AMENDED IN SENATE JUNE 10, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

ASSEMBLY BILL   No. 888

Introduced by Assembly Member Price

February 26, 2009

An act to add Section 25608.2 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 888, as amended, Price. Alcoholic beverages: open containers: school grounds.

Under the Alcoholic Beverage Control Act, any person possessing an open container of an alcoholic beverage in specified areas is guilty of an infraction if an ordinance prohibits the consumption of alcoholic beverages in those areas.

This bill would prohibit, as an infraction, the possession of an alcoholic beverage container, or consumption of an alcoholic beverage, on a public street, alley, or sidewalk within 600 feet of the property line of a public or private school, with specified exceptions.

By creating a new crime, this bill would impose 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. Section 25608.2 is added to the Business and
2 Professions Code, to read:
3 25608.2. (a) Any person who possesses an open alcoholic
4 beverage container or consumes an alcoholic beverage on a public
5 street, public alley, or public sidewalk within 600 feet of the
6 property line of a facility that is a public or private school that
7 provides prekindergarten, elementary, or secondary education is
8 guilty of an infraction, and shall be punished by a fine of not more
9 than two hundred and fifty dollars ($250) or shall be required to
10 perform not less than 24 hours or more than 32 hours of community
11 service during hours when the person is not employed or is not
12 attending school, or a combination of fine and community service
13 as determined by the court. A second or subsequent violation of
14 this section shall be punished by a fine of not more than five
15 hundred dollars ($500), or the person shall be required to perform
16 not less than 36 hours or more than 48 hours of community service
17 during hours when the person is not employed or is not attending
18 school, or a combination of fine and community service, as the
19 court deems just.
20 (b) (1) This section does not apply when an individual is in
21 possession of an open alcoholic beverage container for the purpose
22 of recycling or other related activity.
23 (2) This section does not apply when the possession of an open
24 alcoholic beverage container, or the consumption of an alcoholic
25 beverage, occurs at a duly licensed event or is otherwise authorized
26 pursuant to this division.
27 *(3) This section does not apply when the possession of an open*
28 *alcoholic beverage container, or the consumption of an alcoholic*
29 *beverage, occurs at a private residence where a private school*
30 *provides education from kindergarten to grade 12, inclusive,*
31 *pursuant to Section 48222 of the Education Code.*
32 (c) The penalties imposed by this section do not preclude
33 prosecution or the imposition of penalties under any other provision
34 of law.

1   SEC. 2. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIIIB of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIIIB of the California
9 Constitution.

O