

Date of Hearing: March 23, 2022

ASSEMBLY COMMITTEE ON ELECTIONS  
Isaac G. Bryan, Chair  
AB 2037 (Flora) – As Introduced February 14, 2022

**SUBJECT:** Polling places: alcoholic beverages.

**SUMMARY:** Allows an elections official to establish a vote center or a polling place in a location where the primary purpose is the sale and dispensation of alcoholic beverages. Specifically, **this bill** deletes provisions of existing law that prohibit a place from serving as a polling place if the primary purpose of the establishment is the sale and dispensation of alcoholic beverages.

**EXISTING LAW:**

- 1) Defines a polling place to mean a location where a voter casts a ballot and includes the following terms, as applicable: poll, polling location, and vote center. Permits a polling place to serve more than one precinct.
- 2) Requires an elections official, at least 29 days prior to an election, to designate a polling place for each precinct, except as specified.
- 3) Prohibits an establishment where the primary purpose is the sale and dispensation of alcoholic beverages from being used as a polling place and prohibits a polling place from being connected by a door, window, or other opening with any place where any alcoholic beverage is sold or dispensed while the polls are open.
- 4) Prohibits a candidate's residence from being designated as a polling place for an election at which that candidate's name will appear on the ballot.
- 5) Prohibits a single-family residence from being designated as a polling place if elections officials determine that it has the registered address of a person who is required to register pursuant to the Sex Offender Registration Act, as specified.

**FISCAL EFFECT:** None. This bill is keyed nonfiscal by the Legislative Counsel.

**COMMENTS:**

- 1) **Purpose of the Bill:** According to the author:

Counties need the option to carry out elections at as many venues as possible despite the location's other activities that occur during their non-voting hours. Locations like social halls, commercial buildings, event centers, and various social venues can be incredibly beneficial to communities that are looking to increase voting accessibility and fill in gaps of locations that may have been lost during economic or climate related damage.

- 2) **Previous Legislation and the 2020 General Election and 2021 Statewide Recall Election:** Due to concerns that conducting in-person voting during the spread of COVID-19 could threaten the health and safety of voters, election workers, and the public generally, the Legislature approved and Governor Newsom signed bills that made significant changes to the way that the state conducted the November 2020 presidential general election. Notably, SB 423 (Umberg), Chapter 31, Statutes of 2020, authorized changes to in-person voting requirements and allowed flexibility for determining polling locations, among other provisions. Specifically, SB 423 exempted county elections officials from a long-standing prohibition in existing law that prohibits a county elections official from establishing a polling location at a venue or facility where the primary purpose is the sale and dispensation of alcoholic beverages.

Last June, SB 152 (Budget Committee), Chapter 34, Statutes of 2021 continued that policy for elections held prior to January 1, 2022, including the September 2021 statewide recall election. This bill repeals the prohibition in existing law and allows an elections official, for all future elections, to establish a polling place or vote center at a location where the primary purpose is the sale and dispensation of alcoholic beverages. This bill does not, however, alter a provision of existing law that prohibits a polling place from being connected by a door, window, or other opening with any place where any alcoholic beverage is sold or dispensed while the polls are open.

- 3) **Usage Data:** As mentioned above, previous legislation temporarily authorized a county elections official to use a location whose primary purpose is the sale and dispensation of alcoholic beverages as a polling location. According to data from the sponsors of this bill, approximately 20 counties used this exemption for the 2020 November general election and 20 counties used it for the 2021 September statewide recall election. As a result, there were roughly 169 new in-person voting locations between the two elections. According to the data provided to the committee, these locations included hotel or casino conference rooms, restaurants, veterans' banquet halls, elks clubs, country clubs, or other social halls.
- 4) **Legislative History:** As stated above in the existing law section of this analysis, current law prohibits an establishment where the primary purpose is the sale and dispensation of alcoholic beverages from being used as a polling place, and prohibits a polling place from being connected by a door, window, or other opening with any place where any alcoholic beverage is sold or dispensed while the polls are open. Despite being slightly modified and modernized, this prohibition has been in the law since 1889. Specifically, Section 1131 of the Political Code stated "in no event shall any place be selected for holding an election that is in a saloon or other room or place where vinous, spirituous, or malt liquors are sold or dispensed, nor shall any place be selected for such purpose that is connected with a saloon or other room or place where vinous, spirituous, or malt liquors are sold or dispensed, by any door, window, or other opening." In 1939, the prohibition was moved from the Political Code into the Elections Code and amended to state, "A polling place shall not be any place where any alcoholic beverage is sold or dispensed. A polling place shall not be connected by a door, window or other opening with any place where any alcoholic beverage is sold or dispensed." Over the decades this prohibition has been slightly modified and was last altered in 1984.

- 5) **Arguments in Support:** The sponsor of this bill, the California Association of Clerks and Election Officials, writes in support:

Current law prohibits polling places and vote centers from being in locations where alcoholic beverages are sold. Temporary changes in legislation in response to the pandemic allowed counties to use these community centers, veteran halls, and lodges that were not available in the past due to alcohol serving restrictions to be available for voters to cast their ballot in person. This includes facility usage in historically underserved communities and older, established neighborhoods where facility options are limited...

As voter registration numbers continue to grow statewide, more in-person voting locations are required to conduct safe, secure, and accessible elections for all voters who choose to vote in person or register to vote. AB 2037 allows election officials to utilize these locations that are already well known to the community.

- 6) **Arguments in Opposition:** In opposition to this bill, Alcohol Justice writes:

We have a number of concerns with anointing bars and restaurants as polling places:

**Alcohol licensees are not politically neutral.** Because alcohol policy is a live and active point of debate, and often central to candidates' platforms and public relations efforts, bars and restaurants have stakes in the political process above and beyond simple civic engagement. A politician whose platform included green policy would rightfully object were voters to line up in Exxon's offices. While election law only bans political advertising, it is easy to foresee a circumstance—for instance, a proposition asking to levy an alcohol tax increase—in which the native advertising in many alcohol outlets serves as proxy political advertising.

**Entering a bar can be a triggering or traumatic experience.** Most prominently, individuals in recovery are often encouraged to avoid places where alcohol is sold, and would experience distress when forced to. The burden should be on the state to ensure that all voting options are convenient and impose as little impact on the voter as possible, and that includes considerations of the nature of the appointed polling locations.

**This bill does not relieve any pressures on the electorate.** As Cal Matters reported in October 2020, not only was there no deficit of eligible polling places in California, there was a broad effort by many jurisdictions to shutter existing sites. While we support any effort to simplify voting, there is little evidence that appointing bars and restaurants as polling places would accomplish that.

**Because this bill has the potential to distort electoral results and discourage or disenfranchise a segment of the voting population, as well as increase the consumption of alcohol which can lead directly to increased alcohol-related**

**harms, we ask that you vote NO on AB 2037.**

- 7) **Double-Referral:** This bill has been double-referred to the Assembly Committee on Governmental Organization.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Association of Clerks and Election Officials (sponsor)

**Opposition**

Alcohol Justice

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