

ABC COMMISSION AND ADMINISTRATIVE PROCEDURES

**Joint Legislative Administrative Procedure
Oversight Committee
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Numbers

Currently 18,000 permit-holders / 60,000 permits

FY 2017 – 6,247 cancellations both voluntary and involuntary

10-year Numbers

- **Revocations per ABC database: 7**
Ordered in ALJ decisions: 17
- **Application Rejections**
Per database: 247
Appealed to OAH: 13
Upheld: 6

Different Perspectives

**Greater than 50% of Summary Suspensions,
Application Rejections, and No Longer Suitable cases
are overturned**

Types

Summary Suspension

- OAH – 150B-3(c)
- agency finds that the public, health, safety, or welfare requires emergency action “... may order ... and [is] effective during the proceedings”

Application Rejection

- ABC – 18B-901 and -902

No Longer Suitable

- ABC – 18B-904(e)

For Consideration

Issue	Idea
1. Applicability of APA [18B-906] Portions no longer relevant	Clarify (a) – Exceptions to APA Edit or eliminate (b) – Hearing sites Eliminate (c) – Post-hearing evidence
2. Administrative Penalties [18B-104] Maximum fines have not changed since before 1998	Increase penalties both imposed and negotiated
3. Factors in Issuing Permits [18B-901] (unused) (2) number of places with permits in neighborhood (3) parking facilities and traffic conditions (4) kinds of businesses in area	(2) Define density (3) Somehow not resolved by zoning (4) Vague - could be guided by zoning

For Consideration

Issue	Idea
4. Qualifications for permit [18B-900]	<p>(a)(1) – All applicants must be 21</p> <p>(a)(5) – Allow more types of charges to disqualify</p> <p>(b) – Allow PJC to count as conviction</p> <ul style="list-style-type: none">◆ Have no outstanding violations (or payments)◆ Have no connection / relationship to prior permittee (if pending violations)◆ Have no prior violations as employee
5. Temporary permits [18B-905] Under 18B-903, temporary permits “shall be valid for 90 days”	Amend to allow extensions, contingencies

For Consideration

Issue	Idea
6. Miscellaneous Provisions [18B-904(e)]	
(1) <u>No longer suitable</u> – most used but least clear	(1) Clarification, definition
(2) <u>Urban Redevelopment</u> – rarely used – Hearing by ABC	(3) Criminal charges are not “alcohol” offenses - Clarify decision-maker
(3) <u>Criminal violations</u> – Not contested case under 18B-906 but to comply with 150B	(4) Provide an intermediary hearing before 30 days pass, or Shorten the length of suspension
(4) <u>Immediate 30-day suspension</u> Constitutionality challenged (no lawsuit filed yet)	

For Consideration

Issue	Idea
7. Miscellaneous Provisions [18B-904(c)] Business not operating (from issuance of permit)	Expand to include business in general, <i>caveat</i> - seasonal businesses and those being repaired (fire, hurricane)
A. Official Notice [150B-30] “within the specialized knowledge of the agency”	Clarification, definition of “specialized knowledge”
B. Final Decision or Order [150B-34] “due regard to the demonstrated knowledge and expertise of the agency with respect to facts and inferences with the specialized knowledge of the agency”	Clarification of: Due regard Demonstrated knowledge Inferences Specialized knowledge

**Thank you for allowing the ABC Commission
to be part of the conversation.**