



## Duplicate Licenses

### *Overview of master and duplicate license privileges*

#### HISTORY

The “duplicate license” that is allowed for both type 23 and type 01 beer manufacturers was added to the state statute in 1952. The duplicate license allowed brewers to have satellite warehouse facilities for beer storage without being required to obtain an additional manufacturing license. Breweries at that time (mainly small, regional breweries of that era) needed satellite warehouse locations up and down the state where they could store beer and conduct sales and shipments to service the vast network of small wholesalers that existed at the time. The duplicate license allowed “all the privileges” of the master beer manufacturers license, except for the production of beer. Since these satellite locations were only for storing and shipping beer and not for manufacturing, the duplicate license at that time was “issued forthwith” without approval from local jurisdictions or the 30-day sign-posting period, which are required for a manufacturers license. There was no limitation on the number of duplicates issued to a brewer, so beer manufacture could have an unlimited number of satellite warehouses up and down the state from which wholesalers could receive shipments.

As additional retail privileges were added to the beer manufacturers license over the years, especially in the 1980s, these retail privileges were automatically “adopted” by the duplicate license, since the code section stated that the duplicate license allowed for *all* the privileges of a type 01/23 except for the brewing of beer. Although it was not the intention of the duplicate license when it was added to the statute in 1935, these duplicate licenses became satellite retail locations as retail privileges were added to the type 01/23.

The fact that the duplicate license was now being used for retail tasting rooms went pretty much unnoticed until the profusion of tasting rooms in the early 2000s. During this time, craft brewers began to apply for and utilize the duplicate license in large numbers, not for the originally intended purpose of warehousing, but as satellite tasting rooms in which the public consumed beer on the duplicate premise. Because the duplicate was issued “forthwith,” with no waiting period or approval from the local city or county, these duplicate retail tasting rooms were springing up without the local jurisdiction having any input to the ABC regarding the issuance or restrictions on the license. Cities, counties and local neighborhood groups began complaining to the ABC about the issuance of alcohol retail locations without their input. Strong pressure was put on the ABC to impose the same application process for a duplicate 23 and master 23 licenses (including local approval) and to limit the number of duplicates issued to a brewery. Due to similar pressure on wineries in the early 2000s, the wine industry had already had their duplicate license reduced to a maximum of one. Because of that, there was discussions by the ABC, stakeholders and the state legislature to limit breweries to a maximum of one duplicate license as well.

## **ASSEMBLY BILL 2010**

To head off an effort to reduce the retail privileges of the duplicate license and to limit the number to one per brewery, the CCBA began negotiations with numerous stakeholders who were advocating for these reductions on the duplicate license. Ultimately the CCBA negotiated a highly favorable solution over what was initially proposed and pushed for by other stakeholder groups. Assembly Bill 2010 was drafted by the CCBA and approved by the legislature in 2014. That new law which stands in place now allows an unlimited number of duplicates for warehousing (no retail sales) and allows a beer manufacturer to have up to six retail licenses (including duplicates exercising the retail privilege) not attached to the brewery. Retail licenses contiguous to the beer manufacturers premise do not count toward the six. There is no limitation on the number of type 01 or type 23 manufacturing licenses that a brewery may have.

## **PROVISIONS in AB 2010**

- Puts a numerical cap on the number of duplicate licenses that may conduct retail privileges **at six. A type 23 or type 01 license holder may have no more than six duplicate licenses with the retail privilege, regardless of how many 23 or 01 licenses you hold**
- **Allows two of the six duplicate locations to be bona fide eating establishment** (which allows sales of wine and other beer)
- Retail sales are any sale or tasting of alcoholic beverages to consumers
- You may have an unlimited number of duplicate licenses without the retail privilege
- A distinct license will be issued for those duplicate license locations that are allowed the retail privilege. Changing the status of a duplicate location from non-retail to retail will require reapplication and reissuance of the duplicate license
- The duplicate license with the retail privilege only allows for the retail privileges allowed on the master license (type 23 or 01).
- For licensees who plan to solely utilize the non-retail privileges at a branch location, the ABC will issue the duplicate license forthwith. The licensee must sign a Petition for Conditional License that restricts the licensee to non-retail activities at that location.

## **APPLICATION PROCESS**

A Beer Manufacturer Temporary Permit *may* be requested when applying for a duplicate license. This will allow you to immediately conduct all but retail privileges at the branch location.

The duplicate license is granted all of the same retail privileges as your master 23. These include all sales of beer to consumers either on or off-premise. You would not be able to conduct any tasting room sales.

Like any retail license application, the duplicate must go through an approval process. How long this process takes depends on how quickly (or slowly) the city/county approve and if there are any protests during the posting of the ABC license. Applications for the duplicate license are ABC-239, ABC-225 and ABC-257NR or ABC 257Retail.

Like any retail license, the Type 23 DR and Type 01 DR are now subject to approval by local cities and counties. The approval by the local jurisdiction and/or a formal protest may delay issuance of the duplicate license. If there are no issues with the license application, the process should take 45-60 days.

### **CODE SECTION**

Code Section 23389 Business and Professions Code

(a) The department may issue to a beer manufacturer a duplicate of its original license for a location or locations other than its licensed premises of production or manufacture. A duplicate license issued by the department authorizes the maintenance and operation of each branch office by the beer manufacturer and shall only have the license privileges set forth in this section. The fee for each duplicate license, regardless of type, shall be as specified in Section 23320.

(b) Subject to the limitations set forth in this section, a licensed beer manufacturer may exercise all of the privileges under its manufacturer's license at branch offices licensed by the department, except for production or manufacture; sales to consumers for consumption on or off the branch office premises, except as provided for in subdivision (c); and the sale of beer and wine to consumers for consumption on the branch office premises where a bona fide public eating place is owned and operated by and for the beer manufacturer, except as provided for in subdivision (c).

(c) (1) A beer manufacturer shall not sell any alcoholic beverages to consumers for consumption on or off the licensed premises, or provide authorized tastings to consumers, at more than six branch office locations, regardless of how many beer manufacturer licenses are held by the beer manufacturer either alone or under common ownership with any other licensed beer manufacturer, and no more than two of the six branch locations may be bona fide public eating places owned and operated by and for the beer manufacturer. A branch office location authorized to sell an alcoholic beverage or provide a tasting to consumers for consumption on or off the licensed premises or that is a bona fide public eating place owned and operated by and for the beer manufacturer before the effective date of the act adding this section, shall be counted against the limit imposed by this subdivision.

(2) A branch office location where consumer tastings or sales for on- or off- premises consumption are authorized shall not sell or serve any alcoholic beverages other than beer that is produced and bottled by, or produced and packaged for, the beer manufacturer.

(3) A branch office location where the sale of beer and wine to consumers for consumption on the premises of a bona fide public eating place is authorized shall not sell or serve alcoholic beverages other than the following:

(A) Beer and wine that is produced and bottled by, or produced and packaged for, the beer manufacturer.

(B) Beer and wine that is purchased by the beer manufacturer from a licensed wholesaler that is not owned, either alone or under common ownership, by the beer manufacturer.

(d) In order to obtain a duplicate license for a branch location or locations with the privileges described in subdivision (c), a beer manufacturer shall submit any application forms as the department may require. Upon request, and upon payment by the beer manufacturer of a fee of one hundred dollars (\$100), the department shall issue to a beer manufacturer a beer manufacturer temporary permit for use at a branch office location during the period the application for a duplicate license with privileges pursuant to subdivision (c) is pending. The beer manufacturer temporary permit shall authorize the beer manufacturer to exercise all of the privileges under the duplicate license except for those privileges described in subdivision (c).

(e) A beer manufacturer temporary permit shall be effective for a period of 120 days and may be extended at the discretion of the department for additional 120-day periods as necessary and upon payment of an additional fee of one hundred dollars (\$100).

(f) In order to obtain a duplicate license for a branch office location or locations without the privileges described in subdivision (c), a beer manufacturer shall submit all application forms as the department may require, and the department shall issue that duplicate license forthwith; provided, however, that any duplicate license issued forthwith by the department shall be contingent on the beer manufacturer consenting to the imposition of a condition that the beer manufacturer shall make no changes in the character or mode of operation of the branch office premises that would directly or indirectly expand the privileges under the duplicate license, such as to include those privileges described in subdivision (c), without notice to and approval by the department. If the department receives any protest concerning the issuance of the duplicate license forthwith under this subdivision, the protest shall be considered as an accusation against the licensee and a hearing had thereon as if an accusation had been filed. Any proposed changes in the character or mode of operation of the branch office premises that would directly or indirectly expand the privileges under the duplicate license, such as to include those privileges described in subdivision (c), shall require reapplication and reissuance of the duplicate license pursuant to subdivision (d).

(g) Notwithstanding the provisions of any other section of this division, a beer manufacturer may continue to exercise privileges at all of its licensed branch offices that were in existence and authorized by the department prior to the effective date of the act adding this section,

including any privileges resulting from any renewal or transfer of the duplicate licenses for the branch locations, that it was authorized to exercise prior to that date.

**SEC. 4.**

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**SEC. 5.**

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

In order to bolster California's economy and to aid struggling businesses in this economically stagnant time, it is necessary for this act to take effect immediately.