

AMENDED IN ASSEMBLY MARCH 24, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 623

Introduced by Assembly Member Williams

February 16, 2011

An act to *amend Sections 23661.7, 24045.18, and 25503.9 of, and to add Section 23393.5 to, the Business and Professions Code, relating to alcoholic beverages.*

LEGISLATIVE COUNSEL'S DIGEST

AB 623, as amended, Williams. Alcoholic beverage licensees: limited off-sale retail wine license.

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon, alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law provides for various annual fees for the issuance of alcoholic beverage licenses depending upon the type of license issued. The Alcoholic Beverage Control Act provides that a violation of its provisions is a misdemeanor, unless otherwise specified.

This bill would authorize the department to issue a limited off-sale retail wine license that would allow the licenseholder to sell wine if certain conditions are met *and would grant specified privileges to the licenseholder, as provided*. The bill would impose an original fee and an annual renewal fee for the license, which would be deposited in the Alcohol Beverage Control Fund. Because the violation of a provision of the license is punishable as a misdemeanor, the bill expands the definition of an existing crime, thereby creating 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 23393.5 is added to the Business and
 2 Professions Code, to read:

3 23393.5. (a) The department may issue a limited off-sale retail
 4 wine license which authorizes the sale of wine by the licensee if
 5 all of the following conditions are met:

6 (1) Sales are restricted to those solicited and accepted via direct
 7 mail, telephone, or the Internet.

8 (2) Sales are not conducted from a retail premises open to the
 9 public.

10 (3) The licensee takes possession of and title to all alcoholic
 11 beverages sold by the licensee.

12 (4) All alcoholic beverages sold by the licensee are delivered
 13 to the purchaser from the licensee’s licensed premises or from a
 14 licensed *public* warehouse.

15 (b) The licensee shall comply with Section 23985, but is
 16 exempted from Sections 23985.5 and 23986.

17 (c) The department may impose reasonable conditions upon the
 18 licensee as may be needed in the interest of public health, safety,
 19 and welfare.

20 (d) The application for the license shall be accompanied by an
 21 original fee in an amount equivalent to that of an original off-sale
 22 beer and wine license pursuant to Section 23954.5. The annual fee
 23 for the license shall be an amount equivalent to that of a retail
 24 package off-sale beer and wine license pursuant to Section 23320.
 25 All moneys collected from the fees shall be deposited in the
 26 Alcoholic Beverage Control Fund, pursuant to Section 25761.

27 *SEC. 2. Section 23661.7 of the Business and Professions Code*
 28 *is amended to read:*

29 23661.7. (a) A person who has purchased wine from a licensed
 30 winegrower ~~or a~~, the holder of a beer and wine wholesaler’s license

1 and an off-sale retail license that only sells wine, *or the holder of*
2 *a limited off-sale retail wine license*, has taken delivery of that
3 wine within this state for delivery or use without the state, and has
4 removed that wine from the state, may return all or any portion of
5 that wine to the ~~licensed premises of the winegrower or holder of~~
6 ~~a beer and wine wholesaler's license and an off-sale retail license~~
7 ~~that only sells wine in this state~~ *premises of the licensee* from
8 whom the wine was purchased. To make a return the purchaser
9 need not obtain any license in this state, and may return the wine
10 in a vehicle owned or controlled by the purchaser.

11 (b) The provisions of Section 32175 of the Revenue and
12 Taxation Code shall apply to any wine so returned.

13 *SEC. 3. Section 24045.18 of the Business and Professions Code*
14 *is amended to read:*

15 24045.18. Notwithstanding any other provision of this division,
16 a beer and wine wholesaler that also holds an off-sale beer and
17 wine retail license and only sells wine *or the holder of a limited*
18 *off-sale retail wine license* may assist a nonprofit organization
19 holding a temporary wine license in conducting a winetasting. The
20 privilege granted under this section for a beer and wine wholesaler
21 that also holds an off-sale beer and wine retail license and only
22 sells wine shall apply only to wine produced for the donating
23 licensee that is labeled with a brand owned exclusively by the
24 donating licensee and shall include in the tasting only wine donated
25 by the licensee to the event.

26 *SEC. 4. Section 25503.9 of the Business and Professions Code*
27 *is amended to read:*

28 25503.9. (a) Nothing in this division prohibits a winegrower
29 ~~or~~, a beer and wine wholesaler that also holds an off-sale beer and
30 wine retail license and only sells wine, *or the holder of a limited*
31 *off-sale retail wine license* from giving or selling wine, a beer
32 manufacturer from giving or selling beer, a distilled spirits
33 manufacturer, rectifier, or a distilled spirits manufacturer's agent
34 from giving or selling distilled spirits, or an importer general
35 licensee from giving or selling beer, wine, or distilled spirits at
36 prices other than those contained in schedules filed with the
37 department, to any of the following:

38 (1) A nonprofit charitable corporation or association exempt
39 from payment of income taxes under the provisions of the Internal
40 Revenue Code of the United States and Chapter 4 (commencing

1 with Section 23701) of Part 11 of Division 2 of the Revenue and
2 Taxation Code.

3 (2) A nonprofit incorporated trade association that is exempt
4 from payment of income taxes under the provisions of the Internal
5 Revenue Code of the United States and Chapter 4 (commencing
6 with Section 23701) of Part 11 of Division 2 of the Revenue and
7 Taxation Code, and the members of which trade association are
8 licensed under this division. However, the wine, beer, and distilled
9 spirits shall be used solely for a convention or meeting of the
10 nonprofit incorporated trade association.

11 (3) A nonprofit corporation or association that is exempt from
12 payment of income taxes under the provisions of the Internal
13 Revenue Code of the United States and is defined as a tax exempt
14 organization under Section 23701a, 23701b, 23701d, 23701e,
15 23701f, 23701g, 23701i, 23701k, 23701l, 23701r, or 23701w of
16 the Revenue and Taxation Code. Wine, beer, and distilled spirits
17 given or sold by a winegrower, beer manufacturer, distilled spirits
18 manufacturer, distilled spirits manufacturer's agent, or importer
19 general licensee pursuant to this subdivision may be furnished
20 only in connection with public service or fundraising activities
21 including picnics, parades, fairs, amateur sporting events,
22 agricultural exhibitions, or similar events.

23 (b) Nothing in this division prohibits a winegrower ~~or~~, a beer
24 and wine wholesaler that also holds an off-sale beer and wine retail
25 license and only sells wine, *or the holder of a limited off-sale retail*
26 *wine license* from giving or selling wine, a beer manufacturer from
27 giving or selling beer, a distilled spirits manufacturer, rectifier, or
28 a distilled spirits manufacturer's agent from giving or selling
29 distilled spirits, or a beer and wine wholesaler that also holds an
30 importer's license from giving or selling beer, wine, or distilled
31 spirits at prices other than those contained in schedules filed with
32 the department, to any of the following:

33 (1) A nonprofit charitable corporation or association exempt
34 from payment of income taxes under the provisions of the Internal
35 Revenue Code of the United States and Chapter 4 (commencing
36 with Section 23701) of Part 11 of Division 2 of the Revenue and
37 Taxation Code.

38 (2) A nonprofit incorporated trade association that is exempt
39 from payment of income taxes under the provisions of the Internal
40 Revenue Code of the United States and Chapter 4 (commencing

1 with Section 23701) of Part 11 of Division 2 of the Revenue and
2 Taxation Code, and the members of which trade association are
3 licensed under this division. However, the wine, beer, and distilled
4 spirits shall be used solely for a convention or meeting of the
5 nonprofit incorporated trade association.

6 (3) A nonprofit corporation or association that is exempt from
7 payment of income taxes under the provisions of the Internal
8 Revenue Code of the United States and is defined as a tax exempt
9 organization under Section 23701a, 23701d, 23701e, 23701f, or
10 23701r of the Revenue and Taxation Code. Wine, beer, and
11 distilled spirits given or sold by a winegrower, beer manufacturer,
12 distilled spirits manufacturer, distilled spirits manufacturer's agent,
13 or licensed importer pursuant to this subdivision may be furnished
14 only in connection with public service or fundraising activities
15 including picnics, parades, fairs, amateur sporting events,
16 agricultural exhibitions, or similar events.

17 ~~SEC. 2.~~

18 *SEC. 5.* No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

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