

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN SENATE MAY 5, 2010

AMENDED IN SENATE APRIL 20, 2010

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1260

Introduced by Senator Yee

(Principal coauthor: Assembly Member Hagman)

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 beer and wine for consumption on the premises, where the beer or wine is sold in a food sale area, as defined, 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 of an existing crime, 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 (b) to sell alcoholic beverages for consumption on
6 the premises only as follows:

7 (1) By means of controlled access alcoholic beverage cabinets
8 located in guestrooms, subject to the conditions specified in Section
9 23355.2.

10 (2) Under circumstances where the uniform cost of the alcoholic
11 beverages is included in the price of the overnight transient
12 occupancy accommodation, whether or not separately stated.

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) For purposes of this division, a "restricted service lodging
20 establishment" is a hotel or motel, within the meaning of
21 subdivision (f) of Section 23355.2, which meets all of the following
22 conditions:

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

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

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

28 (c) "Food sale area" means a food facility, within the meaning
29 of Section 113789 of the Health and Safety Code, that routinely
30 offers for sale, throughout the area's normal hours of operation

1 each day to all of the lodging establishment's transient guests and
2 their invitees, primarily items like prepackaged sandwiches, salads,
3 snacks, candy, dairy products, water, soft drinks, and other
4 nonalcoholic beverages in bottles or cans, and similar food items.
5 The "food sale area" may also offer for sale various items such as
6 health and beauty aids, cosmetics, nonprescription drugs, film,
7 batteries, and similar sundries.

8 (d) A premises licensed pursuant to this section shall not be
9 authorized to sell or furnish alcoholic beverages to the general
10 public, shall not be entitled to a caterer's permit pursuant to Section
11 23399, and shall not be entitled to exercise any off-sale privileges
12 pursuant to Section 23401. The provisions of Article 2
13 (commencing with Section 23815) of Chapter 5 do not apply to
14 the issuance of on-sale general licenses for restricted service
15 lodging establishments. An on-sale general restricted service
16 lodging establishment license may be transferred to another person
17 but not to another location. A licensee specified in this section
18 shall purchase no alcoholic beverages for sale in this state other
19 than from a wholesaler or winegrower licensee.

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

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.