

# California Minor Decoy Law

## Part 1 Training Materials - Written Law

Training packet for the Alcoholic Beverage Control Appeals Board's July 2026 Monthly Public Hearing.

This packet is organized to follow Part 1 of California's Minor Decoy Law Training Series. Each divider and side tab identifies the slide range that corresponds to the training materials.

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# Tab A Constitutional Foundation

## Slides 3-5

State authority, under-21 prohibition, Department authority, and Board review.

## Materials in this tab

- California Constitution, article XX, section 22

## § 22. Alcoholic beverages, CA CONST Art. 20, § 22

West's Annotated California Codes  
 Constitution of the State of California 1879 (Refs & Annos)  
 Article XX. Miscellaneous Subjects (Refs & Annos)

West's Ann.Cal.Const. Art. 20, § 22

§ 22. Alcoholic beverages

Currentness

Sec. 22. The State of California, subject to the internal revenue laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the states shall have the exclusive right and power to regulate the importation into and exportation from the State, of alcoholic beverages. In the exercise of these rights and powers, the Legislature shall not constitute the State or any agency thereof a manufacturer or seller of alcoholic beverages.

All alcoholic beverages may be bought, sold, served, consumed and otherwise disposed of in premises which shall be licensed as provided by the Legislature. In providing for the licensing of premises, the Legislature may provide for the issuance of, among other licenses, licenses for the following types of premises where the alcoholic beverages specified in the licenses may be sold and served for consumption upon the premises:

- (a) For bona fide public eating places, as defined by the Legislature.
- (b) For public premises in which food shall not be sold or served as in a bona fide public eating place, but upon which premises the Legislature may permit the sale or service of food products incidental to the sale and service of alcoholic beverages. No person under the age of 21 years shall be permitted to enter and remain in any such premises without lawful business therein.
- (c) For public premises for the sale and service of beers alone.
- (d) Under such conditions as the Legislature may impose, for railroad dining or club cars, passenger ships, common carriers by air, and bona fide clubs after such clubs have been lawfully operated for not less than one year.

The sale, furnishing, giving, or causing to be sold, furnished, or giving away of any alcoholic beverage to any person under the age of 21 years is hereby prohibited, and no person shall sell, furnish, give, or cause to be sold, furnished, or given away any alcoholic beverage to any person under the age of 21 years, and no person under the age of 21 years shall purchase any alcoholic beverage.

The Director of Alcoholic Beverage Control shall be the head of the Department of Alcoholic Beverage Control, shall be appointed by the Governor subject to confirmation by a majority vote of all of the members elected to the Senate, and shall serve at the pleasure of the Governor. The director may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove the director from office for dereliction of duty or corruption or incompetency. The director may appoint three persons who shall be exempt from civil service, in addition to the person he is authorized to appoint by Section 4 of Article XXIV.

**§ 22. Alcoholic beverages, CA CONST Art. 20, § 22**

The Department of Alcoholic Beverage Control shall have the exclusive power, except as herein provided and in accordance with laws enacted by the Legislature, to license the manufacture, importation and sale of alcoholic beverages in this State, and to collect license fees or occupation taxes on account thereof. The department shall have the power, in its discretion, to deny, suspend or revoke any specific alcoholic beverages license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals, or that a person seeking or holding a license has violated any law prohibiting conduct involving moral turpitude. It shall be unlawful for any person other than a licensee of said department to manufacture, import or sell alcoholic beverages in this State.

The Alcoholic Beverage Control Appeals Board shall consist of three members appointed by the Governor, subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his initial appointment, shall be a resident of a different county from the one in which either of the other members resides. The members of the board may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty or corruption or incompetency.

When any person aggrieved thereby appeals from a decision of the department ordering any penalty assessment, issuing, denying, transferring, suspending or revoking any license for the manufacture, importation, or sale of alcoholic beverages, the board shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the board shall not receive evidence in addition to that considered by the department. Review by the board of a decision of the department shall be limited to the questions whether the department has proceeded without or in excess of its jurisdiction, whether the department has proceeded in the manner required by law, whether the decision is supported by the findings, and whether the findings are supported by substantial evidence in the light of the whole record. In appeals where the board finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the department it may enter an order remanding the matter to the department for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the department. When the order reverses the decision of the department, the board may direct the reconsideration of the matter in the light of its order and may direct the department to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the department. Orders of the board shall be subject to judicial review upon petition of the director or any party aggrieved by such order.

A concurrent resolution for the removal of either the director or any member of the board may be introduced in the Legislature only if five Members of the Senate, or 10 Members of the Assembly, join as authors.

Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and otherwise disposing of alcoholic beverages in bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and otherwise disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the Alcoholic Beverage Control Act, insofar as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operated for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of alcoholic beverages, shall be the amounts prescribed as of the operative date hereof, subject to the power of the Legislature to change such fees.

The State Board of Equalization shall assess and collect such excise taxes as are or may be imposed by the Legislature on account of the manufacture, importation and sale of alcoholic beverages in this State.

The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of alcoholic beverages contained in the original packages, where such alcoholic beverages are not to be consumed on the premises where sold; and may provide for the

**§ 22. Alcoholic beverages, CA CONST Art. 20, § 22**

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issuance of all types of licenses necessary to carry on the activities referred to in the first paragraph of this section, including, but not limited to, licenses necessary for the manufacture, production, processing, importation, exportation, transportation, wholesaling, distribution, and sale of any and all kinds of alcoholic beverages.

The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.

All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed.

The provisions of this section shall be self-executing, but nothing herein shall prohibit the Legislature from enacting laws implementing and not inconsistent with such provisions.

This amendment shall become operative on January 1, 1957.

**Credits**

(Adopted Nov. 8, 1932. Amended Nov. 6, 1934; Nov. 2, 1954, operative Jan. 1, 1955; Nov. 6, 1956, operative Jan. 1, 1957.)

West's Ann. Cal. Const. Art. 20, § 22, CA CONST Art. 20, § 22

Current with urgency legislation through Ch. 11 of 2026 Reg.Sess. Some statute sections may be more current, see credits for details.

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# Tab B Business and Professions Code section 25658

## Slides 6-7

The core minor-sale prohibition, decoy authorization, immunity, and 72-hour notice.

## Materials in this tab

- Business and Professions Code section 25658

TAB B

**§ 25658. Providing alcoholic beverages to persons under 21 years of age; prohibition; criminal..., CA BUS & PROF § 25658**

West's Annotated California Codes  
 Business and Professions Code (Refs & Annos)  
 Division 9. Alcoholic Beverages (Refs & Annos)  
 Chapter 16. Regulatory Provisions (Refs & Annos)  
 Article 3. Women and Minors (Refs & Annos)

West's Ann.Cal.Bus. & Prof.Code § 25658

§ 25658. Providing alcoholic beverages to persons under 21 years of age;  
 prohibition; criminal punishment; law enforcement decoys; additional punishment

Effective: January 1, 2024

Currentness

(a) Except as otherwise provided in subdivision (c), every person who sells, furnishes, gives, or causes to be sold, furnished, or given away any alcoholic beverage to any person under 21 years of age is guilty of a misdemeanor.

(b) Except as provided in Section 25667 or 25668, any person under 21 years of age who purchases any alcoholic beverage, or any person under 21 years of age who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.

(c) Any person who violates subdivision (a) by purchasing any alcoholic beverage for, or furnishing, giving, or giving away any alcoholic beverage to, a person under 21 years of age, and the person under 21 years of age thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to themselves or any other person, is guilty of a misdemeanor.

(d) Any on-sale licensee who knowingly permits a person under 21 years of age to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under 21 years of age, is guilty of a misdemeanor.

(e)(1) Except as otherwise provided in paragraph (2) or (3), or Section 25667 or 25668, any person who violates this section shall be punished by a fine of two hundred fifty dollars (\$250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation of subdivision (b), where prosecution of the previous violation was not barred pursuant to Section 25667 or 25668, shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(2) Except as provided in paragraph (3), any person who violates subdivision (a) by furnishing an alcoholic beverage, or causing an alcoholic beverage to be furnished, to a minor shall be punished by a fine of one thousand dollars (\$1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school.

**§ 25658. Providing alcoholic beverages to persons under 21 years of age; prohibition; criminal..., CA BUS & PROF § 25658**

(3) Any person who violates subdivision (c) shall be punished by imprisonment in a county jail for a minimum term of six months not to exceed one year, by a fine of three thousand dollars (\$3,000), or by both imprisonment and fine.

(f) Persons under 21 years of age may be used by peace officers in the enforcement of this section to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish alcoholic beverages to minors. Notwithstanding subdivision (b), any person under 21 years of age who purchases or attempts to purchase any alcoholic beverage while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase an alcoholic beverage. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the department in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Law enforcement-initiated minor decoy programs in operation prior to the effective date of regulatory guidelines adopted by the department shall be authorized as long as the minor decoy displays to the seller of alcoholic beverages the appearance of a person under 21 years of age. This subdivision shall not be construed to prevent the department from taking disciplinary action against a licensee who sells alcoholic beverages to a minor decoy prior to the department's final adoption of regulatory guidelines. After the completion of every minor decoy program performed under this subdivision, the law enforcement agency using the decoy shall notify licensees within 72 hours of the results of the program. When the use of a minor decoy results in the issuance of a citation, the notification required shall be given to licensees and the department within 72 hours of the issuance of the citation. A law enforcement agency may comply with this requirement by leaving a written notice at the licensed premises addressed to the licensee, or by mailing a notice addressed to the licensee.

(g) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 272 of the Penal Code.

**Credits**

(Added by Stats.1953, c. 152, p. 1025, § 1. Amended by Stats.1957, c. 2152, p. 3810, § 1; Stats.1959, c. 866, p. 2901, § 1; Stats.1983, c. 1092, § 63, eff. Sept. 27, 1983, operative Jan. 1, 1984; Stats.1984, c. 403, § 1; Stats.1990, c. 695 (A.B.3448), § 2; Stats.1994, c. 1205 (A.B.3805), § 1, eff. Sept. 30, 1994; Stats.1997, c. 357 (S.B.805), § 1; Stats.1998, c. 441 (A.B.1204), § 1; Stats.1998, c. 565 (S.B.1696), § 1.5; Stats.1999, c. 786 (S.B.340), § 1; Stats.1999, c. 787 (A.B.749), § 3; Stats.2004, c. 291 (A.B.2037), § 1; Stats.2005, c. 22 (S.B.1108), § 10; Stats.2007, c. 743 (A.B.1658), § 1; Stats.2007, c. 744 (A.B.1739), § 4.5; Stats.2010, c. 245 (A.B.1999), § 1; Stats.2011, c. 296 (A.B.1023), § 31; Stats.2014, c. 162 (A.B.1989), § 1, eff. Jan. 1, 2015; Stats.2019, c. 505 (S.B.485), § 1, eff. Jan. 1, 2020; Stats.2023, c. 613 (S.B.498), § 3, eff. Jan. 1, 2024.)

West's Ann. Cal. Bus. & Prof. Code § 25658, CA BUS & PROF § 25658

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# Tab C Discipline and Rulemaking Authority

## Slide 8

Why a sale-to-minor violation can support discipline, and why ABC may adopt rules.

### Materials in this tab

- Business and Professions Code section 24200
- Business and Professions Code section 25750

**§ 24200. Grounds, CA BUS & PROF § 24200**

West's Annotated California Codes  
 Business and Professions Code (Refs & Annos)  
 Division 9. Alcoholic Beverages (Refs & Annos)  
 Chapter 7. Suspension and Revocation of Licenses (Refs & Annos)

West's Ann.Cal.Bus. & Prof.Code § 24200

§ 24200. Grounds

Effective: January 1, 2007

Currentness

The following are the grounds that constitute a basis for the suspension or revocation of licenses:

- (a) When the continuance of a license would be contrary to public welfare or morals. However, proceedings under this subdivision are not a limitation upon the department's authority to proceed under Section 22 of Article XX of the California Constitution.
- (b) Except as limited by Chapter 12 (commencing with Section 25000), the violation or the causing or permitting of a violation by a licensee of this division, any rules of the board adopted pursuant to Part 14 (commencing with Section 32001) of Division 2 of the Revenue and Taxation Code, any rules of the department adopted pursuant to the provisions of this division, or any other penal provisions of law of this state prohibiting or regulating the sale, exposing for sale, use, possession, giving away, adulteration, dilution, misbranding, or mislabeling of alcoholic beverages or intoxicating liquors.
- (c) The misrepresentation of a material fact by an applicant in obtaining a license.
- (d) The plea, verdict, or judgment of guilty, or the plea of nolo contendere to any public offense involving moral turpitude or under any federal law prohibiting or regulating the sale, exposing for sale, use, possession, or giving away of alcoholic beverages or intoxicating liquors or prohibiting the refilling or reuse of distilled spirits containers charged against the licensee.
- (e) Failure to take reasonable steps to correct objectionable conditions on the licensed premises, including the immediately adjacent area that is owned, leased, or rented by the licensee, that constitute a nuisance, within a reasonable time after receipt of notice to make those corrections from the department, under Section 373a of the Penal Code. For the purpose of this subdivision only, "property or premises" as used in Section 373a of the Penal Code includes the area immediately adjacent to the licensed premises that is owned, leased, or rented by the licensee.
- (f) Failure to take reasonable steps to correct objectionable conditions that occur during business hours on any public sidewalk abutting a licensed premises and constitute a nuisance, within a reasonable time after receipt of notice to correct those conditions from the department. This subdivision shall apply to a licensee only upon written notice to the licensee from the department. The department shall issue this written notice upon its own determination, or upon a request from the local law enforcement agency in whose jurisdiction the premises are located, that is supported by substantial evidence that persistent objectionable conditions are occurring on the public sidewalk abutting the licensed premises. For purposes of this subdivision:

**§ 24200. Grounds, CA BUS & PROF § 24200**

(1) “Any public sidewalk abutting a licensed premises” means the publicly owned, pedestrian-traveled way, not more than 20 feet from the premises, that is located between a licensed premises, including any immediately adjacent area that is owned, leased, or rented by the licensee, and a public street.

(2) “Objectionable conditions that constitute a nuisance” means 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.

(3) “Reasonable steps” means all of the following:

(A) Calling the local law enforcement agency. Timely calls to the local law enforcement agency that are placed by the licensee, or his or her agents or employees, shall not be construed by the department as evidence of objectionable conditions that constitute a nuisance.

(B) Requesting those persons engaging in activities causing objectionable conditions to cease those activities, unless the licensee, or his or her agents or employees, feel that their personal safety would be threatened in making that request.

(C) Making good faith efforts to remove items that facilitate loitering, such as furniture, except those structures approved or permitted by the local jurisdiction. The licensee shall not be liable for the removal of those items that facilitate loitering.

(4) When determining what constitutes “reasonable steps,” the department shall consider site configuration constraints related to the unique circumstances of the nature of the business.

(g) Subdivision (f) does not apply to a bona fide public eating place, as defined in Section 23038, 23038.1, or 23038.2, that is so operated by a retail on-sale licensee or on-sale beer and wine licensee; a hotel, motel, or similar lodging establishment, as defined in subdivision (b) of Section 25503.16; a winegrowers license; a licensed beer manufacturer, as defined in Section 23357; those same or contiguous premises for which a retail licensee concurrently holds an off-sale retail beer and wine license and a beer manufacturer's license; or those same or contiguous premises at which a retail on-sale licensee or on-sale beer and wine licensee who is licensed as a bona fide public eating place as defined in Section 23038, 23038.1, or 23038.2, a hotel, motel, or similar lodging establishment as defined in subdivision (b) of Section 25503.16, a licensed beer manufacturer, as defined in Section 23357, or a winegrowers license, sells off-sale beer and wine under the licensee's on-sale license.

**Credits**

(Added by Stats.1953, c. 152, p. 986, § 1. Amended by Stats.1955, c. 447, p. 916, § 89; Stats.1955, c. 1217, p. 2230, § 1; Stats.1955, c. 1842, p. 3411, § 14; Stats.1963, c. 1040, p. 2333, § 9; Stats.1977, c. 238, p. 1081, § 1; Stats.1984, c. 790, § 1; Stats.1994, c. 629 (A.B.2742), § 3; Stats.1995, c. 91 (S.B.975), § 13; Stats.1995, c. 743 (A.B.683), § 3, eff. Oct. 10, 1995; Stats.2006, c. 625 (S.B.148), § 2.)

West's Ann. Cal. Bus. & Prof. Code § 24200, CA BUS & PROF § 24200

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**§ 24200. Grounds, CA BUS & PROF § 24200**

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TAB C

**§ 25750. Rules and regulations, CA BUS & PROF § 25750**

West's Annotated California Codes  
 Business and Professions Code (Refs & Annos)  
 Division 9. Alcoholic Beverages (Refs & Annos)  
 Chapter 17. Administrative Provisions (Refs & Annos)

West's Ann.Cal.Bus. & Prof.Code § 25750

§ 25750. Rules and regulations

Currentness

(a) The department shall make and prescribe those reasonable rules as may be necessary or proper to carry out the purposes and intent of Section 22 of Article XX of the California Constitution and to enable it to exercise the powers and perform the duties conferred upon it by that section or by this division, not inconsistent with any statute of this state, including particularly this division and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any regulation which excludes nude persons from licensed premises shall not apply to a nude person at licensed premises located at a nudist resort or nudist campground which was in existence prior to January 1, 1977, and whose operation is in conformance with local land use regulations.

(c) Subdivision (b) is applicable only in a county where the board of supervisors of the county in which the licensed premises is located adopts an ordinance or resolution making subdivision (b) applicable in that county, and the sheriff of that county certifies that no extraordinary police problem would be created thereby.

**Credits**

(Added by Stats.1953, c. 152, p. 1025, § 1. Amended by Stats.1955, c. 447, p. 926, § 135; Stats.1955, c. 1842, p. 3413, § 18; Stats.1987, c. 636, § 1.)

West's Ann. Cal. Bus. & Prof. Code § 25750, CA BUS & PROF § 25750

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# Tab D Rule 141 - In-Person Minor Decoy Requirements

## Slides 9-11

The five minimum standards and the regulatory defense for noncompliance.

## Materials in this tab

- Title 4, California Code of Regulations, section 141

**§ 141. Minor Decoy Requirements., 4 CA ADC § 141**

Barclays California Code of Regulations

Title 4. Business Regulations

Division 1. Department of Alcoholic Beverage Control (Refs &amp; Annos)

Article 22. Suspension or Revocation of Licenses

## 4 CCR § 141

## § 141. Minor Decoy Requirements.

## Currentness

(a) A law enforcement agency may only use a person under the age of 21 years to attempt to purchase alcoholic beverages to apprehend licensees, or employees or agents of licensees who sell alcoholic beverages to minors (persons under the age of 21) and to reduce sales of alcoholic beverages to minors in a fashion that promotes fairness.

(b) The following minimum standards shall apply to actions filed pursuant to Business and Professions Code Section 25658 in which it is alleged that a minor decoy has purchased an alcoholic beverage:

(1) At the time of the operation, the decoy shall be less than 20 years of age;

(2) The decoy shall display the appearance which could generally be expected of a person under 21 years of age, under the actual circumstances presented to the seller of alcoholic beverages at the time of the alleged offense;

(3) A decoy shall either carry his or her own identification showing the decoy's correct date of birth or shall carry no identification; a decoy who carries identification shall present it upon request to any seller of alcoholic beverages;

(4) A decoy shall answer truthfully any questions about his or her age;

(5) Following any completed sale, but not later than the time a citation, if any, is issued, the peace officer directing the decoy shall make a reasonable attempt to enter the licensed premises and have the minor decoy who purchased alcoholic beverages make a face to face identification of the alleged seller of the alcoholic beverages.

(c) Failure to comply with this rule shall be a defense to any action brought pursuant to Business and Professions Code Section 25658.

**Credits**

NOTE: Authority cited: California Constitution, article XX, section 22; and section 25750, Business and Professions Code. Reference: Section 25658, Business and Professions Code; and *Proviso Corporation v. Alcoholic Beverage Control Appeals Board* (1994) 7 Cal.4th 561, 28 Cal.Rptr. 638.

## HISTORY

## § 141. Minor Decoy Requirements., 4 CA ADC § 141

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1. New section filed 1-2-96; operative 2-1-96 (Register 96, No. 1).

This database is current through 6/5/26 Register 2026, No. 23.

Cal. Admin. Code tit. 4, § 141, 4 CA ADC § 141

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# Tab E Rule 141.1 - Delivery Enforcement

## Slides 12-13

Delivery operations, agents, timing, ID, truthful age answers, and the delivery-specific defense.

## Materials in this tab

- Title 4, California Code of Regulations, section 141.1

**§ 141.1. Minor Decoy Requirements for Delivery Enforcement., 4 CA ADC § 141.1**

Barclays California Code of Regulations  
 Title 4. Business Regulations  
 Division 1. Department of Alcoholic Beverage Control (Refs & Annos)  
 Article 22. Suspension or Revocation of Licenses

**4 CCR § 141.1**

**§ 141.1. Minor Decoy Requirements for Delivery Enforcement.**

**Currentness**

(a) A law enforcement agency may only use a person under 21 years of age to attempt to purchase alcoholic beverages for delivery to apprehend licensees, or employees or agents of licensees, who deliver alcoholic beverages to minors (persons under 21 years of age), and to reduce deliveries of alcoholic beverages to minors, in a fashion that promotes fairness. For purposes of this section, fairness is defined as compliance with all the conditions set forth in subdivision (e).

(b) For purposes of this section, “delivery” shall mean any transfer of alcoholic beverages by a licensee, or an employee or agent of a licensee, to a person under 21 years of age, pursuant to an order made by internet, telephone, other electronic means, or any method of ordering other than in person at the licensed premises.

(c) For purposes of this section, “agent” shall mean any entity or person the licensee uses to deliver alcoholic beverages to persons who place orders by internet, telephone, other electronic means, or any method of ordering other than in person at the licensed premises, whether by contract or agreement, even if not an employee of the licensee, including but not limited to a third-party delivery person or service.

(d) For purposes of this section, “minor decoy” shall mean a person used by law enforcement pursuant to Business and Professions Code section 25658(f).

(e) The following minimum standards shall apply to actions filed pursuant to Business and Professions Code Section 25658 in which it is alleged a minor decoy has been furnished an alcoholic beverage by delivery:

- (1) At the time of the alleged violation, the minor decoy shall be under 20 years of age;
- (2) The minor decoy shall display the appearance which could generally be expected of a person under 21 years of age, under the actual circumstances presented to the person delivering the alcoholic beverages at the time of the alleged violation;
- (3) A minor decoy shall either carry their own identification showing their correct date of birth or shall carry no identification; a minor decoy who carries identification shall present it upon request of the person delivering the alcoholic beverages;

**§ 141.1. Minor Decoy Requirements for Delivery Enforcement., 4 CA ADC § 141.1**

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(4) A minor decoy shall answer truthfully any questions about their age, asked by the person delivering the alcoholic beverages, at the time of delivery. This requirement shall not apply to questions asked about the age of the minor decoy at the time the alcoholic beverages are ordered.

(f) Failure to comply with this rule shall be a defense to any action brought pursuant to Business and Professions Code Section 25658.

**Credits**

NOTE: Authority cited: Sections 25658 and 25750, Business and Professions Code. Reference: Article XX, section 22, California Constitution.

**HISTORY**

1. New section filed 6-3-2020 as an emergency; operative 6-3-2020 (Register 2020, No. 23). A Certificate of Compliance must be transmitted to OAL by 11-30-2020 or emergency language will be repealed by operation of law on the following day.
2. Emergency filed 6-3-2020 extended 60 days (Executive Order N-40-20). A Certificate of Compliance must be transmitted to OAL by 1-29-2021 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 6-3-2020 order, including amendment of section, transmitted to OAL 11-12-2020 and filed 12-3-2020; amendments effective 12-3-2020 pursuant to Government Code section 11343.4(b)(3) (Register 2020, No. 49).

This database is current through 6/5/26 Register 2026, No. 23.

Cal. Admin. Code tit. 4, § 141.1, 4 CA ADC § 141.1

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# Tab F Provigo - Constitutional Background

## Slide 14

Minor decoy operations are lawful; the constitutional ban on minor purchases is not a licensee defense.

## Materials in this tab

- Provigo Corp. v. Alcoholic Beverage Control Appeals Board (1994) 7 Cal.4th 561

**Provigo Corp. v. Alcoholic Beverage Control Appeals Bd., 7 Cal.4th 561 (1994)**

869 P.2d 1163, 28 Cal.Rptr.2d 638

7 Cal.4th 561  
Supreme Court of California,  
In Bank.

PROVIGO CORPORATION, Petitioner,  
v.  
ALCOHOLIC BEVERAGE CONTROL  
APPEALS BOARD, Respondent.  
LUCKY STORES, Petitioner,  
v.  
ALCOHOLIC BEVERAGE CONTROL  
APPEALS BOARD, Respondent.

No. S031492.

I

April 7, 1994.

**Synopsis**

Licenses charged with selling alcohol to minors protested license suspension, which had been upheld by the Alcohol Beverage Control Appeals Board, Nos. AB-6067 and AB-6200. The Court of Appeal reversed. Review was granted, superseding the opinion of the Court of Appeal. The Supreme Court, Lucas, C.J., held that: (1) state constitutional provision forbidding purchases of alcoholic beverages by minors does not afford defense to charge of unlawful sales in situations involving underage decoys; (2) seller of alcoholic beverages to minors is not unfairly “entrapped” by use of mature-looking decoys; and (3) use of underage decoys was not “outrageous conduct” giving rise to due process violation barring prosecution.

Judgment of Court of Appeal reversed.

Opinion, 15 Cal.Rptr.2d 886, vacated.

**Attorneys and Law Firms**

**\*563 \*\*1164 \*\*\*639** Donahue, Gallagher, Thomas & Woods, Donahue, Gallagher, Woods & Wood, Renee D. Wasserman, A. Clifford Allen, Oakland, Hinman & Carmichael, John A. Hinman and Lynne A. Carmichael, San Francisco, for petitioners.

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Daniel E. Lungren, Atty. Gen., Robert L. Mukai, Chief Asst. Atty. Gen., Henry G. Ullerich and Floyd D. Shimomura, Asst. Attys. Gen., Martin H. Milas, Thomas Scheerer, Linda A. Cabatic and Susan P. Underwood, Deputy Attys. Gen., for respondent.

**\*564** James K. Hahn, City Atty., Debbie Lew and Candice I. Horikawa, Deputy City Attys., Robert A. Roth, Los Angeles, Mayer & Associates, Martin J. Mayer, Long Beach, and Robert Jagiello, Lake Arrowhead, as amici curiae on behalf of respondent.

**Opinion**

LUCAS, Chief Justice.

The California Constitution, article XX, section 22, contains provisions proscribing both the sale to, and purchase by, minors of alcoholic beverages. Thus section 22 in pertinent part provides that “The sale ... of any alcoholic beverage to any person under the age of 21 years is hereby prohibited, and no person shall sell ... any alcoholic beverage to any person under the age of 21 years, and no person under the age of 21 years shall purchase any alcoholic beverage.” In these consolidated review proceedings, law enforcement officers used underage persons as decoys in the enforcement of the foregoing constitutional provision against selling alcoholic beverages to minors. (See *ibid.*; see also Bus. & Prof.Code, § 25658, subd. (a) [further statutory references are to this code unless otherwise indicated].). We must decide whether the constitutional provision forbidding *purchases* of alcoholic beverages by minors affords a defense to a charge of unlawful *sales* in situations involving underage decoys. As will appear, we have concluded that article XX, section 22 furnishes no defense to unlawful sales to underage decoys.

**I. FACTS**

The minors who purchased the alcoholic beverages in both cases presently before us were working in decoy programs for their respective police departments. They passed through the checkout counters of petitioners' grocery stores and purchased alcoholic beverages. (One decoy purchased a pack of “wine coolers,” and the other bought a six-pack of beer.) It is undisputed that neither minor purchased alcoholic beverages for the purpose of consumption by himself or others.

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In both cases, accusations were filed with the Department of Alcoholic Beverage Control (the Department) charging petitioners with selling alcohol to minors in violation of section 25658, subdivision (a). This provision states, “Every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.” (*Ibid.*, see also Cal. Const., art. XX, § 22.) Although a violation of section 25658 can occur despite **\*565** the seller’s **\*\*\*640** lack **\*\*1165** of knowledge that the purchaser is under the age of 21, the seller’s liability is not absolute because “the Legislature has furnished a procedure whereby he may protect himself, namely, ... section 25660 [allowing the seller to rely on bona fide evidence of majority and identity].” (*Kirby v. Alcoholic Bev. etc. App. Bd.* (1968) 267 Cal.App.2d 895, 898, 73 Cal.Rptr. 352].)

In protesting suspension of their respective licenses for the stores in question, petitioners argued that the use of underage decoys to purchase alcoholic beverages was illegal and unconstitutional and required dismissal of the charges against them. Petitioners also argued they had been entrapped into making the unlawful sales, and that their due process rights were violated by the officers’ failure to follow the Department’s guidelines for conducting a decoy program (including use of decoys having the appearance and demeanor of persons well under 21 years of age).

After suspension of their licenses by the Department, petitioners appealed to the Alcoholic Beverage Control Appeals Board (the Board). The Board concluded the constitutional provision that “no person under the age of 21 years shall purchase any alcoholic beverage” (Cal. Const., art. XX, § 22) was inapplicable to persons in decoy programs supervised by the Department or other law enforcement agencies.

## II. COURT OF APPEAL DECISION

The Court of Appeal granted review (see § 23090), and held that the use of underage decoys was unlawful and afforded petitioners a defense to license suspension. The court concluded that it would be improper to infer a “decoy exception” from the clear and unambiguous language of the constitutional prohibition on purchases by minors. The court relied on the so-called “plain meaning” rule to the effect that unambiguous words in a constitutional provision should be given the meaning they bear in ordinary use,

without resort to rules of construction or extrinsic evidence of intent. (E.g., *Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735, 248 Cal.Rptr. 115, 755 P.2d 299; see also Cal. Const., art. I, § 26 [constitutional provisions are “mandatory and prohibitory” unless otherwise expressly declared].) As the Court of Appeal stated, “The language of the Constitution is clear and unambiguous. We read ‘no person,’ to mean exactly that. Anyone under the age of 21 is forbidden to buy alcoholic beverages. The Constitution makes no exceptions for underage purchasers who buy alcohol at the direction of a law enforcement agency.” Because, under the plain meaning of the Constitution, no minor may lawfully purchase intoxicating beverages, the use of a minor decoy to make such a purchase was likewise illegal.

**\*566** The Court of Appeal noted that, unlike the California Uniform Controlled Substances Act (Health & Saf. Code, div. 10, § 11000 et seq.), the constitutional and statutory prohibitions against buying alcoholic beverages contain no express exception for persons working in a law enforcement capacity. (See *id.*, § 11367 [“All duly authorized peace officers, while investigating violations of this division in performance of their official duties, and any person working under their immediate direction, supervision or instruction, are immune from prosecution under this division.”].)

The Court of Appeal further observed that in 1987 the Legislature declined to adopt an exception for underage decoys when it added a provision prohibiting the attempt to purchase alcoholic beverages by any person under the age of 21 years. (Stats.1987, ch. 583, § 1, p. 1898.) The bill when originally proposed granted immunity from prosecution under either section 25658 or 25658.5 for persons under the age of 21 while acting under the direction of a peace officer. Such immunity was opposed by the Retail Liquor Dealers Association and by the American Civil Liberties Union.

The Court of Appeal rejected the Department’s further contention that petitioners could be punished for their unlawful sales despite the officers’ improper use of decoys. The court opined that, “the use of an unconstitutional enforcement procedure is analogous to the police conduct which gives rise to an entrapment defense and the remedy in administrative disciplinary proceedings **\*\*1166** **\*\*\*641** should be the same, i.e., defense to revocation or suspension of a license. [Citation.]”

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**III. DISCUSSION**

Initially, we observe that the Constitution vests the Department with broad discretion to revoke or suspend liquor licenses “for good cause” if continuing the license would be “contrary to public welfare or morals.” (Cal. Const., art. XX, § 22.) In the absence of a clear abuse of discretion, the courts will uphold the Department’s decision to suspend a license for violation of the liquor laws. (E.g., *Martin v. Alcoholic Bev. etc. Appeals Bd.* (1959) 52 Cal.2d 238, 248–249, 340 P.2d 1.)

Did the Department abuse its broad discretion in the cases now before us? We first determine whether the use of underage decoys afforded petitioners an excuse or defense to a charge of unlawful sales to minors. The Court of Appeal, relying on the “plain meaning” rule of construction, so concluded. But as we pointed out in *Lungren v. Deukmejian*, *supra*, 45 Cal.3d at page 735, 248 Cal.Rptr. 115, 755 P.2d 299, “the ‘plain meaning’ rule does not prohibit a court from determining whether the literal meaning of a statute comports with its \*567 purpose.... [Citation.] Literal construction should not prevail if it is contrary to the legislative intent apparent in the statute. The intent prevails over the letter, and the letter will, if possible, be so read as to conform to the spirit of the act. [Citations.].... These rules apply as well to the interpretation of constitutional provisions. [Citation.]”

Additionally, we have observed that constitutional provisions “must receive a liberal, practical common-sense construction which will meet changed conditions and the growing needs of the people. [Citations.] A constitutional amendment should be construed in accordance with the natural and ordinary meaning of its words. [Citation.] The literal language of enactments may be disregarded to avoid absurd results and to fulfill the apparent intent of the framers. [Citations.]” (*Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 245, 149 Cal.Rptr. 239, 583 P.2d 1281.)

In sum, in construing California Constitution article XX, section 22, we are not limited to a strict, literal interpretation of its words but we may seek a practical, commonsense construction consistent with the probable intent of the framers. Applying the foregoing rules, our interpretive task is considerably lightened. Although petitioners discern no clear intent from the available “legislative history” underlying the 1956 constitutional amendment forbidding purchases of alcoholic beverages by minors, the likely purpose underlying

provisions prohibiting sales of intoxicating beverages to, or purchases by, minors is to protect such persons from exposure to the “harmful influences” associated with the consumption of such beverages. (*Lacabanne Properties, Inc. v. Dept. Alcoholic Bev. Control* (1968) 261 Cal.App.2d 181, 188, 67 Cal.Rptr. 734; see *Kirby v. Alcoholic Bev. etc. App. Bd.*, *supra*, 267 Cal.App.2d at p. 899, 73 Cal.Rptr. 352 [unless strictly regulated, business of selling liquor poses threat to welfare of minors]; *People v. Baker* (1918) 38 Cal.App. 28, 34, 175 P. 88; see also § 23001 [one purpose of liquor laws is “to promote temperance in the use and consumption of alcoholic beverages”].)

The use of underage decoys to enforce laws against unlawful sales to minors clearly *promotes* rather than hinders the foregoing salutary purpose. To apply the literal language of California Constitution article XX, section 22 to provide licensees a defense based on such use would produce an absurd result: The seller of intoxicating beverages to a minor could defend against criminal or administrative sanctions by relying on the purchaser’s minority. As previously indicated, we must adopt a construction of the Constitution that avoids such an absurdity.

**\*568** If a minor, acting on his own, purchased alcohol unlawfully and *later* informed law enforcement officers of the purchase, certainly the seller could not successfully claim that the purchaser’s unlawful purchase afforded an excuse or defense to the unlawful sale. Why should the minor’s *earlier* law enforcement connection change the result? In both cases, an unlawful sale to minors has occurred that properly should be subject to penalty.

**\*\*1167 \*\*\*642** Analogous cases make clear that police involvement in criminal activity for the purpose of investigating possible violations is permissible even if technical violations of law occur. (See, e.g., *United States v. Russell* (1973) 411 U.S. 423, 432, 93 S.Ct. 1637, 1643, 36 L.Ed.2d 366 [drug law violation]; *United States v. Bowling* (6th Cir.1981) 666 F.2d 1052, 1054 [informant participating in illegal activity]; *People v. Superior Court (Orecchia)* (1976) 65 Cal.App.3d 842, 846, 134 Cal.Rptr. 361 [decoy drug purchase].)

As for the Legislature’s rejection of an immunity provision included in the draft of a previous bill, such rejection is not convincing proof of legislative intent to prohibit underage decoys. Unpassed bills have little value as evidence of legislative intent. (E.g., *Grupe Development Co. v. Superior*

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*Court* (1993) 4 Cal.4th 911, 923, 16 Cal.Rptr.2d 215, 844 P.2d 545; *Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 903, fn. 6, 16 Cal.Rptr.2d 226, 844 P.2d 534.) Just as no express immunity exists permitting use of underage decoys, no express *prohibition* can be found apart from the general ban on purchases by minors. The Legislature may well have assumed that providing such immunity was unnecessary. But even were we to assume that the use of minor decoys constituted a technical violation of constitutional and statutory provisions against *purchases* by minors, for the reasons previously stated the seller should remain accountable unless, as the Court of Appeal suggested, the decoy practice itself constituted a form of entrapment, or denial of due process.

As a general rule, the use of decoys to expose illicit activity does not constitute entrapment, so long as no pressure or overbearing conduct is employed by the decoy. (*Reyes v. Municipal Court* (1981) 117 Cal.App.3d 771, 777, 173 Cal.Rptr. 48 [use of decoy prostitutes]; see *People v. Barraza* (1979) 23 Cal.3d 675, 690, 153 Cal.Rptr. 459, 591 P.2d 947 [“Official conduct that does no more than offer that opportunity [to commit crime] to the suspect—for example, a decoy program—is therefore permissible (italics added.)”]; *People v. Superior Court (Hartway)* (1977) 19 Cal.3d 338, 349–351, 138 Cal.Rptr. 66, 562 P.2d 1315 [implicitly approving decoy prostitute program]; *People v. Superior Court (Orecchia)*, *supra*, 65 Cal.App.3d at pp. 845–847, 134 Cal.Rptr. 361 [rejecting argument that use of underage decoys to enforce drug laws is \*569 “analogous” to entrapment].) Law enforcement officers have long used undercover vice officers to act as decoys for soliciting acts of prostitution, despite statutory language making it a misdemeanor for “every person” to solicit or engage in acts of prostitution. (Pen. Code, § 647, subd. (b).)

Thus, the rule is clear that “ruses, stings, and decoys are permissible stratagems in the enforcement of criminal law, and they become invalid only when badgering or importuning takes place to an extent and degree that is likely to induce an otherwise law-abiding person to commit a crime.” (*Reyes v. Municipal Court*, *supra*, 117 Cal.App.3d at p. 777, 173 Cal.Rptr. 48; see also *People v. Barraza*, *supra*, 23 Cal.3d at p. 690, 153 Cal.Rptr. 459, 591 P.2d 947 [entrapment involves “overbearing conduct,” such as “badgering, cajoling, importuning, or other affirmative acts” likely to induce one to commit crime].) Although the decoys involved in the present cases were apparently somewhat mature and self-assured in appearance and demeanor, it is uncontradicted that no

pressure or overbearing conduct occurred that might suggest an entrapment.

Petitioners argue that the foregoing decoy cases are distinguishable because they involved “targets” who knowingly engaged in illicit activity (e.g., soliciting prostitution, drugs, stolen property). Petitioners suggest that the state should be investigating criminals, not ensnaring “businesses and citizens into unknowingly violating the law.” They point to the evidence, previously mentioned, indicating the minor decoys looked and acted older than their true ages.

Nothing in the case law supports petitioners' purported distinction between those “targets” who knowingly break the law, and those who lack such knowledge. As previously indicated, the laws against sales to minors can be violated *despite* the seller's (or its agents') lack of knowledge of the purchaser's minority. The seller may readily protect itself by requiring sales agents to routinely check identification. (Reliance on bona fide \*\*1168 \*\*\*643 evidence of majority and identity constitutes a defense to liability. [See § 25660].) Indeed, requiring such routine checks would appear to involve no greater burden on sales personnel than is already assumed when a prospective purchaser offers to pay by check or credit card.

Because the seller cannot avoid liability by relying solely on the appearance of the buyer, it is not unfairly entrapped by the use of mature-looking decoys. Such a practice would not rise to the level of “overbearing” conduct needed to constitute entrapment under *Barraza*. Here, the decoys simply bought beer and wine, without attempting to pressure or encourage the sales in any way.

\*570 Nor did any due process violation occur. (See *United States v. Russell* *supra*, 411 U.S. at pp. 431–432, 93 S.Ct. at pp. 1642–1643 [due process may bar criminal convictions if “outrageous” conduct by law enforcement officers]; cf. *People v. Thoi* (1989) 213 Cal.App.3d 689, 695–697, 261 Cal.Rptr. 789, and cases cited.) Assuming *arguendo* that the *Russell* doctrine applies in this state (but see *Thoi*, *supra*, 213 Cal.App.3d at p. 696, 261 Cal.Rptr. 789), the mere use of underage decoys to enforce the liquor laws would not constitute outrageous conduct. The additional fact that the law enforcement officers failed to follow the Department's suggested decoy program “guidelines” and instead used more mature-appearing persons as decoys would not change our analysis. As previously noted, licensees have a ready means of protecting themselves from liability by simply asking any

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purchasers who could possibly be minors to produce bona fide evidence of their age and identity. (See § 25660; *Kirby v. Alcoholic Bev. etc. App. Bd.*, *supra*, 267 Cal.App.2d at p. 898, 73 Cal.Rptr. 352.)

Petitioners argue that their due process rights were abridged because the police violated the Constitution by arranging for the purchase of alcoholic beverages by the minor decoys. As we have observed, it is doubtful the Constitution may be construed as forbidding the use of minor decoys. Assuming such a violation occurred, it was at most a technical one that could not be deemed so “outrageous” as to afford a defense to prosecution.

Second, petitioners contend the Department's guidelines governing the use of minor decoys were improperly enacted, unduly vague, and unenforceable. But petitioners are being charged with violating the state's liquor laws, not the Department's guidelines. We should keep in mind that the decoy program involved here was conducted by local police, not by the Department. Thus, it is unclear why invalid departmental guidelines should afford petitioners a defense to a violation of the liquor laws. The guidelines merely set forth suggested procedures for police agencies to follow.

Petitioners set forth various “rationally related alternative means” for preventing minors from buying and drinking alcoholic beverages. (E.g., educational programs and police surveillance of minors in liquor stores.) But the existence of such alternatives does not demonstrate that decoy programs are improper or violate due process. In sum, we conclude that petitioners have established neither entrapment nor a due process violation.

The briefs of the various amici curiae in this case set forth at length the policy arguments favoring or disfavoring the

use of underage decoys. For example, an amicus curiae brief supporting the practice asserts that it affords **\*571** law enforcement one of the most effective means of enforcing the liquor laws and preventing alcohol-related injuries and fatalities. On the other hand, an amicus curiae brief opposing the practice suggests that it operates unfairly and arbitrarily by randomly targeting licensees without a reasonable suspicion of wrongdoing on their part, and without compliance with departmental standards or guidelines. We do not purport to choose among these competing policy interests, for the question of the *wisdom* of the decoy practice is not before us. We need go no further in this case than to decide that the practice does not afford licensees a defense to illegal sales to minors.

We observe, however, that all such policy arguments and concerns presumably will be aired in the course of debating and discussing a possible constitutional amendment (Assem. **\*\*1169 \*\*\*644** Const. Amend. No. 6 (1993–1994 Reg. Sess.)) which, as presently drafted, would allow the use of underage decoys if probable cause exists to believe a violation has occurred.

We conclude the Court of Appeal erred in reversing the Board's decision to uphold petitioners' suspensions. Accordingly, the judgment of the Court of Appeal is reversed.

MOSK, KENNARD, ARABIAN, BAXTER, GEORGE, and WHITE, <sup>\*</sup> JJ., concur.

**All Citations**

7 Cal.4th 561, 869 P.2d 1163, 28 Cal.Rptr.2d 638

**Footnotes**

- \* Presiding Justice, Court of Appeal, First Appellate District, Division Three, assigned by the Acting Chairperson of the Judicial Council.

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# Tab G Appendix - Historical Article 3 Materials

## Appendix

Background only; included for historical context and statutory evolution.

### Materials in this tab

- 1953 Article 3 - Women and Minors historical materials

25632. Any retail licensee, or agent or employee of such licensee, who permits any alcoholic beverage to be consumed by any person on the licensee's licensed premises during any hours in which it is unlawful to sell, give, or deliver any alcoholic beverage for consumption on the premises is guilty of a misdemeanor.

Hours for  
delivery

25633. Except as otherwise provided in this section, no person licensed as a manufacturer, wine grower, distilled spirits manufacturer's agent, rectifier, or wholesaler of any alcoholic beverage shall deliver or cause to be delivered any alcoholic beverage to or for any person holding an on-sale or off-sale license on Sunday or except between the hours of 6 a.m. and 8 p.m. of any day other than Sunday. No delivery of any distilled spirits shall be made or caused to be made by any licensee in any precinct where an election is in progress during the hours when by law the polls are required by law to be kept open for voting. Beer and wine may be delivered at the platform of the manufacturing, producing, or distributing plant at any time. Nothing contained in this section prohibits the transportation or the carriage and delivery in transit at any time of beer or wine between the premises of a manufacturer, wine grower, wholesaler, distiller, importer, or any of them. Every person violating the provisions of this section is guilty of a misdemeanor.

### Article 3. Women and Minors

Females pro-  
hibited from  
dispensing  
distilled  
spirits, etc

25655. All females other than a licensee are prohibited from dispensing wine or distilled spirits from behind any permanently affixed fixture, which fixture is used for the preparation or concoction of alcoholic beverages in any of the places mentioned in Section 23786.

Penalties

25656. Every person who uses the services of a female in mixing alcoholic beverages containing distilled spirits, on any premises used for the sale of alcoholic beverages for consumption on the premises, or any female who renders such services on such premises, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than one hundred dollars (\$100) or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.

Exceptions

The provisions of this section do not apply to the mixing of alcoholic beverages containing distilled spirits by any on-sale licensee or to the mixing of such beverages by the wife of any licensee on the premises for which her husband holds an on-sale license.

Use of  
hostesses,  
etc.

25657. It is unlawful for any person to employ upon any licensed on-sale premises any hostess or entertainer for the purpose of procuring or encouraging the purchase or sale of alcoholic beverages, or to pay any such hostess or entertainer a percentage or commission on the sale of the alcoholic beverages for procuring or encouraging the purchase or sale of alcoholic beverages on such premises.

Every person who violates the provisions of this section is guilty of a misdemeanor.

25658. (a) Every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor. Sale to minors

(b) Any person under the age of 21 years who purchases any alcoholic beverage, or any person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.

25659. For the purpose of preventing the violation of Section 25658, any licensee, or his agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence that he or she is over the age of 21 years. Presentment of proof of age

25660. In any criminal prosecution or proceeding for the suspension or revocation of any license based upon violation of Section 25658, proof that the defendant licensee, or his agent or employee, demanded and was shown, before furnishing any alcoholic beverage to a minor, a motor vehicle operator's license or a registration certificate issued under the Federal Selective Service Act or other bona fide documentary evidence of majority and identity of the person, is a defense to the prosecution or proceeding for the suspension or revocation of any license.

25661. Any person under the age of 21 years who presents or offers to any licensee, his agent or employee, any written evidence of age which is false, fraudulent, or not actually his own, for the purpose of ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, is guilty of a misdemeanor. False identification

25662. Any person under the age of 21 years who has any alcoholic beverage in his possession on any street or highway or in any public place is guilty of a misdemeanor. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his parent or in pursuance of his employment. Minor's possession of alcoholic beverage

25663. Every person who employs or uses the services of minors in or on that portion of any premises which are used for the sale and service of alcoholic beverages for consumption on the premises is guilty of a misdemeanor. Employment of minors

25664. The use in any advertisement of distilled spirits of any subject matter, language, or slogan addressed to and intended to encourage minors or immature persons to drink the distilled spirits is prohibited. Advertisements

## CHAPTER 17. ADMINISTRATIVE PROVISIONS

25750. The board shall make and prescribe such reasonable rules as may be necessary or proper to carry out the purposes and intent of Section 22 of Article XX of the Constitution and to enable it to exercise the powers and perform the duties conferred upon it by that section or by this division, not inconsistent with any of the provisions of any statute of this State, Board's rule making powers

# California Minor Decoy Law

## Part 1: The Written Law

**Constitution • Statutes • Regulations**

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Training for the California Alcoholic Beverage Control Appeals Board

July 2026

Disclaimer: Information contained in this PowerPoint is intended to describe the quasi-judicial administrative review process and does not constitute legal advice or create an attorney-client relationship. It is not intended to take the place of the law, regulations or the written procedures for the administrative review process and should not be relied upon as legal advice. If there is a conflict between the law and the information contained in this PowerPoint, the law prevails. Before making any personal or business decisions, please consult with a private attorney.

# Today's Roadmap

Part 1 of 2

## OVERVIEW

### Part 1 - Written Law

1. Constitutional foundation
2. Statutory authority and discipline
3. Rule 141 in-person requirements
4. Rule 141.1 delivery requirements
5. Provigo as constitutional background

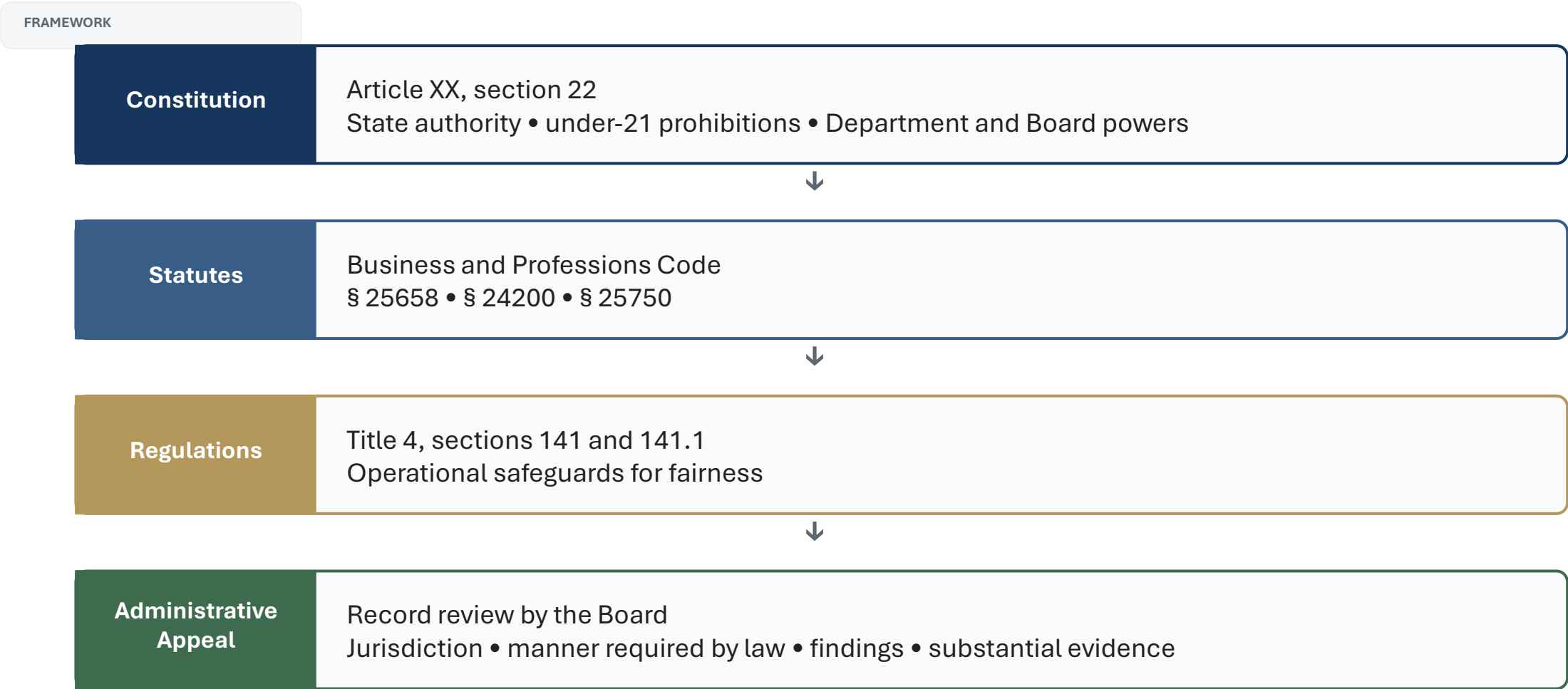
### Part 2 - Case Law

1. Board decisions
2. Appellate decisions applying Rule 141
3. How the cases define the Board's role
4. How to analyze common minor-decoy issues

**Question for today: What written law governs a minor decoy appeal before we apply case law?**

# The Legal Architecture

Minor decoy law operates through layers of authority



# Constitutional Foundation

Article XX, section 22

## CONSTITUTION

- California has the exclusive right and power to license and regulate alcoholic beverages within the state.
- Sale, furnishing, giving, or causing alcohol to be provided to a person under 21 is prohibited.
- Persons under 21 are also prohibited from purchasing alcoholic beverages.
- The Department has licensing and disciplinary authority; the Appeals Board reviews Department decisions.

**Minor decoy law begins with a constitutional policy: keeping alcoholic beverages away from persons under 21.**

### Key point

The Constitution supplies both policy and institutional structure.

# The Board's Constitutional Review Role

The Board reviews the Department decision on a limited record

## BOARD REVIEW

1

### Jurisdiction

Did the Department proceed without, or in excess of, jurisdiction?

2

### Manner required by law

Did the Department proceed in the manner required by law?

3

### Decision supported by findings

Do the findings support the Department's decision?

4

### Findings supported by evidence

Are the findings supported by substantial evidence in light of the whole record?

### No new evidence on appeal

The Board generally does not receive evidence beyond what the Department considered. If qualifying evidence was unavailable despite reasonable diligence or improperly excluded, the remedy is remand for reconsideration.

# The Core Statute: Business and Professions Code § 25658

Prohibitions involving persons under 21

## STATUTE

### **Seller / furnisher conduct**

Subdivision (a): selling, furnishing, giving, or causing alcohol to be sold, furnished, or given to a person under 21 is a misdemeanor.

### **Minor purchaser / consumer conduct**

Subdivision (b): a person under 21 who purchases alcohol, or consumes alcohol on on-sale premises, is guilty of a misdemeanor, subject to specified exceptions.

### **Enhanced furnishing consequence**

Subdivision (c): specified furnishing that is followed by consumption causing great bodily injury or death carries a heightened punishment provision.

### **On-sale premises consumption**

Subdivision (d): an on-sale licensee who knowingly permits under-21 consumption on the premises violates the statute.

# Section 25658(f): Express Decoy Authority

The statutory authorization for minor decoy programs

## STATUTE

- Persons under 21 may be used by peace officers to enforce section 25658.
- The enforcement purpose is to apprehend licensees, employees, agents, or other persons who sell or furnish to minors.
- A minor acting under the direction of a peace officer is immune from prosecution for the purchase or attempted purchase.
- The Department must adopt and publish decoy guidelines through the Administrative Procedure Act.
- After a decoy program, law enforcement must notify licensees of the results within 72 hours; if a citation issues, notice goes to licensees and the Department within 72 hours of citation issuance.

# Administrative Discipline and Rulemaking

How the written law connects to license discipline

STATUTES

## Section 24200: Grounds

A license may be suspended or revoked when continuance would be contrary to public welfare or morals, or when the licensee violates, causes, or permits a violation of the ABC Act, Department rules, or other penal laws regulating alcohol.

## Section 25750: Rules

The Department may make reasonable rules necessary or proper to carry out Article XX, section 22 and to exercise powers and perform duties conferred by the Constitution and the ABC Act, so long as the rules are not inconsistent with statute.

**Together: § 24200 supplies the disciplinary hook; § 25750 supports the regulatory safeguards.**

# Rule 141: Purpose and Scope

In-person minor decoy requirements

## REGULATION

**A law enforcement agency may use a person under 21 to attempt to purchase alcohol in a way that promotes fairness.**

- Applies to actions filed under Business and Professions Code section 25658.
- Applies when the allegation is that a minor decoy purchased an alcoholic beverage.
- The rule states minimum standards for a fair in-person minor decoy operation.
- Failure to comply with the rule is a defense to the administrative action.

# Rule 141: Five Minimum Standards

The required safeguards for in-person operations

REGULATION

1 Age

At the time of the operation, the decoy must be less than 20 years old.

2 Appearance

The decoy must display the appearance generally expected of a person under 21 under the actual circumstances presented to the seller.

3 Identification

The decoy must carry true ID and present it if requested, or carry no ID.

4 Age questions

The decoy must answer truthfully any questions about age.

5 Face-to-face ID

After a completed sale, a reasonable attempt must be made to have the decoy identify the seller face to face.

# Rule 141: Consequence and Review Focus

Noncompliance is a defense

## REGULATION

**“Failure to comply with this rule shall be a defense to any action brought pursuant to Business and Professions Code Section 25658.”**

### For Board review, the record should answer:

- Was the decoy less than 20 at the time of the operation?
- What was the decoy's appearance under the actual circumstances presented to the seller?
- Did the decoy carry true ID or no ID, and present true ID if requested?
- Did the decoy answer age questions truthfully?
- Was there a reasonable attempt at the required face-to-face identification?

# Rule 141.1: Delivery Enforcement

Separate regulation for delivery-based minor decoy operations

## REGULATION

### Purpose

Use of persons under 21 to attempt to purchase alcohol for delivery, to apprehend licensees, employees, or agents who deliver alcohol to minors, and to reduce deliveries to minors.

### Delivery

Any transfer of alcoholic beverages by a licensee, employee, or agent to a person under 21 pursuant to an order made by internet, telephone, other electronic means, or any method other than in person at the licensed premises.

### Agent

Any entity or person the licensee uses to deliver alcoholic beverages to persons who place remote orders, including a third-party delivery person or service.

### Fairness

For delivery enforcement, fairness is defined as compliance with all conditions set forth in Rule 141.1 subdivision (e).

# Rule 141 vs. Rule 141.1

Both rules use minimum standards; the delivery rule is tailored to remote ordering

| COMPARISON      |                                                                     |                                                                              |
|-----------------|---------------------------------------------------------------------|------------------------------------------------------------------------------|
| Issue           | Rule 141: in-person purchase                                        | Rule 141.1: delivery                                                         |
| Trigger         | Decoy purchases alcohol                                             | Decoy is furnished alcohol by delivery                                       |
| Age             | Less than 20 at operation                                           | Under 20 at alleged violation                                                |
| Appearance      | Expected of under 21 under actual circumstances presented to seller | Expected of under 21 under actual circumstances presented to delivery person |
| ID              | True ID presented if requested, or no ID                            | True ID presented if requested by delivery person, or no ID                  |
| Age questions   | Truthful answers about age                                          | Truthful answers about age at delivery; not questions at order time          |
| Face-to-face ID | Required reasonable attempt after completed sale                    | No parallel face-to-face ID requirement in text                              |
| Defense         | Failure to comply is defense                                        | Failure to comply is defense                                                 |

# Provigo as Constitutional Background

Minor decoys are lawful enforcement tools

## BACKGROUND CASE

**Provigo answered the threshold constitutional question: Article XX, section 22 does not give a licensee a defense merely because the purchaser was an underage decoy.**

- The constitutional ban on purchases by persons under 21 does not defeat discipline for an unlawful sale to an underage decoy.
- Using underage decoys promotes the purpose of protecting minors from the harmful influences associated with alcohol consumption.
- A seller is not unfairly entrapped merely because the decoy looks or acts mature; ordinary decoy operations are permissible absent overbearing conduct.
- The use of underage decoys was not outrageous conduct or a due-process bar to discipline.

**For this Part 1 training, Provigo is the backdrop. Part 2 will address the later Rule 141 case law in detail.**

# Key Takeaways and Bridge to Part 2

The written law supplies the checklist; case law supplies the boundaries

## TAKEAWAYS

- The constitutional and statutory framework gives the Department broad licensing and enforcement authority.
- Section 25658(f) expressly authorizes peace officers to use persons under 21 in minor decoy enforcement.
- Rule 141 governs in-person decoy purchases; Rule 141.1 governs delivery enforcement.
- Noncompliance with the applicable rule is a defense to a section 25658 action.
- Part 2 will focus on how Board and appellate decisions apply these rules without adding extra-textual requirements.

**Bottom line: identify the governing rule, apply its text, and evaluate the record under the Board's limited review role.**



ALCOHOLIC  
BEVERAGE CONTROL  
APPEALS BOARD

# 2025-26 Budget Review and 2026-27 Budget Outlook

July 10, 2026 Board meeting



# ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD

## FY 2025-26 Review

| CATEGORY OF EXPENDITURES                 | Budgeted           | Actuals (Jul-May)  | Projected year end | Variance              |
|------------------------------------------|--------------------|--------------------|--------------------|-----------------------|
| Total Personal Services                  | \$1,046,000        | \$974,321          | \$1,063,245        |                       |
| Total Operating Expenditures & Equipment | \$370,000          | \$215,028          | \$238,245          |                       |
| <b>TOTAL</b>                             | <b>\$1,416,000</b> | <b>\$1,189,349</b> | <b>\$1,301,490</b> | <b>\$114,510 (8%)</b> |



## **FY 2025-26 Review**

Significant operating expenditures this FY:

- Business, Consumer Services & Housing Agency administrative services = \$62,000
- Cannabis Control Appeals Panel sublease = \$54,607
- Department of Consumer Affairs IT services = \$54,436
- Department of General Services HR services = \$27,673
- Decision scanning vendor contract = \$17,769
- ABC transcript costs = \$10,429



# ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD

## FY 2026-27 Outlook (Governor's Budget)

### 3-YEAR EXPENDITURES AND POSITIONS

|                                                          |                                         | Positions  |            |            | Expenditures    |                 |                 |
|----------------------------------------------------------|-----------------------------------------|------------|------------|------------|-----------------|-----------------|-----------------|
|                                                          |                                         | 2024-25    | 2025-26    | 2026-27    | 2024-25*        | 2025-26*        | 2026-27*        |
| 1650                                                     | Administrative Review                   | 8.3        | 8.3        | 8.3        | \$1,338         | \$1,416         | \$1,438         |
| <b>TOTALS, POSITIONS AND EXPENDITURES (All Programs)</b> |                                         | <b>8.3</b> | <b>8.3</b> | <b>8.3</b> | <b>\$1,338</b>  | <b>\$1,416</b>  | <b>\$1,438</b>  |
| <b>FUNDING</b>                                           |                                         |            |            |            | <b>2024-25*</b> | <b>2025-26*</b> | <b>2026-27*</b> |
| 0117                                                     | Alcoholic Beverage Control Appeals Fund |            |            |            | \$1,338         | \$1,416         | \$1,438         |
| <b>TOTALS, EXPENDITURES, ALL FUNDS</b>                   |                                         |            |            |            | <b>\$1,338</b>  | <b>\$1,416</b>  | <b>\$1,438</b>  |



# ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD

## **FY 2026-27 Outlook (Governor's Budget)**

Planned significant operating expenses next FY:

- BCSA administrative services
- CCAP rent
- Department of Consumer Affairs IT contract
- DGS HR services contract
- Language translation vendor contract
- ABC transcript costs