

LAST CALL FOR ALCOHOL

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California is close to passing a new state law that will shake up the time-table for serving and drinking alcohol at restaurants, bars, hotels and nightclubs. It will establish, if passed by the State Assembly and signed by the governor, a pilot program allowing Los Angeles, and six other cities, to serve into the predawn light by extending “**Last Call For Alcohol**” from 2 am to 4 am. If it works in the pilot seven cities it could be extended state-wide. If it works in California, other states may follow.

This month, California Senate Bill 905 (SB 905) was approved by the California Senate. SB 905 creates a five-year pilot program for Los Angeles, West Hollywood, Long Beach, Palm Springs, San Francisco, Oakland, and Sacramento to extend, with or without conditions, on sale selling, giving or providing of alcoholic beverages. Currently, California has a state wide proscriptive law that mandates last call at 1:30 am, close at 2 am. SB 905 must still go to the California State Assembly and Gov. Jerry Brown before becoming law. If passed, it is set to go into effect January 1, 2021.

Even with a few more steps to go, SB 905 acknowledges that how these cities drink and where is changing and our laws constraining licensee owners have to tune in to these changes. As Beaches West Hollywood’s Beverage Director, Aidan Demarest, said in a article published in -----the April 10, 2018 Eater LA Article, *West Hollywood Opposes Potential 4 am Last Call Extension* , “LA is becoming a more sophisticated city with public transportation and Uber. We should be afforded a later curfew accordingly.”

The most important consideration in the journey of SB 905 to law is that its aim isn’t necessarily to extend drinking hours statewide but instead recognizes each city’s individuality. SB 905 gives the seven pilot cities complete autonomy to set conditions not only on the provision of alcohol

but geographically. As these cities, and others in the state of California have gentrified, streets and/or areas have become hubs for daytime commerce and late night social activities. SB 905 would allow each city to extend drinking hours to 4 am per street or area in ways that best suit the late night atmosphere and vibe of their city.

SB 905 in its pilot program roll out would not be a blanket extension of selling hours. Instead, it would be a separate Additional Hours license for the sale and/or provision of alcoholic beverages. Licenses that are subject to conditions restricting sales to specific hours will not be eligible to apply for the extend license. Applicants that were approved for the extended license will be required to complete a responsible beverage training course. Off-sale privileges are not subject to extension under SB 905 at all.

Opposition to the bill raises concerns of more drunk drivers, more public nuisances, a potential bigger strain on police force resources. This strain however was contemplated in the design of SB 905 with section 5 providing for additional funding for law enforcement in areas where the Additional Hours Licenses is issued.

A more prescient concern is the limitation of the additional hours to seven cities. Capt. Sergio Aloma of the West Hollywood Sheriff's Station, who has spoken out against SB 905 has questioned assumptions that the bill would have an impact on only those cities participating in the pilot program. He pictures a scenario of patrons closing up in a city at 2 am then taking to the road to find a bar in a city with the extended hours, thus putting more drunk drivers on the road.

One of the considerations in granting the Additional Hours License is proximity to public transportation. This should be a major factor in SB 905 overcoming any hurdles set forth by the opposition. The last decade has seen an increase in successful anti drunk driving campaigns, and the practice of ride sharing has turned the names Uber and Lyft into verbs. These verbs should be fuel for the state of California to utilize the Additional Hours License as a means to increase revenues and jobs, not to mention the importance of keeping these pilot cities relevant and current with trends throughout the United States.

The true impact of these oppositional concerns can be weighed in reality rather than speculatively. SB 905 mandates reports by 2025 from both CHP and the participating city on the regional impact on cost, crime, and specifically arrests for driving under the influence.

For NALCP members operating in California, particularly in the pilot cities of Los Angeles, West Hollywood, Long Beach, Palm Springs, San Francisco, Oakland and Sacramento, SB 905 is a potential revenue-generating boom within these additional hours of sales. It is also incumbent on NALCP members to manage and mitigate the potential risks associated with these extra hours. It would be important, for members operating in California, to discuss with general counsel and executive staff to determine a management and mitigation plan. Programs that provide incentives to patrons that ride share might be a place to begin.

Another consideration, as we wait out the final steps before SB 905 likely becomes law, is for members to confirm additional insurance for the extended hours selling alcohol. For those members with restrictive ABC licenses or conditions on their ABC licenses or conditions on their CUPs, now is the time to be proactive.

Modifying restrictive conditions and making sure that your license allows alcohol sales until 2 am puts you in a position to take advantage of the extended hours if you later chose to seek an Additional Hours License.

Whatever you choose to do, however you choose to take advantage of SB 905, seek out knowledgeable counsel to maximize your profits and to minimize your risks. When the conference gets to Los Angeles, we'll have that last drink at four am and Uber home together!

(Note: SB 905 is not yet signed into law and may be subject to minor and/or significant modifications and changes. The discussion above reflects SB 905 as currently amended and approved by the California State Senate. It is now before the Assembly and if approved will go to the Governor's desk for signature. Solomon, Saltsman & Jamieson will continue to monitor the language of SB 905. If any members have specific questions please don't hesitate to contact the authors.)

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