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Editorial On Regulators Run Amok Time for infusion of common sense

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We're not sure why the state Department of Alcoholic Beverage Control has been so aggressive toward San Francisco businesses lately, but it needs to stop.

San Francisco's restaurants, bars and nightclubs aren't perfect, and we understand that. Some of them surely have legitimately violated California's regulations on the preparation and service of alcohol. But over the past several weeks, the agency's actions against multiple San Francisco establishments have been excessive, puzzling and damaging.

Last month, agents visited several San Francisco bars and restaurants and told them to stop serving alcohol that they had infused with fruits, vegetables and spices. Infusions have become popular in the cocktail-obsessed Bay Area, and an estimated 50 percent of San Francisco bars serve them. Experts with decades of experience in the business had no idea that they were illegal.

Agents claim that they are, using as evidence a post-Prohibition law against the altering, or rectification, of alcohol. The agency said it put out a warning in 2008 that establishments needed to comply.

But the law, according to beverage lawyer John Hinman, was designed for "people who are making things in a distillery, not bartenders. Otherwise, if you read the statute literally, it would prohibit you, a private citizen, from making a mojito at home."

No matter. Restaurants and bars around the Bay Area have been pouring their infusions, and their profits, down the drain.



Last week, agents infiltrated San Francisco's landmark University Club and then accused it of serving drinks to "uninvited guests" - the agents themselves. There have also been complaints that nightclub owners have been fined because the lines outside weren't in perfect single file, and accusations of bullying and harassment by agents.

Local establishments are spooked, intimidated, and unsure about what's coming next. Everything about this is bad for business, and it seems overreaching and unfair.

Of course the agency has a responsibility to ensure that all California businesses comply with the laws of the state. But a citation can have enormous impacts on a small business, and fighting the agency is a difficult, costly, and time-consuming process that can take years. When there's doubt about the letter of the laws - or the way in which they're being enforced - the agency needs to show a little judiciousness.

And we're particularly interested in hearing why San Francisco appears to be the target of the agency's ire. The agency told us that it's not, that it was only acting on outside complaints. But Hinman said he hasn't been getting these kinds of cases from outside of Northern California, and that it may be the result of management changes within the agency itself. State Sen. Mark Leno, D-San Francisco, is also concerned. "Tourism is San Francisco's No. 1 industry, and these recent cases I've been hearing about seem excessive and unusual," he said.

Leno is meeting with the agency and local businesses to discuss these concerns. Agency director Steve Hardy needs to listen closely, and ensure that his agents are acting within the bounds of the law and common sense.

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