

AMENDED IN ASSEMBLY JUNE 11, 2008
AMENDED IN ASSEMBLY JUNE 5, 2008
AMENDED IN ASSEMBLY MAY 20, 2008
AMENDED IN SENATE JANUARY 9, 2008
AMENDED IN SENATE SEPTEMBER 7, 2007

SENATE BILL

No. 157

Introduced by Senator Wiggins

January 30, 2007

An act to amend Sections 23399.6 and 25503.9 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 157, as amended, Wiggins. Alcoholic beverages: winegrower's license.

(1) The Alcoholic Beverage Control Act authorizes the issuance of a wine sales permit to any licensee under a winegrower's license, which authorizes the sale of bottled wine produced by the winegrowers at specified events that are sponsored by an organization that is exempt from taxation, as specified.

This bill would expand the list of organizations that are exempt from taxation that are authorized to sponsor specified events.

(2) The Alcoholic Beverage Control Act provides that nothing in that law prohibits a winegrower or a beer and wine wholesaler, as specified, from giving or selling wine, *a beer manufacturer from giving or selling beer, a distilled spirits manufacturer or its agent from giving or selling distilled spirits, or a licensed importer from giving or selling beer, wine, or distilled spirits* to certain nonprofit organizations, as

specified, at prices other than those contained in schedules filed with the Department of Alcoholic Beverage Control.

This bill would expand the list of nonprofit organizations that are authorized to receive or purchase wine, *beer*, and *distilled spirits* at prices other than those contained in schedules filed with the Department of Alcoholic Beverage Control.

(3) The Alcoholic Beverage Control Act provides that a violation of its provisions is a misdemeanor, unless otherwise specified. This bill, by changing the definition of an existing crime, imposes a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. (a) This act shall be known and may be cited as
2 the Nonprofit Organization Equal Participation Act.

3 (b) The Legislature finds and declares all of the following:

4 (1) The California wine industry generates one hundred fifteen
5 million dollars (\$115,000,000) annually in support of nonprofit
6 organizations and their causes.

7 (2) The collaboration between the wine industry and nonprofit
8 organizations has a proven track record in attracting supporters to
9 nonprofit fundraising events. This support has resulted in sustaining
10 vital community services across the state.

11 (3) Current law provides that the wine industry can participate
12 in winetastings, donate wine, take orders, and sell bottled wine at
13 certain nonprofit events.

14 (4) The purpose of this act is to provide continuity and equal
15 participation for nonprofit organizations in sanctioned wine-related
16 events and to provide orderly direction for wine producers.

17 SEC. 2. Section 23399.6 of the Business and Professions Code
18 is amended to read:

19 23399.6. (a) Any licensee under a winegrower's license may
20 apply to the department for a wine sales event permit. The wine

1 sales event permit shall authorize the sale of bottled wine produced
2 by the winegrower at festivals, state, county, district, or citrus fruit
3 fairs, civic or cultural celebrations, or similar events approved by
4 the department. The sale of the wine shall not be the primary
5 purpose of the event, and the sale shall be for consumption off the
6 premises where sold. The permit shall be valid for a maximum of
7 five consecutive days during the event period. The event shall be
8 sponsored by an organization that is exempt from taxation under
9 Section 23701a of the Revenue and Taxation Code, including state
10 designated fairs as specified in Section 19418 of the Revenue and
11 Taxation Code, or exempt from taxation under Section 23701b,
12 23701d, 23701e, 23701f, 23701g, 23701i, 23701k, 23701l, 23701r,
13 or 23701w of the Revenue and Taxation Code.

14 (b) A wine sales event permit may not be used more than two
15 times a month at a particular location.

16 (c) Consent for sales at each event shall be first obtained by an
17 annual authorization issued by the department. The applicant for
18 the wine sales permit is required to notify the city, county, or city
19 and county where the event is being held at least five days prior
20 to the event. At all events, a copy of the wine sales permit shall
21 be maintained. The licensee may exercise only those privileges
22 authorized by the licensee's license and shall comply with all
23 provisions of the act pertaining to that license, and any violation
24 of those provisions may be grounds for suspension or revocation
25 of the licensee's license or permit, or both, as though the violation
26 occurred on the licensed premises.

27 (d) (1) A licensee may not sell more than 5,000 gallons of wine
28 annually pursuant to wine sales event permits issued under this
29 section to that licensee.

30 (2) A licensee holding a wine sales event permit may not sell
31 more than 1,250 gallons of wine per event.

32 (3) A licensee that is eligible to receive a certified farmers'
33 market sales permit under Section 23399.4 and a wine sales event
34 permit may not, under both permits collectively, sell more than a
35 total of 5,000 gallons of wine annually.

36 (4) The licensee shall annually report to the department the total
37 gallons of wine sold by that licensee under permits issued under
38 this section to that licensee. The report may be included within the
39 annual report of production submitted by the licensee to the

1 department, or may be made in another manner as prescribed by
2 the department in regulation.

3 (e) The sponsoring tax-exempt organization may charge a fee
4 of the licensee for the licensee's use of display booth space. The
5 fee, if paid, shall be comparable with, or less than, fees, or goods
6 or services of equivalent value, paid by other vendors at the event
7 for a similar booth size and location.

8 (f) The sponsoring tax-exempt organization shall allow the
9 participation of more than one winegrower under a wine sales
10 event permit at an event if public attendance at the event is
11 expected to reach or exceed 1,000 attendees. The prior year's stated
12 attendance for the event shall be used to determine the expected
13 attendance.

14 (g) (1) The fee for the authorization to utilize a wine sales
15 permit shall be fifty dollars (\$50) per year, and the authorization
16 may be renewable annually at the time of the licensee's license.
17 The wine sales permit authorization shall be transferable as part
18 of the license.

19 (2) All money collected as fees pursuant to this subdivision
20 shall be deposited in the Alcohol Beverage Control Fund, as
21 described in Section 25761, for allocation, upon appropriation by
22 the Legislature, as provided in subdivision (d) of that section.

23 (h) The department may adopt any regulations as it determines
24 to be necessary for the administration of this section.

25 SEC. 3. Section 25503.9 of the Business and Professions Code
26 is amended to read:

27 25503.9. (a) Nothing in this division prohibits a winegrower
28 or a beer and wine wholesaler that also holds an off-sale beer and
29 wine retail license and only sells wine from giving or selling wine,
30 a beer manufacturer from giving or selling beer, a distilled spirits
31 manufacturer or a distilled spirits manufacturer's agent from giving
32 or selling distilled spirits, or ~~a licensed importer~~ *an importer*
33 *general licensee* from giving or selling beer, wine, or distilled
34 spirits at prices other than those contained in schedules filed with
35 the department, to any of the following:

36 (1) A nonprofit charitable corporation or association exempt
37 from payment of income taxes under the provisions of the Internal
38 Revenue Code of 1954 of the United States and Chapter 4
39 (commencing with Section 23701) of Part 11 of Division 2 of the
40 Revenue and Taxation Code.

1 (2) A nonprofit incorporated trade association that is exempt
2 from payment of income taxes under the provisions of the Internal
3 Revenue Code of 1954 of the United States and Chapter 4
4 (commencing with Section 23701) of Part 11 of Division 2 of the
5 Revenue and Taxation Code, and the members of which trade
6 association are licensed under this division. However, the wine,
7 beer, and distilled spirits shall be used solely for a convention or
8 meeting of the nonprofit incorporated trade association.

9 (3) A nonprofit corporation or association that is exempt from
10 payment of income taxes under the provisions of the Internal
11 Revenue Code of 1954 of the United States and is defined as a tax
12 exempt organization under Section 23701a, 23701b, 23701d,
13 23701e, 23701f, 23701g, 23701i, 23701k, 23701l, 23701r, or
14 23701w of the Revenue and Taxation Code. Wine, beer, and
15 distilled spirits given or sold by a winegrower, beer manufacturer,
16 distilled spirits manufacturer, distilled spirits manufacturer's agent,
17 ~~or licensed importer~~ *importer general licensee* pursuant to this
18 subdivision may be furnished only in connection with public
19 service or fundraising activities including picnics, parades, fairs,
20 amateur sporting events, agricultural exhibitions, or similar events.

21 ~~(b) Nothing in this division prohibits a winegrower or a beer
22 and wine wholesaler that also holds an off-sale beer and wine retail
23 license and only sells wine from giving or selling wine, a beer
24 manufacturer from giving or selling beer at prices other than those
25 contained in schedules filed with the department, a distilled spirits
26 manufacturer or a distilled spirits manufacturer's agent from giving
27 or selling distilled spirits, or an importer general licensee from
28 giving or selling wine or distilled spirits to a nonprofit corporation
29 or association that is exempt from payment of income taxes under
30 the provisions of the Internal Revenue Code of 1954 of the United
31 States and is defined as a tax-exempt organization under Section
32 23701b, 23701g, 23701i, 23701k, 23701l, or 23701w of the
33 Revenue and Taxation Code. Wine, beer, and distilled spirits given
34 or sold by a winegrower, beer manufacturer, distilled spirits
35 manufacturer, distilled spirits manufacturer's agent, or an importer
36 general licensee pursuant to this subdivision may be furnished
37 only in connection with public service or fundraising activities
38 including picnics, parades, fairs, amateur sporting events,
39 agricultural exhibitions, or similar events.~~

1 **(b)** *Nothing in this division prohibits a winegrower or a beer*
2 *and wine wholesaler, that also holds an off-sale beer and wine*
3 *retail license and only sells wine, from giving or selling wine, a*
4 *beer manufacturer from giving or selling beer, a distilled spirits*
5 *manufacturer or a distilled spirits manufacturer’s agent from*
6 *giving or selling distilled spirits, or a licensed importer from giving*
7 *or selling beer, wine, or distilled spirits at prices other than those*
8 *contained in schedules filed with the department, to any of the*
9 *following:*

10 **(1)** *A nonprofit charitable corporation or association exempt*
11 *from payment of income taxes under the provisions of the Internal*
12 *Revenue Code of the United States and Chapter 4 (commencing*
13 *with Section 23701) of Part 11 of Division 2 of the Revenue and*
14 *Taxation Code.*

15 **(2)** *A nonprofit incorporated trade association that is exempt*
16 *from payment of income taxes under the provisions of the Internal*
17 *Revenue Code of the United States and Chapter 4 (commencing*
18 *with Section 23701) of Part 11 of Division 2 of the Revenue and*
19 *Taxation Code, and the members of which trade association are*
20 *licensed under this division. However, the wine, beer, and distilled*
21 *spirits shall be used solely for a convention or meeting of the*
22 *nonprofit incorporated trade association.*

23 **(3)** *A nonprofit corporation or association that is exempt from*
24 *payment of income taxes under the provisions of the Internal*
25 *Revenue Code of the United States and is defined as a tax exempt*
26 *organization under Section 23701a, 23701d, 23701e, 23701f, or*
27 *23701r of the Revenue and Taxation Code. Wine, beer, and distilled*
28 *spirits given or sold by a winegrower, beer manufacturer, distilled*
29 *spirits manufacturer, distilled spirits manufacturer’s agent, or*
30 *licensed importer pursuant to this subdivision may be furnished*
31 *only in connection with public service or fundraising activities*
32 *including picnics, parades, fairs, amateur sporting events,*
33 *agricultural exhibitions, or similar events.*

34 **SEC. 4.** *No reimbursement is required by this act pursuant to*
35 *Section 6 of Article XIII B of the California Constitution because*
36 *the only costs that may be incurred by a local agency or school*
37 *district will be incurred because this act creates a new crime or*
38 *infraction, eliminates a crime or infraction, or changes the penalty*
39 *for a crime or infraction, within the meaning of Section 17556 of*
40 *the Government Code, or changes the definition of a crime within*

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

3

4

5 **CORRECTIONS:**

6 **Text—Page 4.**

7

O