

Assembly Bill No. 1429

Passed the Assembly September 14, 2001

Chief Clerk of the Assembly

Passed the Senate September 14, 2001

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 23373, 24045.7, 25000, 25000.6, 25502.1, 25503.8, 25503.16, 25503.24, 25503.26, and 25503.85 of, and to amend and repeal Section 25500.2 of, the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1429, Committee on Governmental Organization. Alcoholic beverages: licensees: tied-house restrictions: special on-sale general license.

(1) The Alcoholic Beverage Control Act authorizes a California winegrower's agent to perform or furnish on behalf of a winegrower services that the winegrower is authorized to perform under specified statutory provisions.

This bill would additionally authorize a California winegrower's agent to purchase advertising space or time from certain on-sale retail licensees.

(2) Under the Alcoholic Beverage Control Act, the Department of Alcoholic Beverage Control may issue a special on-sale general license to any nonprofit theater company that has been in existence for at least 10 years and meets other specified requirements. Theater companies holding a license pursuant to these provisions may only sell and serve alcoholic beverages to ticketholders during, 2 hours prior to, and one hour after, a bona fide theater performance of the company.

This bill would require that the license issued to the theater company be for a single specified premises, and would remove the requirement that the theater company have been in existence for at least 10 years.

This bill would permit a licensed manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, employee, or agent of that person, to serve on the board of trustees of a nonprofit theater company operating a theater in Napa County licensed pursuant to these provisions.

(3) Existing law requires each manufacturer, importer, and wholesaler of beer to file and thereafter maintain on file with the



Department of Alcoholic Beverage Control a schedule of selling prices charged for beer sold and distributed to customers in California, as specified.

This bill would make those provisions applicable to certain sales of beer made under contract, and would define “contract beer manufacturer” and “beer manufacturer” for these purposes.

(4) Existing law provides that a provision in an agreement between a beer manufacturer and a beer wholesaler for the sale and distribution of beer in this state, which restricts venue to a forum outside this state, is void with respect to any claim arising under or relating to the agreement involving a beer wholesaler operating within this state.

This bill would define “beer manufacturer” for these purposes.

(5) The Alcoholic Beverage Control Act contains limitations on sales commonly known as “tied-house” restrictions, which generally prohibit a manufacturer, winegrower, manufacturer’s agent, California winegrower’s agent, rectifier, distiller, bottler, importer, or wholesaler from furnishing, giving, or lending any money or other thing of value to any person engaged in operating, owning, or maintaining any on-sale or off-sale licensed premises.

Existing law provides that for purposes of these provisions, the listing of the names, addresses, telephone numbers or e-mail addresses, or both, or Web site addresses, of 2 or more unaffiliated off-sale retailers selling the products produced, distributed or imported by a nonretail industry member, defined as a manufacturer, winegrower, or distiller of alcoholic beverages, in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry or in person does not constitute a thing of value or prohibited inducement to the listed off-sale retailer, if specified conditions are met.

This bill would extend these provisions to all wholesalers by including them within the definition of a nonretail industry member and would remove the specific exclusion from that definition for beer retailers and wholesalers.

(6) Existing law, for purposes of these provisions, prohibits a manufacturer, winegrower, manufacturer’s agent, rectifier, California winegrower’s agent, distiller, bottler, importer, and wholesaler, and any officer, director, or agent of any of those persons, from having specified relationships with an on-sale alcoholic beverage licensee, with limited exceptions. Existing law



permits, as specified, any manufacturer, winegrower, rectifier, distiller, distilled spirits wholesaler, or any officer, director, agent, or representative of any of those entities to conduct market research and, in connection with that research, to purchase from licensed off-sale retailers data, regarding purchases and sales of alcoholic beverage products, at the customary rates that those retailers sell similar data for nonalcoholic beverage products.

This bill would define “beer manufacturer” for these purposes.

(7) Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. It authorizes, as an exception, a beer manufacturer, the holder of a winegrower’s license, or a distilled spirits manufacturer or a distilled spirits manufacturer’s agent to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, subject to specified conditions.

This bill would define beer manufacturer for these purposes. The bill would also permit a California winegrower’s agent, a distilled spirits manufacturer, or a distilled spirits manufacturer’s agent to purchase the advertising space and time from, or on behalf of, an on-sale retail licensee subject to the existing conditions.

(8) Existing law makes it a misdemeanor for a licensee, subject to these provisions, to violate existing provisions relating to the purchase of that advertising space or time.

This bill would impose a state-mandated local program by expanding the licensees subject to these criminal provisions.

(9) Existing law generally prohibits a manufacturer, winegrower, manufacturer’s agent, California winegrower’s agent, rectifier, distiller, bottler, importer, or wholesaler from, among other things, holding the ownership, directly or indirectly, of any interest in any on-sale or off-sale license. Exempted from this restriction, however, is the issuance or transfer of any retail on-sale or off-sale license to any person with respect to premises which are an integral part of the operation of a hotel, motel, or marine park, as defined, which meets certain conditions, one of which is that the retail licensee not purchase any alcoholic beverages for sale in this state from any wholesale licensee that has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee.



This bill would revise that requirement with respect to a marine park, and allow the purchase of beer or malt beverages from any wholesale licensee, as provided.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(11) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 23373 of the Business and Professions Code is amended to read:

23373. A California winegrower's agent's license authorizes any of the following:

(a) The possession of wine produced in California and brandy distilled in California in public or private warehouses.

(b) The sale to wholesalers for his or her own account or the solicitation of and sale to wholesalers for the account of a licensed winegrower of wine that was produced in this state and brandy that was distilled in this state.

(c) The invoicing and collection on behalf of a winegrower of payments for orders solicited by the agent.

(d) Performance or furnishing on behalf of the winegrower for which he or she is an agent, of the services which the winegrower is authorized to perform or furnish under the provisions of Sections 23356.1, 25503.1, 25503.2, 25503.3, 25503.5, 25503.8, 25503.9, 25503.26, and 25503.85.

SEC. 2. Section 24045.7 of the Business and Professions Code is amended to read:

24045.7. (a) (1) The department may issue a special on-sale general license to any nonprofit theater company that is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States. Any special on-sale general license issued to a nonprofit theater company pursuant to this subdivision shall be for a single specified premises only.



(2) Theater companies holding a license under this subdivision may, subject to Section 25631, sell and serve alcoholic beverages to ticketholders only during, and two hours prior to and one hour after, a bona fide theater performance of the company.

(3) Notwithstanding any other provision in this division, a licensed manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, employee, or agent of that person, may serve on the board of trustees of a nonprofit theater company operating a theater in Napa County licensed pursuant to this subdivision.

(4) An applicant for such a license shall accompany the application with an original issuance fee of one thousand dollars (\$1,000) and shall pay an annual renewal fee as provided in Section 23320.

(5) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exceptions established by this subdivision to the general prohibition against tied interests must be limited to their express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

(b) (1) The department may issue a special on-sale beer and wine license to any nonprofit theater company which has been in existence for at least eight years, which for at least six years has performed in facilities leased or rented from a local county fair association, and which is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States.

(2) Theater companies holding a license under this subdivision may, subject to Section 25631, sell and serve beer and wine to ticketholders only during, and two hours prior to, a bona fide theater performance of the company. Beer and wine may be sold from an open-air concession stand which is not attached to the theater building itself, if the concession stand is located on fair



association property within 30 feet of the theater building and the alcoholic beverages sold are consumed only in the theater building itself, or within a designated outdoor area in front of and between the concession stand and the main public entrance to the theater building. Nothing in this section permits a theater company to sell beer or wine during the run of a county fair.

(3) An applicant for a license under this subdivision shall accompany the application with an original issuance fee equal to the annual renewal fee and shall pay an annual renewal fee as provided in Section 23320.

SEC. 3. Section 25000 of the Business and Professions Code is amended to read:

25000. (a) Each manufacturer, importer, and wholesaler of beer shall file and thereafter maintain on file with the department, in such form as the department may provide, a written schedule of selling prices charged by the licensee for beer sold and distributed by the licensee to customers in California, except that the transfer, including the sale, of beer between wholesalers who sell the same brand in package is permitted without filing the schedule of selling prices, and the transfer, including the sale, of beer made under contract from a contract beer manufacturer making the beer to a beer manufacturer receiving the beer is permitted without filing the schedule of selling prices. All prices filed shall be for immediate delivery. Each manufacturer, importer, and wholesaler of beer shall file a price schedule for each county in which his or her customers have their premises, whether the price that is posted is f.o.b. or delivered, or both. Different prices for different trading areas within a county shall be based upon natural geographical differences justifying the different prices, and shall not be established for special customers. This section shall not affect or alter any provisions of law concerning quantity discounts on beer.

(b) For purposes of this section, a “contract beer manufacturer” is a beer manufacturer that does all of the following:

(1) Makes beer pursuant to a written contract with another beer manufacturer, and neither entity has a controlling interest in the other entity.

(2) Makes beer in accordance with a recipe that is a trade secret of the beer manufacturer having its beer made under contract.



(3) Has no right to sell the beer to any other beer manufacturer, importer, or wholesaler other than the beer manufacturer who contracted for the beer.

(c) For purposes of this section, “beer manufacturer” includes any holder of a beer manufacturer’s license, any holder of an out-of-state beer manufacturer’s certificate, or any holder of a beer and wine importer’s general license.

SEC. 4. Section 25000.6 of the Business and Professions Code is amended to read:

25000.6. (a) A provision in an agreement between a beer manufacturer and a beer wholesaler for the sale and distribution of beer in this state, which restricts venue to a forum outside this state, is void with respect to any claim arising under or relating to the agreement involving a beer wholesaler operating within this state.

(b) This section shall apply to any transaction or conduct pursuant to an agreement described in subdivision (a) on or after the effective date of this section.

(c) For purposes of the section, “beer manufacturer” includes any holder of a beer manufacturer’s license, any holder of an out-of-state beer manufacturer’s certificate, or any holder of a beer and wine importer’s general license.

SEC. 5. Section 25500.2 of the Business and Professions Code, as added by Section 1 of Chapter 980 of the Statutes of 2000, is amended to read:

25500.2. (a) Notwithstanding Section 25500, the listing of the names, addresses, telephone numbers, e-mail addresses, or Web site addresses, of two or more unaffiliated on-sale retailers selling beer, wine, or distilled spirits, and operating and licensed as bona fide public eating places pursuant to Section 23038 selling the beer, wine, or distilled spirits produced, distributed, or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry, or in person does not constitute a thing of value or prohibited inducement to the listed on-sale retailer, provided all of the following conditions are met:

(1) The listing does not also contain the retail price of the product.

(2) The listing is the only reference to the on-sale retailers in the direct communication.



(3) The listing does not refer only to one on-sale retailer or only to on-sale retail establishments controlled directly or indirectly by the same on-sale retailer.

(4) The listing is made by, or produced by, or paid for, exclusively by the nonretail industry member making the response.

(b) For the purposes of this section, “nonretail industry member” is defined as a manufacturer, including, but not limited to, a beer manufacturer, winegrower, or distiller of alcoholic beverages or an agent of that entity, or a wholesaler, regardless of any other licenses held directly or indirectly by that person.

SEC. 6. Section 25500.2 of the Business and Professions Code, as added by Section 6 of Chapter 979 of the Statutes of 2000, is repealed.

SEC. 7. Section 25502.1 of the Business and Professions Code is amended to read:

25502.1. (a) Notwithstanding Section 25502, the listing of the names, addresses, telephone numbers, e-mail addresses, or Web site addresses, of two or more unaffiliated off-sale retailers selling the products produced, distributed or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry or in person does not constitute a thing of value or prohibited inducement to the listed off-sale retailer, provided all of the following conditions are met:

(1) The listing does not also contain the retail price of the product.

(2) The listing is the only reference to the off-sale retailers in the direct communication.

(3) The listing does not refer only to one off-sale retailer or only to off-sale retail establishments controlled directly or indirectly by the same off-sale retailer.

(4) The listing is made by, or produced by, or paid for, exclusively by the nonretail industry member making the response.

(b) For the purposes of this section, “nonretail industry member” is defined as a manufacturer, including, but not limited to, a beer manufacturer, winegrower, or distiller of alcoholic beverages, or an agent of those entities, or a wholesaler, regardless of any other licenses held directly or indirectly by that person.



SEC. 8. Section 25503.8 of the Business and Professions Code is amended to read:

25503.8. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower's license, a California winegrower's agent, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent may purchase advertising space and time from, or on behalf of, an on-sale retail licensee if all of the following conditions are met:

(1) The on-sale licensee is the owner of any of the following:

(A) A fully enclosed auditorium or theater with a fixed seating capacity in excess of 6,000 seats, at least 60 percent of the use of which is for plays or musical concerts, not including sporting events.

(B) A motion picture studio facility at which public tours are conducted for at least four million people per year.

(C) A retail, entertainment development adjacent to, and under common ownership with, a theme park, amphitheater, and motion picture production studio.

(D) A theme or amusement park and the adjacent retail, dining, and entertainment area located in the City of Los Angeles, Los Angeles County, or Orange County.

(2) The advertising space or time is purchased only in connection with one of the following:

(A) In the case of a fully enclosed auditorium or theater, in connection with sponsorship of plays or musical concerts to be held on the premises of the auditorium or theater owned by the on-sale licensee.

(B) In the case of a motion picture studio facility, in connection with sponsorship of the public tours or special events conducted at the studio facility.

(C) In the case of a retail, entertainment development, in connection with sponsorship of public tours or special events conducted at the development.

(D) In the case of a theme or amusement park and the adjacent retail, dining, and entertainment area, located in the City of Los Angeles, Los Angeles County, or Orange County, in connection with daily activities and events at the theme or amusement park and the adjacent retail, dining, and entertainment area.

(3) The on-sale licensee serves other brands of beer distributed by a competing beer wholesaler in addition to the brand



manufactured or marketed by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced or marketed by the winegrower or California winegrower's agent, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the distilled spirits manufacturer or distilled spirits manufacturer's agent purchasing the advertising space or time.

(b) Any purchase of advertising space or time conducted pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, the holder of the winegrower's license, the California winegrower's agent, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent, and the on-sale licensee, which contract shall not in any way involve the holder of a wholesaler's license.

(c) Any beer manufacturer, distilled spirits manufacturer, distilled spirits manufacturer's agent, holder of a winegrower's license, or California winegrower's agent, who, through coercion or other illegal means, induces, directly or indirectly, a holder of a wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale retail licensee, as described in subdivision (a), who solicits or coerces, directly or indirectly, a holder of a wholesaler's license to solicit a beer manufacturer, distilled spirits manufacturer, or distilled spirits manufacturer's agent, holder of a winegrower's license, or California winegrower's agent to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.



(e) For the purposes of this section, “beer manufacturer” includes any holder of a beer manufacturer’s license, any holder of an out-of-state beer manufacturer’s certificate, or any holder of a beer and wine importer’s general license.

SEC. 9. Section 25503.16 of the Business and Professions Code is amended to read:

25503.16. (a) Nothing in this division shall prohibit the issuance or transfer of any retail on-sale or off-sale license to any person with respect to premises which are an integral part of the operations of a hotel, motel, or marine park owned by, or operated by or on behalf of, the licensee notwithstanding that a manufacturer, winegrower, manufacturer’s agent, California winegrower’s agent, rectifier, distiller, bottler, importer, or wholesaler has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee, and notwithstanding that the issuance or transfer would otherwise result in a violation of subdivision (a) of Section 25500, subdivision (a) or (b) of Section 25501, or Section 25502, if each of the following conditions is met:

(1) In the case of a hotel or motel, the hotel or motel consists of not less than 100 guestroom accommodations.

(2) No more than one-quarter of the total gross annual revenues of the hotel, motel, or marine park is derived from the sale by the hotel, motel, or marine park of alcoholic beverages.

(3) (A) The retail licensee shall purchase no beer or distilled spirits for sale in this state other than from a wholesale licensee, and the retail licensee, except as otherwise provided in subparagraph (B), shall purchase no alcoholic beverages for sale in this state from any wholesale licensee that has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee.

(B) Notwithstanding subparagraph (A), a marine park may purchase beer or malt beverages for sale in this state from a wholesale licensee regardless of whether the wholesale licensee has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee.

(4) The retail licensee serves other brands of beer, wine, and distilled spirits in addition to the brands manufactured by the beer or distilled spirits manufacturer or produced by the winegrower holding an interest in the retail license.



(5) No marine park shall sell or offer for sale any distilled spirits, except during private events or private functions held at the marine park.

(b) For purposes of this section, “hotel” and “motel” shall mean an establishment containing guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest; for purposes of this subdivision, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial.

(c) For purposes of this section, “marine park” means an establishment with not less than 125 contiguous acres, located in San Diego County, the predominant purpose of which is the education or entertainment of the public through the display of marine animals and related aquatic, food service, and amusement activities, which holds permits issued by state and federal regulatory agencies authorizing the keeping of marine animals or endangered species or both, and which has an annual paid attendance of at least 2,000,000 people.

(d) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exception established by this section to the general prohibition against tied interests shall be limited to its express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

SEC. 10. Section 25503.24 of the Business and Professions Code is amended to read:

25503.24. (a) Notwithstanding any other provision of this chapter, any manufacturer, winegrower, rectifier, distiller, distilled spirits wholesaler, or any officer, director, agent, or representative of any of those entities, may conduct market research and, in connection with that research, the entity conducting the market research may purchase from licensed off-sale retailers data regarding purchases and sales of alcoholic



beverage products at the customary rates that those retailers sell similar data for nonalcoholic beverage products subject to the following limitations:

(1) No licensed retailer shall be obligated to purchase or sell the alcoholic beverage products of that manufacturer, winegrower, rectifier, or distiller.

(2) No retail premises shall participate in more than one research project conducted by any single manufacturer, winegrower, rectifier, distiller, or distilled spirits wholesaler during a calendar year. A research project may involve multiple onsite surveys.

(3) Nothing in this section shall allow a licensed retailer to require a manufacturer, winegrower, rectifier, distiller, or distilled spirits wholesaler to conduct any market research as a condition for selling alcoholic beverage products to that licensed retailer.

(b) Any holder of a beer manufacturer's license or winegrower's license who, through coercion or other illegal means, induces, directly or indirectly, a holder of a beer or wine wholesaler's license to fulfill obligations entered into pursuant to subdivision (a) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the market research or time involved in the project, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(c) Any retail licensee who, directly or indirectly, solicits or coerces a holder of a beer or wine wholesaler's license to solicit a beer manufacturer, or holder of a winegrower's license to fulfill obligations entered into pursuant to subdivision (a) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the market research or time involved in the project, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) For the purposes of this section, "beer manufacturer" includes any holder of a beer manufacturer's license, any holder of an out-of-state beer manufacturer's certificate, or any holder of a beer and wine importer's general license.



SEC. 11. Section 25503.26 of the Business and Professions Code is amended to read:

25503.26. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower's license, a California winegrower's agent, a manufacturer of distilled spirits, or distilled spirits manufacturer's agent, may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, or is the lessee, or is a wholly owned subsidiary of the lessee, of an arena with a fixed seating capacity in excess of 10,000 seats, at least 60 percent of the use of which is for horseracing events, and which is located within Los Angeles County, Alameda County, or San Mateo County.

(2) The advertising space or time is purchased only in connection with events to be held on the premises of the arena owned or leased by the on-sale licensee.

(3) The on-sale licensee serves other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced or marketed by the winegrower or California winegrower's agent and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the distilled spirits manufacturer or distilled spirits manufacturer's agent purchasing the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, the holder of the winegrower's license, the California winegrower's agent, the manufacturer of distilled spirits, or distilled spirits manufacturer's agent, and the on-sale licensee.

(c) Any beer manufacturer, holder of a winegrower's license, California winegrower's agent, manufacturer of distilled spirits, or the distilled spirits manufacturer's agent, who, through coercion or other illegal means, induces, directly or indirectly, a holder of a wholesaler's license to fulfill the contractual obligations entered into pursuant to subdivision (a) or (b) is guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire



value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale licensee who, directly or indirectly, solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, a holder of a winegrower's license, a California winegrower's agent, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent, to purchase advertising space or time shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(e) For the purposes of this section, "beer manufacturer" includes any holder of a beer manufacturer's license, any holder of an out-of-state beer manufacturer's certificate, or any holder of a beer and wine importer's general license.

SEC. 12. Section 25503.85 of the Business and Professions Code is amended to read:

25503.85. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, distilled spirits manufacturer, distilled spirits manufacturer's agent, holder of a winegrower's license, or California winegrower's agent may purchase advertising space and time from, or on behalf of, an on-sale retail licensee, that shall be limited to small notices, plaques, or signs that portray partial or full sponsorship or funding of educational programs, special fundraising and promotional events, improvements in capital projects, and the development of exhibits or facilities, if all of the following conditions are met:

(1) The on-sale licensee is a zoo or aquarium operated by a nonprofit organization that is accredited by the American Association of Zoological Parks and Aquariums.

(2) The advertising space or time is purchased only in connection with the sponsorship of activities that are held on the premises or grounds owned, leased, or controlled by the on-sale licensee.



(3) The on-sale licensee serves other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced or marketed by the winegrower or California winegrower's agent, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the distilled spirits manufacturer or distilled spirits manufacturer's agent purchasing the advertising space or time.

(b) Nothing in this section shall be construed to permit the purchase of billboards or bench advertisements as "advertising space."

(c) Any purchase of advertising space or time pursuant to subdivision (a) shall be accomplished by a written contract entered into by the beer manufacturer, the distilled spirits manufacturer, the distilled spirits manufacturer's agent, a holder of the winegrower's license, or the California winegrower's agent, and the on-sale licensee. That contract shall not in any way involve the holder of a wholesaler's license.

(d) Any beer manufacturer, distilled spirits manufacturer, distilled spirits manufacturer's agent, holder of a winegrower's license, or California winegrower's agent who, through coercion or other illegal means, induces, directly or indirectly, a holder of a wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (c) is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period not to exceed six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(e) Any on-sale licensee who, directly or indirectly, solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, distilled spirits manufacturer, distilled spirits manufacturer's agent, holder of a winegrower's license, or a California winegrower's agent to purchase advertising space or time shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising



space or time involved in the contract, whichever is greater, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(f) For the purposes of this section, “beer manufacturer” includes any holder of a beer manufacturer’s license, any holder of an out-of-state beer manufacturer’s certificate, or any holder of a beer and wine importer’s general license.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid the loss of revenue to governmental agencies from the sale and advertising of alcoholic beverages, and to conform various provisions of the Alcoholic Beverage Control Act, it is necessary that this act take effect immediately.



Approved _____, 2001

Governor

