

AMENDED IN SENATE APRIL 20, 2010
AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1260

Introduced by Senator Yee

February 19, 2010

An act to amend Section 23396.1 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1260, as amended, Yee. Alcoholic beverages: lodging establishments.

The Alcoholic Beverage Control Act authorizes motels and hotels having an on-sale general license for restricted service lodging establishments, as described, to sell or furnish alcoholic beverages for consumption on the premises by specified means.

This bill would extend that authorization to allow those motels and hotels having an on-sale general license for restricted service lodging establishments to ~~sell or furnish~~ beer and wine for consumption on the premises, where the beer or wine is sold in a food sale area, as defined, ~~and consumed in specified areas of the motel or hotel~~ *located within the lodging establishment*.

The Alcoholic Beverage Control Act provides that a violation of any of its provisions for which another penalty or punishment is not specifically provided is a misdemeanor. By expanding the ~~scope~~ *scope* of an existing crime, ~~thus~~, the bill 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 23396.1 of the Business and Professions
 2 Code is amended to read:
 3 23396.1. (a) An on-sale general license for restricted service
 4 lodging establishments authorizes those hotels and motels described
 5 in subdivision ~~(e)~~ (b) to sell ~~or furnish~~ alcoholic beverages for
 6 consumption on the premises ~~by means of~~ *only as follows:*
 7 (1) ~~Controlled~~ *By means of controlled* access alcoholic beverage
 8 cabinets located in guestrooms, subject to the conditions specified
 9 in Section 23355.2.
 10 (2) ~~Furnishing alcoholic beverages only to their transient guests~~
 11 ~~and their invitees under~~ *Under* circumstances where the uniform
 12 cost of
 13 (3) *Beer and wine in sealed containers to the licensee’s transient*
 14 *guests and their invitees from a food sale area as defined in*
 15 *subdivision (c) located within the lodging establishment itself.* the
 16 alcoholic beverages is included in the price of the overnight
 17 transient occupancy accommodation, whether or not separately
 18 stated.
 19 ~~(b) (1) An on-sale general license for restricted service lodging~~
 20 ~~establishments authorizes those hotels and motels described in~~
 21 ~~subdivision (e) to sell or furnish beer and wine for consumption~~
 22 ~~on the premises, as defined in paragraph (2), and as designated to~~
 23 ~~and approved by the department as part of the licensed premises.~~
 24 ~~Beer and wine in sealed containers may be sold only to the~~
 25 ~~licensee’s transient guests and their guests in a food sale area~~
 26 ~~located within the lodging establishment itself.~~
 27 (2) ~~For purposes of this subdivision, the following definitions~~
 28 ~~apply:~~
 29 (A) ~~“Food sale area” means a food facility, within the meaning~~
 30 ~~of Section 113789 of the Health and Safety Code, that routinely~~
 31 ~~offers for sale, throughout the area’s normal hours of operation~~
 32 ~~each day to all of the lodging establishment’s transient guests and~~
 33 ~~their invitees, primarily items like prepackaged sandwiches, salads,~~

1 snacks, candy, dairy products, water, soft drinks, and other
2 nonalcoholic beverages in bottles or cans, and similar food items.
3 The “food sale area” may also offer for sale various items such as
4 health and beauty aids, cosmetics, nonprescription drugs, film,
5 batteries, and similar sundries.

6 ~~(B) “Premises” means guestrooms, the general lobby area of~~
7 ~~the lodging establishment, rooms designated for private meetings~~
8 ~~and conferences, and outside of the lodging establishment in the~~
9 ~~general pool, picnicking, recreation, and similar gathering areas~~
10 ~~of the lodging establishment.~~

11 (e)

12 (b) For purposes of this division, a “restricted service lodging
13 establishment” is a hotel or motel, within the meaning of
14 subdivision (f) of Section 23355.2, which meets all of the following
15 conditions:

16 (1) It does not operate a bona fide eating place or other public
17 premise.

18 (2) It has at least 10 guestroom accommodations.

19 (3) It does not derive more than 5 percent of its total gross
20 annual revenues from sales of alcoholic beverages.

21 (c) *“Food sale area” means a food facility, within the meaning*
22 *of Section 113789 of the Health and Safety Code, that routinely*
23 *offers for sale, throughout the area’s normal hours of operation*
24 *each day to all of the lodging establishment’s transient guests and*
25 *their invitees, primarily items like prepackaged sandwiches, salads,*
26 *snacks, candy, dairy products, water, soft drinks, and other*
27 *nonalcoholic beverages in bottles or cans, and similar food items.*
28 *The “food sale area” may also offer for sale various items such*
29 *as health and beauty aids, cosmetics, nonprescription drugs, film,*
30 *batteries, and similar sundries.*

31 (d) A premises licensed pursuant to this section shall not be
32 authorized to sell or furnish alcoholic beverages to the general
33 public, shall not be entitled to a caterer’s permit pursuant to Section
34 23399, and shall not be entitled to exercise any off-sale privileges
35 pursuant to Section 23401. The provisions of Article 2
36 (commencing with Section 23815) of Chapter 5 do not apply to
37 the issuance of on-sale general licenses for restricted service
38 lodging establishments. An on-sale general restricted service
39 lodging establishment license may be transferred to another person
40 but not to another location. A licensee specified in this section

1 shall purchase no alcoholic beverages for sale in this state other
2 than from a wholesaler or winegrower licensee.

3 (e) An applicant for an original on-sale general license for
4 restricted service lodging establishments shall, at the time of filing
5 the application for the license, accompany the application with a
6 fee of six thousand dollars (\$6,000). The annual renewal fee for a
7 license issued pursuant to this section shall be the same as the
8 applicable annual renewal fee for an on-sale general license.

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