

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE APRIL 7, 2010

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1323

Introduced by Senator Walters

February 19, 2010

An act to amend Section 25600.5 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1323, as amended, Walters. Alcoholic beverage control: licensees.

Existing provisions of the Alcoholic Beverage Control Act generally prohibit manufacturers, winegrowers, bottlers, importers, wholesalers, and others from performing certain activities, with specified exceptions. Existing law, until January 1, 2014, permits a manufacturer *of distilled spirits*, winegrower, rectifier, or distiller, or any authorized agent of that person to provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to consumers over 21 years of age at an invitation-only event in connection with the sale or distribution of wine or distilled spirits, as specified.

This bill would additionally permit a distilled spirits ~~manufacturing~~ *manufacturer's* agent, holder of a distilled spirits importer's general license *who does not also hold a distilled spirits wholesaler's license*, holder of a distilled spirits rectifier's general license, or a holder of an out-of-state distilled spirits shipper's certificate, or any authorized agent of that licenseholder, to provide entertainment, food, and distilled spirits, wine, and nonalcoholic beverages at an event described above.

The Alcoholic Beverage Control Act provides that a violation of specified provisions of the act is punishable as a misdemeanor. This bill, by expanding the definition of an existing crime, 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 25600.5 of the Business and Professions
2 Code is amended to read:

3 25600.5. Notwithstanding any other provision of this division,
4 a manufacturer of distilled spirits, distilled spirits manufacturer's
5 agent, holder of a distilled spirits importer's general license *who*
6 *does not also hold a distilled spirits wholesaler's license*, holder
7 of a distilled spirits rectifier's general license, holder of an
8 out-of-state distilled spirits shipper's certificate, winegrower,
9 rectifier, or distiller, or its authorized unlicensed agent, may
10 provide, free of charge, entertainment, food, and distilled spirits,
11 wine, or nonalcoholic beverages to consumers at an invitation-only
12 event in connection with the sale or distribution of wine or distilled
13 spirits, subject to the following conditions:

14 (a) No licensee, other than those specified in this section, may
15 conduct or participate in any portion of an event authorized by this
16 section.—~~A~~ *Except as provided in subdivision (a), a* licensee
17 authorized to conduct an event pursuant to this section shall not
18 be precluded from doing so on the basis of holding any other type
19 of alcoholic beverage license.

20 (b) An event authorized by this section shall be conducted on
21 premises for which a caterer's permit authorization has been issued,
22 except that any event held on the premises of a licensed winegrower
23 shall not be authorized to provide any distilled spirits other than
24 brandy.

25 (c) No event authorized by this section shall be conducted on
26 premises for which a permanent retail license has been issued.

1 (d) Except for fair market value payments authorized pursuant
2 to this section, a licensed caterer shall not receive any other item
3 of value or benefit in connection with events authorized by this
4 section.

5 (e) The person authorized by this section to provide, free of
6 charge, entertainment, food, and beverages shall be present during
7 the event.

8 (f) The person authorized by this section to provide, free of
9 charge, entertainment, food, and beverages shall have sole
10 responsibility for providing payment for the entertainment, food,
11 beverages, and rental fees at the event. Payments for entertainment,
12 food, beverages, and rental fees shall not exceed fair market value.
13 No other licensed person shall be authorized, under this section,
14 to provide any portion of these payments.

15 (g) Requests for attendance at the event shall be by invitation
16 sent to consumers over 21 years of age at a specific address via
17 mail or e-mail, by telephone, or presented in person. Invitations
18 or other advertisements of the event shall not be disseminated by
19 any other means. Invitations shall not be sent by the authorized
20 person or their authorized unlicensed agent inviting all of the
21 employees of a retail licensee or a chain of retail licensees under
22 common ownership to an authorized event.

23 (h) Attendance at the event shall be limited to consumers who
24 receive and accept an invitation to the event. Invited consumers
25 may each invite one guest. All attendees shall be over 21 years of
26 age. The total number of consumers and their guests allowed at
27 any event authorized by this section shall not exceed 400 people.
28 Admittance to the event shall be controlled by a list containing the
29 names of consumers who accepted the invitation and their guests.
30 The persons identified in this section shall be responsible for
31 compliance.

32 (i) No premium, gift, free goods, or other thing of value may
33 be given away in connection with the event, except as authorized
34 by this division.

35 (j) The duration of any event authorized by this section shall
36 not exceed four hours.

37 (k) (1) A person authorized to conduct events pursuant to this
38 section shall not conduct more than 12 events in a calendar year
39 where the consumers and guests in attendance exceed 100 people,

1 and not more than 24 events in a calendar year where the
2 consumers and guests in attendance is 100 people or fewer.

3 (2) The limitation on events authorized by this section shall be
4 by person, whether that person holds a single license or multiple
5 licenses. If a person holds multiple licenses, the limitation shall
6 be applied to the person holding the license, not by type of license.

7 (l) When applying for a caterer's permit authorization, the person
8 authorized to conduct an event pursuant to this section shall
9 include, in addition to any information required by the department,
10 all of the following information:

11 (1) The name of the company authorized to conduct the event.

12 (2) The number of people planned to be in attendance.

13 (3) The start and end times for the event.

14 (4) The location of the event.

15 (m) All alcoholic beverages provided pursuant to this section
16 shall be purchased from the holder of the caterer's permit.

17 (n) All alcoholic beverages served at an event authorized by
18 this section shall be served in accordance with Sections 25631 and
19 25632.

20 (o) No person authorized to conduct an event pursuant to this
21 section shall hold such an event at the same location more than
22 eight times in a calendar year.

23 (p) The person authorized to conduct an event under this section
24 may provide attendees at the event with a free ride home. The free
25 rides shall only constitute free ground transportation to attendees'
26 homes or to hotels or motels where attendees are staying.

27 (q) In addition to the prescribed fee imposed upon a licensed
28 caterer to conduct an event authorized by this section, the
29 department may also impose a fee upon a licensee authorized by
30 this section to provide, free of charge, entertainment, food, and
31 beverages at an authorized event. The fee shall be representative
32 of the cost of administering and enforcing the provisions of this
33 section, but shall not exceed two hundred dollars (\$200) per event.

34 (r) The Legislature finds and declares both of the following:

35 (1) That it is necessary and proper to require a separation
36 between manufacturing interests, wholesale interests, and retail
37 interests in the production and distribution of alcoholic beverages
38 in order to prevent suppliers from dominating local markets through
39 vertical integration and to prevent excessive sales of alcoholic
40 beverages produced by overly aggressive marketing techniques.

1 (2) Any exception established by the Legislature to the general
2 prohibition against tied interests must be limited to the express
3 terms of the exception so as to not undermine the general
4 prohibitions.

5 (s) This section shall remain in effect until January 1, 2014, and
6 as of that date is repealed, unless a later enacted statute that is
7 enacted before January 1, 2014, deletes or extends that date.

8 ~~SEC. 3.~~

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.