

AMENDED IN ASSEMBLY MARCH 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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 amended, 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:

1 SECTION 1. Division 10.56 (commencing with Section
2 11972.10) is added to the Health and Safety Code, to read:

3
4 DIVISION 10.56. ALCOHOL-RELATED SERVICES
5 PROGRAM
6

7 11972.10. (a) This act shall be known, and may be cited, as
8 the Alcohol-Related Services Act of 2009.

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

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

13 (2) Alcohol-related problems cost Californians an estimated
14 \$38.4 billion annually, including costs for alcohol-related illness
15 and injury, criminal justice, lost productivity, and impacts on the
16 welfare system, fire and law enforcement response, trauma and
17 emergency care, and the foster care system, among other costs.

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

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

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

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

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

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

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

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

9 (11) The use of alcohol is a major cause of hospital emergency
10 room and trauma care treatment, and greatly contributes to the
11 need for *fire and law enforcement response and for* transportation
12 costs such as emergency medical air transportation services and
13 ambulance costs.

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

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

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

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

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

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

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

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

39 (20) There is a nexus between the regulatory program of this
40 division and the source of harm, which is the alcohol product, and

1 a rational basis for the assessment of fees to the market. The
2 statutory definitions of alcohol in beer, wine, and distilled spirits
3 categories have been used consistently in police power regulations
4 of the state, and therefore are a rational basis for mitigation fee
5 assessment.

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

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

16 11972.13. As used in this division, the following terms have
17 the following meanings:

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

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

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

24 11972.15. (a) There is hereby established the Alcohol-Related
25 Services Program, to be administered by the State Department of
26 Alcohol and Drug Programs.

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

32 (2) The component alcohol-related services described in Section
33 11972.25, and authorized under the ARS Program, may mitigate
34 for the past, present, or future harm caused by alcohol products in
35 the stream of commerce in California.

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

37 (c) By April 1, 2011, the department shall adopt rules,
38 guidelines, procedures, and regulations necessary or appropriate
39 to carry out the purposes of this division, including guidelines
40 regarding the application process for contracts or grants under

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

15 11972.20. (a) (1) Commencing January 1, 2011, a mitigation
16 fee is hereby imposed on all persons engaged in business in this
17 state, as described in Section 6203, and making sales of alcoholic
18 beverages, where the sale is for the purpose of resale in the regular
19 course of business of the purchaser. The mitigation fee shall be
20 assessed at the first point of sale within the state.

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

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

24 (B) On all still wines containing not more than 14 percent of
25 absolute alcohol by volume, one dollar and twenty-eight cents
26 (\$1.28) per wine gallon and at a proportionate rate for any other
27 quantity.

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

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

36 (E) On all distilled spirits, four dollars and twenty-seven cents
37 (\$4.27) per wine gallon and at a proportionate rate for any other
38 quantity.

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

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

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

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

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

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

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

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

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

30 11972.25. (a) Beginning April 1, 2011, the department shall
31 establish, enter into contracts for the establishment or continuation
32 of, or provide grants for the establishment or continuation of,
33 component services under the ARS Program. After the initial April
34 1, 2011, release date, the department shall release grants or
35 contracts on July 1, 2012, and every two years thereafter. No
36 service component shall be funded in excess of the cost of harm
37 caused by alcohol, which, in turn, caused the need for these
38 services.

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

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

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

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

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

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

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

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

35 (D) Screening, brief intervention, and treatment for adults and
36 adolescents between 12 years of age and 18 years of age in public
37 and private hospital emergency rooms, schools, jails, courts and
38 prisons, public inpatient or residential treatment settings or
39 intensive outpatient or large office-based settings, and large public
40 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:

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

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

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

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

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

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

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

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

36 (B) Vocational rehabilitation and recovery support services.

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

1 (5) Criminal justice and enforcement programs, at the state,
2 city, county, or city and county level. The variety of programs to
3 be considered under this paragraph shall include all of the
4 following:

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

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

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

13 SEC. 2. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.