

Update Bulletin

California Assembly Bill 183 regarding Self-Checkout and Alcohol Sales

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Issue 3

Updated: California's Alcoholic Beverage Control has released an advisory, which appears to slam the door on any merchants selling **any** alcohol to **any** customer at **any** self-checkout stand at **any** time. This is the broadest possible interpretation — likely broader in fact than is actually written in the law — but unless and until lawsuits bring the ABC back into line with the intent of the bill, the attached letter (final page of this Update) is the way the law will apparently be enforced.

California Assembly Bill 183 was signed into law in September. This bill amends California's Alcoholic Beverage Control Act by restricting sale of alcoholic beverages via self-checkout. The cited purposes of the change are to limit theft (and thereby tax revenues), underage drinking and purchase of alcohol by intoxicated persons.

The law goes into effect on January 1, 2012.

The specific text within AB 183 reads:

SEC. 2. Section 23394.7 is added to the Business and Professions Code, to read:

23394.7. No privileges under an off-sale license shall be exercised by the licensee at any customer-operated checkout stand located on the licensee's physical premises.

California retailers using self-checkout will therefore need to adjust their operation so that shoppers using these devices cannot self-scan alcoholic beverages.

U-Scan provides a facility to prevent items (or manufacturer codes) from being scanned into orders by shoppers via the U-Scan robots, using a "black-listing" procedure. Please see the [Technical Bulletin on this topic \(Dec11NOS-2.pdf\)](#) for specifics on how to implement this feature.

With this method, *cashiers* can enter these products into a shopper's order via U-Scan's "Direct Mode" where an item's sale is performed by the cashier at the robot. The shopper is prompted to give the item to the cashier, who must go into Direct Mode and re-scan the item and confirm the shopper's ID. Since the cashier – not the shopper – is operating the checkout stand, the text of the law appears to allow this option, which would thereby meet both the spirit and letter of the law.

An alternative to the black-list method above is to assign the permanent "cashier" for U-Scan an under-age spec (U-Scan runs with a single on-going cashier). This will add a second prompt to the standard restricted sale/age ID prompts. Obviously, this is faster and simpler to implement, and can stop any alcohol item.

However, this method will **not** force a re-scan by the cashier (the cashier can simply override and okay the transaction). So if the store intends to sell

alcohol – instead of simply prohibit it – this may not be considered an appropriate solution since the shopper’s original item scan would remain, as approved, in the transaction.

REGARDLESS, STORENEXT RECOMMENDS THAT THE MERCHANT’S MANAGEMENT AND LEGAL ADVISORS DETERMINE A PLAN BASED ON THEIR OWN READING OF THE CALIFORNIA REGULATIONS.





INDUSTRY ADVISORY

Business and Professions Code Section 23394.7 “Self-Service Checkouts”

On January 1, 2012, Section 23394.7 of the Business and Professions Code goes into effect. This new provision was added to the ABC Act by Assembly Bill 183 (Ma) and regulates the sale of alcoholic beverages through the use of “customer-operated” checkouts at off-sale licensed premises. The section reads as follows:

23394.7. No privileges under an off-sale license shall be exercised by the licensee at any customer-operated checkout stand located on the licensee’s physical premises.

The purposes behind this law include preventing minors from purchasing alcoholic beverages, denying obviously-intoxicated patrons from buying alcoholic beverages, and preventing the theft of alcoholic beverages, by ensuring that alcoholic beverages are sold only in circumstances in which substantial interaction between the purchaser and a sales clerk occurs.

It is clear that a “customer-operated checkout stand” means a checkout stand or station that is designated for operation by the customer. Such checkout stands are commonly referred to as “self serve” or “self service” checkout stands. While retailers do monitor these customer-operated checkout stands and provide assistance to the customer as necessary to conclude any given transaction, including the purchase of alcoholic beverages, such monitoring or oversight does not satisfy the language and intent of the statute. Accordingly, no alcoholic beverages may be sold through any checkout stand that is enabled to allow operation by the customer at the time the customer’s check-out transaction commences or at any point during the check-out process.

The Department recognizes that customers do engage in certain aspects of the point-of-sale procedures even at checkout stands fully staffed and operated by store employees, such as swiping credit or debit cards and authorizing payment, or bagging their own groceries. The Department does not believe such involvement by the customer at a fully staffed checkout stand falls within the scope of customer-operated checkout stand.