives
4. Oliver Cox
5. Initiative Clipboard

15. ap 11/21/87 8:50

OSSI prepares folder for public distribution.

16. ap 11/21/87 9:00

OSSI prepares index cards for each initiative.

17. do 11/21/87 3:50

OSSI staples Mail/Freight Request form to back of INITIATIVE CHECK LIST.

18. do 11/22/87 4:00

OSSI returns completed INITIATIVE CHECK LIST to Assistant Chief.

19. \$ 11/24/87 12

Assistant Chief returns check list to Election Analyst.

ELECTIONS DIVISION
MAIL/FREIGHT REQUEST

Mail Submitted to Mail Room 12/18/87 1:30:50
Date Time

Request mail to be sent no later than 12/18/87
Date

MAIL:

- 1st Class
- Bulk
- Book Rate
- Presort
- Third Class

CHARGES:

Amount: 22¢
Pieces: 1

FREIGHT:

- UPS
- Purolator
- Greyhound (Next bus out: Yes ___ No ___)
- Air-Freight
- Truck Lines

ACTIVITY:

- Outreach (Specify: _____)
- County Mailings (#'s: _____)
- Ballot Pamphlet
- Other (Specify: _____)
- Initiative Calendar to Proponent(s).

Mail room sent requested mail on 12/18/87

A Howell
Initial (Service and Supply)