

Introduced by Committee on Governmental Organization (Senators Wright (Chair), Calderon, Denham, Florez, Harman, Negrete McLeod, Oropeza, Padilla, Price, Wyland, and Yee)

March 8, 2010

An act to amend Section 25503.15 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, as introduced, Committee on Governmental Organization. Alcoholic beverages: tied-house restrictions.

Existing provisions of the Alcoholic Beverage Control Act, known as "tied-house" restrictions, generally prohibit a winegrower from having an ownership interest in an on-sale alcoholic beverage license, with limited exceptions. Among other exemptions, existing law exempts from the tied-house restrictions any licensed winegrower who meets specified conditions, including that the winegrower, or his or her officer, director, or agent, enters into an undertaking, approved by the Department of Alcoholic Beverage Control, that makes specified statements regarding the sale or furnishing of wine by the winegrower, or any officer, director, or agent of the winegrower.

This bill would retain the requirement that the winegrower, or officer, director, or agent meet the specified conditions regarding the sale or furnishing of wine under the circumstances described above, but would eliminate the requirement that statements describing these conditions be made pursuant to an undertaking approved by the department.

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

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

1 SECTION 1. Section 25503.15 of the Business and Professions
2 Code is amended to read:

3 25503.15. (a) Notwithstanding any other provision of this
4 division, a winegrower who manufactures, produces, bottles,
5 processes, imports, or sells wine only, or any officer, director, or
6 agent of that person, may hold the ownership of any interest in
7 any on-sale license, ~~or the business conducted under that license,~~
8 ~~provided that the person or the officer, director, or agent of that~~
9 ~~person, shall have entered into an undertaking approved by the~~
10 ~~department stating both of the following if both of the following~~
11 ~~conditions exist:~~

12 (1) ~~That neither~~ *Neither* that person, nor any officer, director,
13 or agent of that person ~~shall sell or furnish,~~ *sells or furnishes* to
14 the holder of the license any wine, or ~~permit~~ *permits* the sale
15 pursuant to that license of any wine, manufactured, produced,
16 wholesaled, bottled, processed, imported, or sold by that person
17 or that person's principal for as long as that ownership continues.

18 (2) ~~That neither~~ *Neither* that person, nor any officer, director,
19 or agent of that person ~~shall enter,~~ *enters* into any collusive scheme,
20 whereby he or she unfairly sells or promotes, in his or her on-sale
21 businesses, the wine of another winegrower who manufactures,
22 produces, bottles, processes, imports, or sells wine only, in return
23 for his or her wine being unfairly sold or promoted in the on-sale
24 businesses of that winegrower.

25 (b) Notwithstanding any other provision of this division, any
26 licensed winegrower or any winegrower who has a wholesale
27 license, or any officer, director, or agent of that person, may hold,
28 directly or indirectly, the ownership of any interest in an on-sale
29 license, provided that each of the following conditions is met:

30 (1) The on-sale licensed premises are licensed as a bona fide
31 public eating place as defined in Section 23038, or as a bona fide
32 bed and breakfast inn as defined in Section 24045.11.

33 (2) The on-sale licensed premises purchases all alcoholic
34 beverages sold and served at the on-sale licensed premises only
35 from California wholesale licensees, other than the licensed
36 winegrower who has a wholesale license and an interest in an
37 on-sale license, unless one of the following conditions is met:

1 (A) The wine purchased is produced or bottled by, or produced
2 and packaged for, the same licensed winegrower that holds an
3 interest in the on-sale license.

4 (B) The wine is produced or bottled by, and is purchased from,
5 a licensed winegrower who sells no more than 125,000 gallons of
6 wine per year for distribution in this state under all brands or trade
7 names owned by that winegrower.

8 (C) The wine is purchased by an on-sale licensee in whose
9 on-sale license a licensed winegrower holds an interest, provided
10 that the winegrower sells no more than 125,000 gallons of wine
11 per year for distribution in this state under all brands or trade names
12 owned by that winegrower.

13 (3) The licensed winegrower and any officer, director, or agent
14 of that person, whether individually or in the aggregate, do not sell
15 and serve the wine products produced or bottled under any brand
16 or trade name owned by that winegrower through more than two
17 on-sale licensed premises in which any of them holds an ownership
18 interest.

19 (4) The number of wine items by brand offered for sale by the
20 on-sale licensed premises that are produced, bottled, processed,
21 imported, or sold by the licensed winegrower or by any person
22 holding any interest in the winegrower does not exceed 15 percent
23 of the total wine items by brand listed and offered for sale in the
24 licensed bona fide public eating place selling and serving that wine.
25 This paragraph does not apply to a bona fide bed and breakfast
26 inn.

27 (c) The Legislature finds that it is necessary and proper to
28 require a separation between manufacturing interests, wholesale
29 interests, and retail interests in the production and distribution of
30 alcoholic beverages in order to prevent suppliers from dominating
31 local markets through vertical integration and to prevent excessive
32 sales of alcoholic beverages produced by overly aggressive
33 marketing techniques. The Legislature further finds that the
34 exceptions established by this section to the general prohibition
35 against tied interests must be limited to their express terms so as
36 not to undermine the general prohibition, and intends that this
37 section be construed accordingly.

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