

Assembly Bill No. 776

CHAPTER 221

An act to add Section 25503.38 to the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 2007. Filed with
Secretary of State September 21, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 776, Aghazarian. Alcoholic beverages: advertising.

Existing law generally restricts certain alcoholic beverage licensees, including manufacturers and winegrowers, from paying, crediting, or compensating a retailer for advertising in connection with the advertising and sale of alcoholic beverages.

This bill would expressly authorize a beer manufacturer to sponsor or purchase advertising space and time from, or on behalf of, an off-sale retail licensee that is an owner or coowner of a professional sports team that is a tenant of, and plays its home games in, a specified arena, under specified conditions. This bill would also make a beer manufacturer who, through coercion or other means, includes the holder of a wholesaler's license to fulfill those contractual obligations guilty of a misdemeanor. This bill would additionally provide that an off-sale retail licensee, as described, who solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer to sponsor or purchase advertising time or space is guilty of a misdemeanor. The bill thus imposes a state-mandated local program by creating new crimes.

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.

This bill makes findings and declarations regarding the need for special legislation and declares that this bill is to take effect immediately as an urgency statute.

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

SECTION 1. Section 25503.38 is added to the Business and Professions Code, to read:

25503.38. (a) Notwithstanding any other provision of this chapter, a beer manufacturer may sponsor or purchase advertising space and time

from, or on behalf of, an off-sale retail licensee subject to all of the following conditions:

(1) The off-sale retail licensee is an owner or coowner of a professional sports team.

(2) The professional sports team owned or coowned by the off-sale retail licensee is a tenant of, and plays its home games in, an arena with a fixed seating capacity in excess of 10,000 seats located in San Joaquin County.

(3) The advertising space or time is sponsored or purchased only in connection with the professional sports team's events held on the premises of the arena.

(4) The owner or coowner of the professional sports team does not hold or have an interest in more than two off-sale retail licenses.

(b) Any sponsorship or 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 off-sale retail licensee, and all other coowners, where applicable.

(c) Any beer manufacturer 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 off-sale retail licensee described in subdivision (a) who, directly or indirectly, solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer to sponsor or purchase advertising time or space 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) Nothing in this section shall authorize the purchasing of advertising space or time from, or on behalf of, any on-sale licensee that is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or a tenant of the arena described in paragraph (2) of subdivision (a).

(f) Nothing in this section shall authorize a beer manufacturer to furnish, give, or lend anything of value to an off-sale retail licensee described in subdivision (a) except as expressly authorized by this section or any other provision of this division.

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

SEC. 2. Due to the unique circumstances concerning the County of San Joaquin, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Therefore, this act is necessarily applicable only to the County of San Joaquin.

SEC. 3. 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. 4. 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 protect the health and safety of the people of the state who attend events within the County of San Joaquin, it is necessary that this act take effect immediately.