

How much authority do local governments have over alcohol outlet density?

East County Community Change Project • February 2004

According to state law, it is up to local government to determine if there is a need for more bars or liquor stores in high crime or over concentrated areas. Given public health and safety concerns, local governing bodies should not take this question of *need* lightly.

In 1994 the California State Legislature adopted Section 23958 of the Business and Professions code signaling recognition of the link between the undue concentration of alcohol outlets and a myriad of public safety and crime problems. This statute provides a valuable tool that allows individual communities the power to control the number of off-sale alcohol outlets in their neighborhoods.

State Control

In the State of California, a determination of “Public Convenience or Necessity” is required for alcohol licenses located in high crime or over concentrated

When a local agency finds that the public convenience or necessity will not be served by a new license, that by itself precludes issuance of the license.

areas. The California Department of Alcohol Beverage and Control makes the determination of public convenience or necessity for restaurants, hotels, motels, and other lodging establishments. Business and Professions Code 23958 requires the ABC to deny applications for new licenses and applications for transfers where the premises in question are in a high crime area or an area with an undue concentration of licenses.

Local Control

Local governments make the determination of public convenience or necessity for any other license including off-sale licenses and bars. If the local agency makes the determination of public convenience or necessity, the ABC may issue the license despite the undue concentration. If, however, the local agency finds that the public convenience or necessity would not be served by issuance of the license, that by itself precludes issuance of the license. Therefore, in areas of undue concentration, the local government may prevent issuance of a liquor license for off-sale establishments and bars by making the determination that the public convenience or necessity would not be served by issuance of the license.

However, the definition of Public Convenience or Necessity is not defined by state law. Rather local municipalities must determine what constitutes public convenience or necessity for their community.

Once a governing body defines PCorN for the purposes of their community it is then up to the license applicant to prove that they meet the public convenience and necessity requirements. Without a clear definition of PCorN, there is a risk that decisions will be made arbitrarily, with minimal consideration of the long term impact.