

AMENDED IN SENATE MARCH 17, 2021

AMENDED IN SENATE FEBRUARY 10, 2021

SENATE BILL

No. 102

Introduced by Senator Melendez

~~(Coauthor: Senator~~ **Coauthors: Senators Bates, Grove, and Jones)**

(Coauthors: Assembly Members Choi, Gallagher, Mathis, and Seyarto)

December 30, 2020

An act to add *and repeal* Sections 464.5 and 24200.8 to the Business and Professions Code, relating to business, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 102, as amended, Melendez. COVID-19 emergency order violation: license revocation.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides for the denial, suspension, and revocation of licenses for specified conduct. Existing law provides for the regulation of healing arts by various boards. Existing law authorizes boards to impose fines or penalties, as provided.

Existing law, the Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. The act provides the grounds upon which the department may suspend or revoke licenses and impose fines and penalties, as provided.

This bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer Affairs that does not regulate healing arts licensees, and the Department of Alcoholic Beverage Control from revoking a license or imposing a fine or penalty for failure

to comply with any COVID-19 *state of emergency orders or COVID-19 stay-at-home orders*, unless the board or department can prove that lack of compliance resulted in transmission of COVID-19. *The bill would specify that the provisions do not preclude issuance of fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home order. The provisions of the bill would remain in effect until either the COVID-19 state of emergency is terminated or all COVID-19 stay-at-home orders are no longer in effect, whichever occurs later, but in no case would the provisions remain in effect after January 1, 2024.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 464.5 is added to the Business and
2 Professions Code, to read:
3 464.5. (a) The department and any board shall not revoke a
4 license, fine, or impose a penalty for failure to comply with any
5 COVID-19 *state of emergency—orders; orders or COVID-19*
6 *stay-at-home orders*, unless the department or board can prove
7 that lack of compliance resulted in the transmission of COVID-19.
8 (b) For the purposes of this section, board does not include a
9 healing arts board as described in Division 2 (commencing with
10 Section 500).
11 (c) *For the purposes of this section:*
12 (1) *“COVID-19 state of emergency” means the state of*
13 *emergency proclaimed by the Governor on March 4, 2020.*
14 (2) *“COVID-19 stay-at-home order” means either of the*
15 *following:*
16 (A) *Executive Order No. N-33-20, or any similar order issued*
17 *by the Governor pursuant to the California Emergency Services*
18 *Act (Chapter 7 (commencing with Section 8550) of Division 1 of*
19 *Title 2 of the Government Code) or the State Department of Public*
20 *Health that requires the closure of businesses in response to the*
21 *COVID-19 state of emergency.*

1 (B) Any order by a local government that requires the closure
2 of businesses in response to the COVID-19 state of emergency,
3 including, but not limited to, an order issued pursuant to the police
4 power of a city or county or any order issued by a local health
5 officer pursuant to Section 101040 or 120175 of the Health and
6 Safety Code.

7 (d) Nothing in this section shall preclude the department or any
8 board from issuing fines, penalties, or revoking a license for any
9 action that is not related to the issuance of any COVID-19 state
10 of emergency orders or COVID-19 stay-at-home orders.

11 (e) This section shall remain in effect only until either the
12 COVID-19 state of emergency terminates pursuant to Section 8629
13 of the Government Code or all COVID-19 stay-at-home orders
14 are no longer in effect, whichever occurs later, and as of that date
15 is repealed. However, if those contingencies are not met, then in
16 no case shall this section remain in effect after January 1, 2024,
17 and as of that date is repealed.

18 SEC. 2. Section 24200.8 is added to the Business and
19 Professions Code, to read:

20 24200.8. (a) The Department of Alcoholic Beverage Control
21 shall not revoke the license, fine, or impose a penalty of any
22 licensee for failure to comply with any COVID-19 state of
23 emergency—~~orders~~ orders, or COVID-19 stay-at-home orders,
24 unless the department can prove that lack of compliance resulted
25 in transmission of COVID-19.

26 (b) For the purposes of this section:

27 (1) “COVID-19 state of emergency” means the state of
28 emergency proclaimed by the Governor on March 4, 2020.

29 (2) “COVID-19 stay-at-home order” means either of the
30 following:

31 (A) Executive Order No. N-33-20, or any similar order issued
32 by the Governor pursuant to the California Emergency Services
33 Act (Chapter 7 (commencing with Section 8550) of Division 1 of
34 Title 2 of the Government Code) or the State Department of Public
35 Health that requires the closure of businesses in response to the
36 COVID-19 state of emergency.

37 (B) Any order by a local government that requires the closure
38 of businesses in response to the COVID-19 state of emergency,
39 including, but not limited to, an order issued pursuant to the police
40 power of a city or county or any order issued by a local health

1 officer pursuant to Section 101040 or 120175 of the Health and
2 Safety Code.

3 (c) Nothing in this section shall preclude the department or any
4 board from issuing fines, penalties, or revoking a license for any
5 action that is not related to the issuance of any COVID-19 state
6 of emergency orders or COVID-19 stay-at-home orders.

7 (d) This section shall remain in effect only until either the
8 COVID-19 state of emergency terminates pursuant to Section 8629
9 of the Government Code or all COVID-19 stay-at-home orders
10 are no longer in effect, whichever occurs later, and as of that date
11 is repealed. However, if those contingencies are not met, then in
12 no case shall this section remain in effect after January 1, 2024,
13 and as of that date is repealed.

14 SEC. 3. This act is an urgency statute necessary for the
15 immediate preservation of the public peace, health, or safety within
16 the meaning of Article IV of the California Constitution and shall
17 go into immediate effect. The facts constituting the necessity are:

18 In order to protect businesses, including small businesses, which
19 continue to make significant contributions to economic security,
20 which helps ensure public safety, during these unprecedented times
21 caused by the COVID-19 pandemic, as soon as possible, it is
22 necessary for this act to take effect ~~immediately~~ *immediately*.