



COUNTY OF FRESNO

Lisa A. Smittcamp
District Attorney

NEWS RELEASE

FOR IMMEDIATE RELEASE

September 8, 2020

District Attorney Declines to File Criminal Charges Against Four (4) Restaurants Cited by California Department of Alcoholic Beverage Control

Fresno County District Attorney Lisa Smittcamp declined to file criminal charges requested by the California Department of Alcoholic Beverage Control (ABC) regarding four (4) Fresno County restaurants that were recently cited by the agency for failure to comply with state mandated regulations during the COVID-19 pandemic.

The reason for the declination of criminal charges was multi-faceted and involved many legal issues regarding the insufficiency of evidence and the fact that there are several administrative (non-criminal) remedies that the State of California and the ABC can take without bringing these hard working individuals into the criminal courts.*

In making this decision, DA Smittcamp issued the following statement:

“The legislature of the State of California and Governor Newsom continue to create and implement policies that promote the de-criminalization of activities that many in law enforcement consider to be harmful to the health and safety of Californians, yet they want to make criminals out of people who are trying to make a living, keep their employees working, and attempting to stimulate our local economy while also respecting the health and welfare of our community.

Each one of these establishments cited by ABC has worked with the Fresno County Department of Public Health to become compliant with the ever-changing, and sometimes confusing, regulations set out by the state. Under these circumstances, I will not make criminal this type of conduct during this difficult time in our state.”

The Media may email FCDAMedia@fresnocountyca.gov with any questions.

*ABC Penalty Policy Guidelines

The California Constitution authorizes the Department [ABC], in its discretion, to suspend or revoke any license to sell alcoholic beverages if it shall determine for good cause that the continuance of such license would be contrary to the public welfare or morals. The Department may use a range of progressive and proportional penalties. This range will typically extend from Letters of Warning to Revocation. These guidelines contain a schedule of penalties that the Department usually imposes for the first offense of the law listed (except as otherwise indicated). These guidelines are not intended to be an exhaustive, comprehensive or complete list of all bases upon which disciplinary action may be taken against a license or licensee; nor are these guidelines intended to preclude, prevent, or impede the seeking, recommendation, or imposition of discipline greater than or less than those listed here in, in the proper exercise of the Department's discretion.

Higher or lower penalties from this schedule may be recommended based on the facts of individual cases where generally supported by aggravating or mitigating circumstances.

Aggravating factors may include, but are not limited to:

1. Prior disciplinary history
2. Prior warning letters
3. Licensee involvement
4. Premises located in high crime area
5. Lack of cooperation by licensee in investigation
6. Appearance and actual age of minor
7. Continuing course or pattern of conduct

Mitigating factors may include, but are not limited to:

1. Length of licensure at subject premises without prior discipline or problems
2. Positive action by licensee to correct problem
3. Documented training of licensee and employees
4. Cooperation by licensee in investigation

SOURCE: www.abc.gov/law-and-policy/penalty-guidelines/
