

AMENDED IN SENATE JANUARY 4, 2010

AMENDED IN SENATE APRIL 29, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 806

**Introduced by Senator Wiggins
(Coauthor: Senator Padilla)**

February 27, 2009

An act to amend Section ~~399.4 of, and to add Section 710 to, the Public Utilities Code, relating to energy. 25500.1 of the Business and Professions Code, relating to alcoholic beverages.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 806, as amended, Wiggins. ~~Electrical corporation energy efficiency programs.~~ *Alcoholic beverages: tied-house restrictions.*

The Alcoholic Beverage Control Act contains limitations on sales commonly known as "tied-house" restrictions, which generally prohibit a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler from furnishing, giving, or lending any money or other thing of value to any person engaged in operating, owning, or maintaining any off-sale licensed premises. Existing law provides that, for purposes of these provisions, the listing of the names, addresses, telephone numbers or e-mail addresses, or both, or Internet Web site addresses, of two or more unaffiliated on-sale retailers selling wine or brandy, or both, and operating and licensed as bona fide public eating places selling the wine or brandy produced, distributed or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry or in person does not

constitute a thing of value or prohibited inducement to the listed on-sale retailer, if specified conditions are met.

This bill would revise the direct inquiry provisions to include any electronic inquiries from consumers.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law restructuring the electrical service industry states that it is the policy of the state and the intent of the Legislature that the commission continue to administer cost-effective energy efficiency programs. Pursuant to decisions and orders of the commission, the commission supervises energy efficiency programs administered by electrical corporations.~~

~~This bill would require the commission to limit the administrative costs, as defined, of energy efficiency programs to not more than 5% of the funds expended. The bill would, if the commission determines that incentive payments should be made to electrical corporations and gas corporations for achieving energy efficiency savings pursuant to commission-supervised energy efficiency programs, require that the commission ensure that (1) no incentive payments are awarded to an electrical corporation or gas corporation unless an independent verification of energy savings is obtained through an audit conducted by a party that is not financially interested in the results of the audit, and (2) incentive payments are only awarded based upon actual achievement of energy efficiency goals.~~

~~Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.~~

~~Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.~~

~~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-no.
State-mandated local program: yes-no.~~

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

1 SECTION 1. Section 25500.1 of the Business and Professions
2 Code is amended to read:

3 25500.1. (a) Notwithstanding Section 25500, the listing of the
4 names, addresses, telephone ~~numbers and/or numbers~~, e-mail
5 addresses, or ~~web Internet Web~~ site addresses, of two or more
6 unaffiliated on-sale retailers selling ~~wine and/or brandy~~ wine,
7 brandy, or both wine and brandy and operating and licensed as
8 bona fide public eating places pursuant to Section 23038 selling
9 the ~~wine and/or brandy~~ wine, brandy, or both wine and brandy
10 produced, ~~distributed and/or imported~~ distributed, imported, or
11 both distributed and imported by a nonretail industry member in
12 response to a direct inquiry from a consumer received by telephone,
13 by mail, by electronic ~~Internet~~ inquiry or in person does not
14 constitute a thing of value or prohibited inducement to the listed
15 on-sale retailer, provided:

16 ~~(a)~~

17 (1) The listing does not also contain the retail price of the
18 product, and

19 ~~(b)~~

20 (2) The listing is the only reference to the on-sale retailers in
21 the direct communication, and

22 ~~(c)~~

23 (3) The listing does not refer only to one on-sale retailer or only
24 to on-sale retail establishments controlled directly or indirectly by
25 the same on-sale retailer, and

26 ~~(d)~~

27 (4) The listing is made by, ~~and/or produced by, and/or paid for~~
28 *produced by, or paid for, or any combination thereof*, exclusively
29 by the nonretail industry member making the response.

30 For

31 (b) For the purposes of this section, “nonretail industry member”
32 is defined as a manufacturer, winegrower, distiller of ~~wine and/or~~
33 ~~brandy wine, brandy, or both~~, regardless of any other licenses held
34 directly or indirectly by such person. Except as specifically
35 provided above, any payment for, making or production, either
36 directly or indirectly, listing the names, addresses, telephone
37 ~~numbers and/or numbers~~, e-mail addresses, or ~~web Internet Web~~
38 site addresses, of on-sale retailers otherwise authorized by this

1 section by a wholesaler or by a wholesaler that also holds an
2 importer's license shall constitute the furnishing of a thing of value
3 or inducement to the listed on-sale retailers in violation of this
4 division.

5 ~~SECTION 1. Section 399.4 of the Public Utilities Code is~~
6 ~~amended to read:~~

7 ~~399.4. (a) (1) In order to ensure that prudent investments in~~
8 ~~energy efficiency continue to be made that produce cost-effective~~
9 ~~energy savings, reduce customer demand, and contribute to the~~
10 ~~safe and reliable operation of the electric distribution grid, it is the~~
11 ~~policy of this state and the intent of the Legislature that the~~
12 ~~commission shall continue to administer cost-effective energy~~
13 ~~efficiency programs authorized pursuant to existing statutory~~
14 ~~authority.~~

15 ~~(2) As used in this section, the term "energy efficiency" includes,~~
16 ~~but is not limited to, cost-effective activities to achieve peak load~~
17 ~~reduction that improve end-use efficiency, lower customers' bills,~~
18 ~~and reduce system needs.~~

19 ~~(b) The commission, in evaluating energy efficiency investments~~
20 ~~under its existing statutory authority, shall also ensure that local~~
21 ~~and regional interests, multifamily dwellings, and energy service~~
22 ~~industry capabilities are incorporated into program portfolio design~~
23 ~~and that local governments, community-based organizations, and~~
24 ~~energy efficiency service providers are encouraged to participate~~
25 ~~in program implementation where appropriate.~~

26 ~~(c) In order to ensure that energy efficiency programs achieve~~
27 ~~the maximum benefits for each dollar of ratepayer funding collected~~
28 ~~to support those programs, the commission shall limit the~~
29 ~~administrative costs to not more than 5 percent of the funds~~
30 ~~expended. For the purposes of this subdivision, "administrative~~
31 ~~costs" means personnel and overhead costs associated with the~~
32 ~~implementation of each measure and program, but does not include~~
33 ~~costs associated with the marketing or evaluation of a measure or~~
34 ~~a program.~~

35 ~~SEC. 2. Section 710 is added to the Public Utilities Code, to~~
36 ~~read:~~

37 ~~710. If the commission determines that incentive payments~~
38 ~~should be made to electrical corporations and gas corporations for~~
39 ~~achieving energy efficiency savings pursuant to~~

1 ~~commission-supervised energy efficiency programs, the~~
2 ~~commission shall ensure both of the following:~~

3 ~~(a) No incentive payments are awarded to an electrical~~
4 ~~corporation or gas corporation unless an independent verification~~
5 ~~of energy savings is obtained through an audit conducted by a~~
6 ~~party that is not financially interested in the results of the audit.~~
7 ~~The results of the audit shall be approved by the commission in a~~
8 ~~public proceeding. The results of the audit shall be made available~~
9 ~~to the public at least 30 days prior to any public proceeding in~~
10 ~~which the commission will determine whether to accept the results.~~

11 ~~(b) That incentive payments are only awarded based upon actual~~
12 ~~achievement of energy efficiency goals. It is the intent of the~~
13 ~~Legislature that the steps outlined in Decision 07-09-043 be used~~
14 ~~to determine actual achievement of energy efficiency goals by~~
15 ~~electrical corporations and gas corporations.~~

16 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
17 ~~Section 6 of Article XIII B of the California Constitution because~~
18 ~~the only costs that may be incurred by a local agency or school~~
19 ~~district will be incurred because this act creates a new crime or~~
20 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
21 ~~for a crime or infraction, within the meaning of Section 17556 of~~
22 ~~the Government Code, or changes the definition of a crime within~~
23 ~~the meaning of Section 6 of Article XIII B of the California~~
24 ~~Constitution.~~