BEFORE THE ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD
OF THE STATE OF CALIFORNIA

AB-10031
File: 21-607007; Reg: 25095712

Indralila, Inc.
dba Fast & Easy Mart
860 Petaluma Boulevard N.
Petaluma, CA 94952
Appellant/Licensee

v.

Department of Alcoholic Beverage Control,
Respondent

Administrative Law Judge at the Dept. Hearing: Hon. Alberto Roldan

Appeals Board Hearing: April 17, 2026
Sacramento, CA/Videoconference

ISSUED APRIL 22, 2026

Appearances: Gillian Garrett, as counsel for Appellant

Alanna Ormiston, as counsel for the Department

OPINION

I. INTRODUCTION

This appeal arises from the Department of Alcoholic Beverages Control's decision to revoke appellant's off-sale general license after finding that appellant's employee sold an alcoholic beverage to a minor in violation of Business and Profession's Code section 25658, subdivision (a).[1]

[1] All further statutory references are to the Business and Professions Code unless stated otherwise.

On appeal, there is no dispute that an alcoholic beverage was sold to a minor. Instead, appellant contends that it established a complete defense under section 25660 because its employee reasonably relied on the identification the minor presented during previous alcohol purchases. Appellant further argues the Department failed to establish that appellant or its employees had actual or constructive knowledge that the minor was under 21 years old. Finally, appellant asserts that the Department abused its discretion by imposing a disproportionate penalty.

For the reasons stated below, the Department's decision is affirmed.

II. FACTS AND PROCEDURAL HISTORY

On June 20, 2025, the Department filed an accusation against appellant alleging a single violation of section 25658, subdivision (a). Specifically, the accusation alleged that on June 12, 2025, appellant's employee sold an 18-pack of Pacifico beer to an 18-year-old customer, Oscar Barajas, at appellant's licensed premises in Petaluma, California. The accusation also alleged appellant's prior disciplinary history that included two prior sustained violations of section 25658, subdivision (a).

An administrative hearing was held on October 30, 2025. Administrative Law Judge (ALJ) Alberto Roldan presided. The Department presented testimony from Agent Boudewyn, who conducted the investigation, and introduced documentary evidence that included a video recording of the June 12 transaction.

Appellant presented testimony from its clerk Sachin Sharma Niure, its owner Manoj Shrestha, and members of the Shrestha family who assist in operating the store.

The evidence established that on June 12, 2025, Agent Boudewyn observed Barajas, who appeared youthful, leaving appellant's premises carrying an 18-pack of beer. When questioned, Barajas first stated he was 21 years old but then admitted he was 18. Agent Boudewyn confirmed Barajas's age through California's identification system. Barajas also admitted that he had purchased alcohol at the premises on a prior occasion.

Inside the store, Agent Boudewyn contacted the clerk, Sachin Niure, who initially denied making the sale. After reviewing surveillance footage with Agent Boudewyn, both Niure and Shrestha acknowledged that Barajas was a regular customer who had purchased alcohol at the store multiple times before June 12. The video recording showed Barajas completing the transaction by tapping a payment card, and it showed that he did not present identification during the sale. The video contained no audio.

At the administrative hearing, Niure testified that he had previously checked Barajas's identification on six or seven occasions before the June 12 incident. He stated that during those earlier visits he examined both sides of the identification, believed the photograph matched Barajas, believed the birth date indicated Barajas was over 21, and successfully scanned the identification using the store's system. Niure testified that based on these prior interactions, he believed Barajas to be of legal drinking age and did not request identification

during the June 12 sale. However, Niure did not identify any specific security features he recognized or examined on the purported license, and the record contains no evidence establishing what identification, if any, Barajas presented on the prior visits.

Appellant also presented evidence of corrective measures taken after the incident, including requiring all employees to complete Licensee Education on Alcohol and Drugs program, revising store policies, implementing a secret-shopper program, installing a more robust identification scanning system, and posting additional signage regarding identification checks.

Following the hearing, the ALJ issued a proposed decision sustaining the accusation. The ALJ found that appellant's employee sold an alcoholic beverage to an 18-year-old without requesting identification, that appellant failed to establish the affirmative defense under section 25660, and that appellant's prior discipline activated the presumptive penalty of revocation. On January 5, 2026, the Department adopted the proposed decision.[2] Appellant thereafter filed a timely appeal to this Board.

III. STANDARD OF REVIEW

The Board's scope of review is defined by section 23084 and is further informed by the California Constitution and relevant statutory and appellate authority. (Cal. Const., art. XX, § 22; Bus. & Prof. Code, §§ 23083, 23085.) In reviewing the Department's decision, the Board determines whether the

[2] The Department's decision is set forth in the Appendix.

Department 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 light of the whole record. (Bus. & Prof. Code, § 23084, subds. (b)–(d).)

Substantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion—evidence that is "reasonable in nature, credible, and of solid value." (*County of San Diego v. Assessment Appeals Bd. No. 2* (1983) 148 Cal.App.3d 548, 555, quoting *Ofsevit v. Trustees of California State University and Colleges* (1978) 21 Cal.3d 763, 773, fn. 9; see also *Hosford v. State Personnel Bd.* (1977) 74 Cal.App.3d 302, 307.) The Board may not independently reweigh the evidence, reconsider witness credibility, or substitute its judgment for that of the Department. (*Kirby v. Alcoholic Beverage Control Appeals Bd.* (1970) 7 Cal.App.3d 126, 129; *Reimel v. Alcoholic Beverage Control Appeals Bd.* (1967) 255 Cal.App.2d 40, 43; *Harris v. Alcoholic Beverage Control Appeals Bd.* (1963) 212 Cal.App.2d 106, 113–114.)

All conflicts in the evidence must be resolved in favor of the Department's decision, and the Board must accept all reasonable inferences supporting that decision. (*Harris*, supra, at p. 113.) Even where error is shown, the Board may not reverse unless the appellant demonstrates that the error was prejudicial. (*Reimel v. House* (1969) 268 Cal.App.2d 780, 787.) Under the California Constitution, a decision may be set aside only if the error resulted in a miscarriage of justice. (Cal. Const., art. VI, § 13; see *Leal v. Gourley* (2002) 100 Cal.App.4th 963, 968.)

IV. ANALYSIS

A. Section 25660 Defense

Appellant's main contention on appeal is that it established a complete defense under section 25660 because its employee reasonably relied on the identification the minor presented during previous alcohol purchases.

Section 25658, subdivision (a) makes it unlawful to sell or give alcohol to anyone under 21 years old. When the Department proves that such a sale happened, the licensee can avoid discipline only if it establishes the defense found in section 25660. That statute protects a licensee who, before the sale, asked for identification, was shown identification, and relied on what appeared to be "bona fide evidence" that the customer was at least 21. (Bus. & Prof. Code, §§ 25658, 25660.)

Courts have long held that this defense is not automatic. The licensee must present evidence showing that each part of the statute was met. If the licensee provides no evidence, or the proof is incomplete, the defense simply does not apply. In other words, the licensee bears the burden of proof. (*Lacabanne Properties, Inc. v. Department of Alcoholic Beverage Control* (1968) 261 Cal.App.2d 181, 189.)

What counts as "bona fide evidence" depends both on the identification itself and the circumstances in which it is inspected. The document must look like a real government-issued identification, and the employee must make a reasonable comparison between the customer and the information on the card.

The law does not require an expert-level examination, but it does require more than a quick glance. If obvious differences appear, for example, a mismatch in height, eye color, or overall appearance, reliance on the identification is not considered reasonable. (*Dept. of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd. (Masani)* (2004) 118 Cal.App.4th 1429; 5501 *Hollywood Inc. v. Department of Alcoholic Beverage Control* (1957) 155 Cal.App.2d 748, 753.)

A forged or counterfeit identification does not automatically defeat the defense. Modern case law recognizes that a licensee may rely on a fake identification if the fake purports to be a real government document and the forgery is not something a reasonable person would have discovered during a normal, careful inspection. But the opposite is also true: when a forgery would have been detected through reasonable inspection, or when the employee did not look at the identification carefully, the defense fails. (*Masani*, *supra*, 118 Cal.App.4th at p. 1443.)

The timing of the inspection also matters. Earlier statutes said the identification must be shown "immediately prior" to the sale, but the Legislature removed that phrase from the statute in 1959. (*Farah v. Alcoholic Beverage Control Appeal Bd.* (1958) 159 Cal.App.2d 335, 337-38.) Today the law does not require the inspection to occur at the exact moment of the sale. However, the inspection must still relate closely to the specific transaction. The court explained this in *Lacabanne*, where an identification-check at the door, followed soon after

by service during the same visit, could satisfy the statute. (*Lacabanne, supra,* 261 Cal.App.2d at p 193.) By contrast, in *Farah*, an identification shown several weeks earlier could not support the defense. (*Farah, supra,* 159 Cal.App.2d at p 102.)

The Department's recent Precedential Decision No. 24-01-E brings these principles together. It explains that a prior identification check can satisfy section 25660 only when the licensee proves: 1) that the same identification was shown on the earlier occasion; 2) that the earlier inspection was careful and met the statute's requirements; 3) and that there was a reasonable time connection between that inspection and the charged sale. If any of these points are missing, the defense does not arise. (Cal. Dept. of ABC, *Wayel Bachir Diab dba Sunrise Spirits and Food Co.*, Precedential Decision No. 24-01-E (August 15, 2024).)

Finally, section 25660 is the only statutory defense to a charge of selling alcohol to a minor. A licensee cannot avoid responsibility by claiming that the clerk simply "did not know" the customer was underage. (*In re Jennings* (2004) 34 Cal.4th 254, 266.) The law requires proof of demand, display, and reasonable reliance on identification that appears genuine. Without that proof, the sale is unlawful under section 25658, even if the employee acted without bad intentions.

Thus, in this case, appellant had the burden to present sufficient evidence to establish the section 25660 defense. To meet that burden, appellant relied primarily on the testimony of the clerk involved in the sale. After considering that testimony, the ALJ found that appellant did not present evidence adequate to establish the defense.

The ALJ specifically determined that appellant "did not present any evidence that [the clerk] engaged in the level of scrutiny required to demonstrate reasonable reliance upon bona fide evidence of majority." (Conclusion of Law ¶ 7.) The ALJ further found that "[e]ven if the evidence established that a fake identification was used, the defense has still not been met because [appellant] has not shown that the required scrutiny of the purported identification occurred on June 12, 2025, or any day prior." (*Id*.)

In reaching these conclusions, the ALJ explained that although the clerk stated he believed the identification "appeared genuine," he failed to describe the specific observations or features that would allow the trier of fact to conclude that the clerk's reliance was objectively reasonable. In other words, the ALJ made a factual determination—based on the evidence presented—that appellant did not demonstrate the diligence or inspection required under section 25660.

Long-standing precedent establishes that this Board may not reweigh the evidence, reassess witness credibility, or substitute its judgment for that of the Department when the ALJ's findings are supported by substantial evidence. (*Kirby*, *supra*, 7 Cal.App.3d at p. 129.) Here, the ALJ's findings are supported by substantial evidence. Considering the whole record, Appellant did not present enough evidence to satisfy the requirements of a section 25660 defense. For example, there was no evidence that the same identification had been used on

prior occasions or that any prior inspections were diligent. Instead, the clerk testified only in general terms that the identification appeared genuine.

Accordingly, the Department's decision concluding that appellant failed to establish an affirmative defense under section 25660 is affirmed.

B. Section 25658 Does Not Require Proof of Knowledge

Appellant also argues that the Department failed to prove that appellant or its employees knew the minor was under 21 years old at the time of the sale. This contention is foreclosed by controlling case law. In *In re Jennings*, *supra*, at p. 266, the California Supreme Court held that section 25658, subdivision (a) is a strict-liability offense and does not require proof that the seller had actual or constructive knowledge of the purchaser's age.

Because knowledge is not an element of the violation, the Department was not required to prove that appellant or its employees knew, or should have known, the minor was under the age of 21. The only statutory safe harbor is the section 25660 defense. As discussed above, appellant did not meet its burden to invoke that defense.

Accordingly, appellant's argument regarding a purported "knowledge requirement" provides no basis for reversing the Department's decision.

C. Penalty

Lastly, appellant contends that the Department abused its discretion by imposing the penalty of revocation. Appellant argues that "license revocation

simply is disproportionate given the facts of this case, and for that reason amounts to an abuse of discretion." (Appellant's Opening Brief at p. 13.)

The Department has broad discretion to determine the appropriate penalty for a violation of the Alcoholic Beverage Control Act. The Board may not disturb the Department's choice of penalty unless the appellant demonstrates that the Department clearly abused its discretion. (*Martin v. Alcoholic Beverage Control Appeals Bd.* (1961) 55 Cal.2d 867, 876.) A mere difference of opinion regarding the propriety of the penalty is insufficient. (*Harris v. Alcoholic Bev. Control Appeals Bd.* (1965) 62 Cal.2d 589, 594.) When the penalty falls within the range established by the Department's penalty guidelines, it will not be considered an abuse of discretion absent extraordinary mitigating or aggravating circumstances. (*Joseph's of California v. Alcoholic Bev. Control Appeals Bd.* (1971) 19 Cal.App.3d 785, 789.)

Here, the record establishes that appellant violated section 25658, subdivision (a) three times within a 36-month period. Under the Department's penalty guidelines, the recommended penalty for a third violation of section 25658, subdivision (a) is revocation. The ALJ also expressly considered the aggravating and mitigating evidence presented by both parties. The ALJ found appellant's mitigating evidence unpersuasive, concluding that "[appellant] has a history of repeating the same offense without making a true effort to avoid future violations." (Decision at p. 8.)

Because the penalty imposed is consistent with the Department's guidelines and the ALJ reasonably evaluated the relevant aggravating and mitigating circumstances, appellant has not demonstrated that the Department abused its discretion. The revocation is therefore upheld.

V. CONCLUSION

Substantial evidence supports the Department's finding that appellant violated section 25658, subdivision (a), by selling an alcoholic beverage to a minor. Appellant did not establish the affirmative defense under section 25660, and its argument that the Department was required to prove knowledge is foreclosed by controlling authority. The penalty of revocation is consistent with the Department's penalty guidelines for a third violation within 36 months, and appellant has not shown that the Department abused its discretion by imposing it.

ORDER

Pursuant to Business and Professions Code section 23085, the Department's decision is affirmed.[3]

MEGAN McGUINNESS, CHAIRPERSON
HON. FRANK C. DAMRELL JR. (Ret.), MEMBER
SHARLYNE PALACIO, MEMBER
ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD

[3] This final order is filed in accordance with Business and Professions Code section 23088, and it shall become effective 30 days following the date of the filing of this order as provided by section 23090.

Any party, before this final order becomes effective, may apply to the appropriate court of appeal, or the California Supreme Court, for a writ of review of this final order in accordance with Business and Professions Code section 23090 et seq. Service on the Board pursuant to California Rules of Court (Rule 8.25) should be directed to: 400 R Street, Ste. 320, Sacramento, CA 95811 and/or electronically to: abcboard@abcappeals.ca.gov.

APPENDIX

BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE ACCUSATION AGAINST:

INDRALILA, INC.
FAST & EASY MART
860 PETALUMA BLVD. N
PETALUMA, CA 94952-2109

OFF-SALE GENERAL - LICENSE

Respondent(s)/Licensee(s)
Under the Alcoholic Beverage Control Act

SANTA ROSA DISTRICT OFFICE

File: 21-607007

Reg: 25095712

CERTIFICATE OF DECISION

It is hereby certified that, having reviewed the findings of fact, determination of issues, and recommendation in the attached proposed decision, the Department of Alcoholic Beverage Control adopted said proposed decision as its decision in the case on January 5, 2026. Pursuant to Government Code section 11519, this decision shall become effective 30 days after it is delivered or mailed.

Any party may petition for reconsideration of this decision. Pursuant to Government Code section 11521(a), the Department's power to order reconsideration expires 30 days after the delivery or mailing of this decision, or if an earlier effective date is stated above, upon such earlier effective date of the decision.

Any appeal of this decision must be made in accordance with Business and Professions Code sections 23080-23089. The appeal must be filed within 40 calendar days from the date of the decision, unless the decision states it is to be "effective immediately" in which case an appeal must be filed within 10 calendar days after the date of the decision. Mail your written appeal to the Alcoholic Beverage Control Appeals Board, 400 R St, Suite 320, Sacramento, CA 95811. For further information, and detailed instructions on filing an appeal with the Alcoholic Beverage Control Appeals Board, see: https://abcab.ca.gov or call the Alcoholic Beverage Control Appeals Board at (916) 445-4005.

On or after February 16, 2026, a representative of the Department will contact you to arrange to pick up the license certificate.

https://abcab.ca.gov/abcab_resources/

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Alcoholic Beverage Control
Office of Legal Services

Sacramento, California

Dated: January 6, 2026

Paul Tupy
Director

BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE ACCUSATION AGAINST:

Indralila, Inc. DBA: Fast & Easy Mart 860 Petaluma Blvd. North Petaluma, California 94952-2109 Respondent	}	File: 21-607007 Registration: 25095712 License Type: 21 Word Count: 14,292 Reporters: Jenn Vallejo Kennedy Reporters
Off-Sale General License	}	**PROPOSED DECISION**

Administrative Law Judge Alberto Roldan, Administrative Hearing Office, Department of Alcoholic Beverage Control, heard this matter, via videoconference, on October 30, 2025.

Alanna Ormiston, Attorney, represented the Department of Alcoholic Beverage Control (Department).

Gillian Garrett, Attorney, represented the respondent, Indralila, Inc. (Respondent).

The Department seeks to discipline the Respondent's license, in an Accusation, on the grounds that, on or about June 12, 2025, Respondent-Licensee's agent or employee, Sachin Sharma Niure, at said premises, sold, furnished, gave, or caused to be sold, furnished, or given, an alcoholic beverage to Oscar Barajas, a person under the age of 21 years in violation of section 25658(a).

The Department further alleged that there is cause for suspension or revocation of the license of the Respondent in accordance with section 24200 and sections 24200(a) and (b). The Department further alleged that the continuance of the license of the Respondent would be contrary to public welfare and/or morals as set forth in Article XX, Section 22 of the California State Constitution, and sections 24200(a) and (b). (Exhibit D-1)

Oral evidence, documentary evidence, and evidence by oral stipulation on the record was received at the hearing. The matter was argued and submitted for decision on October 30, 2025.

FINDINGS OF FACT

1. The Department filed the Accusation on June 20, 2025. On July 23, 2019, the Department issued the Respondent corporation a type 21, off-sale general license for the above-described location (the Licensed Premises). (Exhibit D-1) During the hearing, the Department introduced testimonial evidence from an agent who had reviewed the central file of the Respondent. Prior to the current license being issued to Indralila, Inc., the Licensed Premises location held a type 21 license. The Licensee was Manoj Kumar Shrestha (Manoj) who is now the chief corporate officer of Indralila, Inc. Prior to the transfer from individual to corporate ownership, Department records showed that the previous license had three separate sustained incidents of discipline related to alcohol sales to a minor. The following is the record of prior Department discipline against the Respondent's current license, as established by official records introduced by the Department (Exhibits D-2 and D-3):

Violation Date	Violation	Registration Date	Registration Number	Penalty
08/08/2022	25658(a)	01/06/2023	223092863	15-day suspension
01/13/2023	25658(a)	03/02/2023	23093001	25-day suspension

2. On June 12, 2025, Department agents went to the Licensed Premises on a general enforcement assignment. Department Agent S. Boudewyn (Boudewyn) and the other Department agents arrived at the Licensed Premises location. On that date, the agents watched customers of the Licensed Premises who purchased alcoholic beverages to determine if they were under 21 years of age. The agents were in plain clothes and in an undercover capacity.

3. Boudewyn watched a youthful looking male enter the Licensed Premises. This youthful looking male exited a short while later carrying an 18-pack box of Pacifico brand beer. Boudewyn contacted the male and asked his age. The male initially maintained he was 21 years of age, but then admitted to Boudewyn that he was 18 years old. Boudewyn confirmed the identification of the male as Oscar Barajas (Barajas) with a date of birth of October 8, 2006, using the California ID system. The Department introduced a certified copy of the Cal ID of Barajas in the hearing. (Exhibit D-5) Boudewyn photographed Barajas during the investigation. Barajas' appearance was consistent with his chronological age. He was approximately 6 feet tall and had an extremely slender build. Barajas' hair was cut short and he had a wispy moustache and goatee. He was not wearing a hat or hair covering of any sort. (Exhibit D-4) Barajas admitted to purchasing the beer in the Licensed Premises. Barajas said he had made one prior purchase at the Licensed Premises and that he had used an expired license. Boudewyn was not presented any physical identifications during his investigation of Barajas.

4. After interviewing Barajas and documenting the investigation, Boudewyn entered the Licensed Premises and contacted the clerk, Sachin Sharma Niure (Niure). Manoj Kumar Shrestha, (Manoj) the owner and the chief corporate officer of Indralila, Inc. was also present

and interacted with Boudewyn during the investigation. Niure denied making a sale to a minor when Boudewyn asked him about the transaction. Manoj expressed difficulty in uploading the footage from the cameras, but he was eventually able to show the footage of the transaction between Barajas and Niure. Boudewyn obtained a copy of the video transaction. The video showed Barajas walking up to the counter and placing the beer in front of Niure for purchase. Niure scanned the bar code on the box of beer. Barajas appears to fish in his pockets for a short time, then walks away briefly to the front door. The beer remained on the counter when Barajas stepped away. Barajas then walked back to the counter where he had placed the beer. After returning, Barajas produced a card and used it to pay for the beer by tapping it to the point-of-sale device on the counter. After this transaction processed, Barajas left with the beer. The video had no sound so it only captured the appearance of the transaction. At no point during the two times Barajas was at the counter did he produce an identification. Both interactions between Barajas and Niure on June 12, 2025, were only seconds. (Exhibit D-3)

5. Boudewyn, Niure and Manoj watched the footage of the transaction on June 12, 2025. After watching the transaction, Manoj and Niure admitted that they knew Barajas and that he was a regular in the Licensed Premises. They asserted that Barajas' license had been presented by Barajas during prior interactions. During these transactions, it was looked at and scanned by Niure, Manoj or the other clerks, and that they believed he was 21 years of age. Niure testified during the hearing in this matter. Niure testified to seeing Barajas in the Licensed Premises on 6 to 7 occasions prior to June 12, 2025. Niure testified that the identification used by Barajas scanned during the times he checked it. Niure said it did not appear expired and that the age on the identification showed that Barajas was over 21. Niure testified that the image on the identification matched Barajas. Niure testified that he looked at the front and the back of the license during the times he scrutinized it.

6. Niure did not reference what, if any, security features he was aware of or scrutinized on the purported license to determine its genuineness. In testimony, Niure stated that he concluded the identification was genuine, but he did not state what factors led him to the conclusion that it was real. Niure did not address what security features he was familiar with on genuine driver's licenses or whether the purported license produced had any of the generally relied upon features. Niure testified that he genuinely thought Barajas was over 21 years of age and that he took screening customers during alcohol purchases seriously. Manoj also testified that he had screened the purported identification of Barajas prior to June 12, 2025, and had concluded it was genuine. Manoj also did not address what security features he was familiar with on genuine driver's licenses, or whether the purported license produced during these prior transactions had any of the generally relied upon features.

7. The Respondent also presented computer printouts of multiple prior alcohol transactions that occurred with the same credit card used during the June 12, 2025, transaction. In the three transaction readouts that match the credit card used by Barajas, the purchase is for alcoholic beverages. Each of these transactions has an entry of 21 under the verified age column. The Respondent did not present evidence about how verification was established before a verification entry was made related to an alcoholic beverage transaction. (Exhibit L-1)

8. Sharad Shrestha (Sharad) is the son of Manoj, the owner of the Licensed Premises, and he was actively involved in the Licensed Premises prior to the June 12, 2025, incident and through the hearing in this matter. Sharad testified to the practices used by employees at the Licensed Premises. Employees are taught to check all purchasers of alcoholic beverages and to check the identifications against the person being screened. This requirement is posted for both the clerks and customers in multiple locations in the Licensed Premises. (Exhibit 5) In response to this incident, Sharad, Manoj and the other employees obtained LEAD training certificates from the Department. (Exhibit L-2) Sharad and Manoj reviewed the Department required clerk's certificates with the employees to ensure that there were no language barriers. (Exhibit L-3) In addition, the Respondent invested in a scanning system for the Licensed Premises that now requires clerks to go through a more detailed age verification process with alcohol sales. This system was not in place on June 12, 2025. On June 15, 2025, the Respondent revised its store policies to emphasize that alcohol sales to minors are misconduct and will result in termination. All employees were required to acknowledge the change. (Exhibit L-11) After the June 12, 2025, incident, the Respondent also began using a secret shopper process to check the compliance of its clerks with the age restricted sales policies of the Licensed Premises. The Respondent submitted a report from an October 27, 2025, secret shopper session that showed that clerks had been complying with age restricted sales protocols during the tested transactions. (Exhibit L-6)

9. The Respondent presented evidence of the overall operation of the Licensed Premises. The Licensed Premises was shown to be a clean, well-maintained store that was offering a wide range of convenience products, not just beverages and snacks. The Licensed Premises recently went through an extensive and comprehensive remodel. Its interior is modern, well-lit and attractive. (Exhibit L-10) The Licensed Premises introduced into evidence several support letters and petitions of support from customers. (Exhibit L8 and L-12) The local chamber of commerce also wrote in support of the Licensed Premises. (Exhibit L-11)

CONCLUSIONS OF LAW

1. Article XX, section 22 of the California Constitution and section 24200(a) provide that a license to sell alcoholic beverages may be suspended or revoked if continuation of the license would be contrary to public welfare or morals.

2. Section 24200(b) provides that a licensee's violation, or causing or permitting of a violation, of any penal provision of California law prohibiting or regulating the sale of alcoholic beverages is also a basis for the suspension or revocation of the license.

3. Section 25658(a) provides that 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.

4. Section 25660 provides that:

(a) Bona fide evidence of majority and identity of the person is any of the following:

(1) A document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, description, and picture of the person.

(2) A valid passport issued by the United States or by a foreign government.

(3) A valid identification card issued to a member of the Armed Forces that includes a date of birth and a picture of the person.

(b) Proof that the defendant-licensee, or his or her employee or agent, demanded, was shown, and acted in reliance upon bona fide evidence in any transaction, employment, use, or permission forbidden by Section 25658, 25663, or 25665 shall be a defense to any criminal prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon.

5. Cause for suspension or revocation of the Respondent's license exists under Article XX, section 22 of the California State Constitution and sections 24200(a) and (b) as to the Accusation, which relates to the sale of alcoholic beverages to Barajas by Niure inside of the Licensed Premises. The Department has established that on June 12, 2025, the Respondent's employee, Niure, sold an 18-pack of Pacifico beer to Barajas, a person who was 18 years old, in the Licensed Premises, in violation of section 25658(a), as alleged in the Accusation. Further, the evidence in this matter does not establish a defense pursuant to the provisions of section 25660, despite the assertions of the Respondent. (Findings of Fact ¶¶ 1-9)

6. The evidence established that on June 12, 2025, Barajas was 18 years old, and he purchased a an 18-pack of Pacifico beers, which are alcoholic beverages, in the Licensed Premises, a location subject to the responsibilities of an establishment holding a type 21, off-sale general license. The Respondent's employee, Niure, sold Barajas these items without asking him to provide identification on June 12, 2025. Niure testified that he relied on prior transactions where Barajas produced a purported identification. Precedential Decision 24-01-E significantly limits the use of prior productions of an identification to establish a defense pursuant to the provisions of section 25660. Under the facts of this case, it is unnecessary to determine if the prior production can be relied since *none* of the productions described meet the threshold necessary to establish a defense under section 25660.

7. The evidence does not establish what was shown by Barajas during the prior transactions with Niure and the other employees of the Licensed Premises. If Barajas presented his genuine license, it would have shown that he was only 18 years old. If Barajas presented a fake identification, the evidence still does not establish the due diligence required for a defense pursuant to the provisions of section 25660. The Respondent did not present any evidence that Niure engaged in the level of scrutiny required to demonstrate reasonable reliance upon bona

fide evidence of majority. Beyond being able to scan it, Niure never testified to any awareness or scrutiny of the multiple security features present on a genuine driver's license. The record is not even clear on what state the purported license was issued from. (Findings of Fact ¶¶ 1-9)

8. The Respondent asserts that its cashier reasonably relied on prior interactions with the purported license presented by Barajas and that the provisions of section 25660 should apply as a defense to his interaction with Barajas on June 12, 2025. Section 25660 provides a defense to any person who was shown and acted in reasonable reliance upon bona fide evidence of majority in permitting a minor to enter and remain in a public premises in contravention of section 25665, a sale forbidden by section 25658(a), or in permitting a minor to consume in an on-sale premises in contravention of section 25658(b).

9. The defense offered by this section is an affirmative defense. As such, the Respondent, as the licensee, has the burden of establishing all of its elements, namely, that evidence of majority and identity was demanded, shown, and acted on as prescribed.[1] This section applies to identifications actually issued by government agencies as well as those which purport to be.[2] A licensee or his or her employee is not entitled to rely upon identification if it does not appear to be a bona fide government-issued identification or if the personal appearance of the holder of the identification demonstrates, above mere suspicion, that the holder is not the legal owner of the identification.[3]

10. In this matter, the purported identification possessed by Barajas supposedly had his image, the age information on the identification depicted him as being over the age of 21, and the purported identification could be scanned. It is undisputed that the identification was a fabrication and not a "document issued by a federal, state, county, or municipal government." The Respondent asserts that its cashier had a subjective belief that it was genuine. The remaining question is whether the identification, *if* it was presented by Barajas, was something that Niure could have reasonably relied on because it *appeared* to be a bona fide government-issued identification. The Respondent has not met its burden regarding this. (Findings of Fact ¶¶ 1-9)

11. The evidence is not clear on what was presented to Niure on the prior occasions. (It is irrelevant what was presented to other employees since they were not the ones who conducted the transaction at issue on June 12, 2025.) The Respondent has the burden of showing that the license *appeared* to be a bona fide government-issued identification such that its employee Niure could have objectively and reasonably relied on it. Even if the evidence established that a fake

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[1] *Lacabanne Properties, Inc. v. Department of Alcoholic Beverage Control*, 261 Cal. App. 2d 181, 189, 67 Cal. Rptr. 734, 739 (1968); 27 Ops. Atty. Gen. 233, 236 (1956).
[2] *Dept. of Alcoholic Beverage Control v. Alcoholic Control Appeals Bd. (Masani)*, 118 Cal. App. 4th 1429, 1444-45, 13 Cal. Rptr. 3d 826, 837-38 (2004).
[3] *Masani*, 118 Cal. App. 4th at 1445-46, 13 Cal. Rptr. 3d at 838; *5501 Hollywood, Inc. v. Department of Alcoholic Beverage Control*, 155 Cal. App. 2d 748, 753, 318 P.2d 820, 823-24 (1957); *Keane v. Reilly*, 130 Cal. App. 2d 407, 411-12, 279 P.2d 152, 155 (1955); *Conti v. State Board of Equalization*, 113 Cal. App. 2d 465, 466-67, 248 P.2d 31, 32 (1952).

identification was used, the defense burden has still not been met because the Respondent has not shown that the required scrutiny of the purported identification occurred on June 12, 2025, or any day prior. While Niure asserts the *conclusion* that he thought the identification was genuine, nowhere does he address what, if anything, he knew about the security features of the presented identification. Further, there is no evidence about what he looked at in the purported identification to conclude that it was genuine. Given this, it is difficult to accept that Niure applied the scrutiny required to meet the Respondent's burden of proof on the prior dates referenced by the Respondent. In short, there is no basis to conclude that any subjective reliance by Niure was objectively reasonable, such that a defense can be established. (Findings of Fact ¶¶ 1-9)

12. The Department has proven the Accusation. The Respondent has an affirmative duty to determine the bona fides of all identifications presented at the Licensed Premises in order for a defense under section 25660 to be available. The Respondent has failed to establish a defense pursuant to section 25660. (Findings of Fact ¶¶ 1-9)

13. Except as set forth in this decision, all other allegations in the Accusation and all other contentions of the parties lack merit.

PENALTY

Given the two prior sustained violations of section 25658(a) within three years, the presumptive penalty, pursuant to Rule 144,[1] for this violation of section 25658(a) is revocation, absent aggravating and mitigating factors. The Department sought a penalty of outright revocation, after the weighing of aggravating and mitigating factors. Significant aggravating factors have been identified by the Department. The Respondent has the prior discipline established by the two priors. Given that these two priors are being considered in activating the presumption of revocation, it would be inappropriate to weigh them as separate aggravating factors. However, in addition to these priors, there was evidence received that the Respondent's performance with the Department, in the person of Manoj, involved three additional incidents of violating section 25658(a) at the Licensed Premises location, when the license was held by him as an individual. Further, the violation in this matter involved a large quantity of beer being sold to an 18-year-old. Evidence was also received that Barajas was a "regular" patron of the Licensed Premises. These are aggravating facts tied to the actual violation.

The Respondent presented evidence in mitigation. It has responded to the incident by purchasing and adding a scanning protocol to its alcohol sales process to prevent future sales to minors. The Respondent and its employees have gone through LEAD training and a review of clerk's affidavits. The Respondent has explicitly made the conduct in this case a fire-able offence in its employment policies. The Respondent is now using a secret shopper protocol to show employees that they are being monitored.

The Respondent's belated efforts to avoid future incidents, under the circumstances, are not significant factors in mitigation. The Respondent has a history of repeating the same offense without making a true effort to avoid future violations. Some of the measures identified as efforts to improve are the baseline requirements of licensure. None of the Respondent witnesses in this matter demonstrated any level of sophistication in understanding the security features of a license and how these features can be used to prevent underaged sales. Barajas likely returned to the Licensed Premises repeatedly because it was shown to be an easy place for an underaged person to purchase alcohol. This, combined with the extensive history of violations demonstrates that the Respondent is an unsuitable license holder.

No other factors in aggravation or mitigation are applicable to this violation beyond what has been discussed.

The penalty recommended herein complies with rule 144.

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[1] All rules referred to herein are contained in Title 4 of the California Code of Regulations unless otherwise noted.

ORDER

The Department has proven a violation of section 25658(a) and two incidents of prior discipline for violating section 25658(a) within a three-year period. The Respondent's off-sale general license is revoked.

Dated: November 12, 2025

Alberto Roldan
Administrative Law Judge

☒ Adopt

☐ Non-Adopt: _____

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By: _____

Date: 01/05/2026