

Assembly Bill No. 1649

CHAPTER 129

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

[Approved by Governor August 13, 2010. Filed with
Secretary of State August 13, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1649, 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.

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

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

23015. "Distilled spirits manufacturer" means any person who produces distilled spirits from naturally fermented materials or in any other manner. "Distilled spirits manufacturer" shall not include a winegrower that produces spirits of wine, provided the spirits of wine are blended into wine produced by the winegrower, are sold to an industrial alcohol dealer, or are destroyed by the winegrower.

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

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

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

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

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

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

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

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

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

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

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

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

23358.2. Notwithstanding any other provision of this division, a winegrower or brandy manufacturer, at his licensed premises where the sale of wine or brandy is authorized or permitted, when selling to consumers, may sell only wine or brandy which is produced or bottled by such licensee, or wine or brandy which is produced for or is produced and packaged for such licensee, and which is sold under a brand name owned by such licensee. The rights and privileges of a winegrower or brandy manufacturer to be issued and to hold an off-sale beer and wine license for any of his licensed premises, or for other premises, shall not in any way be changed or affected, or be construed to be changed or affected, by the provisions of this section.

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

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

(b) Notwithstanding the provisions of Section 23358, 23360, and 23390, no licensed winegrower or brandy manufacturer shall sell wine or brandy to consumers or engage in winetasting activities at more than one licensed branch premise. This section is not and shall not be construed to be retroactive and notwithstanding any other provisions of this division shall not prohibit such sales or limit the quantity thereof or prohibit winetasting activities at any licensed branch office or branch offices under the existing duplicate license or licenses therefor in existence on January 1, 1966, or any renewal or transfer thereof or at any licensed branch office opened by the licensee in place of such licensed branch office.

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