

BETTER TOGETHER

OCT



11



3RD ANNUAL CALIFORNIA ALCOHOL POLICY ALLIANCE

SUMMIT

Center for Healthy Communities, Los Angeles

Every CAPA Member Can Lobby *Here is How*

**Bruce Lee Livingston, MPP
Executive Director / CEO
Alcohol Justice**

October 11, 2018

**Disclaimer: No legal advice is
given in this presentation. We
suggest consulting a change-
oriented attorney.**



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Every CAPA Member Can Lobby

“EVERY MEMBER” means:

- Every organization
- Every staff person
- Every volunteer

With proper planning and record keeping



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Today's goals

- **Advocacy vs. Lobbying:** Let's do both
- Every non-profit organization and every employee/volunteer has a **right to lobby.**
- You have a right to take positions on bills
- What isn't lobbying? Education, planning meetings and factual testimony
- Monitor grassroots and direct lobbying correctly, internally using Quickbooks to track



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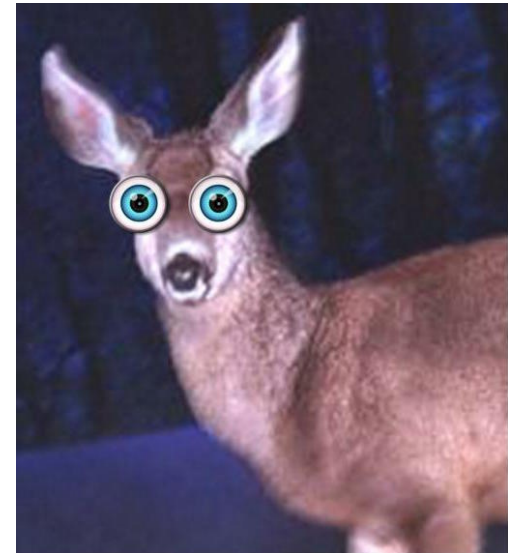


When it come to education, advocacy and lobbying...

Do you feel like this?



Or this?



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Or, worse, this?



Advocacy vs. Lobbying

How can we best ask for change?



First of all, learn the difference.



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RED LIGHT / GREEN LIGHT

Lobbying or not?



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Is this lobbying?



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Is this lobbying?

Speaking at public comment at a City Council meeting lobbying?



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Is this lobbying?

Is speaking at public comment at a City Council meeting lobbying

... if you are **OPPOSING** an ordinance that is on the agenda?



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Is this lobbying?

CAPA-ABC Quarterly Meetings

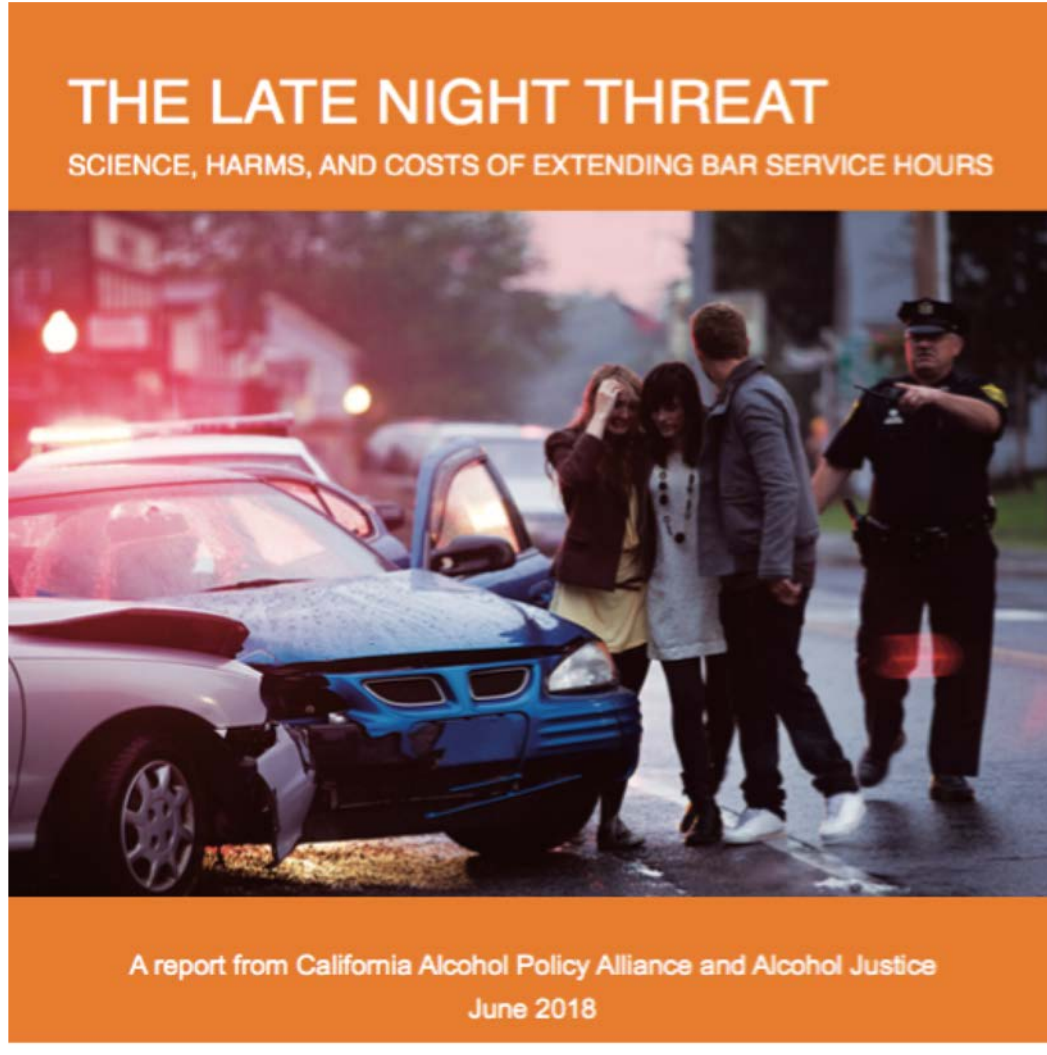
Make ABC effective, efficient, transparent, and accountable to public health and safety



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Is this lobbying?



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Is this lobbying?

THE SACRAMENTO BEE

Why a 4 a.m. last call at California bars would be a really bad move



BY SCOTT SUCKOW, FARRAH DOUGLAS AND VERONICA LABEAU
Special to The Sacramento Bee



August 30, 2018 01:50 PM
Updated 8 hours 57 minutes ago



In case you haven't heard, [Senate Bill 905](#) – which could allow some bars in California to stay open until 4 a.m. – is still alive and kicking. As residents of communities that would be directly affected, we're pleading with Gov. Jerry Brown to consider the well-being of his constituents before signing any such bill.

Under the bill approved Wednesday by the state Assembly and Thursday by the state Senate, nine cities – including Los Angeles, Sacramento, San Francisco, Oakland, Long Beach and West Hollywood – would be allowed to extend alcohol sales at bars, nightclubs and restaurants to as late as 4 a.m.

We believe this five-year pilot program would eventually be extended statewide. Those of us who live in bustling neighborhoods would feel the impact of this bill first-hand. Instead of loud music, traffic, screaming and fighting until 2 a.m., our families would be subjected to this behavior until 4 or 5 a.m. just because we live within shouting distance of a restaurant or bar.



Not every trip to Sacramento means that you or your organization are lobbying



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Is this lobbying? Grassroots or Direct?



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Is this Veto Postcard lobbying? Grassroots or Direct?

Governor Brown:

VETO SB 905



SB 905 benefits bar and restaurant owners at taxpayer expense. It will cause early morning highway deaths, street violence & public health harm.

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alcoholpolicyalliance.org



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EDUCATIONAL ADVOCACY AND PLANNING IS NOT LOBBYING

Education is sharing
data and information

Source: Education and Advocacy Clinic, Community Anti Drug Coalitions of America (CADCA)



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Educational Advocacy

- Education is actively raising awareness about an issue and how generally to address it
- You can conduct public education campaigns
- Advocate for better enforcement of existing laws
- Speak to the need for legislative remedies, but not support any particular legislation

Source: Education and Advocacy Clinic, Community Anti Drug Coalitions of America (CADCA)



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Educational Advocacy

- Commenting to ABC about AB 1221 RBS implementation
- Asking ABC to deny or review a license
- Giving factual testimony at the invitation of a legislator
- Participating in legislative discussions or action planning as part of CAPA



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Lobbying vs Advocacy

LOBBYING:

- We, the undersigned, **oppose legislation to legalize marijuana** in our state

ADVOCACY:

- We, the undersigned, **have grave concerns about any efforts to legalize marijuana** in our state.



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Lobbying Language

- Support
- Oppose, Object
- Pass
- Vote No
- Vote For
- Vote Against



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LOBBYING is Advocacy For:

- Specific legislation
- Specific regulatory or judicial reform
- Support for or against a ballot initiative



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Solely funded with
Federal/State/County dollars...
can you educate your elected officials?

YES!

Education is *not* considered lobbying.

You are permitted to educate elected officials about issues you are facing, to present data, and to introduce yourselves.

You are not taking specific positions on specific bills.



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**Solely Funded with Federal/State/County funds...
Can your organization fight propositions and/or lobby?**

NO!

All lobbying is *prohibited* with Federal/State/County funds as well as matches.

HOWEVER

You can raise your own funds – and a small amount of raised funds can go a long way!

Or you can lobby as an individual on your own dime or time, or as part of some advocacy coalitions like LADAPA or CAPA



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Most §501(c)(3) have have funds other than County/State/foundation grants!

You CAN lobby with the other monies. And then you don't have to worry about where the education v advocacy line.



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Lobbying for Organizations – 9 Tips

1. File an H election with the IRS; report lobbying on your IRS 990

- Executive Director should file IRS Form 5768 to make the “H” election and be listed as a 501(H) (most organizations have already done this.)
- Then use up to 20% of total budget on lobbying, but those dollars used cannot be from Federal/State/County funds)
- Must track hours/funds spent (but you are all used to tracking)
- Lobbying is reported on your annual IRS form 990



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H Election Form – This is all there is

Form **5768**

(Rev. September 2016)

Department of the Treasury
Internal Revenue Service

**Election/Revocation of Election by an Eligible
Section 501(c)(3) Organization To Make
Expenditures To Influence Legislation**
(Under Section 501(h) of the Internal Revenue Code)

► Information about Form 5768 and its instructions is at www.irs.gov/form5768.

For IRS
Use Only ►

Name of organization	Employer identification number
Number and street (or P.O. box no., if mail is not delivered to street address)	Room/suite
City, town or post office, and state	ZIP + 4

1 Election— As an eligible organization, we hereby elect to have the provisions of section 501(h) of the Code, relating to expenditures to influence legislation, apply to our tax year ending _____ and all subsequent tax years until revoked.
(Month, day, and year)

Note: This election must be signed and postmarked within the first taxable year to which it applies.

2 Revocation— As an eligible organization, we hereby revoke our election to have the provisions of section 501(h) of the Code, relating to expenditures to influence legislation, apply to our tax year ending _____ and all subsequent tax years (*until a new election is made*).
(Month, day, and year)

Note: This revocation must be signed and postmarked before the first day of the tax year to which it applies.

Under penalties of perjury, I declare that I am authorized to make this (check applicable box) ► election revocation on behalf of the above named organization.

(Signature of officer or trustee) (Type or print name and title) (Date)



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Lobbying for Organizations:

2. Take positions on legislation & propositions – talk is cheap

Set a policy and procedure for taking positions (through legislative committee or a staff leader). This is free. The only lobbying cost is \$5.00 or so to write and fax a letter to your representative.



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Lobbying for Organizations:

3. Raise/Use discretionary funds

Organizations can make sure there are funds raised from unrestricted sources.

- Savings, interest, stock gains, membership dues, bake sales and fundraisers all contribute to unrestricted funds.



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Need unrestricted monies?



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Lobbying for Organizations

Or raise some other funds...



- Have a bake sale or car wash or, solicit a few donations.
- Just \$50-100 will go a long way and allow you to lobby without watching your words so carefully.
- An opposition/support letter will only take 15 minutes to an hour → \$5-25.



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Lobbying doesn't cost much

30 minutes to write a letter from scratch = \$8 - 12.5

5 minutes to use a template = \$1.25 - \$2

5 minutes to make a public comment = \$1.25 - \$2

5 minutes to make the ask in a meeting = \$2

→ 1 hour a month on lobbying = \$15 - \$25!



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Lobbying for Organizations:

4. Mobilize your board members, volunteers and youth to testify

- Train and involve youth. They can (and will!) say anything!
- Board members and other volunteers can do the talking at hearings or in legislative meetings.
- If staff don't speak, they are not lobbying, they are providing organizational logistical support.



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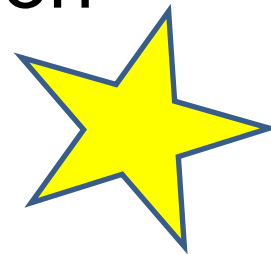


Lobbying for Organizations:

5. Allow staff to “clock out”



- Allow staff to be “off the clock” to attend hearings or speak with reps.
- As a private resident/citizen you may lobby on your own time.
- Just make sure you privately pay for the expenses, or CAPA/AJ subsidizes, or your organization logs any trivial transportation expenses.



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Lobbying for Organizations:

6. Use “Jobs” Tracking for Lobbying

- Your non-profit 501(c)(3) can track direct and indirect lobbying hours and expenses as a “job” segregated from SAPC, state, federal or grant “jobs”
- Lobbying expenses will therefore never be billable to government contracts.
- Lobbying time from youth or volunteers should not be used as matching hours for government grants (as in DFC Support requirements).



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Lobbying for Organizations:

6. Jobs Tracking Continued: Free up contractual time to allow lobbying time.

- Never bill more than 95% of an individual's time to grants or contracts if possible
- Track staff time lobbying through separate **jobs** on time cards and invoices
- In Quickbooks (or similar accounting program) track direct and indirect lobbying.
- Report direct and indirect lobbying expenses on IRS 990 forms.



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Just be sure to TRACK YOUR HOURS

Alcohol Justice Bi-Weekly Timesheet

Employee Name: Sara Cooley Broschart Pay Period Ending: 9/22/18

Hours Worked

DATE	DAY	IN		Lunch	OUT		TOTAL HOURS	VACATION	SICK	HOLIDAY	DFC-1	DFC-M	LI	LD	CLI	CLD	CAPA	OPI	
		AM	PM		AM	PM													
WEEK 1																			
	Sunday						0.0												
9/10/18	Monday						0.0	8.0			0.8	1.2							
9/11/18	Tuesday	9:00 AM	1:00 PM	0.5	1:30 PM	5:00 PM	8.0				8.0								
9/12/18	Wednesday	9:00 AM	1:00 PM	0.5	1:30 PM	5:00 PM	8.0					6.0							
9/13/18	Thursday	9:00 AM	1:00 PM	0.5	1:30 PM	5:00 PM	8.0				4.0							4.0	
9/14/18	Friday	9:00 AM	1:00 PM	0.5	1:30 PM	5:00 PM	8.0											8.0	
	Saturday						0.0												
WEEK 2																			
	Sunday						0.0												
9/17/18	Monday	9:00 AM	1:00 PM	0.5	1:30 PM	5:00 PM	8.0											8.0	
9/18/18	Tuesday	9:00 AM	1:00 PM	0.5	1:30 PM	5:00 PM	8.0				6.0								
9/19/18	Wednesday	9:00 AM	1:00 PM	0.5	1:30 PM	5:00 PM	8.0					6.0							
9/20/18	Thursday	9:00 AM	1:00 PM	0.5	1:30 PM	5:00 PM	8.0											8.0	
9/21/18	Friday	9:00 AM	1:00 PM	0.5	1:30 PM	5:00 PM	8.0				6.0								
	Saturday						0.0												



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Just be sure to TRACK YOUR HOURS

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	Saturday						0.0																



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Lobbying for Organizations

7. Use CAPA or Alcohol Justice Identity when Testifying

- Alcohol Justice is the fiscal sponsor of CAPA. Any expenses for CAPA lobbying are part of Alcohol Justice reporting requirements.
- Alcohol Justice strictly monitors lobbying expenses and reports them.
- The AJ lobbying cap of 20% total is fully available because 80% of its funds are UNRESTRICTED.
- **So, when you testify or rally, identify where you work, but say you are testifying for CAPA!!!**



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Lobbying for Organizations:

8. Investigate state and local special reporting requirements

- At state level, over \$5000 in a quarter requires separate state filing (CAPA falls under that!)
- Some cities have local reporting requirements, e.g. Los Angeles and San Francisco.
- Resource: AllianceForJustice.org



California City, County and Special District
Local Lobby Ordinances



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Lobbying for Organizations

Not recommended – Powerful, Complicated

9. Form a sister §501(c)(4) advocacy organization

- Its perfectly legit to form a sister organization §(c)(4) advocacy organization with an interlocking but not controlling membership
- You can share resources with proper accounting
- Examples: Sierra Club and Sierra Club Foundation; Clean Water Action/Clean Water Fund; Health Access Foundation/Health Access California
- These are ‘dark money’ organizations because they don’t have to report large donors
- They may conduct UNLIMITED lobbying



Call for advice...

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9 Tips for Lobbying with CAPA

1. File H election and report lobbying on IRS 990, its your right and its easy
2. Take positions, talk is cheap
3. Raise or recognize unrestricted funds
4. Mobilize board, volunteers and youth to testify
5. Allow staff to lobby off the clock
6. Don't bill staff 100% to grants or contracts.
Track your lobbying.
7. Use CAPA/AJ identity in testimony, events and press
8. Investigate state and local special reporting requirements
9. Form a §501(c)(4) advocacy organization (not advised)



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Grassroots vs. Direct Lobbying

Learn to Distinguish the Two for Monitoring and IRS 990 Reporting

- Cap on lobbying can be either 20% direct lobbying or 5% indirect + 15% direct
- Slightly lower % for over \$1m budget
- The feds actually restrict grassroots lobbying more because it is more effective
- They actually got it right, probably by mistake



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Grassroots vs. Direct Lobbying

Some hints on distinguishing the two:

- Communications directly with legislators or their staff are considered direct lobbying
- Communication by letter, phone or email directly to legislators are direct. So is direct action.
- Ads encouraging lobbying action are grassroots
- Any expenses you make asking the public to communicate with legislators is considered grassroots



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Grassroots vs. Direct Lobbying

Supporting Initiatives is Considered Grassroots (Indirect) Lobbying

- Communications to the public about initiative/proposition are direct lobbying
- Why? IRS regulations state that for initiatives, the **public itself** is the legislature. Therefore initiative advocacy is considered direct lobbying.



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IT IS YOUR RIGHT TO LOBBY

“Congress shall make no law ... abridging the freedom of speech... or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

**CAPA is Your Vehicle to
Redress Your Grievances.
Enjoy the Ride.**



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**For more information on
CAPA, Alcohol Justice, lobbying**

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