

SF WEEKLY

News Dining Music Culture Film Podcasts Events Best of SF Cannabis [SEARCH](#)

DINING

How Will Bars Bounce Back?

A bevy of proposed laws could help bars, restaurants, and venues spring back to life. The first step? Making outdoor dining permanent.

by Benjamin Schneider • 03/17/2021 1:55 pm - Updated 03/17/2021 2:44 pm



On sunny days, Elixir's customers used to look longingly at the sidewalk. Now, they have no choice but to enjoy their beverages outside. (Photo: Courtesy of Elixir)

On sunny days, H. Joseph Ehrmann and his customers at Elixir used to look longingly at the sidewalk. The cocktail bar, at the corner of 16th and Guerrero in the Mission, has a southern exposure “with great afternoon sun,” but bar patrons were not allowed to step outside with their drinks — even as Dolores Park-bound partiers strolled by, tall boys in hand. Then came the pandemic, which prompted California to temporarily relax its outdoor alcohol regulations. All of a sudden, Ehrmann’s customers had no choice but to enjoy their beverages outdoors.

“I’ve owned Elixir for almost 18 years now and I was always frustrated you couldn’t take a beer on the sidewalk,” Ehrmann says. “This is a city where we should be able to do that.”

As the pandemic (hopefully, maybe) begins to recede, San Francisco’s top officials are proposing legislation that would make outdoor dining and drinking permanent, among a host of other alcohol regulation updates. The intent, according to State Sen. Scott Wiener, who is leading the charge at the state level, is not only to help the restaurant and nightlife industry recover from their worst year ever, but also to sustain the celebratory public life that has bloomed on formerly barren stretches of pavement.

“We’ve learned a lot and realized what’s important in life: being with our family and our friends, and just being around other people and having those kinds of community gatherings,” Wiener says. “And so we want to just give cities the flexibility to be able to make that happen.”

The Proposed Laws

While Wiener is better-known these days for wading into the weeds of housing policy, he has also been a longtime ally of the nightlife industry. As a city supervisor, he requested an [analysis](#) of the economic impact bars and clubs had on the city, which the industry uses to this day in its advocacy efforts. After becoming a state senator, he twice tried and [failed](#) to extend last call in California’s big cities until 4 a.m. It’s a crusade that Wiener describes using the same technocratic terms — like “streamline” and “modernize” — he uses when pushing his housing proposals.

“We have a very old structure for alcohol in California,” Wiener says. “There are portions of it that are more than 100 years old, and portions of it that went into effect at the end of prohibition.”

Wiener still has a laundry list of changes he’d like to make when it comes to how the state regulates alcohol and nightlife, including the 4 a.m. push, although he doesn’t expect that to happen this year. “Over a couple of years, we did a fair amount of outreach to stakeholders, local governments, business owners, advocates, government agencies, and we came up with a massive list of provisions that could use updating and modernization, which could take the form of probably 30 or 40 different bills,” Wiener says. After the pandemic hit, however, he decided to narrow his focus, emphasizing “policy changes that could help bars, restaurants and cafes come out of COVID more successfully.”

Originally conceived as a single bill, the Bar and Restaurant Recovery Act has been split into two. The first, SB 314, would make permanent the temporary, pandemic related regulations allowing restaurants to provide full service (including alcohol) outdoors, and extend those rights to bars that don’t serve food. The bill would loosen regulations around catering, make it much easier for multiple bars or restaurants to share spaces with one another or non-alcohol serving businesses, and speed up alcohol permitting.

The other bill, SB 793, specifically targets music venues and special events. The bill would create a new alcohol license specially tailored to music and performing arts venues, ensuring that they don’t have to also include a full-service kitchen. It would also allow cities to designate certain areas, at certain times, as open container zones.

Yet another proposed state law, SB 389, from Napa Senator Bill Dodd, would permanently legalize takeout cocktails, as long as they are served with a meal.

At the city level, San Francisco Mayor London Breed, together with Supervisors Ahsha Safaí and Raphael Mandelman, are introducing legislation to make the city’s Shared Spaces program permanent. While still in the early stages, the law would eventually require businesses that have taken advantage of the program to pay a fee to use the outdoor space, and [follow](#) stricter design and usage regulations.

Together, these laws could radically change the financial picture for bars, restaurants, and venues. The Bar and Restaurant Recovery Act will be “incredibly helpful for us,” says Ben Bleiman, owner of Teeth and Soda Popinsky’s and head of San Francisco’s Entertainment Commission. (He emphasized that his views don’t represent those of the commission.) “It does a number of things that will allow us to recover right when we need it the most. It clears up a bunch of unnecessary red tape that would stop us from being able to recover.”



Musicians performing outside of Elixir (Courtesy photo)

Outdoor Drinking

Talk to a bar or restaurant owner about their outdoor dining parklet, and you might think you're talking to a lost backpacker who's just been found by a search and rescue team.

“Without being open outside I'd be fucked,” says Michael “Spike” Krouse, owner of Madrone Art Bar on Divisadero. “That has allowed me to at least stop the bleeding.” A recent survey conducted by the city [found](#) that 80 percent of businesses that used the Shared Spaces program said it helped them avoid closure. Nearly all — 94 percent — of business owners said they'd like to keep their Shared Space open even after resuming indoor service.

If patrons remain wary of crowded spaces, outdoor service would allow these establishments to more quickly serve as many customers as they did pre-pandemic. “We'll see how long it takes for people to get comfortable,” Elixir's Ehrmann says. “We're not gonna be back to elbow-to-elbow partying for a long time.”

Eventually, it could help them recoup the losses incurred over the past year and counting. “Outdoor service will be crucial to have better sales in a year or two, to make up for the horrible two, two-and-a-half years we're gonna have,” says Debi Cohn, owner of Asiento in the Mission.

But no matter how much city officials want outdoor dining and drinking to stay — the Board of Supervisors unanimously voted to support the Bar and Restaurant Recovery Act, a rare feat — those regulations are governed at the state level. Soon after the pandemic began, the California department of Alcoholic Beverage Control (ABC) created emergency rules that allowed restaurants to provide full service outdoors without requiring special permits. In order to take advantage of these rules, bars have to serve food with every drink purchase — although those rules [changed](#) last weekend.

“It's really hard for us to understand how a plate of guacamole stops COVID from spreading,” Bleiman says. Bleiman and other bar owners hope these regulations will be updated to better reflect the city's current needs, and not just the letter of laws “that have been on the books for 75 years,” he says. “We're serving outdoors now, we took over space, and the city did not light on fire.”

Lingering Concerns

Despite being a valuable addition to their businesses over the past year, outdoor dining and drinking hasn't always been seamless for restaurants and bars. “Any little weather issue causes me grief,” Cohn says. Mat Schuster, owner of Canela in the Castro, says he and other restaurant owners in the neighborhood have had to deal with a steady stream of vandalism and “shitty street behavior” in their outdoor dining areas. “If it becomes

too difficult to maintain the parklet because I'm constantly having to clean up graffiti and sanitize it because of bad behavior, then I'm going to take it down," Schuster says.

Disability advocates have raised concerns about outdoor dining areas impeding access for blind people or people who use wheelchairs, [noting](#) that these setups are safer in repurposed parking spaces than on the sidewalk. And then there's the noise issue. "I do empathize with the neighbors," Cohn says. "Now the party is not inside, it's outside." She thinks any move to make outdoor dining and drinking permanent should include "reasonable noise guidelines."

At the state level, Wiener's efforts to loosen alcohol regulations are not without opposition. "We've been fighting lots of Mr. Wiener's bills over the years, but in particular, the ones that tried to extend last call," says Michael Scippa, public affairs director for Alcohol Justice, an alcohol industry watchdog group. "So, from our perspective, it feels like he's moved off of drink anytime, to drink anywhere."

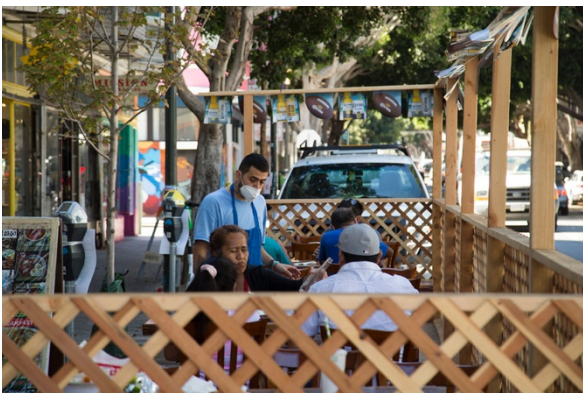
Alcohol Justice is concerned with all efforts to increase the availability and visibility of alcohol, particularly as it relates to marketing to minors. Alcohol is responsible for over 10,000 premature deaths per year in California, and [\\$35 billion](#) in associated costs, Scippa says. While Alcohol Justice is not thrilled with full service outdoor dining, they're especially concerned about the potentially transformative scope of Wiener's bills. "It will significantly increase the availability of alcohol, and in a way that's unknown, in terms of locations, events, public spaces," Scippa says.

Into the Unknown

For supporters of these changes, the possibility of ushering a totally new culture of alcohol in public space is precisely the point.

"We would love to be trusted like adults to imbibe alcohol outdoors! No more beer jails at street fairs!!" Janet Clyde, owner of Vesuvio in North Beach, wrote in a text message. Clyde's comments were in reference to the open container zone provision of the proposed laws, which would allow cities to designate places like Folsom or Castro as open container zones during street fairs. Currently, these events must have special, cordoned off sections where adults can drink alcohol, or "cages," as Bleiman describes them. He dreams of an atmosphere more like Paris, where people can casually sip a beverage as they walk around the city.

Another provision could create something like the pub culture of England, allowing establishments that serve alcohol at certain hours to be open to minors at other times of the day. A family restaurant could transform into a dance club at night, or a bar could share space with a retail store. These changes would be in keeping with last year's successful Prop H, which allows a greater variety of businesses to take over empty storefronts in many neighborhoods with a lot less process.



People dine in a Shared Spaces outdoor area outside Taqueria Vallarta on 24th Street in the Mission District on Wednesday, Sept. 23, 2020. (Kevin N. Hume/SF Weekly)

Probably no sector needs a shot in the arm as badly as music and performance venues. The live music industry has long struggled in San Francisco, and one major culprit has been alcohol permits. Currently, venues must choose between a bar permit, which forces them to exclude underage patrons, or a restaurant permit, which requires expensive kitchen equipment and wait staff. “It’s a huge issue we’ve wanted to address for a long time,” says Fred Barnes, general manager of the Chapel and a member of the Independent Venue Association. “The important thing is ensuring minors don’t come in contact with alcohol. Having a food component doesn’t do anything in that area.”

SB 793 would eliminate this issue, by creating a new alcohol permit specifically for music and performing arts venues. It would allow them to host minors and serve alcohol to adults, without being required to provide food service. While it wouldn’t affect The Chapel, which is connected to the restaurant Curio, the law would be a boon to the live music industry, Barnes says. “It would be a lifeline in the coming years for businesses that are teetering on the edge.”

D’Arcy Drollinger, owner of Oasis, a drag nightclub and performance space in SoMa that is currently 21 plus, says he “gets calls daily from parents and their kids who want to see shows. If there was a way for young people to come in, that would be amazing.” Since opening in 2015, Drollinger has always been interested in hosting drag events that could include minors, like the wildly popular Golden Girls Christmas show at the Victoria Theater, but his alcohol permit always prevented it. Drollinger probably wouldn’t allow minors for every show — some of them get “pretty racy” — but having that option “would be a game changer for a lot of the youth, especially queer and LGBTQ youth, who want more of a community.”

A New Way?

These regulatory changes could also make it easier for new music venues — and restaurants and bars, for that matter — to get off the ground. And now could be a good time to do it. Bleiman says some Polk Street landlords are asking \$3 per square foot, down from \$8 before the pandemic. The commercial vacancy tax, passed in 2018, likely looms large in the minds of many landlords. “The old way was simply not tenable, from the red tape to the crushing rents,” Bleiman says. Elixir’s Ehrmann echoes the sentiment: “If we hadn’t had this pandemic and things would have chugged along the same old way, it probably would’ve driven me out of town, like it has so many others.”

There’s a growing sense, from Mayor Breed and Senator Wiener on down, that there’s no going back from some of the changes made and lessons learned during COVID. Processes and rules need to have a purpose. Businesses, patrons, and even the streets themselves can adapt remarkably quickly — if we let them. And while some people will always grumble, most San Franciscans want the city to do its darndest to make sure that our commercial and entertainment areas can thrive.

“I think the city has done a great job of setting the stage for a comeback,” Bleiman says. “And I’ve never seen such willingness by our leaders to make changes that actually help.”