

AMENDED IN ASSEMBLY APRIL 19, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1896**

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**Introduced by Assembly Member Jeffries**

February 16, 2010

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An act to amend Section 25660 of, and to add Section 23393.5 to, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1896, as amended, Jeffries. Alcoholic beverage control: licensees: proof of age.

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 provides for various annual fees for the issuance of alcoholic beverage licenses that vary depending upon the type of license issued.

This bill would authorize the issuance of a limited off-sale retail wine license that would allow the licensee to sell wine only via direct mail, telephone, or Internet, as specified. This bill would impose an original fee and an annual renewal fee in specified amounts, and would allow the Department of Alcoholic Beverage Control to impose reasonable conditions upon the licensee.

The Alcoholic Beverage Control Act makes it a misdemeanor for any person under the age of 21 years to purchase any alcoholic beverage or consume any alcoholic beverage in any on-sale premises. The act also subjects a holder of a license to sell alcoholic beverages to criminal prosecution and suspension or revocation of that license if the licensee sells any alcoholic beverages to any person under the age of 21 years.

Existing law provides that a licensee's acceptance of bona fide evidence, as defined, constitutes a defense to any action against the licensee. Existing law requires that evidence to contain a description of the person.

Existing law includes, as bona fide evidence of age, a military identification card issued to a member of the Armed Forces that contains, among other things, a description of the cardholder. Existing law also provides, however, that, if the military identification card lacks a physical description but does include date of birth and a photo, further proof of age is not required.

This bill would revise the provision relating to the use of military identification cards as proof of age for purposes of purchasing or consuming ~~of~~ alcoholic beverages, to directly specify that a valid identification card issued to a member of the Armed Forces; that includes the date of birth and a photo of the person would, under all circumstances, constitute bona fide evidence of age.

The Alcoholic Beverage Control Act provides that a violation of its provisions is a misdemeanor, unless otherwise specified.

This bill, by including provisions that would be subject to those existing criminal sanctions, 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 23393.5 is added to the Business and
- 2 Professions Code, to read:
- 3 23393.5. (a) The department may issue a limited off-sale retail
- 4 wine license. A limited off-sale retail wine license authorizes the
- 5 sale of wine by the licensee under all of the following conditions:
- 6 (1) Sales are restricted to sales solicited and accepted via direct
- 7 mail, telephone, or the Internet.
- 8 (2) Sales are not conducted from a retail premises open to the
- 9 public.

1 (3) The licensee takes possession ~~and title of~~ *of and title to* all  
2 alcoholic beverages sold by the licensee.

3 (4) All alcoholic beverages sold by the licensee are delivered  
4 to the purchaser from the licensee's licensed premises or from a  
5 licensed public warehouse.

6 (b) The licensee shall comply with the requirements of Section  
7 23985, but is exempted from the requirements and limitations  
8 under Sections 23985.5 and 23986.

9 (c) The department may impose reasonable conditions upon the  
10 licensee as may be needed in the interest of the public health,  
11 safety, and welfare.

12 (d) The application for the license shall be accompanied by an  
13 original fee in an amount equivalent to that of an original off-sale  
14 beer and wine license pursuant to Section 23954.5. The annual fee  
15 for the license shall be an amount equivalent to that of a retail  
16 package off-sale beer and wine license pursuant to Section 23320.  
17 All money collected from the fees provided for in this section shall  
18 be deposited in the Alcohol Beverage Control Fund, as provided  
19 by Section 25761.

20 SEC. 2. Section 25660 of the Business and Professions Code  
21 is amended to read:

22 25660. (a) Bona fide evidence of majority and identity of the  
23 person is any of the following:

24 (1) A document issued by a federal, state, county, or municipal  
25 government, or subdivision or agency thereof, including, but not  
26 limited to, a valid motor vehicle operator's license, that contains  
27 the name, date of birth, description, and picture of the person.

28 (2) A valid passport issued by the United States or by a foreign  
29 government.

30 (3) A valid identification card issued to a member of the Armed  
31 Forces that includes a date of birth and a picture of the person.

32 (b) Proof that the defendant-licensee, or his or her employee or  
33 agent, demanded, was shown, and acted in reliance upon bona fide  
34 evidence in any transaction, employment, use, or permission  
35 forbidden by Section 25658, 25663, or 25665 shall be a defense  
36 to any criminal prosecution therefor or to any proceedings for the  
37 suspension or revocation of any license based thereon.

38 SEC. 3. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

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