

## Senate Bill No. 157

### CHAPTER 337

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

[Approved by Governor September 26, 2008. Filed with Secretary of State September 26, 2008.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 157, 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 revise the prohibition exemption for licensed importers by providing that nothing in the Alcoholic Beverage Control Act prohibits beer and wine wholesalers that also hold an importer's license from giving or selling beer, wine, or distilled spirits to certain nonprofit organizations. This bill would also 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.

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

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

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

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

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

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

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

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

23399.6. (a) Any licensee under a winegrower's license may apply to the department for a wine sales event permit. The wine sales event permit shall authorize the sale of bottled wine produced by the winegrower at festivals, state, county, district, or citrus fruit fairs, civic or cultural celebrations, or similar events approved by the department. The sale of the wine shall not be the primary purpose of the event, and the sale shall be for consumption off the premises where sold. The permit shall be valid for a maximum of five consecutive days during the event period. The event shall be sponsored by an organization that is exempt from taxation under Section 23701a of the Revenue and Taxation Code, including state designated fairs as specified in Section 19418 of the Revenue and Taxation Code, or exempt from taxation under Section 23701b, 23701d, 23701e, 23701f, 23701g, 23701i, 23701k, 23701l, 23701r, or 23701w of the Revenue and Taxation Code.

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

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

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

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

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

(4) The licensee shall annually report to the department the total gallons of wine sold by that licensee under permits issued under this section to that licensee. The report may be included within the annual report of production submitted by the licensee to the department, or may be made in another manner as prescribed by the department in regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 4. 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.

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