

Introduced by Senator Harman

February 24, 2009

An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 245, as introduced, Harman. Alcoholic beverages: licensees: advertising restrictions.

Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. It authorizes, as an exception, the holder of a beer manufacturer's or winegrower's license, a distilled spirits rectifier or manufacturer, or a distilled spirits manufacturer's agent, to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent, assignee, or major tenant of a specified facility, including an exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of 4,500 people, located in San Bernardino County.

This bill would modify this exception to provide that the fully enclosed arena has an attendance capacity in excess of 4,000.

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

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

SECTION 1. Section 25503.6 of the Business and Professions Code is amended to read:

25503.6. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower's license, a distilled spirits rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer's agent may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or the major tenant of the owner of any of the following:

(A) An outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in Sacramento County or Alameda County.

(B) A fully enclosed arena with a fixed seating capacity in excess of 18,000 seats located in Orange County or Los Angeles County.

(C) An outdoor stadium or fully enclosed arena with a fixed seating capacity in excess of 8,500 seats located in Kern County.

(D) An exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of ~~4,500~~ 4,000 people, located in San Bernardino County.

(E) An outdoor stadium with a fixed seating capacity in excess of 10,000 seats located in Yolo County.

(F) An outdoor stadium and a fully enclosed arena with fixed seating capacities in excess of 10,000 seats located in Fresno County.

(G) An athletic and entertainment complex of not less than 50 acres that includes within its boundaries an outdoor stadium with a fixed seating capacity of at least 8,000 seats and a second outdoor stadium with a fixed seating capacity of at least 3,500 seats located within Riverside County.

(H) An outdoor stadium with a fixed seating capacity in excess of 1,500 seats located in Tulare County.

(I) A motorsports entertainment complex of not less than 50 acres that includes within its boundaries an outdoor speedway with

1 a fixed seating capacity of at least 50,000 seats, located within San
2 Bernardino County.

3 (J) An exposition park, owned or operated by a bona fide
4 nonprofit organization, of not less than 400 acres with facilities
5 including a grandstand with a seating capacity of at least 8,000
6 people, at least one exhibition hall greater than 100,000 square
7 feet, and at least four exhibition halls, each greater than 30,000
8 square feet, located in the City of Pomona or the City of La Verne
9 in Los Angeles County.

10 (K) An outdoor soccer stadium with a fixed seating capacity of
11 at least 25,000 seats, an outdoor tennis stadium with a fixed
12 capacity of at least 7,000 seats, an outdoor track and field facility
13 with a fixed seating capacity of at least 7,000 seats, and an indoor
14 velodrome with a fixed seating capacity of at least 2,000 seats, all
15 located within a sports and athletic complex built before January
16 1, 2005, within the City of Carson in Los Angeles County.

17 (L) An outdoor professional sports facility with a fixed seating
18 capacity of at least 4,200 seats located within San Joaquin County.

19 (2) The outdoor stadium or fully enclosed arena described in
20 paragraph (1) is not owned by a community college district.

21 (3) The advertising space or time is purchased only in connection
22 with the events to be held on the premises of the exposition park,
23 stadium, or arena owned by the on-sale licensee. With respect to
24 an exposition park as described in subparagraph (J) of paragraph
25 (1) that includes at least one hotel, the advertising space or time
26 shall not be displayed on or in any hotel located in the exposition
27 park, or purchased in connection with the operation of any hotel
28 located in the exposition park.

29 (4) The on-sale licensee serves other brands of beer distributed
30 by a competing beer wholesaler in addition to the brand
31 manufactured or marketed by the beer manufacturer, other brands
32 of wine distributed by a competing wine wholesaler in addition to
33 the brand produced by the winegrower, and other brands of distilled
34 spirits distributed by a competing distilled spirits wholesaler in
35 addition to the brand manufactured or marketed by the distilled
36 spirits rectifier, the distilled spirits manufacturer or the distilled
37 spirits manufacturer's agent that purchased the advertising space
38 or time.

39 (b) Any purchase of advertising space or time pursuant to
40 subdivision (a) shall be conducted pursuant to a written contract

1 entered into by the beer manufacturer, the holder of the
2 winegrower's license, the distilled spirits rectifier, the distilled
3 spirits manufacturer, or the distilled spirits manufacturer's agent
4 and the on-sale licensee.

5 (c) Any beer manufacturer or holder of a winegrower's license,
6 any distilled spirits rectifier, any distilled spirits manufacturer, or
7 any distilled spirits manufacturer's agent who, through coercion
8 or other illegal means, induces, directly or indirectly, a holder of
9 a wholesaler's license to fulfill all or part of those contractual
10 obligations entered into pursuant to subdivision (a) or (b) shall be
11 guilty of a misdemeanor and shall be punished by imprisonment
12 in the county jail not exceeding six months, or by a fine in an
13 amount equal to the entire value of the advertising space, time, or
14 costs involved in the contract, whichever is greater, plus ten
15 thousand dollars (\$10,000), or by both imprisonment and fine. The
16 person shall also be subject to license revocation pursuant to
17 Section 24200.

18 (d) Any on-sale retail licensee, as described in subdivision (a),
19 who, directly or indirectly, solicits or coerces a holder of a
20 wholesaler's license to solicit a beer manufacturer, a holder of a
21 winegrower's license, a distilled spirits rectifier, a distilled spirits
22 manufacturer, or a distilled spirits manufacturer's agent to purchase
23 advertising space or time pursuant to subdivision (a) or (b) shall
24 be guilty of a misdemeanor and shall be punished by imprisonment
25 in the county jail not exceeding six months, or by a fine in an
26 amount equal to the entire value of the advertising space or time
27 involved in the contract, whichever is greater, plus ten thousand
28 dollars (\$10,000), or by both imprisonment and fine. The person
29 shall also be subject to license revocation pursuant to Section
30 24200.

31 (e) For the purposes of this section, "beer manufacturer" includes
32 any holder of a beer manufacturer's license, any holder of an
33 out-of-state beer manufacturer's certificate, or any holder of a beer
34 and wine importer's general license.