# ASSEMBLY BILL No. 1694

**Introduced by Assembly Member Beall**

January 28, 2010

An act to add Division 10.56 (commencing with Section 11972.10) to the Health and Safety Code, relating to alcohol abuse programs, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1694, as introduced, Beall. Alcohol-Related Services Program.

Existing law requires the State Department of Alcohol and Drug Programs to perform various functions and duties with respect to the development and implementation of state and local substance abuse treatment programs.

This bill would, in addition, establish the Alcohol-Related Services Program and the Alcohol-Related Services Program Fund and would authorize the State Board of Equalization to assess and collect specified fees from every person who is engaged in business in this state and sells alcoholic beverages for resale, as prescribed. The bill would require the fees to be deposited into the fund and would continuously appropriate those moneys exclusively for the alcohol-related services programs established pursuant to this bill. The bill would authorize the State Department of Alcohol and Drug Programs to establish, contract for, or provide grants for the establishment of component services under the 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: yes. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Division 10.56 (commencing with Section 11972.10) is added to the Health and Safety Code, to read:

## DIVISION 10.56. ALCOHOL-RELATED SERVICES PROGRAM

11972.10. (a) This act shall be known, and may be cited, as the Alcohol-Related Services Act of 2009.

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

(1) The following findings rely, in part, on "The Cost of Alcohol in California," by Rosen, Miller, and Simon in Alcoholism: Clinical and Experimental Research, Vol. 32 No. 11 (2008).

(2) Alcohol-related problems cost Californians an estimated $38.4 billion annually, including costs for alcohol-related illness and injury, criminal justice, lost productivity, and impacts on the welfare system, fire and law enforcement response, trauma and emergency care, and the foster care system, among other costs.

(3) Alcohol use drains California's state and county governments of approximately $8.3 billion annually in increased health care costs, criminal justice costs, and lost tax bases, while the income to the state in alcohol licensing, fees, excise taxes, and sales taxes is less than $1 billion annually.

(4) The alcohol industry currently does not pay any fees at the state level to offset or mitigate the enormous costs its products impose on California.

(5) One out of every nine Californians suffers from alcohol addiction.

(6) Alcohol-related accidents are the leading cause of death among teenagers and the cause of many permanently disabling injuries.

(7) Eight out of every 10 felons sent to state prisons are alcohol abusers.

(8) Annually, there are over 220,000 admissions to publicly funded alcohol treatment services. Alcohol treatment services reunify families, and decrease criminal justice activities and costs.

(9) Alcohol use during pregnancy causes approximately 5,000 children to be born in California each year with alcohol-related birth defects.

(10) Drinking and driving is the major cause of traffic accidents and fatalities in California each year.

(11) The use of alcohol is a major cause of hospital emergency room and trauma care treatment, and greatly contributes to the need for transportation costs such as emergency medical air transportation services and ambulance costs.

(12) The use of alcohol is closely associated with mental illness and contributes enormously to the cost of treating the mentally ill.

(13) Effective prevention and treatment services for youth increase school attendance and academic performance.

(14) California prevention services reach only 4.3 million people annually, but the entire population of the state needs access to prevention services.

(15) The use of alcohol is a factor in the majority of child and spousal abuse cases, and is frequently associated with the abuse of the elderly, mentally ill, and mentally retarded residents of long-term care facilities.

(16) There are significant benefits of alcohol treatment and recovery programs and they are effective. People who complete treatment find employment and pay taxes, no longer suffer from alcohol problems, and become productive members of their communities.

(17) While the staggering cost of alcohol abuse is borne by all Californians, 67 percent of the alcohol sold in California is consumed by only 11 percent of the population.

(18) This division is necessary to mitigate the adverse effects of alcohol use.

(19) It is the intent of the Legislature to impose a regulatory fee pursuant to this division within the guidelines and limitations approved by the Supreme Court of California in Sinclair Paint Co. v. State Bd. of Equalization (1997) 15 Cal.4th 866.

(20) There is a nexus between the regulatory program of this division and the source of harm, which is the alcohol product, and a rational basis for the assessment of fees to the market. The

statutory definitions of alcohol in beer, wine, and distilled spirits categories have been used consistently in police power regulations of the state, and therefore are a rational basis for mitigation fee assessment.

(21) It shall be considered a beneficial, regulatory goal of this program to deter future harm by reducing consumption through implementation of a mitigation fee that shall be paid in the stream of commerce of the alcohol industry.

(22) It is reasonable to assess mitigation fees at the wholesale level of the stream of commerce, as most alcohol products are made outside of California and the ownership and corporate structure is largely foreign causing practical complications, while retail sales locations are much more numerous than wholesale operations and therefore less efficiently assessed.

11972.13. As used in this division, the following terms have the following meanings:

(a) "Department" means the State Department of Alcohol and Drug Programs.

(b) "ARS Program" means the Alcohol-Related Services Program established pursuant to Section 11972.15.

(c) "ARSP Fund" means the Alcohol-Related Services Program Fund established pursuant to Section 11972.20.

11972.15. (a) There is hereby established the Alcohol-Related Services Program, to be administered by the State Department of Alcohol and Drug Programs.

(b) (1) The ARS Program is established under the police powers of the state as a regulatory and service program to protect the health and safety of California residents who are harmed by the pervasive influence of alcohol production, distribution, sales, and consumption.

(2) The component alcohol-related services described in Section 11972.25, and authorized under the ARS Program, may mitigate for the past, present, or future harm caused by alcohol products in the stream of commerce in California.

(3) The ARS Program may support preexisting or new services.

(c) By April 1, 2011, the department shall adopt rules, guidelines, procedures, and regulations necessary or appropriate to carry out the purposes of this division, including guidelines regarding the application process for contracts or grants under component alcohol-related services of the ARS Program. Rules,

guidelines, procedures, and regulations may be adopted on an emergency basis if necessary to meet the four-month deadline. The rules, guidelines, and procedures shall be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and shall include submissions by state agencies, nonprofit organizations, cities, and counties of evidence of alcohol harm that causes the need and nexus for the component alcohol-related services of the ARS Program. The published rules, guidelines, and procedures shall include supplemental findings to further demonstrate the reasonable relationship between all component alcohol-related services and the harm from the use of alcohol.

11972.20. (a) (1) Commencing January 1, 2011, a mitigation fee is hereby imposed on all persons engaged in business in this state, as described in Section 6203, and making sales of alcoholic beverages, where the sale is for the purpose of resale in the regular course of business of the purchaser. The mitigation fee shall be assessed at the first point of sale within the state.

(2) The mitigation fee shall be established at the following rates:

(A) On all beer, fifty-three cents ($0.53) per gallon and at a proportionate rate for any other quantity.

(B) On all still wines containing not more than 14 percent of absolute alcohol by volume, one dollar and twenty-eight cents ($1.28) per wine gallon and at a proportionate rate for any other quantity.

(C) On all still wines containing more than 14 percent of absolute alcohol by volume, and on sparkling hard cider, two dollars and thirteen cents ($2.13) per wine gallon and at a proportionate rate for any other quantity.

(D) On champagne and sparkling wine, excepting sparkling hard cider, whether naturally or artificially carbonated, one dollar and twenty-eight cents ($1.28) per wine gallon and at a proportionate rate for any other quantity.

(E) On all distilled spirits, four dollars and twenty-seven cents ($4.27) per wine gallon and at a proportionate rate for any other quantity.

(3) Annually the State Board of Equalization may authorize an increase in these fees by an amount equal to the increase in the

California Consumer Price Index, as recorded by the Department of Industrial Relations, for the most recent year available.

(4) The amount of the fee shall be sufficient to defray the costs of the State Board of Equalization and the department in implementing this division, but not in excess of the amount needed to fully implement this division.

(b) (1) There is hereby established in the State Treasury the Alcohol-Related Services Program Fund.

(2) Except for reimbursement for the State Board of Equalization for expenses incurred in the administration and collection of the fee imposed by this division, all funds collected pursuant to subdivision (a), less refunds, shall be deposited in the ARSP Fund.

(3) Funds collected pursuant to this division and deposited in the ARSP Fund are, notwithstanding Section 13340 of the Government Code, hereby continuously appropriated to the department, to be used exclusively by the department for the purposes of funding the ARS Program pursuant to this division.

(4) Notwithstanding Section 16305.7 of the Government Code, in addition to any funds collected by, or on behalf of, the State Board of Equalization for deposit in the ARSP Fund, all interest earned by the ARSP Fund shall be deposited in the ARSP Fund.

(c) The State Board of Equalization shall collect the mitigation fee pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

(d) Any fee imposed pursuant to this division shall be consistent with all applicable legal requirements for imposing fees, including the requirements set forth in Sinclair Paint Co. v. State Bd. of Equalization (1997) 15 Cal.4th 866.

11972.25. (a) Beginning April 1, 2011, the department shall establish, enter into contracts for the establishment or continuation of, or provide grants for the establishment or continuation of, component services under the ARS Program. After the initial April 1, 2011, release date, the department shall release grants or contracts on July 1, 2012, and every two years thereafter. No service component shall be funded in excess of the cost of harm caused by alcohol, which, in turn, caused the need for these services.

(b) The department shall include five alcohol-related component services in the ARS Program described in subdivision (d). The

department shall equally distribute available funding from the ARSP Fund to the five alcohol-related component services in subdivision (d).

(c) The department shall use the criteria of need, effectiveness, and best practices as guidance in deciding on guidelines for the service components. The department may, in its biennial update of its guidelines, consider other varieties of services but shall show the need, effectiveness, and best practices that those services bring to the component service area.

(d) The ARS Program shall consist of all of the following component services:

(1) Treatment and recovery services to mitigate the harm of alcohol use. The types of services to be considered under this paragraph shall include all of the following:

(A) Capital expenditures for housing, treatment facilities, recovery facilities, domestic violence shelters, and homeless and low-income facilities for persons recovering from alcohol abuse.

(B) Adult and adolescent treatment programs, including a full continuum of active treatment, including cooccurring disorders treatment programs and medication-assisted treatments and the medications involved, inpatient or outpatient detoxification, inpatient services, residential care, intensive outpatient programs, office-based outpatient programs, case management services, and recovery support services, for alcohol abuse treatment provided by a specialty alcohol abuse provider or in a primary care or nonalcohol abuse specialty setting, including, but not limited to, a public health clinic, a federally qualified health center, a school health clinic, or in a criminal justice setting or program by a licensed alcohol abuse-trained medical doctor or registered nurse or state-certified alcohol abuse professional.

(C) Workforce education to support updated 2009–11 alcohol abuse licensure and certification requirements, as well as alcohol abuse continuing education requirements and alcohol abuse-related information technology training.

(D) Screening, brief intervention, and treatment for adults and adolescents between 12 years of age and 18 years of age in public and private hospital emergency rooms, schools, jails, courts and prisons, public inpatient or residential treatment settings or intensive outpatient or large office-based settings, and large public urban and rural clinics.

(E) Infrastructure funds, including funding for capital requests, information technology and electronic health records, and associated equipment and training, including information technology training, data analytic and reporting training, management training, assessment training, evidence-based care training, reimbursement training, and training in quality improvement techniques and programs, including training in meeting performance management standards.

(F) Special targeted alcohol abuse funding for the following groups: veterans, including those from the National Guard and reserves who are not included in Veterans Administration funding, pregnant and parenting women, adolescents, alcohol-addicted patients diagnosed with HIV, hepatitis C, or tuberculosis, or any combination of those diagnoses, victims of crime or domestic violence who have a post-traumatic stress disorder or severely mentally impaired diagnosis, and nonalcohol abuse specialty provider training in alcohol abuse identification, screening, brief intervention and treatment, assessment and referrals outside of screening, brief intervention and treatment, including reentry programs for offenders.

(G) Expansion of alcohol abuse treatment and expertise in California's rural areas through federally qualified health centers, community health centers, rural hospital emergency rooms and jails, including expanding the use of telemedicine consultations to bring alcohol abuse expertise to rural providers and their patients.

(H) Planning and data analysis funding, including intervention evaluation funding and dissemination of results. Planning and data analysis funding shall not include information technology support.

(I) Integrated provision of services by certified providers in nontraditional alcohol abuse settings, including mental health settings, inpatient and outpatient specialty medical settings, including obstetrics and gynecology, pediatrics and communicable disease treatment settings, and large-volume primary care settings.

(2) Prevention, education, and research programs to prevent the future use or future harm of alcohol products through preventative screening, perinatal screening and care, public education, targeted population education, and research on past harm to better target prevention and treatment. The types of programs to be considered under this paragraph include all of the following:

(A) Prevention, screening, and care regarding the health needs of infants, children, and women due to perinatal alcohol use.

(B) A new, coordinated statewide program that provides training assistance, public policy assistance, and public awareness campaigns to prevent the use and abuse of alcoholic beverages. The public awareness campaigns shall focus on informing the public, specifically children and young adults, of the potential health risks of alcohol at all levels of consumption. Programs shall include Spanish language and other threshold languages depending on the population of the county involved in the program.

(C) Programs to prevent the use of alcoholic beverages among high school age youth.

(D) Research on the epidemiology of alcohol-related illness and injury.

(E) Research on the harm from alcohol use in California, including the costs and benefits of alcohol use, production, distribution, and retail sales, as background for better planning for treatment and prevention.

(3) Emergency medical and trauma care treatment services at the state, city, county, or city and county level that are directly related to alcohol use, including transportation for those visits, emergency, medical, and trauma care services, up to the time the patient is stabilized, provided by physicians in general acute care hospitals that provide basic or comprehensive emergency services. The establishment of monitoring and reporting systems for best practices in billing and service provision shall be considered.

(4) Hospitalization and rehabilitation services at the state, city, county, or city and county level for illnesses caused or contributed to by, or related to, alcohol use. The variety of services to be considered under this paragraph shall include:

(A) Reimbursement to hospitals and clinics for costs not already covered by private insurance or government programs for illness caused or contributed to by, or related to, alcohol use.

(B) Vocational rehabilitation and recovery support services.

(C) Pharmaceuticals for treatment and rehabilitation of alcohol addiction, including services to enhance Medicare and Medi-Cal services and formularies, with an emphasis on generic and safe substitutes for patent-protected drugs.

(5) Criminal justice and enforcement programs, at the state, city, county, or city and county level. The variety of programs to

be considered under this paragraph shall include all of the following:

(A) Programs to increase and improve the enforcement of laws prohibiting driving under the influence of an alcoholic beverage and related criminal justice and penal system costs and services.

(B) Programs to increase and improve the enforcement of alcohol abuse-related criminal justice and penal system costs and services.

(C) Law enforcement programs related to prevention of alcohol use and abuse and criminal justice.

SEC. 2. 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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