

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

**A. GENERAL INFORMATION**

1. Date	2. Department
2019-05-24	Department of Alcoholic Beverage Control

3. Organizational Placement (Division/Branch/Office Name)

Licensing Division

4. CEA Position Title

Licensing Division Chief

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

The Department of Alcoholic Beverage Control's (ABC) primary mission is to administer the provisions of the Alcoholic Beverage Control Act in a manner that fosters and protects the health, safety, welfare and economic well-being of the people of the State. ABC proposes to establish a Licensing Division Chief to oversee all licensing functions for the Department, manage the centralization of non-retail licensing, and establish the non-sworn training unit. This new Division's workload will constitute half of the Department's program functions (the Enforcement Division constitutes the other half). The position will report directly to the ABC's Chief Deputy Director. The Licensing Division will improve departmental efficiency and service to the public, as well as ensure consistency statewide through a more appropriate, better trained, and mission-driven chain of command.

6. Reports to: (Class Title/Level)

Director/Chief Deputy Director

7. Relationship with Department Director (Select one)

Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.

Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

8. Organizational Level (Select one)

1st  2nd  3rd  4th  5th (mega departments only - 17,001+ allocated positions)

**B. SUMMARY OF REQUEST**

**9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.**

Plan, direct, and supervise the statewide field offices and specialized units within the Licensing Division.

Develop, revise, make recommendations, implement, and oversee consistent applications of policies relating to the core functions of the Department's Licensing Program. Assist in the development and implementation of rules and regulations that impact the Department. Confer with the Director on policy issues.

Review reports and correspondence submitted by field office and specialized unit personnel for the purpose of ensuring uniform application of, and compliance with, the ABC Act and rules and regulations relative to the investigation of applications, licensees, premises, and trade practices.

Develop and maintain active and open communication with stakeholders, including the public, members of the alcohol industry, allied agencies (including law enforcement), public interest organizations, and elected officials. Respond to industry and public inquiries, and represent the Director at conferences and meetings.

Participate in personnel selection and allocate resources within the Licensing Division. Develop staff through training and mentoring, prepare performance evaluations, and utilize the progressive discipline process when necessary.

Prepare detailed and comprehensive reports and correspondence.

**B. SUMMARY OF REQUEST (continued)**

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: The Department of Alcoholic Beverage Control was formed in 1955 and is vested with the exclusive authority to regulate the alcoholic beverage industry. The Department currently has more than 92,000 licensees; these licensees employ more than 2 million Californians and generate in excess of \$100 billion in revenues. The Licensing Division is responsible for helping new businesses open and existing businesses to grow and expand, while being mindful of its regulatory charter to thoroughly investigate license applications to ensure only qualified applicants are put into business at locations acceptable to the local community and the State. This is a complex and highly technical field that is crucial to California's economic and social prosperity.

**B. SUMMARY OF REQUEST (continued)**

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

The alcoholic beverage industry is continuously growing and changing. California continues to be the world leader in wine-making, its restaurant industry remains prosperous, and the craft beer industry is flourishing. Members of the alcoholic beverage industry have voiced concerns to the Department about the need for additional staffing and stronger program oversight. Staffing shortages and the Department's current organizational structure, which does not have a separate Licensing Division, causes delays for new and emerging business and leads to inconsistencies in licensing decisions throughout the state. This in turn creates a negative impact on the local and state economy, as well as a significant risk to the Department's ability to carry out its legislatively mandated mission of ensuring public safety.

Historically, the Department has utilized sworn peace officers to conduct both enforcement and licensing investigations. In 1992, the Department began the "bifurcation" project, which was designed to improve the Department's performance by transitioning licensing functions to non-sworn staff (i.e., staff other than the Department's peace officers), thereby: reducing costs of the licensing program, creating a better job fit for sworn staff, increasing retention of sworn staff, and reducing licensing delays. By 2004, licensing investigations were handled exclusively by the Licensing Representative classification. The next phase of bifurcation introduced non-sworn supervisors to oversee Licensing Representatives, and by 2018 most district office licensing units are overseen by a Staff Services Manager I (SSM I). Staff Services Managers currently report to sworn Supervising Agents in Charge ("District Administrators"), who have historically had final authority over licensing decisions in their respective districts. The current Supervising Agents in Charge began their careers before bifurcation was completed at the line level, so they have background in licensing work. Approximately 50 percent of these Supervising Agents in Charge will be eligible to retire within 5 years, however, and their successors will not have expertise in licensing. This will result in a lack of licensing experience at the supervisory level.

Supervising Agents in Charge currently oversee the licensing operations in their specific districts. Licensing investigations can be extremely technical. The Supervising Agents in Charge review applications with potential tied-house issues to prevent illegal associations, and this involves analysis of complex business structures and ownerships around the nation and the world. They are often the final decision makers on whether to recommend issuance of a license in their districts, often requiring them to interpret and explain technical statutes to local stakeholders and governing bodies. The Supervising Agents in Charge are often required to participate in community meetings and speak on behalf of the Department for licensing matters. The current ranks of Agent and Supervising Agents ("Supervising Investigators") have little to no understanding of licensing investigations due to this function having been removed from their job duties approximately 15 years ago. When the current Supervising Agents in Charge with licensing expertise retire, they will be backfilled through promotion by Supervising Agents who do not have that expertise. In fact, this has already begun, when in 2017 the Department for the first time promoted a Supervising Agent to Supervising Agent in Charge who had no licensing experience. This is creating a licensing program where the managers have insufficient knowledge of licensing statutes, practices, and procedures. This will create delays in the issuance of licenses, create errors in the issuance and denials of licenses, and allow for licenses to issue in conflict with the State and local laws.

In order to remedy this, the next step of bifurcation is to create Staff Services Manager II and III positions that would be responsible for the licensing program over large geographic areas. The creation of the Licensing Division and establishing a Licensing Division Chief position will enable the Department to implement a plan to complete the bifurcation process. Pursuant to the currently proposed 2019-2020 budget, the Licensing Division Chief will be established in fiscal year 2019-20 to manage the centralization of non-retail licensing and establish the non-sworn training unit in preparation of beginning the shift of sworn middle-management responsibilities to non-sworn managers in 2020-21. The centralization of the non-retail licensing will include supervision of the Trade Enforcement Unit to ensure successful transition of some of the responsibilities of this program to the non-sworn staff. There is a growing need to complete the bifurcation process at the management and executive level, and this proposal would address the necessary oversight of the Licensing Program.

### **C. ROLE IN POLICY INFLUENCE**

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The Licensing Division Chief plays a key role in ensuring consistent and appropriate implementation and application of newly enacted laws. The position will regularly be assigned to develop and draft policy to address and implement provisions of newly-enacted legislation and regulation within the ABC Act. Dozens of bills are enacted each legislative session that significantly impact the Department's operations, often times with a significant degree of complexity, ambiguity, and potential for misapplication if not accompanied by clear, sound direction to staff.

The Licensing Division Chief will be regularly called upon to lead and otherwise participate in working groups assigned to research and propose policy for the regulation of the alcoholic beverage control industry. These policies will take the form of formal regulatory packages that must be approved under the Administrative Procedures Act, as well as internal guidelines for the process of license issues. The Department's regulations are not only designed to ensure public welfare, but they are also necessary to give businesses guidance on how to comply with the law, and industry groups constantly request regulatory guidance. Some examples that will be directly overseen by the Licensing Division Chief include:

- Regulations for alcohol delivery services;
- Regulations for the conduct of advertising over the internet and on social media;
- Regulations pertaining to cannabis in and around ABC licensed premises;
- Guidelines on how to process new license types; and
- Guidelines on how to apply the Department's newly enacted fee structure, which is changing dramatically in 2019-2020.

The Licensing Division Chief will also be responsible for the implementation of significant IT projects that are contained in the 2019-2020 budget proposal. These projects are not only complex standing alone, but also in how they interact with the Department's current licensing process performed by Licensing Representatives and as integrated with the Department's licensing software. Their success is crucial to the Department's modernization project, developed in conjunction with the Department of Finance, to be implemented over the next four years. They include:

- Electronic payment (the Department currently accepts only paper payments in the form of 150,000 physical checks per year);
- On-line applications (there are currently none); and
- Industry reporting (beer-price posting and wine grape-growers reports).

The Licensing Division Chief will be continually called upon to consider, propose, and implement policy that streamlines and improves methods for processing, investigating, and reviewing the thousands of applications made each year for temporary and permanent alcoholic beverage licenses, while accounting for unique, complex and varying legal requirements that impact processes. Their expertise and understanding of priorities for processing applications makes the Licensing Division Chief a critical part in the Department's ongoing effort to protect local communities adequately without needlessly delaying or hindering entrepreneurial, economy-building projects in local communities throughout the state.

**C. ROLE IN POLICY INFLUENCE (continued)**

**13. What is the CEA position's scope and nature of decision-making authority?**

The Licensing Division Chief will have oversight of the statewide licensing program and specialized units, for which, on a daily and regular basis, the position will make executive-level management decisions regarding mission-critical issues. This position will handle issues that are deemed sensitive, political, high profile, critical, and that have liability implications for the ABC; issues arising to this level are usually problematic and often political. As such, on a daily basis, the position will make independent decisions to ensure such matters are handled efficiently and appropriately. The core functions of licensing require fair and consistent application and adherence to statute; these positions ensure that we are doing so and we are consistent statewide.

Some examples include the ultimate decision to deny a license in the face of local political pressure to grant it, or to grant one in the face of protests by highly-connected individuals or competitors. A specific example occurred last year when the Department denied several licenses on the basis of the applicants proposals to conduct a business in which tobacco was concerned; the head of the division that made the decision (currently a sworn peace officer) did so despite lobbying from members of Congress, the State Legislature, and others, and had to work closely and carefully with them and the Governor's Office to handle the matter in a manner that was not only technical accurate, but also with diplomacy.

**14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?**

The Licensing Division Chief plays a key role in ensuring consistent and appropriate application of newly enacted laws. They are regularly assigned to develop and draft policy to address and implement provisions of newly enacted legislation and regulation within the ABC Act. The Licensing Division Chief will be regularly called upon to participate in working groups assigned to research and propose policy for improved efficiency and professionalism for the Department in its Licensing Program. The Licensing Division Chief will be continually called up on to consider, propose, and implement policy that streamlines and improves methods for processing, investigating, and reviewing the thousands of applications made each year for temporary and permanent alcoholic beverage licenses, while accounting for unique, complex and varying legal requirements that impact processes.