

OFFICE OF OPERATIONS

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NOTICE NO. 37

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PLANNING AND RESEARCH
DIVISION

TO: All Concerned Personnel, Office of Operations

FROM: Director, Office of Operations

SUBJECT: ENFORCEMENT OF SECTIONS 41.27 SUBD. (H) LOS ANGELES MUNICIPAL CODE (POSSESSION OF AN OPEN ALCOHOLIC BEVERAGE CONTAINER) AND 25620 BUSINESS AND PROFESSIONS CODE (POSSESSION OF OPEN CONTAINER)

EFFECTIVE: Immediately

PURPOSE

This Notice informs Office of Operations (O.O.) personnel of the status of section 41.27 subd. (h) of the Los Angeles Municipal Code (LAMC) Possession of An Open Alcoholic Beverage Container. This Order also outlines the specific criteria officers should use when citing for 25620 Business and Professions Code (B&P) Possession of Open Containers.

INFORMATION

On December 20, 1995, The Appellate Department of the Superior Court ruled that LAMC 41.27 subd. (h), unconstitutionally attempts to regulate possession of alcohol in a public place. Under California Constitution, article XX, section 22, the State shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State. Therefore, LAMC section 41.27 subd. (h) is preempted under state law and shall not be utilized under any circumstances to stop individuals from possessing alcohol in public. However, officers may continue to enforce LAMC section 41.27 subd. (c) which involves the consumption of alcohol in public and section 25620 B&P when specific criteria applies.

Enforcement of Sec 41.27 Subd.(h)
LAMC (Possession of an open Alcoholic
Beverage Container) and 25620 B&P
(Possession of Open Container)

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PROCEDURE

Officers observing individuals consuming alcohol in public may cite the individuals using LAMC section 41.27 subd. (C).

Officers may cite for 25620 B&P only when they observe any person possessing any can, bottle, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which has been partially removed, in any city and/or county owned park or other adjacent city and/or county owned public place, or any recreation and park district, or any regional park or open-space district.

NOTE: There are no known open-space districts within the City of Los Angeles.

Section 25620 B&P shall not be used where the possession is within premises located in a park or other public place for which a license has been issued.



BAYAN LEWIS, Assistant Chief
Director
Office of Operations

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