

**ASSEMBLY BILL**

**No. 1649**

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**Introduced by Assembly Member Chesbro**  
**(Principal coauthor: Assembly Member Evans)**  
(Coauthor: Senator Wiggins)

January 13, 2010

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An act to amend Sections 23015, 23358, 23358.2, and 23390.5 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1649, as introduced, Chesbro. Alcoholic beverage licensees: winegrowers.

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon, alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law authorizes a licensed winegrower to conduct specified activities, including authorizing a licensed winegrower to sell wine and brandy for consumption to consumers for on-premises consumption.

This bill would expand the authorized activities that a licensed winegrower may conduct to include the production of spirits of wine, provided those spirits of wine are either blended into wine produced by the winegrower, sold to an industrial alcohol dealer, or destroyed by the winegrower. This bill would also make conforming changes with regard to a licensed winegrower's authorization to sell wine and brandy for consumption to consumers on the licensed premises.

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

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

1 SECTION 1. Section 23015 of the Business and Professions  
2 Code is amended to read:

3 23015. “Distilled spirits manufacturer” means any person who  
4 produces distilled spirits from naturally fermented materials or in  
5 any other manner. “*Distilled spirits manufacturer*” shall not  
6 include a winegrower that produces spirits of wine, provided the  
7 spirits of wine are blended into wine produced by the winegrower,  
8 are sold to an industrial alcohol dealer, or are destroyed by the  
9 winegrower.

10 SEC. 2. Section 23358 of the Business and Professions Code  
11 is amended to read:

12 23358. (a) Licensed winegrowers, notwithstanding any other  
13 provisions of this division, may also exercise the following  
14 privileges:

15 (1) Sell wine and brandy to any person holding a license  
16 authorizing the sale of wine or brandy.

17 (2) Sell wine and brandy to consumers for consumption off the  
18 premises where sold.

19 (3) Sell wine to consumers for consumption on the premises.

20 (4) Sell all beers, wines, and brandies, regardless of source, to  
21 consumers for consumption on the premises in a bona fide eating  
22 place as defined in Section 23038 of this code, which is located  
23 on the licensed premises or on premises owned by the licensee  
24 that are contiguous to the licensed premises and which is operated  
25 by and for the licensee. At such bona fide public eating place beer,  
26 wine, and brandy may be used in the preparation of food and  
27 beverages to be consumed on the premises.

28 (5) *Produce spirits of wine and blend those spirits of wine into*  
29 *wine produced by the winegrower or sell those spirits of wine to*  
30 *an industrial alcohol dealer.*

31 (b) A winegrower may also have upon the premises all beers,  
32 wines, and brandies, regardless of source, for sale or service only  
33 to guests during private events or private functions not open to the  
34 general public. Alcoholic beverage products sold at the premises  
35 that are not produced and bottled by, or produced and packaged  
36 for, the winegrower shall be purchased by the winegrower only  
37 from a licensed wholesaler.

1 (c) A winegrower shall actually produce on his or her licensed  
2 premises by conversion of grapes, berries, or other fruit, into wine,  
3 not less than 50 percent of all wines sold to consumers on his or  
4 her licensed premise or premises and any licensed branch premise  
5 or premises.

6 (d) The department may, if it shall determine for good cause  
7 that the granting of any such privilege would be contrary to public  
8 welfare or morals, deny the right to exercise any on-sale privilege  
9 authorized by this section in either a bona fide eating place the  
10 main entrance to which is within 200 feet of a school or church,  
11 or on the licensed winery premises, or both.

12 (e) Nothing in this section or in Section 23390 is intended to  
13 alter, diminish, replace, or eliminate the authority of a county, city,  
14 or city and county from exercising land use regulatory authority  
15 by law to the extent the authority may restrict, but not eliminate,  
16 privileges afforded by these sections.

17 SEC. 3. Section 23358.2 of the Business and Professions Code  
18 is amended to read:

19 23358.2. Notwithstanding any other provision of this division,  
20 a winegrower or brandy manufacturer, at his licensed premises  
21 where the sale of wine or brandy ~~for consumption off the premises~~  
22 is authorized or permitted, ~~when selling to consumers for~~  
23 ~~consumption off the premises~~ may sell only wine or brandy which  
24 is produced or bottled by such licensee, or wine or brandy which  
25 is produced for or is produced and packaged for such licensee, and  
26 which is sold under a brand name owned by such licensee. The  
27 rights and privileges of a winegrower or brandy manufacturer to  
28 be issued and to hold an off-sale beer and wine license for any of  
29 his licensed premises, or for other premises, shall not in any way  
30 be changed or affected, or be construed to be changed or affected,  
31 by the provisions of this section. ~~This section shall become~~  
32 ~~operative on July 1, 1970.~~

33 SEC. 4. Section 23390.5 of the Business and Professions Code  
34 is amended to read:

35 23390.5. (a) As used in this section, “licensed branch office”  
36 means any branch office or warehouse, or United States bonded  
37 wine cellar located away from the licensed winegrower’s or brandy  
38 manufacturer’s place of production, or manufacture, for which a  
39 duplicate license has been issued.

1 (b) Notwithstanding the provisions of Section 23358, 23360,  
2 and 23390, no licensed winegrower or brandy manufacturer shall  
3 sell wine or brandy to consumers ~~for consumption off the premises~~  
4 ~~where sold~~ or engage in winetasting activities at more than one  
5 licensed branch premise. This section is not and shall not be  
6 construed to be retroactive and notwithstanding any other  
7 provisions of this division shall not prohibit such sales or limit the  
8 quantity thereof or prohibit winetasting activities at any licensed  
9 branch office or branch offices under the existing duplicate license  
10 or licenses therefor in existence ~~on the effective date of this section~~  
11 *January 1, 1966*, or any renewal or transfer thereof or at any  
12 licensed branch office opened by the licensee in place of such  
13 licensed branch office.

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